

TERMS OF DELIVERY AND SERVICE OF ULLRICH GMBH

I. GENERAL - SCOPE OF APPLICATION

1. These general terms and conditions of delivery and service (GTDS) of Ullrich GmbH (ULLRICH) apply to all agreements for delivery and/or service of ULLRICH. In case of individual agreements, these GTDS apply on subsidiary basis.
2. The GTDS apply exclusively. Customer terms and conditions deviating there from or conflicting there with shall be disregarded and are not acknowledged by ULLRICH, unless ULLRICH has consented there to expressly and in writing. This applies also if ULLRICH is providing or performing deliveries and/or services being aware of such terms except for ULLRICH having consented expressly thereto in writing.
3. These GTDS shall also apply to all future contracts with the customer.
4. These GTDS shall not apply to consumers as provided for in Section 13 German Civil Code (BGB).

II. AGREEMENTS AND CONCLUSION

1. All agreements between ULLRICH and the customer are concluded on the basis of a commission and acceptance thereof by ULLRICH. Delivery or service by ULLRICH following such commission is considered acceptance.
2. ULLRICH may accept commissions within two (2) weeks.
3. All offers are non-binding.

III. CONDITION AND PROCESSING OF GOODS

1. Any goods delivered by ULLRICH are not for a distinct purpose unless the same is explicitly agreed upon in writing. All risk associated with usability, versatility or intended use are solely assumed and borne by the customer.
2. Customary deviations of measurement, contents, weight and colour resulting from manufacturing shall be permitted. Deviations of specifications shall be permissible in accordance with industry customary tolerances.
3. Customer shall only process goods in accordance with applicable technical standards. ULLRICH shall be entitled but not obliged to provide customer with instructions for processing.
4. Damages resulting from improper or inadequate processing of goods are solely borne by the customer.
5. Information on measures and weight of collis are made to the best of ULLRICH's knowledge.

IV. PRICE AND PACKAGING COST

1. All prices are ex works net plus applicable value added tax as in effect from time to time.
2. Calculation of prices is effected in accordance with prices and conditions valid at the date of delivery.
3. Cost for packaging, of whatever type, are for customer's account. Cost for crates and containers are invoiced separately and credited to customer by 2/3 of the invoiced amount if returned freight and carriage cost free within four (4) weeks from the delivery date in intact condition with full packaging material. Otherwise, packaging material must be returned to ULLRICH sorted and clean. Additional disposal cost are for customer's account.

V. DELIVERY AND TRANSFER OF RISK - FORCE MAJEURE

1. Place of performance for all deliveries and services of ULLRICH is ULLRICH's place of business.
2. If customer is requesting dispatch to another place, the same is effected at risk and for account of customer. Unless agreed otherwise, packaging will be in ULLRICH's discretion. Upon customer's request and at its cost, ULLRICH will take out transport insurance.

3. ULLRICH is entitled to partial delivery and services unless the same is unreasonable for customer. Delivery dates and delivery times are only binding if explicitly agreed in writing.

4. Force majeure is entitling ULLRICH - even during default - to defer performance during the term of impediment. Circumstances which are not attributable to and which make it either impossible or excessively difficult for ULLRICH to perform services are equivalent to force majeure, particularly lawful strike or lock out, official regulations not attributable to ULLRICH, import or export bans, lack of energy or resources and war, riot, terror, or natural disasters. If the impediment lasts for more than two (2) months, customer shall be entitled, following granting of a reasonable grace period, to resign from the contract, subject to being able to demonstrate that fulfilment of the contract is no longer of interest to it. The grace period set by customer must be at least four (4) weeks and must be made in writing.

VI. TOOLS AND MOULDS

All tools, moulds or forms are, unless explicitly otherwise agreed upon in writing, the property of ULLRICH even if customer has partly or wholly assumed or paid acquisition or manufacturing cost thereof.

