

**General Delivery Terms and Conditions
of EB Electronic Michael Czech GmbH, Wendlingen am Neckar**

Section 1 Scope of Application

- (1) The present General Delivery Terms and Conditions shall apply to all our business relations with our customers ("Purchasers"). The delivery terms and conditions apply only, if Purchaser is an entrepreneur (Section 14 BGB) [German Civil Code], a legal entity under public law or special funds under public law.
- (2) The Delivery Terms and Conditions shall apply in particular for contracts on the sale and/or delivery of movables ("goods"), irrespective of whether we produce the goods ourselves or purchase it from sub-suppliers (Sections 433, 651 BGB).
- (3) Our Delivery Terms and Conditions shall apply exclusively. Different, contrary or supplementary General Terms and Conditions of Purchaser only become an integral part of the contract, if we expressly agreed to their application. This requirement for agreement shall apply in any case, for example, also if we carry out delivery to Purchaser without reservation by knowing its General Terms and Conditions.
- (4) Individual agreements made with Purchaser on a case-by-case basis (including side agreements, amendments and modifications), in any case, take priority over the present Delivery Terms and Conditions. For the content of such agreements, subject to counter-evidence, a written contract and/or our written confirmation is authoritative.

Section 2 Contract Conclusion

- (1) Our offers are non-binding and without obligation. This applies also, if we have transmitted Purchaser to catalogs, technical documentation (e.g. drawings, plans, calculations, estimates, references to DIN standards), other product descriptions or documents, also in electronic form, in which we reserve ownership rights and copyrights.
- (2) The order for the goods placed by Purchaser shall be deemed to be a binding offer of contract. Unless otherwise specified in the order, we shall be entitled to accept said offer of contract within 4 weeks after it has been received by us.
- (3) Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the goods to Purchaser.

Section 3 No Characteristics of State

Our data on the object of the delivery or service (e.g. weights, dimensions, values in use, capacity, tolerances and technical data) as well as our representations of the same (e.g. drawings and illustrations) shall be deemed to be approximate, unless the usability for the purpose intended by contract requires precise conformity. They are no guaranteed characteristics of state but descriptions or identifications of the delivery or service. Customary deviations and deviations, which occur due to legal provisions or represent technical improvements, as well as replacement of component parts by equivalent components are admissible, unless they adversely affect the use for the purposes intended by contract.

Section 4 Form for Purchaser's Declarations

Legally relevant declarations and notifications of the Purchaser with respect to the contract (e.g. deadlines, notification of defects, withdrawal from contract or reduction of purchase price) must be made in writing, i.e. in written form or in text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the case of doubts regarding legitimization of the declarant remain unaffected.

Section 5 Delivery Time, Delay in Delivery and Partial Deliveries

- (1) The delivery time is agreed upon individually and/or specified by us upon acceptance of the order. If this is not the case, the delivery time is approx. 4 weeks as from contract conclusion.
- (2) If we cannot comply with binding delivery times for reasons for which we are not responsible (unavailability of service), we will promptly inform Purchaser, and simultaneously advise the anticipated new delivery time. If the service is not available within the new delivery time either, we shall be entitled to withdraw from contract wholly or in part; we shall refund without undue delay any payments already made by Purchaser. Unavailability of the service within this meaning shall be deemed in particular late delivery from our own supplier, if we have concluded a congruent hedging transaction, neither we nor our supplier has been at fault or, on a case-by-case basis, we are not responsible for procurement.
- (3) Occurrence of our delay in delivery is determined according to statutory provisions. In any case, however, a reminder by Purchaser is necessary.
- (4) If we are in delay with a delivery or service or if a delivery or service becomes impossible for us for any reason whatsoever, our liability for damages shall be limited in accordance with Section 10 (Other Liability) of the present General Delivery Terms and Conditions.
- (5) We shall be entitled to partial deliveries, if the partial delivery can be used by Purchaser within the scope of the purpose intended by contract, delivery of the remaining

goods ordered is guaranteed, and Purchaser does not incur any considerable additional expenditure as a result.

Section 6 Delivery, Passing of Risk, Acceptance, Default in Acceptance

- (1) Delivery occurs ex works which is also the place of performance for the delivery and a possible subsequent performance. Upon request and at the expense of Purchaser, the goods are sent to another place of destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed upon, we shall be entitled to determine the type of shipment (in particular carrier, route of dispatch, packing) ourselves.
- (2) The risk of accidental loss and accidental deterioration of the goods passes on to Purchaser at the latest with handing over to Purchaser. But in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay already upon delivery of the goods passes on to the carrier, forwarder or another person or agency instructed to carry out the shipment. Insofar as an acceptance has been agreed upon, it is authoritative for the passing of risk. Otherwise, also the statutory provisions of the law on contracts for work and services apply to an agreed upon acceptance. Default in acceptance by Purchaser shall be equivalent to handing over and/or acceptance.
- (3) If Purchaser is in default of acceptance, fails to provide co-operation or if our delivery is delayed for any other reasons for which Purchaser is not responsible, we shall be entitled to claim compensation for the damage resulting thereof including additional expenses (e.g. storage cost). Our further statutory claims (in particular reimbursement for additional expenses, reasonable compensation, termination) remain unaffected.

