

GENERAL TERMS OF SALE OF CHESTERTON INTERNATIONAL GMBH

1. General

- 1.1. Unless not explicitly agreed otherwise these General Terms of Sale apply for all our - including future – agreements, offers, deliveries and other services. The General Terms of Sale shall only apply if the purchaser is entrepreneur (Section 14 BGB (German Civil Code), a legal person under public law or special assets (Sondervermögen).
- 1.2. The General Terms of Sale shall apply exclusively. Deviating, conflicting or additional general terms of the purchaser are only incorporated into the agreement if we explicitly consent. Such consent is required in any case also if we e.g. deliver without reservation to the purchaser whilst being aware of the general terms of the purchaser.
- 1.3. Individual agreements (e.g. framework supply agreements, quality assurance agreements) and information in our order confirmation shall take precedence over these General Terms of Sale.
- 1.4. The Incoterms in the current version at the time of contract conclusion shall apply as far as the General Terms of Sale do not contain deviating provisions.
- 1.5. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these General Terms of Sale.

2. Offers and Conclusion of Contract

Our offers remain subject to change. The order of goods or other services by the purchaser shall be deemed to be a binding offer. As far as not otherwise determined in the order we are entitled to accept the offer within 2 weeks after receipt. The contract will be concluded by our order confirmation. Unless agreed otherwise the packaging units of our respective current price list shall apply.

3. Prices, Calculation

If not explicitly agreed otherwise all quotations are ex works respective ex stocks plus costs of packing and transport and VAT. In case of small orders we will charge a minimum quantity surcharge according to the current price list at the time of contract conclusion.

4. Delivery, Service, Passing of Risk

- 4.1. If not agreed otherwise in writing, delivery shall be ex works or stock; we ship goods at the risk and expense of the purchaser whereby we are entitled to ship the goods from another place than the place of performance listed in Section 10.1. Choice of transport route and means is in our discretion. To secure claims with respect to transport damages is obligation of the purchaser.
- 4.2. Purchaser is obliged to accept partial performance as far as such is reasonable in the respective case.
- 4.3. Performance deadlines shall be agreed individually. If we fail to keep binding deadlines due to reasons we are not responsible for (non-availability of the

service), we will inform the purchaser without undue delay and therewith communicate an expected new delivery deadline. If the service is also not available within the new delivery deadline, we will inform the purchaser without undue delay and are entitled to withdraw from the contract wholly or partially; in this case we will return a performance already received from the purchaser without undue delay. In this respect it is deemed to be a non-availability of service (i) if we have concluded a cover transaction with our supplier and did not receive the service in due time and neither we nor the supplier is responsible for such, (ii) in the event of other disruptions in the supply chain due to force majeure or (iii) if we are not obliged to procurement in a single case. Force majeure within the meaning of these General Terms of Sale is an event for which we are not responsible, which is beyond our control and which cannot be foreseen by a prudent party with experience in the industry and which cannot be overcome with reasonable effort if it occurs, such as mobilisation, war, war-like conditions, blockades, unforeseeable import and export prohibitions, unforeseeable traffic blocks, unforeseeable official measures, unforeseeable energy and raw material shortages, pandemics, epidemics, quarantines.

5. Payment, Offset, Right to Retain

- 5.1. The receipt of the payment by us or rather the unconditional crediting to our account is decisive for the timeliness of payment.
- 5.2. We are not obliged to accept payment by cheque or bill; in any case the provision of a cheque or bill shall only be deemed to be an account performance (Erfüllungshalber). The provision does not lead to a deferment of the payment. All costs associated with such payment shall be borne by the purchaser.
- 5.3. If the purchaser owes payment of more than one claim and the payment is not sufficient to redeem all debts the mandatory provision of law for the redemption (Section 366 para. 2 BGB (German Civil Code)) shall apply even if the purchaser determines the payment for a certain debt.
- 5.4. The purchaser shall only be entitled to offset if the purchaser's counterclaim is assessed in a legally binding judgement or acknowledged and to the extent such rights are based on the same transaction.

