

General Terms and Conditions of Sale of REICHWALD GmbH + Co. KG, Siegen

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§ 1 Application

These General Terms and Conditions of Reichwald GmbH + Co. KG shall apply to all contracts and future contracts concluded with companies, legal entities under public law and special funds under public law for supplies and other services including service contracts. In case of direct sales ("Streckengeschäfte"), the producer's conditions as laid down in its price list shall apply in addition to these conditions. Buyer's purchase conditions shall not be binding even if we do not expressly object to them again after their receipt.

§ 2 Offers

Our offers are not binding to us. Design or product-related deviations from illustrations are possible. The Buyer cannot derive any rights from such deviations. Any oral agreements and assurances given by our sales staff before or at conclusion of contract shall not be binding unless confirmed by us in text form.

§ 3 Prices

Unless otherwise agreed to, only such prices and terms shall apply as contained in our price lists effective at the time when the contract is concluded. Our prices are based ex the place of warehouse without deduction, plus freight, statutory VAT and import duties if any.

In the event our external expenses included in the agreed price change or newly incur later than 4 weeks after the conclusion of the contract, we shall be authorised to modify the price accordingly with regard to the goods not yet delivered to the Buyer as of the beginning of each calendar month concerned.

In the event that the modified price surpasses the originally agreed price by more than 10 %, the Buyer may, within one week after receipt of our price modification notice, withdraw from the contract with respect to the goods affected by the price modification.

§ 4 Payment

Unless otherwise agreed upon or stated in our invoices, the purchase price is due for payment immediately after delivery without deduction. This shall also apply in the event any test certificates according to DIN EN 10204 agreed upon for delivery are missing or arrive late.

Any agreed upon cash discount always relates to the invoiced value excluding freight and will only be granted if and in so far as the Buyer has fully paid all payables due at the time of the discount. Unless otherwise agreed, discount periods shall begin with the date of the invoice.

The Buyer may retain or set off any counterclaims only in so far as his claims derive from the same contractual relationship and would entitle the Buyer to refuse performance of his contractual obligations according to sec. 320 of the German Civil Code (BGB) or in so far as his claims are undisputed or have become legally binding.

Should the Buyer exceed the payment term or default in payment, he will be liable to pay interest at 9 % points above the basic interest rate, unless higher rates have been agreed

upon. Additionally, we are entitled to charge a default allowance of EUR 40.00. We reserve the right to claim additional damages resulting from late payment.

Should it become evident after the conclusion of the contract, that payment is jeopardised by the Buyer's lack in financial means, or should the Buyer be in default with a not merely insignificant portion of the amount due or should other circumstances arise which show a material deterioration in the Buyer's financial position after the contract has been concluded, we shall be entitled to exercise the rights arising from sec. 321 of the German Civil Code (BGB). In such event, we shall also be entitled to make due any and all of our accounts receivable deriving from the current business relationship.

§ 5 Delivery, Dispatch, Passing of Risk

Our commitment to deliver is subject to our own correct and timely self-delivery, unless we are responsible for the deficient or late self-delivery. In particular, we are entitled to withdraw from the contract if we have concluded a proper covering transaction, but are not supplied by our supplier for reasons for which we are not responsible, e.g. if our supplier is insolvent.

Any confirmation as to delivery times shall only be approximate. Delivery times shall commence with the date of our order confirmation and are subject to the timely clarification of any details of the order as well as of the fulfilment of any of the Buyer's obligations, e.g. to produce official certifications, to provide letters of credit and payment guarantees or to pay agreed instalments.

Any agreed delivery time or date shall be considered to be met if the goods have left the works or the warehouse at such time or date. If and in so far the goods fail to be dispatched at the agreed time for reasons not attributable to us, the agreed delivery time shall be considered to have been met at the day on which the goods are notified to be ready for loading.

We shall be entitled to make partial deliveries with reasonable quantities. Where and in so far as allowed by trade usage, we may exceed or reduce the agreed quantities. Where quantities are indicated as "circa", we are entitled to exceed or fall below the agreed quantity by up to 10 %.