VII. THIRD PARTY LIABILITY

1. The customer is solely liable that its specifications and rules with respect to forms, color, size and weight in its order do not interfere with third party rights.
2. Customer is indemnifying ULLRICH for and against all damages, cost and expenses for legal defence which may be incurred by ULLRICH for breach of third party rights per subsection 1 hereof or for defence against asserted breach.

VIII. PAYMENT AND SET-OFF

1. Invoices are payable in EUR within 30 (thirty) days from the invoice date in cash without deduction. If customer is not paying within such period, default shall occur without reminder or further notice. Receipt of funds by ULLRICH is decisive for punctual payment. ULLRICH shall be entitled to demand interest in an amount of nine (9) percent above the respective ECB base rate or to demonstrate a higher damage. Customer shall be entitled to demonstrate that either no or a lower damage has occurred.
2. Cheques, bills or bills of acceptance are only accepted by ULLRICH as provisional performance. Payments are only effected until the relevant amount is unconditionally credited or paid in cash to ULLRICH.
3. Upon a customer default, ULLRICH shall be directly entitled to withdraw delivered goods or performed services or to retain the same. In addition, ULLRICH shall be entitled to prohibit a resale or revoke collection authorization of customer claims against third parties.
4. Neither withdrawal of goods and/or services by ULLRICH nor revocation of the collection authorization of claims is considered rescission from the contract unless ULLRICH explicitly gives notice of rescission.
5. If ULLRICH is, subsequently, becoming aware of circumstances which, in ULLRICH's discretion, jeopardize or may jeopardize our claims, ULLRICH shall be entitled to immediately call all claims due and payable. In addition, ULLRICH may retain all deliveries and/or services until it has fully complied with its contractual obligations. Customer may avert such consequences upon submission collateral conforming to such jeopardized and affected claims.

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- The customer may only set-off claims against ULLRICH which are either subject to an unchallengeable court order, undisputed or acknowledged by ULLRICH. Customer shall not have a right of retention.

IX. RETENTION OF TITLE AND RETENTION

- ULLRICH retains full title to the goods and services until payment of the purchase price and all other amounts, if any, due and payable by customer either under the respective contract and/or balance claims resulting from the business relationship, including interest and cost, have been unconditionally made and effected in full. Application is effected in accordance with Section 367(1) German Civil Code (BGB). This shall also apply to future and conditional claims. The customer may resell goods subject to retention of title only in the ordinary course of its business, provided, however, it is not in default and claims resulting from or associated with such resale are unconditionally transferred and assigned to ULLRICH with ULLRICH accepting such transfer and assignment. The customer is prevented from any other disposition of the goods.
- The customer assigns to ULLRICH, with ULLRICH accepting the same, all receivables, right, title and claims resulting from a resale of the goods being subject to retention of title. The assigned receivables, rights, title and claims serve as collateral for ULLRICH's claims resulting from the business relationship in the same degree as title to the delivered goods. If customer is reselling the goods together with other items or goods, assignment of receivables, rights, title and claims is effected in proportion of the invoice value of the ULLRICH goods to the invoice value of the other items or goods. Customer is not entitled to any further assignment.
- Upon processing, combination or mixing of the conditional goods with other items or goods, ULLRICH shall obtain title to the new good or goods in proportion of the invoiced value of the ULLRICH good to the other items or goods so processed, combined or mixed. If title to the delivered good ceases to be effective upon such processing, combination or mixing, customer is assigning to ULLRICH its ownership or expectant rights of the new good in proportion of the invoiced value of the delivered goods to the other goods or items and is keeping the same in gratuitous custody.
- Customer shall be entitled to collect receivables assigned under subsection 2 hereof up to revocation. Collection authorization may be revoked at any time, particularly upon customer default.
- Upon ULLRICH's request, customer must inform its customers or buyers of such assignment and shall provide ULLRICH with all information and submit all documents for collection thereof.
- Customer must promptly inform ULLRICH of any seizure or other adverse actions on the part of other third parties and shall support ULLRICH, at its own cost and expense, in connection with recovery thereof.
- Subject to the realisable value of the collateral exceeding the amount of receivables so secured by more than 20%, ULLRICH, shall, upon customer's request and at its option, release collateral.

