

General Terms and Conditions

of Erkodent Erich Kopp GmbH, Siemensstrasse 3, 72285 Pfalzgrafeweiler, Germany

§1 Applicability, Form

- (1) The present General Terms and Conditions apply for all our business relations with our customers. Any deviating terms and conditions of our customers are hereby explicitly rejected. Unless the customer has not expressly objected thereto, the General Terms and Conditions are considered as agreed for all further offers and deliveries by us until we will have introduced other General Terms and Conditions to the customer.

§2 Conclusion of contract

- (1) The order of goods by the customer is to be understood as binding contractual offer. Unless otherwise stated in the order we are entitled to accept this contractual offer within three weeks after receipt.
- (2) The acceptance can be declared either in writing (for ex. by acknowledgement of order) or implicitly by delivery of the goods to the customer.

§3 Offers

- (1) All offers are subject to change without notice and without obligation. Orders only bind us after our written delivery confirmation.

§4 Time for delivery and delay in delivery

- (1) Unless otherwise expressly agreed in individual cases, the delivery is executed ex works (EXW, Incoterms 2020), D-72285 Pfalzgrafeweiler, which is also the place of performance for the delivery and possible supplementary performance. At the request and expense of the customer we handle the organization of the shipment of the goods to another place of destination. The organization of the shipment is just an additional service on our part which does not imply an obligation to ship the goods and which does not alter the agreed obligation of the customer to collect the goods.
- (2) The time of delivery is agreed individually or rather indicated by us upon acceptance of the order. If we are unable to keep binding delivery times for reasons that we do not have to justify we will immediately inform the customer hereof and at the same time indicate an expected new delivery time.
- (3) If a fixed time for delivery is provided for in the contract and we fail to deliver within such time, the customer is only entitled to cancel his order after having extended the original term for at least the duration of four weeks.
- (4) Unforeseen events like e. g. force majeure, hostilities, strike, lack of primary products, operating trouble entitle us to protract the delivery reasonably. Where appropriate, we are entitled to repudiation of contract, respectively of parts of the contract.
- (5) Partial deliveries and partial invoicing are permitted to a reasonable extent for the customer.

§5 Shipment

- (1) As far as in individual cases a shipment of the goods is agreed upon, the shipment will always be executed uninsured and except when otherwise stipulated at the customer's risk. A transport insurance is only concluded upon request, the costs have to be paid by the customer.
- (2) For all export deliveries the Incoterms 2020 are applicable.

§6 Prices

- (1) Our prices are to be understood ex works Pfalzgrafeweiler exclusive of any applicable value added tax which shall be payable at the time of delivery and exclusive of the costs for packaging, unless otherwise agreed.

§7 Terms of payment

- (1) Unless other terms and conditions have been agreed upon, our invoices are payable within 30 days as of date of invoice. Authoritative for the timeliness of the payment is the date of our receipt of the payment. Cheques shall only be deemed as payment after their final cashing. Should the agreed payment deadlines be exceeded, the legal consequences of default come into effect. We are from that date entitled to invoice for interest due to delay.
- (2) New customers will only be supplied against payment in advance. The payment can be effected by remittance or by credit card (VISA and Mastercard).
- (3) Place of performance for all our payment claims against the customer is our registered office in D-72285 Pfalzgrafeweiler.

§8 Retention of title

- (1) Our deliveries are exclusively executed under reservation of title. The property in the goods shall not pass to the customer until we have received payment in full of the price of the goods and all other goods agreed to be sold by us to the customer for which payment is then due. On open account the reserved property is considered to be security for our balance claim. The customer is entitled to sell the goods that are subject to retention of title in the ordinary course of business. Pledges and transfers of security with our goods are not permitted to the customer. Seizures by third parties by which also our goods should be concerned have to be immediately notified and the third party debtors informed of our retention of title.

- (2) In case of delay in payment, especially also in case of general cessation of payment, we are entitled to demand the immediate separation of our reserved goods and their surrender; should the goods no longer be in place all our deferred claims shall then become due immediately.
- (3) The reserved goods are to be handled with care and to be insured against fire and water damage; relating insurance claims shall be deemed assigned to us already now.