Force majeure events entitle us to postpone the deliveries for the period of the hold-up and an appropriate start-up time. This also applies if such events occur during a present default. Force majeure is the equivalent of monetary or trade measures or other acts of sovereignty, breakdowns not caused by us (e.g. fire, machinery or roller breakdown, shortage of raw materials and lack of energy), obstruction of transport routes, delays in clearing the goods for import and in customs clearance, pandemics, as well as of all other circumstances, that essentially impede or render the deliveries and performances impossible, without being caused by us. Thereby, it is irrelevant if the circumstances occur with us or with one of our suppliers. If performance becomes unacceptable for one of the parties due to the abovementioned events, the party concerned shall be entitled to withdraw from the contract by instant declaration in text form.

In case of call-off orders, the risk of loss or damage to the goods shall pass to the Buyer at the time of the provision of the goods for collection. Otherwise, the risk, including the risk of confiscation of the goods, shall pass to the Buyer upon transfer of the goods to the forwarding agent or to the carrier. We will buy insurance only at the Buyer's instruction and expense. Unloading and its costs shall be borne by the Buyer.

The goods will be delivered unpacked and not be protected against rust. Only where so provided by trade usage the goods will be packed. Besides, any package, protection and/or transport device will be supplied according to our experience and at the Buyer's cost. We will

take back such devices only at our warehouse. We will not bear any costs for their re-transport or disposal.

Where the contract provides for continuous deliveries, the Buyer shall divide the quantities and grades of the goods into approximately equal monthly shipments. Otherwise, we shall be entitled to specify them at our own fair and just discretion. Where the single calls for delivery exceed the total contractual quantity, we shall be entitled, yet not committed, to deliver the surplus quantity and invoice it at the prices applicable at the time of the call or the delivery. Unless otherwise agreed, call-off orders shall be completed in full within 365 days from conclusion of the contract. Upon expiry of this period, we may store the uncalled goods at the Buyer's cost and risk.

§ 6 Test certificates, Inspection

Any supply of Test Certificates („Mill Test Certificates“) acc. to EN 10204 is subject to prior agreement in text form. We are entitled to hand over such document as a copy. In case the price for such documents has not been agreed within the contract, we will calculate it based on our price list resp. the issuer's (manufacturer's) price list.

Where testing and inspection of the goods have been agreed upon, the goods must be inspected in the mill or in our warehouse immediately after the Buyer has been informed that the goods are ready for dispatch. The Buyer shall ensure that we can commission the desired accepting company on his behalf and for his account or for his customer's. Unless otherwise agreed, this authorisation shall be deemed to have been granted if an accepting company is named in the order.

The Buyer shall bear his personal and material inspection costs, whereas the costs of inspection / acceptance. They will be invoiced to him by the accepting company and shall therefore be paid directly to the accepting company.

Should, through no fault of ours, the inspection of the goods fail or be delayed or be incomplete, we shall be authorised to dispatch the goods without prior inspection or to store them at the Buyer's expense and risk and to invoice the goods to him.

§ 7 Liability for defects

Any properties of the goods, in particular their grade, classification and dimensions shall be determined in accordance with the agreed and, if not agreed, with the DIN and EN standards effective at the time the contract is concluded, or in absence of such standards, in accordance with trade usage. Any reference made to such standards and similar rules, to inspection documents according to EN 10204 and similar certificates as well as to grade, dimensions, weight and usability of the goods shall not constitute any warranty or guarantee. The same shall apply to declarations of conformity and similar markings such as CE and GS.

As to the Buyer's obligations to examine the goods and to notify us of any defects, the applicable statutory provisions shall apply, it being understood that the duty to inspect the delivered goods includes the inspection of eventual test certificates according to or correlating to DIN EN 10204 and any defects of the goods and test certificates are notified to us in text form.

In case the Buyer intends to install the goods into another object or attach the goods to another object, prior to installation resp. attachment, the Buyer has the obligation to inspect at least randomly the goods with regard to properties relevant for the application in question and to notify us of defects without delay. In case the Buyer, in the event of an installation of the goods into another object or attachment of the goods to another object, fails to inspect the properties

of the goods relevant for the designated end use at least at random prior to installation resp. attachment, this represents a particularly grave disregard of the care required in the ordinary course of business (gross negligence) in relation to us. In such a case, the Buyer may assert rights in relation to these properties only if the defect had been deliberately concealed or in case of a guarantee for the respective quality of the goods.