6. Retention of Title

- 6.1. We retain the title to all goods delivered by us (in the following also „Reserved Goods“) until receipt of all our claims, including future claims, versus the purchaser resulting from the business relationship. In case of current accounts the retention of title serves as security for the respective balance of the account.
- 6.2. In case the Reserved Goods are combined, mixed or blended with removable things of the purchaser in such way that the thing of the purchaser is deemed to be the main thing the purchaser now assigns to us purchaser's title on whole the created thing in relation to the value of the Reserved Goods to the value of the other combined, mixed or blended things. If the Reserved Goods are combined, mixed or blended with things of a third party

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- in a way that the thing of the third party is deemed to be the main thing, the purchaser now assigns to us purchasers claims against such third party in such amount that equals the amount of the invoice of the Reserved Goods.
- 6.3. The thing created by the combination, mix or blend (in the following „New Thing“) or rather the (co-) ownership rights to be assigned to us according to Section 6.2 as well as the claims of remuneration assigned to us according to Section 6.2 serve to secure our claims in the same way and to the same extent as the Reserved Goods according to Section 6.1.
- 6.4. The purchaser is authorized the resell the Reserved Goods or the New Thing within the scope of purchaser's ordinary business operations under retention of title. The purchaser is obliged to secure that the claim for remunerations of such reselling can be assigned to us according to Sections 6.5 and 6.6.
- 6.5. The purchaser will already now assign the claims of remuneration from such reselling to us. They serve to the same extent as security as the Reserved Goods. If the purchaser resells the Reserved Goods together with other goods, not delivered by us, the assignment of the claim shall only apply to the amount of the invoice payable for the Reserved Goods. For the reselling of goods that are subject the provisions of combination, mix or blend according to Section 6.2 or statutory law in our co-ownership the assignment of the claim in the amount of our co-ownership share shall apply.
- 6.6. If the purchaser includes the claim for remuneration of the reselling of Reserved Goods into a current account relationship (Kontokorrentverhältnis) with purchaser's customers, the purchaser assigns to us already now an acknowledged balance or a closing balance to the purchaser's favour in the amount that equals the total amount included into the account relationship from the reselling of the Reserved Goods. Section 6.5 sentences 3 and 4 shall apply accordingly.
- 6.7. The purchaser is authorized to collect the claims of the reselling of the Reserved Goods and the New Things assigned to us.
- 6.8. We may revoke the authorization for reselling the Reserved Goods or the New Things and the authorization to collect the claims assigned to us according to Section 6.7 if purchaser is in default with payment or ceases payment or if other circumstances become known to us that raise doubts about the creditworthiness or the trustworthiness of the purchaser. In case of revocation of the reselling of the Reserved Goods and the New Things the purchaser is obliged to inform purchaser's customers without undue delay about the assignment of the claim to us and to provide us with all necessary information and documents for collection. Additionally, the purchaser is obliged to handover and assign possible securities received, for claims against purchaser's customer to us.
- 6.9. If the realisable value of the securities exceeds the value by more than 10 percent, we will upon request of the purchaser release securities at our own discretion.
- 6.10. The purchaser is obliged to insure the Reserved Goods sufficiently at the original value against damages from fire, water and theft.
- 7. Notice of Defect and Rights of the Purchaser in Case of Defects**
- 7.1. The statutory provisions shall apply to the purchaser's rights in the event of material defects and defects of title (including incorrect and defective delivery as well as improper assembly/installation or defective instructions), unless otherwise specified below. Any statutory liability and liability under product liability law, and the liability of the seller of the products under the purchase agreement shall not be affected by any manufacturer's warranty statement from A.W. Chesterton Company that may be included in the product packaging.
- 7.2. The purchaser's claims for defects presuppose that he has fulfilled his statutory inspection and notification obligations (Sections 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection must always be carried out immediately prior to processing. Defects in quality apparent in an examination without undue delay after delivery have to be reported in writing without undue delay, latest 14 days after delivery. Other defects in quality have to be reported in writing without undue delay, latest 14 days after discovery. The receipt of the report by us is decisive for the timeliness of the report. If the purchaser fails to properly inspect the goods and/or report defects, our liability for the defect not reported or not reported on time or not reported properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for installation or mounting, this shall also apply if the defect only became apparent after the corresponding processing as a result of the breach of one of these obligations; in this case, the Buyer shall in particular not be entitled to any claims for reimbursement of corresponding costs ("removal and installation costs").
- 7.3. The basis for our liability regarding defects in quality is the agreement about the quality of the goods including accessories and instructions. Product descriptions and manufacturer specifications that are subject of the respective contract or product descriptions published by us (in particular in catalogues or on our internet homepage) are deemed to be an agreement about the quality. As far as no quality was agreed statutory law shall apply for the assessment if a defect in quality is given (Section 434 para. 3 BGB).
- 7.4. It is not deemed to be a defect in quality if the defect was caused by a use contrary to the operational, maintenance or installation instructions, inappropriate storage or use, natural wear and tear or improper interventions by the purchaser or a third party.
- 7.5. In case of a defect in title we are initially entitled for subsequent performance. The subsequent performance is carried out at our choice either by remedying the defect or through delivery of a thing without defect. Our right to refuse subsequent performance according to the statutory provisions of law remains unaffected.