Section 7 Prices and Payment Terms

- (1) Our prices apply to the scope of services and delivery specified in our order confirmations. Additional or special services are charged separately. The prices are to be understood in EUR ex works plus packaging, statutory V.A.T., customs duties in the case of exports as well as fees and other public charges.
- (2) In the case of sale by delivery to a place other than the place of performance (Section 6 subsection 1), Purchaser shall bear the transport cost ex works and the cost of a transport insurance requested by Purchaser, where applicable. Any customs duties, fees, taxes and other public charges shall be borne by Purchaser.
- (3) The purchase price shall be due and payable within 14 days as from invoicing and delivery and/or acceptance of the goods. We are, however, entitled at any time, also within the scope of an ongoing business relationship, to carry out a delivery wholly or in

part only against payment in advance. We declare a corresponding reservation at the latest with order confirmation.

- (4) Upon expiration of the above-mentioned payment term, Purchaser will be in default. The purchase price shall bear interest during the period of default at the applicable statutory default interest rate. We reserve the assertion of further damages caused by default. Our claim for commercial maturity interest (Section 353 HGB) [German Commercial Code] vis-à-vis businessmen remains unaffected.

Section 8 Retention of Title

- (1) We reserve ownership of the goods sold until full payment of all our present and future claims from the purchase contract and an ongoing business relationship (secured claims).
- (2) The goods under retention of title may not be pledged to third parties nor transferred by way of security prior to full payment of the secured claims. Purchaser must inform us immediately, if an application for opening of insolvency proceedings is filed or access by third parties (e.g. attachment) is made to the goods belonging to us.
- (3) In the case of breach of contract by Purchaser, in particular in the case of failure to pay the purchase price when due, we shall be entitled in accordance with statutory provisions to withdraw from contract and/or to demand return of the goods on the basis of the retention of title. The demand for return of the goods does not simultaneously include the declaration of withdrawal from contract; we shall rather be entitled to demand only return of the goods and reserve withdrawal from contract. If Purchaser does not pay the purchase price when due, we shall only be allowed to assert these rights, if we have first set Purchaser an adequate deadline for payment without success or such a setting of a deadline is unnecessary according to statutory provisions.
- (4) Until revoked, Purchaser shall be entitled according to (c) below to resale/further process the goods under retention of title in the proper course of business. In that case, in addition the following provisions apply.
 - (a) The retention of title extends to any and all products resulting from processing, mixing or combination of our goods at their full value and we shall be deemed to be the manufacturer. If through processing, mixing or combination with third party goods, their right of ownership remains to exist, we acquire co-ownership in the ratio of the invoiced values of the processed, mixed or combined goods. Otherwise the same applies to the resulting product as for the goods under retention of title.
 - (b) Purchaser assigns to us already now as a security the claims against third parties arising from resale of the goods or the product in full and/or in the amount of our possible co-ownership share in accordance with the paragraph above. We accept

the assignment. The duties of Purchaser mentioned in paragraph 2 apply also in consideration of the claims assigned.

- (c) Besides ourselves, Purchaser remains authorised to collect the claim. We engage ourselves not to collect the claim as long as Purchaser complies with its payment obligations towards us, no lack of ability to perform exists and we do not assert the retention of title by exercise of a right according to paragraph 3. But if this is the case, we can request that Purchaser discloses to us the assigned claims and their debtors, provides us with all the details required for collection, hands over to us the associated documents, and informs the debtors (third parties) on the assignment. Moreover, we shall be entitled in this case to revoke Purchaser's authorisation for resale and further processing of the goods under retention of title.

- (d) If the realisable value of the securities exceeds our claims by more than 10%, we will release securities at our option upon request by Purchaser.

Section 9 Purchaser's Claims for Defects

- (1) For Purchaser's rights in the case of material defects and defects of title (including incorrect and short deliveries as well as improper assembly or defective assembly instructions), the statutory provisions shall be applicable, unless otherwise specified below. In any case, the special statutory provisions in the case of final supply of the goods to a consumer shall remain unaffected (supplier recourse according to Sections 478, 479 BGB).

- (2) The basis of our liability for defects is above all the agreement made on the quality of the goods.

- (3) Insofar as no agreement has been made on the quality, statutory provisions shall be applied in order to assess as to whether a defect exists or not (Section 434 subsection 1 page 2 and 3 BGB). But we shall not be liable for any public statements made by the manufacturer or any third parties (e.g. advertising statements).

- (4) Purchaser's claims for defects require that Purchaser has complied with its statutory obligations to inspect and notify the defects (Sections 377, 381, HGB). If a defect is discovered upon delivery, inspection or at any later date, Purchaser must promptly notify us accordingly in writing. If Purchaser fails to carry out proper inspection and/or the notification of defects, our liability is excluded according to statutory provisions for the defect, which has not been notified and/or not notified in time or not properly notified.

- (5) If the delivered goods are defective, we can choose at first whether we will provide subsequent performance by remedying the defect (rework) or by delivering the goods free from defects (replacement delivery). Our right to refuse subsequent performance under the statutory prerequisites remains unaffected.