In case the Buyer has installed the goods, in accordance with the goods' type and designated use, into another object or attached the goods to another object, he may claim reimbursement of his necessary costs for the dismantling of the defective goods and the installation or attachment of goods free from defects ("dismantling and installation costs") only in accordance with the following provisions.

- Necessary dismantling and installation costs are only those, which directly result from the dismantling resp. removal of the defective goods and the installation resp. attachment of identical goods, have accrued on the basis of competitive market prices and have been proven by the Buyer by appropriate documents in text form.

- Additional costs of the Buyer for consequential damages such as e.g. loss of profit, down time costs or additional costs for cover purchases are no dismantling and installation costs and therefore not recoverable under section. 439 para. 3 of the German Civil Code (BGB). The same applies for sorting costs and for supplementary costs resulting from the fact that the sold and delivered goods are at a place other than the agreed place of delivery.

We will reimburse the Buyer for his expenditures in connection with the supplementary performance only in so far as such expenditures are reasonable and not disproportionate in relation to the value of the goods. Disproportionate expenditures are given in case the expenditures requested by the Buyer, in particular dismantling and installation costs, exceed 150 % of the purchase price of the goods invoiced by us or 200 % of the value of the defective merchandise. Costs of the Buyer related to the self-remedy of defects without the legal requirements being fulfilled, are excluded; the same applies for costs for disassembly of the defective and assembly of replacement goods, in case due to a transformation of the buyer before the assembly, the assembled goods provide substantially different features than the original goods delivered by us.

No warranty shall be given to goods sold as declassified material with regard to such defects either specified in the contract or to those normally to be expected. Goods classified as "2a-Ware" ("secondaries") are not subject to any warranty, subject to section § 10 of these Conditions.

Our further liability is subject to § 10 of these Conditions. Any of the Buyer's rights of recourse according to section 445a of the German Civil Code (BGB) are excluded, unless the last contract in the supply chain is a consumer sale. The provisions of section 478 BGB shall remain unaffected.

§ 8 Retention of Title

All goods delivered shall remain our property (Reserved Property) until all of the Buyer's accounts resulting from the business relationship with him, in particular any account balances have been settled in full (current account reservation). This condition shall apply to any future as well as any conditional claims and such cases where the Buyer will affect payments on specifically designated claims. As soon as the Buyer has settled his accounts with us in full, he shall obtain title to those goods which were delivered to him before such payment was effected. The current account reservation shall not apply in prepayment or delivery vs. payment cases. In these cases, the goods remain our property until the purchase price for these goods has been paid in full.

With regard to processing or manufacturing of the Reserved Property, we shall be deemed to be manufacturer within the meaning of section 950 of the German Civil Code (BGB) without committing us in any way. The processed or manufactured goods shall be regarded as Reserved Property within the meaning of the foregoing clause of these Conditions. If the Buyer manufactures, combines or mixes the Reserved Property with other goods we shall obtain co-ownership in the new goods in proportion to the invoiced price of the Reserved Property to the invoiced price of the other goods. If, by such combining or mixing, our ownership expires, the Buyer herewith transfers to us any rights which the Buyer will have in the new stock or goods in proportion to the invoiced price of the Reserved Property, and he will keep them in safe custody free of charge. Our co-ownership rights shall be regarded as Reserved Property within the meaning of the foregoing clause.

The Buyer may resell the Reserved Property only within the normal course of his business in accordance with his normal business terms. The Buyer, though, hereby assigns to us any claims resulting from the resale of the Reserved Property. We hereby accept the assignment. Such claims shall serve as our security to the same extent as the Reserved Property itself. If the Reserved Property is resold by the Buyer together with other goods not purchased from us, then any receivables resulting from such resale shall be assigned to us in the ratio of the invoiced value of the other goods sold by the Buyer. In the case of resale of goods in which we have co-ownership rights pursuant to the foregoing clause, the assignment shall be limited to the part which corresponds to our co-ownership rights.

