

General Delivery Conditions

§ 1 Validity

(1) All deliveries, services and offers of MBS are made exclusively on the basis of these General Terms and Conditions. These are an integral part of all contracts which MBS concludes with its contractual partners (hereinafter also referred to as "Customer") for the deliveries or services offered by it. They shall also apply to all future deliveries, services or offers to the customer, even if they are not separately agreed again.

(2) Terms and conditions of the customer or third parties shall not apply, even if MBS does not separately object to their validity in individual cases. Even if MBS refers to a letter which contains or refers to the terms and conditions of the customer or of a third party, this does not constitute any agreement with the validity of those terms and conditions.

§ 2 Offer and conclusion of contract

(1) MBS shall be bound to its offer for four weeks after receipt of the offer by the customer. If the written offer indicates a shorter binding period, this alone shall be decisive.

(2) If the customer accepts MBS's offer within the commitment period, MBS shall send the customer an order confirmation.

(3) The legal relationship between MBS and the customer shall be governed solely by the written order confirmation of MBS, including these General Terms and Conditions. This reflects all agreements between the contracting parties on the subject matter of the contract in full. Oral promises made by MBS prior to the conclusion of this contract are legally non-binding and oral agreements of the contracting parties are replaced by the written contract unless it is expressly stated in each case that they continue to be binding.

(4) Supplements and amendments to the agreements made, including these General Terms and Conditions of Delivery, must be made in writing in order to be effective. With the exception of managing directors or authorised signatories, the employees of MBS are not entitled to make verbal agreements deviating from this.

(5) Transmission by fax or e-mail shall suffice to comply with the written form.

(6) Information provided by MBS on the subject of the delivery or service (e.g. weights, dimensions, utility values, load-bearing capacity, tolerances and technical data) as well as our representations of the same (e.g. drawings and illustrations) are only approximate unless the usability for the contractually intended purpose presupposes exact conformity. They are not guaranteed characteristics, but descriptions or markings of the delivery or service. Deviations customary in the trade and deviations which occur due to legal regulations or represent technical improvements, as well as the replacement of components by equivalent parts, are permissible provided that they do not impair the usability for the contractually intended purpose.

(7) MBS reserves the ownership or copyright to all offers and cost estimates submitted by it as well as drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and aids made available to the customer. The customer may not make these objects accessible to third parties, disclose them, use or reproduce them himself or through third parties without the express consent of MBS. At MBS's request, he must return these items in their entirety to MBS and destroy any copies made if they are no longer required by him in the ordinary course of business or if negotiations do not lead to the conclusion of a contract.

§ 3 Prices and payment

(1) The prices shall apply to the scope of services and deliveries specified in the order confirmations. Additional or special services will be charged separately. Prices are quoted in EURO ex works plus statutory value added tax.

(2) Invoiced amounts are to be paid within fourteen days of receipt of the invoice without any deduction unless otherwise agreed in writing. The date of receipt by MBS is decisive for the date of payment. Cheques shall not be deemed payment until they have been cashed. If the Customer fails to pay on the due date, interest shall be charged on the outstanding amounts from the due date at 9 percentage points above the base interest rate; the assertion of higher interest rates and further damages in the event of default shall remain unaffected thereby.

(3) Offsetting against counterclaims of the customer or retention of payments due to such claims is only permissible if the counterclaims are undisputed or have been legally established.

(4) MBS shall be entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, MBS becomes aware of circumstances which are suitable to significantly reduce the creditworthiness of the customer and which endanger the payment of the outstanding claims of MBS by the customer from the respective contractual relationship (including from other individual orders to which the same framework contract applies).

§ 4 Delivery and delivery time

(1) Deliveries shall be made ex works.

(2) Periods and dates for deliveries and services promised by MBS are always only approximate, unless a fixed period or date has been expressly promised or agreed. If shipment has been agreed, delivery periods and

delivery dates shall refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.

(3) MBS may - irrespective of its rights arising from the Customer's default - demand from the Customer an extension of delivery and performance periods or a postponement of delivery and performance dates by the period in which the Customer does not fulfil its contractual obligations towards MBS.

(4) MBS shall not be liable for impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events not foreseeable at the time the contract was concluded (e.g. MBS is not responsible for any disruptions of operation of any kind, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, difficulties in the procurement of necessary official approvals, official measures or the lack of, incorrect or late delivery by suppliers). Insofar as such events make it considerably more difficult or impossible for MBS to deliver or perform and the hindrance is not only of a temporary nature, MBS shall be entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the delivery or service periods shall be extended or the delivery or service dates postponed by the period of the hindrance plus a reasonable start-up period. If acceptance of the delivery or service cannot be reasonably expected of the customer as a result of the delay, he may withdraw from the contract by immediate written declaration to MBS.

