

General Conditions of Sale and Delivery of AB-Tec GmbH & Co. KG

Section 1 General information, scope

- (1) The following General Conditions of Sale and Delivery shall apply to all business relationships between AB-Tec GmbH & Co. KG, with registered office in Iserlohn, Germany (hereinafter also referred to as AB-Tec) and our customers, provided that the customers are entrepreneurs (Section 14 of the German Civil Code (BGB)), insofar as they act within the scope of their business activities, or legal entities under public law.
- (2) The General Conditions of Sale and Delivery, as amended, shall also apply as a framework agreement for future contracts governing the sale and/or delivery of movable objects with the same customer, without their validity having to be expressly agreed again in each case.
- (3) The General Conditions of Sale and Delivery of AB-Tec shall apply exclusively. Any deviating general terms and conditions in place at the customer shall not be recognised unless they have been specifically approved by us; in particular, unconditional delivery with knowledge of the customer's general terms and conditions shall not constitute any explicit approval of those general terms and conditions within the aforementioned meaning.

Section 2 Offers, power of attorney

- (1) Our offers, including any product descriptions and other documents, shall be subject to change and non-binding, unless explicitly agreed otherwise. Orders shall be either explicitly confirmed by AB-Tec within a maximum of three working days following receipt of the order, or through our delivery of the goods to the customer.
- (2) The documents forming part of the offer, such as illustrations, drawings, or details relating to weights and measurements, shall be understood to be approximations, unless AB-Tec has expressly designated them as binding.
- (3) Only managing directors and authorised signatories of AB-Tec shall be entitled and authorised to enter into agreements on AB-Tec behalf.

Section 3 Prices and terms of payment

- (1) The specified prices shall apply FCA (Incoterms 2020); in addition, the customer shall also bear the cost of packaging and the disposal thereof. All taxes, customs and fees, etc. that apply to deliveries outside Germany shall be borne by the customer.

Section 4 Payments/default of payment

- (1) Unless otherwise expressly agreed the purchase price shall fall due within 30 days after invoicing and delivery, without discount, and is to be paid into AB-Tec's bank account, free of charge.
- (2) The customer shall enter default when the aforementioned payment period has expired. During the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable at the time. AB-Tec reserve the right to assert further damages caused by default.
- (3) The customer shall be entitled to rights of set-off or retention only to the extent that its claim has been definitively established in law or is undisputed or are based on the same contractual relationship. In the event of defects in the delivery, Section 7(3) shall remain unaffected.
- (4) If, following the conclusion of the contract, it becomes apparent that the claim of AB-Tec to the purchase price is jeopardised by the customer's inability to pay (e.g. as a result of an application to open insolvency proceedings), AB-Tec shall be entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a deadline – to withdraw from the contract (Section 321 BGB). In the case of contracts for the production of custom-made items, AB-Tec shall be entitled to declare immediate withdrawal from the contract; the statutory provisions concerning the dispensability of setting a deadline shall remain unaffected.

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Section 5 Terms of delivery, acceptance, transfer of risk

- (1) Deliveries shall be made FCA (Incoterms 2020) on the agreed date. AB-Tec shall be entitled to make partial deliveries if this is reasonable for the customer.
- (2) Delivery dates shall only be binding when they have been expressly agreed upon. Any default in delivery on the part of AB-Tec shall be determined in accordance with the statutory provisions.
- (3) If the customer is in default of acceptance, fails to cooperate or if the AB-Tec delivery is delayed for other reasons for which the customer is responsible, AB-Tec shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). To this end, AB-Tec shall charge flat-rate compensation in the amount of 0.5% of the net price (delivery value) of the goods to be delivered for every completed calendar week from commencement of the delivery period or – in the absence of a delivery period – from the notification that the goods are ready for shipment, up to a maximum of 5% of the delivery value. The right to provide evidence of greater damage shall remain unaffected, as shall AB-Tec statutory claims (in particular compensation of additional expenses, reasonable compensation, termination); however, the flat-rate compensation shall be set off against higher monetary claims. The customer shall be entitled to prove that AB-Tec has incurred no damage at all or that the damage incurred by us is lower than the aforementioned flat-rate compensation.
- (4) If AB-Tec is unable to meet binding delivery deadlines for reasons beyond AB-Tec control (impossibility of performance), AB-Tec shall inform the customer of this without delay and, at the same time, provide information regarding the anticipated new delivery period. If performance is also impossible within the new delivery period, AB-Tec shall be entitled to withdraw from the contract in whole or in part; AB-Tec shall immediately refund any consideration already paid by the customer. AB-Tec statutory rights of withdrawal and termination as well as the statutory provisions on the termination of the contract in the event of preclusion of the obligation to perform (e.g. impossibility or unreasonableness of performance and/or subsequent performance) shall remain unaffected. The customer's rights of withdrawal and termination pursuant to Section 7 of these General Conditions of Sale and Delivery shall also remain unaffected.