The Buyer shall be entitled to collect any receivables resulting from the resale of the Reserved Property. This right shall expire if withdrawn by us, at the latest if the Buyer defaults in payment, fails to honour a bill of exchange, or files for bankruptcy. We shall exert our right of revocation only if and in so far as it becomes evident after the conclusion of the contract that payment resulting from this contract or from other contracts is jeopardised by the lack of buyer's ability to pay. Upon our request, the Buyer shall immediately inform his customers of such assignment and forward to us any information and documents necessary for collection.

If the Buyer is in default of payment and after expiry of a reasonable grace period, we shall be entitled to take back the Reserved Property, to enter the Buyer's premises for this purpose if necessary, and to sell the Reserved Property in the best possible way, offsetting against the purchase price. The same shall apply if it becomes apparent after conclusion of the contract that our payment claim from this contract or from other contracts with the Buyer is at risk due to the Buyer's inability to pay. Taking back the goods does not constitute withdrawal from the contract. The provisions of the German Insolvency Code (InsO) shall remain unaffected.

Should the total invoiced value of our collateral exceed the amount of the secured receivables including additional claims for interest, costs etc. by more than 50 %, we shall – upon the Buyer's request – release pro tanto collateral at our discretion.

The Buyer shall immediately inform us of any seizure or any other attachment of the Reserved Property by a third party. He shall bear any costs necessary to suspend such seizure or attachment or removal of the Reserved Property, if and in so far as such costs are not borne by a third party.

§ 9 Weights

For the weight of the goods, the weight determined by our or our suppliers' scales shall be decisive. The weight shall be evidenced by presentation of the pertinent weight check. To the extent legally permissible, weights can be determined without weighing in accordance with standards. We are entitled to determine the weight without weighing according to standard (theoretically) plus 2 ½ % (commercial weight).

Weight deviations of up to 0.5 % do not entitle the Buyer to make a complaint.

Any indications given in the delivery notes as to the number of pieces, bundles etc. are not binding, if and in so far as the goods are invoiced by weight. Unless individual weighing has been agreed, the total weight of the delivery shall prevail. Any difference with regard to the calculated weight of the single pieces shall be proportionally allocated to them.

§ 10 Limitation of Liability, Limitation Periods

Our liability for breach of contractual or extra-contractual obligations, in particular for non-performed or deferred deliveries, for breach of duties prior to the contract as well as for tortuous acts, including our responsibility for our managerial staff and any other person employed in performing our obligations, shall be restricted to damages caused by our wrongful intent or by our gross negligence and shall in no case exceed the foreseeable losses and damages characteristic for the type of contract in question. Apart from that, our liability for damages resulting from defects including consequential damages shall be excluded.

The aforesaid restrictions shall not apply to such cases where we breach our fundamental contractual obligations and where such a breach of contract will endanger the contractual purpose; it shall neither pertain to damages to life, to the body or to health caused by our fault nor to any cases where we have guaranteed certain characteristics of the goods; nor shall such clause affect our statutory liability pursuant to the German Product Liability Act. Any statutory rules regarding the burden of proof shall remain unaffected by the aforesaid.

Should we default on a delivery or performance, the Buyer shall be entitled to damages due to this delay; in case of slight negligence, however, the claim of the Buyer is restricted to maximum 10 % of the agreed purchase price for the performance in default. The right of the Buyer to claim damages instead of performance in accordance with the present § 10 remain unaffected by the aforesaid.

Unless otherwise agreed, any contractual claims, which the Buyer is entitled to in connection with the delivery of the goods, shall fall under the statute of limitations within a period of one year after the goods have been delivered to the Buyer. This shall not apply insofar as sec. 438 para. 1 no. 2, sec. 478, 479 or Section 634 lit a) para. 1 No. 2 of the German Civil Code (BGB) require longer limitation periods, further in cases of injuries to life, body and health, breaches of contract caused by our wrongful intent or by our gross negligence or in cases where a defect is fraudulently concealed. Any remedy of defects shall not cause the renewal of the initial limitation period.

§ 11 Miscellaneous

The place of performance for our performances shall be, if applicable, the supplying work or our warehouse. The place of jurisdiction is, at our discretion, the city of Siegen (Germany) or the Buyer's seat.

All legal relationships between us and the Buyer shall be governed by the laws of the Federal Republic of Germany, to the exclusion of the conflict-of-law rules of international private law and of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

In cases of doubt, the German version of these General Terms and Conditions of Sale shall apply.