(5) MBS shall only be entitled to make partial deliveries if

- the partial delivery can be used by the customer within the scope of the contractual purpose,
- the delivery of the remaining ordered goods is ensured and
- the customer does not incur any significant additional expenses or costs (unless MBS declares its willingness to bear these costs).

(6) If MBS is in default with a delivery or service or if a delivery or service becomes impossible for MBS for whatever reason, MBS's liability shall be limited to damages in accordance with § 8 of these General Terms of Delivery.

§ 5 Place of Performance, Shipping, Packaging, Passing of Risk, Acceptance

(1) Place of performance for all obligations arising from the contractual relationship is Pockau-Lengefeld, unless otherwise specified. If the Seller also owes the commissioning, the place of performance shall be the place where the commissioning is to take place.

(2) The mode of dispatch and packaging shall be subject to the dutiful discretion of MBS.

(3) The risk shall pass to the customer at the latest when the delivery item is handed over (whereby the start of the loading process is decisive) to the freight forwarder, carrier or other third party appointed to carry out the shipment. This shall also apply if partial deliveries are made or MBS has taken over other services (e.g. dispatch or commissioning). If dispatch or handover is delayed as a result of circumstances for which the customer is responsible, the risk shall pass to the customer from the day on which the delivery item is ready for dispatch and MBS has notified the customer of this.

(4) Storage costs after transfer of risk shall be borne by the customer. In case of storage by MBS, the storage costs amount to 25% of the invoice amount of the delivery items to be stored per expired week. We reserve the right to assert and prove further or lower storage costs.

(5) MBS shall only insure the consignment against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the customer and at the customer's expense.

(6) Insofar as acceptance is to take place, the delivered item shall be deemed to have been accepted if

- the delivery and, if the Seller also owes the commissioning, the commissioning has been completed,
- the client has signed an acceptance protocol,
- MBS has informed the customer of this with reference to the acceptance fiction in accordance with this § 5 (6) and has requested him to accept the goods,
- twelve working days have elapsed since delivery or commissioning or the Customer has begun to use the object (e.g. the delivered plant has been put into operation) and in this case six working days have elapsed since delivery or installation and
- the Customer has omitted acceptance within this period for a reason other than a defect notified to the Seller which makes the use of the item impossible or significantly impairs it.

§ 6 Warranty, defects as to quality

(1) The warranty period shall be one year from delivery or, if acceptance is required, from acceptance.

(2) The delivered items shall be carefully inspected immediately after delivery to the customer or to a third party designated by the customer. With regard to obvious defects or other defects which would have been recognisable in an immediate, careful inspection, they shall be deemed to have been approved by the customer if MBS does not receive a written notice of defect within seven working days of delivery. With regard to other defects, the delivery items shall be deemed to have been approved by the customer

if the notice of defects is not received by MBS within seven working days of the time at which the defect became apparent; if the defect was already recognisable to the customer at an earlier point in time with normal use, this earlier point in time shall, however, be decisive for the start of the notice period. At the request of MBS, a delivery item complained about shall be returned to MBS carriage paid. In the event of a justified notice of defects, MBS shall reimburse the costs of the most favourable shipping route; this shall not apply if the costs increase because the delivery item is located at a location other than the location of the intended use.

(3) In the event of material defects of the delivered items, MBS is initially obliged and entitled to remedy the defect or deliver a replacement at its discretion within a reasonable period of time. In the event of failure, i.e. impossibility, unreasonability, refusal or unreasonable delay of the repair or replacement, the customer may withdraw from the contract or reduce the purchase price appropriately.

(4) If a defect is based on the fault of MBS, the customer may demand compensation under the conditions specified in § 7.

(5) In the event of defects in components of other manufacturers which MBS cannot remedy for licensing or actual reasons, MBS shall, at its discretion, assert its warranty claims against the manufacturers and suppliers for the account of the customer or assign them to the customer. Warranty claims against MBS for such defects shall only exist under the other conditions and in accordance with these General Terms and Conditions of Delivery if the judicial enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or is futile, for example due to insolvency. During the duration of the legal dispute, the statute of limitations of the Customer's warranty claims against MBS shall be suspended.

(6) The warranty does not apply if the customer changes the delivery item or has it changed by a third party without MBS's consent and the removal of the defect is made impossible or unreasonably difficult as a result. In any case, the customer shall bear the additional costs of remedying the defect incurred as a result of the change.

(7) Any delivery of used items agreed with the customer in individual cases shall be made to the exclusion of any warranty for material defects.