§9 Deficiency claims of the customer

- (1) The customer is obliged to immediately check the delivered goods after delivery and to immediately notify any recognizable defects. If the customer fails to supply such notification within 6 work days the goods are considered to be delivered in full and free of defects, unless the defect was not recognizable during the inspection.
- (2) If the delivered item is defective we can initially choose whether we provide subsequent performance by removing the defect (rectification) or by delivery of an item that is free of defects (replacement). The customer, however, is entitled to retain a part of the purchasing price that is reasonable in relation to the defect.
- (3) The customer has to give us the necessary time and opportunity for the subsequent performance owed, especially to deliver the claimed goods for inspection. In case of replacement the customer has to return the claimed item according to the statutory provisions.
- (4) The liability for defects does not refer to natural wear and tear, furthermore not to defects that occur after the transfer of risk as a consequence of incorrect or negligent handling, excessive stress as well as of such influences which are not predictable.
- (5) Deficiencies of claim have a limitation period of 12 months after delivery of the goods. Deviating from this the special statutory provisions concerning the limitation period, especially the limitation period in the event of recourse according to §§ 478, 445b of the Civil Code (BGB) remain unaffected. For deficiencies of claim on the part of the customer related to defects according to § 10, article 2, sentence 1 and sentence 2(a) as well as according to the Product Liability Law exclusively the legal provisions related to limitation periods shall apply.

§10 Other liability

- (1) Unless otherwise stated in these General Terms and Conditions including the following provisions we shall be liable according to the statutory provisions in case of a breach of contractual and non-contractual obligations.
- (2) We shall be liable for compensation – no matter for which legal ground - in relation to liability regarding fault in the case of intent and gross negligence. In case of simple negligence we shall be liable subject to a more lenient standard of liability according to the statutory regulation (for ex. for the same care as in our own affairs) only
 - (a) for damages resulting from injury to life, body and health
 - (b) for damages resulting from any breach of an essential contractual obligation, in this case, however, our liability is limited to the replacement of the foreseeable, typically occurring damage.
- (3) The limitations of liability resulting from article 2 are also applicable in case of breaches of duty by respectively in favour of persons, for whose negligence we are responsible according to statutory prescriptions. They are not applicable in case we have maliciously failed to disclose a defect of the goods and for claims of the customer according to the Product Liability Law.

§11 Return of goods

- (1) Without our written consent a return of goods is not allowed. It is further not allowed to arrange freight collect returns. For complaints and returns that have not been justified the customer will bear the related costs and charges. In case the return has been justified as a result of defect we will bear these costs and charges.
- (2) Goods with a remaining period of the shelf life of less than one year respectively goods which had been delivered more than one year ago are excluded from returns. For returns of defect-free goods we will charge a handling fee of 20 % on the net goods value. Returns of goods because of defects remain unaffected from this regulation.

§12 Choice of Law, Jurisdiction, Place of Performance, Partial Invalidity

- (1) For these General Terms and Conditions as well as the contractual relationship between us and the customer the Law of the Federal Republic of Germany is applicable under exclusion of international uniform law, especially the UN sales law.
- (2) If the customer is a merchant in the sense of the German Commercial Code, a legal entity under public law or public-law special funds, the exclusive – also international – place of performance for all disputes resulting directly or indirectly from the contractual relationship is our registered office in D-72285 Pfalzgrafenweiler. The same also applies if the customer is an entrepreneur in the sense of § 14 German Civil Code (BGB). In all cases, however, we are entitled to take legal actions at the place of performance of delivery obligation according to these General Terms and Conditions respectively a prior-ranking individual agreement or at the general legal venue of the customer. Prior-ranking legal prescriptions, especially concerning exclusive competences remain unaffected.
- (3) Should any of the above-mentioned provisions be or become invalid, the validity of the other provisions is not affected. Invalid prescriptions shall be deemed replaced by such valid prescriptions which come closest to the economic intention of the omitted regulation.