Section 6 Suitability and quality, regulatory compliance, property rights, rights of third parties

- (1) All details and information that AB-Tec provides pertaining to the quality, suitability and applicability of the goods shall not preclude the customer from undertaking its own examinations and tests.
- (2) The customer shall themselves be responsible for ensuring compliance with any statutory, regulatory or other provisions when using the goods purchased from AB-Tec in the destination area and area of use.
- (3) AB-Tec provides no guarantee that the products delivered do not violate the rights (in particular the property rights) of third parties outside Germany. This must always be confirmed by the customer themselves. For deliveries within Germany, AB-Tec warrants that AB-Tec are not aware of any rights of third parties that preclude the use of the objects.
- (4) If the customer's designs, drawings or other indications are used during production by AB-Tec on their behalf, the customer shall provide assurances that this will not infringe the rights of third parties. The customer shall indemnify AB-Tec against all claims by third parties pertaining to any statutory infringements that may arise from the use of these designs, drawings or other indications.

Section 7 Warranty, material defects

- (1) The delivered goods must be carefully inspected immediately after delivery. The goods shall be deemed to have been approved if the customer has not notified AB-Tec in writing of any obvious defects or other defects that could be detected during an immediate, careful examination within two weeks of delivery of the goods or otherwise within two weeks of discovery of the defect or any earlier point in time at which the defect was detectable to the customer during normal use of the goods without closer examination. The timely sending of the notification shall be sufficient to comply with the deadline. At the request of AB-Tec, the rejected goods shall be returned to AB-Tec free of carriage charges. In the event of a justified complaint, AB-Tec shall reimburse the costs of the most favourably priced shipping route; this shall not apply if the costs increase as a result of the goods being located at a place other than the place of intended use.

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- (2) In the event of defects in the delivered goods, AB-Tec shall first be obliged and entitled to rectify the defect or to make a replacement delivery at our discretion within a reasonable period of time. In the event of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay to the rectification or replacement delivery, the customer shall be entitled to withdraw from the contract or reduce the purchase price by a suitable amount and, if applicable, claim damages (cf. point 7). However, in the case of an insignificant defect, there shall be no right to withdraw from the contract.
- (3) AB-Tec shall be entitled to make the subsequent performance owed subject to the customer's payment of the purchase price due. However, the customer shall be entitled to retain a share of the purchase price that stands in reasonable proportion to the defect.
- (4) In the event of defects in components/raw materials/materials from other manufacturers, which AB-Tec is unable to rectify for licence-related or factual reasons, AB-Tec shall, at their discretion, assert our warranty claims against the manufacturers and suppliers for the account of the customer or assign such claims to the customer. In the case of such defects, warranty claims against AB-Tec shall only arise under the other conditions and in accordance with these General Conditions of Sale and Delivery if the legal enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or is futile, for example due to insolvency. For the duration of the legal dispute, the statute of limitations for the relevant warranty claims of the customer against AB-Tec shall be suspended.
- (5) The warranty shall cease to apply if the customer modifies the delivery item or has it modified by a third party without the consent of AB-Tec and if the rectifying of the defect becomes impossible or unreasonably difficult as a result. In any event, the customer shall bear the additional costs for rectifying defects that result from the modification.
- (6) Claims asserted by the customer in connection with damages or reimbursement of fruitless expenditure shall exist only in accordance with Section 8 of these General Conditions of Sale and Delivery and shall be otherwise excluded.

Section 8 Further liability

- (1) Unless otherwise stipulated in these General Conditions of Sale and Delivery including the following provisions, AB-Tec shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions.
- (2) Any claims for damages on the part of the customer, on any legal basis whatsoever, shall be excluded. This shall not apply in the event of the fraudulent concealment of a defect, non-compliance with a quality guarantee, damage to life and limb or health and/or in cases where we breach our obligations intentionally or by gross negligence, or in the event of a breach of obligations, the proper fulfilment of which constitutes a condition sine qua non for the contract and on the fulfilment of which the customer may as a rule rely (essential contractual obligations/cardinal obligations). Claims under the German Product Liability Act shall also remain unaffected by this limitation of liability.
- (3) The claim for damages for the breach of basic contractual duties shall be limited to foreseeable damages typical for this type of contract, in so far as intent or gross negligence do not apply or liability has not been assumed by AB-Tec in connection with damage to life, body or health.
- (4) The above exclusions and limitations of liability shall apply to the same extent in favour of the bodies, legal representatives, employees and other vicarious agents of AB-Tec. No shift in the burden of proof to the detriment of the customer is associated with the above provisions.