§ 7 Liability for damages due to culpa in contrahendo

(1) The Seller's liability for damages, irrespective of the legal basis, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tort, shall be limited in accordance with the provisions of this § 7, insofar as this depends on culpability. (2) The Seller shall not be liable in the event of simple negligence on the part of its executive bodies, legal representatives, employees or other vicarious agents, unless it is a matter of a breach of essential contractual obligations. Essential to the contract are the obligation to deliver and commission the delivery item on time, its freedom from defects which more than insignificantly impair its functionality or fitness for use, as well as obligations to provide advice, protection and care which are intended to enable the customer to use the delivery item in accordance with the contract or which are intended to protect the life and limb of the customer's personnel or to protect the customer's property from considerable damage.

(3) Insofar as the Seller is liable for damages on the merits pursuant to § 7 (2), this liability shall be limited to damages which the Seller foresaw at the time of conclusion of the contract as a possible consequence of a breach of contract or which he should have foreseen if he had exercised customary care. Indirect damages and consequential damages resulting from defects of the delivery item shall only be eligible for compensation if such damages are typically to be expected when the delivery item is used in accordance with its intended purpose.

(4) The aforementioned exclusions and limitations of liability shall apply to the same extent in favour of the organs, legal representatives, employees and other vicarious agents of MBS.

(5) Insofar as MBS provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by it, this shall be done free of charge and to the exclusion of any liability.

(6) The limitations of this § 7 do not apply to the liability of MBS for intentional behaviour, for guaranteed characteristics, for injury to life, body or health or according to the Product Liability Act.

§ 8 Retention of title

(1) The retention of title agreed below serves to secure all current and future claims of MBS against the customer arising from the supply relationship existing between the contractual partners.

(2) The item delivered by MBS to the customer shall remain the property of MBS until all secured claims have been paid in full. The object as well as the object replacing it and covered by the retention of title in accordance with the following provisions shall hereinafter be referred to as „object subject to retention of title“.

(3) The customer shall keep the reserved goods in safe custody for MBS free of charge.

(4) The customer shall be entitled to process and sell the reserved goods in

the ordinary course of business until the event of realisation (paragraph 9) has occurred. Pledges and transfers by way of security are not permitted.

(5) If the reserved goods are processed by the customer, it is agreed that the processing is carried out in the name and for the account of MBS as manufacturer and that MBS directly acquires the ownership or - if the processing is carried out from materials of several owners or the value of the processed goods is higher than the value of the reserved goods - the co-ownership (fractional ownership) of the newly created goods in the ratio of the value of the reserved goods to the value of the newly created goods. In the event that no such acquisition of ownership should occur at MBS, the customer already now transfers his future ownership or - in the above relationship - co-ownership of the newly created object to MBS as security. If the conditional commodity is combined or inseparably mixed with other commodities to form a uniform commodity and if one of the other commodities is to be regarded as the main commodity, MBS shall, insofar as the main commodity belongs to it, assign to the customer the proportionate co-ownership of the uniform commodity in the proportion stated in sentence 1.

(6) In the event of resale of the reserved goods, the customer hereby assigns to MBS as security the resulting claim against the purchaser - in the case of co-ownership by MBS of the reserved goods pro rata in accordance with the co-ownership share. The same shall apply to other claims which take the place of the reserved goods or otherwise arise with regard to the reserved goods, such as insurance claims or claims arising from tort in the event of loss or destruction. MBS revocably authorises the customer to collect the claims assigned to MBS in his own name. MBS may only revoke this direct debit authorisation in the event of realisation.

(7) If third parties access the reserved goods, in particular by seizure, the customer shall immediately inform them of the ownership of MBS and inform MBS thereof in order to enable them to enforce their ownership rights. If the third party is not in a position to reimburse MBS for the judicial or extrajudicial costs incurred in this connection, the customer shall be liable to MBS for this.

(8) MBS will release the goods subject to retention of title as well as the goods or claims replacing them insofar as their value exceeds the amount of the secured claims by more than 50 %. MBS selects the items to be released afterwards.

(9) If MBS withdraws from the contract in the event of conduct contrary to the terms of the contract on the part of the customer - in particular default in payment - (case of realisation), MBS shall be entitled to demand the return of the reserved goods.

§ 9 Final provisions

(1) If the customer is a merchant, a legal entity under public law or a special fund under public law, or if he has no general place of jurisdiction in the Federal Republic of Germany, the local place of jurisdiction for any disputes arising from the business relationship between MBS and the customer shall be determined by the registered office of MBS. Mandatory statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

(2) The relations between MBS and the customer are subject exclusively to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.

(3) Insofar as the contract or these General Terms and Conditions contain loopholes, those legally effective provisions shall be deemed to have been agreed for filling these loopholes which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions if they had been aware of the loophole.

Hint:

The Client acknowledges that the Seller stores data from the contractual relationship in accordance with § 28 of the Federal Data Protection Act for the purpose of data processing and reserves the right to transfer the data to third parties (e.g. insurance companies) to the extent necessary for the fulfilment of the contract.

Pockau-Lengefeld, 24.10.2018