X. DEFECTS AND WARRANTY

- Customer shall must promptly inspect goods after delivery.
- Defects and/or deficiencies must be reported to ULLRICH in writing immediately after receipt and within seven (7) days at the latest. Goods are deemed accepted if customer is not notifying a defect in time unless such defect or deficiency

was not obvious upon inspection. The seven (7) day notice period for non-obvious defects commences at the date of identification.

- Transfer of goods to a third party or dispatch thereof to territories outside tariffs jurisdiction do not release customer from its inspection obligation.
- In case of defects ULLRICH may, at its option, provide supplementary performance within reasonable time. If such supplementary performance fails for reasons solely attributable to ULLRICH, the customer may rescind from the contract or demand reduction of the purchase price in accordance with applicable laws. The supplementary performance shall only be deemed failed if two (2) attempts of supplementary performance were unsuccessful.
- Customer claims pertaining to supplementary performance and expenses associated therewith, particularly transport, road, labour and material cost, are excluded, subject to expenses being increased as result of customer transferring goods to any place other than the place of delivery.
- Recourse action, if any, against ULLRICH may only be taken in terms of both scope and amount conforming to statutory claims; Ullrich is not liable for any other contractual liability of customer against its buyers in excess thereof.
- Further or other claims as provided for in this Section of customer against Ullrich for material defects are excluded. Section XII shall apply accordingly.

XI. DEFAULT

- If Customer is in breach with any of its obligations, particularly with respect to payment of the purchase or service price, as applicable, ULLRICH shall, following granting of a reasonable grace period, be entitled to rescind from the agreement and request damages and/or reimbursement of expenses.
- The compensation obligation does not apply if such breach is not attributable to customer.

XII. LIABILITY AND LIMITATION

- ULLRICH shall be liable for wilful misconduct and gross negligence in accordance with applicable laws. The same applies to injury to life, body or health and claims arising from the Procut Liability Act.
- Otherwise, liability of ULLRICH, its bodies, employees or agents for negligent breach of contractual obligations is, at all times, limited to direct, foreseeable damages typical for this type of contract. Liability for all other damages, including, but not limited to, consequential damages is fully excluded.
- The period of prescription for all contractual claims of customer is one (1) year from the relevant commencement date under applicable laws.

XIII TERMINATION

- ULLRICH shall be entitled to terminate the contract for cause without notice, if, *inter alia*, (i) the customer is in material breach with its contractual or other obligations and if such breach is not cured after granting of a reasonable grace period; (ii) the customer is liquidated; or (iii) the customer is suspending payments or filing for the initiation or opening of insolvency proceedings over its assets or similar proceedings, (iv) insolvency proceedings are initiated over the assets of the customer or the initiation of insolvency proceedings is rejected for lack of assets. As regards contracts establishing continuing obligations (*Dauerschuldverhältnisse*), Section 314 German Civil Code shall also apply.

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2. Termination of the contract shall not affect the rights and obligations of a party that have accrued on or prior to termination becoming effective, unless performance of obligations or services is unreasonable for Ullrich.

XIV. MISCELLANEOUS

1. Should any provision hereof be or become, either in whole or in part, unlawful, ineffective or unenforceable, effectiveness of the remaining provisions shall remain unaffected thereby. Such unlawful, ineffective or unenforceable proviso shall be replaced by a lawful, effective and enforceable provision which conforms, to the greatest extent, to its purpose and economic interest.
2. All declarations of the parties, including declarations for conclusion of an agreement, must be made in writing. The same applies to cancellation written form requirement. The written form is complied with by facsimile.
3. All agreements shall be exclusively governed by the laws of the Federal Republic of Germany. The application of the German International Private Law and of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.
4. Place of performance is Zwiesel. The Zwiesel courts shall have exclusive jurisdiction.