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- 7.6. We are entitled to make the subsequent performance depending on the payment of the due purchase price. However, the purchaser is entitled to retain a portion of the purchase price appropriate in relation to the defect.
- 7.7. The purchaser is obliged to give us reasonable time and possibility for the subsequent performance and in particular to handover the goods concerned for inspection. In case of the delivery of a new object purchaser has to return the defect object according to the statutory provisions of law however, the purchaser does not have a right of return. Subsequent performance does neither include the disassembly, removal or dis-installation of the defect object nor the new assembly, attachment or installation, if we were not originally obliged to such services; claims of the purchaser for reimbursement of corresponding expenses ("disassembly and assembly costs") remain unaffected.
- 7.8. Expenses arising from the inspection and the subsequent performance, in particular expenses for transport and travel, labour and material including as applicable for disassembly and assembly) are born or reimbursed by us in accordance with the statutory provisions of law, if a defect exists. If no defect exists, we are entitled to charge the purchaser for the expenses arising from the unjustified request of repair, if the purchase knew or could have recognized that there was in fact no defect.
- 7.9. If the subsequent performance has failed or a reasonable deadline which is to be set by the purchaser for the subsequent performance has expired or has become legally superfluous pursuant to the provisions of statutory law, the purchaser may withdraw from the purchase contract or reduce the purchase price and may in the scope of Section 7.10 claim for damages or reimbursement of frustrated expenses. The purchaser shall have no right to withdraw from the purchase contract In case of an insignificant defect.
- 7.10. Claims of the purchaser for reimbursement of expenses pursuant to Section 445a para. 1 BGB are excluded, unless the last contract in the supply chain is a sale of consumer goods (Sections 478, 474 BGB). Claims with respect to damages and reimbursement of futile expenses (Section 284 BGB) due to defects are only permitted within the scope of Section 8 and shall otherwise be excluded.
- 8. Liability**
- 8.1. As far as we are according to the statutory provisions of law - irrespective of their legal grounds - liable for damages or reimbursement of futile expenses (Section 284 BGB), our liability is limited according to the stipulations in this Section 8.
- 8.2. We are liable for damages and reimbursement of futile expenses - irrespective of their legal grounds – in the scope of culpa liability (Verschuldenshaftung) in cases of willful intent and gross negligence. Provided that the statutory provisions of law do not stipulate a lower standard of liability (e.g. standard of care in ones own affairs) we are liable in cases of slight negligence only
- a) for injury to life, body or health;
- b) for damages caused by breach of a material contract obligation (obligation that is essential for the proper fulfillment of the contract and on which the contract partner can rely to be fulfilled); in this case our liability is limited to the amount of the foreseeable damage, which is typical in those cases.
- 8.3. The limitation of liability stipulated in Section 8.2 shall also apply for breach of obligations by or to the advantage of persons, for whose fault we are responsible according to the statutory provisions of law. The limitations shall not apply if we have fraudulently concealed the defect or have given a guarantee regarding the quality of the goods and for claims of the purchaser pursuant to ProdHaftG (German Law on Product Liability).
- 9. Limitation Period**
- 9.1. In deviation of Section 438 para. 1 No. 3 BGB (German Civil Code) the term for the general limitation period for claims due to defects in quality and title is one year commencing with delivery. As far as acceptance is agreed, the limitation period starts with acceptance.
- 9.2. If the good is a building or a thing that that has been used for a building in accordance with the normal way it is used and has resulted in the defectiveness of the building (building material), the limitation period is according to the statutory provisions of law 5 years commencing with delivery (Section 438 para. 1 no. 2 BGB (German Civil Code)). Not affected are further special provisions of statutory law regarding limitation periods (in particular Section 438 para. 1 no. 1, para. 3, Sections 444, 479 BGB (German Civil Code)).
- 9.3. The above mentioned limitation period shall also apply for contractual and non-contractual damage claims based on a defect, unless application of the standard limitation periods of statutory law would, in the individual case, lead to a shorter limitation period. Damage claims of the purchaser pursuant to Section 8.2 sentence 1 and sentence 2 (a) as well as damage claims according to ProdHaftG (German Law on Product Liability) become time-barred pursuant to the statutory provisions of law.
- 10. Place of Performance, Place of Jurisdiction and applicable Law**
- 10.1. The place of performance for delivery and payment is Ismaning or Rödinghausen, depending on the product.
- 10.2. If purchaser is a merchant according to the provisions of HGB (German Commercial Code), a legal person under public law, or special assets (Sondervermögen) under public law the exclusive place of jurisdiction in relation to conflicts arising directly or indirectly from the contract relationship shall be Ismaning. We are entitled to file claims instead at the court stipulated above at any competent court.
- 10.3. The law of the Federal Republic of Germany, excluding the "United Nation Convention on Contracts for International Sale of Goods" shall apply.

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