Section 9 Reservation of title

- (1) AB-Tec shall reserve title to the goods sold (hereinafter: Reserved Goods) until all AB-Tec's present and future accounts receivable arising from the purchase contract and the ongoing business relationship (secured accounts receivable) have been paid in full.
- (2) The Reserved Goods must not be pledged to third parties or transferred by way of security before full payment of the secured accounts receivable. The customer must inform AB-Tec immediately in writing if third parties have access to the Reserved Goods and, if so, to what extent.

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- (3) In the event of a breach of contract by the customer, in particular the non-payment of the purchase price due, AB-Tec shall be entitled to withdraw from the contract in accordance with the statutory provisions and to demand the return of the Reserved Goods on the basis of the reservation of title.
- (4) The customer shall be entitled to resell and/or further process the Reserved Goods in the ordinary course of business. In this case, the following additional provisions shall apply:
 - (a) Treatment and processing of the Reserved Goods shall be undertaken on AB-Tec's behalf as manufacturer within the meaning of Section 950 BGB, without any obligation on AB-Tec's part. The processed goods shall be considered Reserved Goods within the meaning of Section 9(1). Where the customer processes, combines or mixes the Reserved Goods with other goods, AB-Tec shall be entitled to joint ownership of the new object in the same proportion as that between the invoice value of the reserved goods and the invoice value of the other goods used. If AB-Tec's ownership expires as a result of the combination or mixing, the customer shall then assign to AB-Tec the ownership rights to the new goods or item to which the customer is entitled in the proportion of the invoice value of the Reserved Goods, and shall retain them for AB-Tec at no charge. The rights of joint ownership arising therefrom shall be considered Reserved Goods within the meaning of Section 9(1).
 - (b) The customer hereby assigns to AB-Tec by way of security the accounts receivable arising from the resale of the Reserved Goods subject to retention of title to third parties in their entirety or in the amount of AB-Tec's co-ownership share, if any, pursuant to paragraph (a) above. AB-Tec hereby accept this assignment. The customer's obligations specified in Section 9(2) shall also apply in respect of the assigned accounts receivable.
 - (c) Both AB-Tec and the customer shall be authorised to collect the accounts receivable. AB-Tec undertakes not to collect the accounts receivable, provided the customer meets their payment obligations towards AB-Tec, is not in default of payment, no application to open insolvency proceedings against the customer's assets has been filed and there is no other deficiency in their ability to pay. However, if this is the case, AB-Tec shall be entitled to demand that the customer inform AB-Tec of the assigned accounts receivable and their debtors, provide all information necessary for collection, hand over the relevant documents and notify the debtors (third parties) of the assignment.
 - (d) Should the realisable value of the collateral exceed AB-Tec's accounts receivable by more than 10%, AB-Tec shall, at the customer's request, release collateral at our discretion.

Section 10 Statute of limitations

- (1) By way of derogation from Section 438(1)(3) BGB, the general limitation period for claims arising from defects in quality and title shall be one year from delivery.
- (2) If, however, the goods are an object that has been used for a building in accordance with its normal use and has caused the building to be defective (building material), the limitation period in accordance with the statutory provisions is 5 years from delivery (Section 438(1)(2) BGB). Special statutory regulations for third-party claims for the surrender of goods (Section 438(1)(1) BGB), in the case of fraudulent intent on the part of AB-Tec (Section 438(3) BGB) and for claims in supplier recourse in the case of final delivery to a consumer (Section 479 BGB) shall remain unaffected.
- (3) The aforementioned limitation periods of the law on the sale of goods shall also apply to contractual and non-contractual claims for damages by the customer, which are based on a defect of the goods, unless the application of the regular statutory limitation period (Sections 195 and 199 BGB) would lead to a shorter limitation period in individual cases. The limitation periods set out in the Product Liability Act shall remain unaffected in all cases. Otherwise, the statutory limitation periods shall apply exclusively to claims for damages by the purchaser pursuant to Section 7.

Section 11 Data protection

- (1) The customer has been informed and agrees that, during the processing of the order and the settlement of accounts, data shall be processed and stored electronically. The quotation, order confirmation, delivery note and invoice, shall simultaneously serve as notice within the meaning of the Data Protection Law.

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Section 12 Place of jurisdiction, applicable law, language

- (1) If the customer is a merchant within the meaning of the German Commercial Code (HGB) or a legal entity under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the location of AB-Tec's branch office in Iserlohn. However, AB-Tec shall also be entitled to bring an action at the general place of jurisdiction of the customer.
- (2) These General Conditions of Sale and Delivery and all legal relationships between AB-Tec and the customer shall be governed by the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
- (3) A bilingual version (German and English) of these General Conditions of Sale and Delivery is available. In the event of any ambiguities, questions of interpretation, contradictions or omissions, the German version alone shall be authoritative.