- (6) We shall be entitled to declare that the subsequent performance owed shall be subject to payment of the purchase price due by Purchaser. But Purchaser shall be entitled to retain a portion of the purchase adequate with respect to the defect.
- (7) Purchaser must give us the necessary time and opportunity required for the subsequent performance owed, in particular hand over to us the goods, which were the object of a complaint, for inspection purposes. In the case of a replacement delivery, Purchaser must return to us the defective goods according to statutory provisions. Subsequent performance does neither include disassembly of the defective goods nor reassembly, if originally we have not been obliged to carry the assembly.
- (8) The expenses required for inspection and subsequent performance, in particular cost for transport, travel, labour and material (excluding disassembly and assembly cost) shall be borne by us, if actually a defect exists. Otherwise, we can request reimbursement of the cost incurred by the unjustified request for removal of defects from Purchaser (in particular inspection and transport cost), unless the lack of defectiveness has not been visible for Purchaser.
- (9) If subsequent performance has failed or a deadline for subsequent performance to be set by Purchaser has expired without success or is unnecessary according to statutory provisions, Purchaser can withdraw from contract or reduce the purchase price. No right of withdrawal, however, exists in the case of an insignificant defect.
- (10) Claims of the Purchaser for damages and/or compensation for futile expenses also for defects only exist in accordance with Section 10 (Other Liability) and are otherwise excluded.

Section 10 Other Liability

- (1) Unless otherwise specified in the present delivery terms and conditions including the terms and conditions below, we shall be liable in the case of a breach of contractual and non-contractual duties according to statutory provisions.
- (2) We shall be liable for damages - regardless of the legal grounds - within the scope of liability based on fault in the case of intent and gross negligence. In the case of simple negligence, we shall be liable according to the statutory provisions subject to a more lenient standard of liability (e.g. diligence in own affairs) only
 - a) for damages from injury to life, body or health,
 - b) for damages from a non insignificant violation of an essential contractual duty (duty the fulfillment of which permits proper performance of the contract in the first place and on the compliance of which the contractual partner regularly relies and may rely on); but in that case our liability is limited to reimbursement of the foreseeable damage typically occurring.
- (3) The limitations of liability resulting from paragraph 2 shall apply also in the case of breaches of duty by and/or in favour of individuals for whose faults we shall be responsible according to statutory provisions. They do not apply, if we have fraudulently concealed a defect or have assumed a warranty for the quality of the goods, and for Purchaser's claims according to the product liability law.
- (4) Purchaser can only withdraw from or terminate the contract due to a breach of duty, which is not a defect, if we are responsible for the breach of duty. An unrestricted right of termination by Purchaser (in particular according to Sections 651, 649 BGB) is excluded. Otherwise, the statutory prerequisites and legal consequences are applicable.

Section 11 Statute of Limitations

- (1) Different from Section 438 subsection 1 no. 3 BGB, the general statute of limitations for claims from material defects and defects of title is one year as from delivery. Insofar as an acceptance has been agreed upon, the statute of limitations starts with acceptance.
- (2) But if the goods are a building or an object, which has been used for a building in accordance with its normal use and has caused its defectiveness (building material), the statute of limitations according to statutory provisions is 5 years as from delivery (Section 438 subsection 1 no. 2 BGB). Other special statutory provisions on the statute of limitations remain unaffected (in particular Section 438 subsection 1 no. 1, subsection 3, Sections 444, 479 BGB).

- (3) The above statutes of limitations of purchase law apply also to Purchaser's contractual and non-contractual damages claims which are based on a defect of the goods, unless application of the regular statutory statute of limitations (Sections 195, 199 BGB) would result in a shorter statute of limitations on an individual case basis.
- (4) But Purchaser's damage claims according to Section 10 subsection 2 sentence 1 and 2 (a) and according to the product liability law become time-barred exclusively pursuant to the statutory statutes of limitations.

Section 12 Exclusion Purchaser's Rights of Set-Off and Retention

Set-off or retention by Purchaser against our claims from the contract with Purchaser and associated non-contractual claims is only admissible with counterclaims due which are undisputed, established as final or ready for decision. This does not apply to Purchaser's claims which are in a synallagmatic relationship with our claims.

Section 13 Conclusions

- (1) The present delivery terms and conditions and the contractual relationship between us and Purchaser shall be governed by the laws of the Federal Republic of Germany to the exclusion of the international uniform law, in particular the UN sales law.
- (2) If Purchaser is a merchant within the meaning of the commercial code, a legal entity under public law or special funds under public law, our registered offices at Wendlingen am Neckar has exclusive as well as international jurisdiction for all disputes arising indirectly or directly out of the contractual relationship. But in all cases, we are also entitled to take legal action at Purchaser's general place of jurisdiction. Overriding statutory provisions, in particular on exclusive jurisdictions, remain unaffected.
- (3) Invalidity of individual contractual clauses, regardless of whether these are general terms and conditions or individual provisions, does not otherwise affect validity of the contractual relationship.

EB Electronic Michael Czech GmbH, Wendlingen am Neckar