

Terms of Sale

of MC Technologies GmbH, Kabelkamp 2, 30179 Hanover

Sec. 1 General remarks – scope

- (1) Our Terms of Sale apply exclusively; we do not accept terms of the Purchaser contrary to or deviating from our Terms of Sale, unless we expressly agreed to them being applicable in writing. Our Terms of Sale also apply if we, despite being aware of the Purchaser's terms contrary to or deviating from our Terms of Sale, deliver items to the Purchaser subject to no conditions. These Terms of Sale also apply to all future transactions.
- (2) All arrangements we make with the Purchaser to execute this Agreement are recorded in this Agreement in writing.
- (3) These Terms of Sale do not apply to purchases and contracts with consumers.
- (4) Partial deliveries are admissible to the extent acceptable for the Purchaser.

Sec. 2 Offer – offer documents

- (1) Our offers are not binding but must be deemed requests for the Purchaser to make a contract offer. Agreements are concluded by the Purchaser making and us accepting an order. If acceptance deviates from the purchase order, this must be deemed another non-binding offer by us.
- (2) We reserve unrestricted property rights, copyrights and exploitation rights in pictures, drawings, calculations and other documents. Such documents may be disclosed to third parties only after we consented to this and must be immediately returned upon our request if we receive no purchase order. Sent. 1 and 2 also apply to the Purchaser's documents, but they may be disclosed to those third parties who we properly commissioned with the deliveries.
- (3) The scope of deliveries depends on the written declarations of both parties.

Sec. 3 Prices – payment terms

- (1) Prices are "ex works" prices, exclusive of packaging and applicable VAT. Invoices are fully payable within 10 days from issuance. Discounts are admissible only if they were agreed upon or if they are stated in the invoice.
- (2) If we were responsible for installation or assembly and unless otherwise agreed, the Purchaser bears all required ancillary costs, e.g. travel and transport expenses, in addition to contractual remuneration.
- (3) Should we generally change the price of items to be supplied or our payment terms between the time of contract conclusion and that of delivery, we may apply the prices/payment terms valid on the day of delivery. In the event of price increases, the Purchaser may withdraw from the Agreement within 14 days from notification of such price increases; the right to withdrawal does not apply to permanent delivery contracts (continuing obligations).
- (4) If the Purchaser fails to pay on time, this is a considerable violation of contractual duties.
- (5) The Purchaser may offset only against claims which are undisputed or legally determined.

Sec. 4 Delivery period; transfer of risks

- (1) Delivery times we indicate are presumed, non-binding deadlines, unless we expressly identify them as being binding. Meeting delivery deadlines depends on the timely receipt of all documents to be submitted by the Purchaser, necessary authorisations and releases, particularly plans, and compliance with contractual payment terms and other conditions by the Purchaser. If these requirements are not met on time, deadlines will be reasonably extended; this does not apply if we are responsible for the delay.

- (2) If non-compliance with deadlines was caused by
 - a) force majeure, e.g. mobilisation; war; acts of terror; epidemics; pandemics; unrest or similar events (e.g. strikes; lockouts);
 - b) virus or other external attacks on our IT systems despite reasonable care regarding protective measures;
 - c) obstructions due to German, US and other applicable national, EU or international foreign trade provisions or due to other reasons beyond our control; or
 - d) late or false deliveries to us,the deadlines are extended accordingly.

- (3) The risk is transferred to the Purchaser as follows, also with carriage-paid deliveries:

- a) upon delivery, exclusive of installation/assembly, after the goods were taken to or accepted from the hauler. Upon the Purchaser's request and expenses, we purchase insurance against standard transport risks.
 - b) upon delivery, including installation/assembly, on the day of acceptance at the Purchaser's premises or, if agreed, after a successful test run.
- (4) Should shipment, delivery, beginning, installation/assembly, acceptance at the Purchaser's premises or test runs be delayed for reasons within the Purchaser's control or should they be in default of acceptance for other reasons, the risk is transferred to the Purchaser.
 - (5) If we are in arrears, the Purchaser may – provided they credibly show that they incurred consequential damage – request compensation per complete week of delay amounting to 0.5% per week, but not more than 5% in total, of the price for the part of the deliveries they were unable to use for the intended purpose due to the delay.
 - (6) Both damages claims of the Purchaser due to delayed deliveries and damages claims instead of performance exceeding the limits under para. 5 above are excluded in all cases of delayed delivery, also after the Purchaser setting a time limit for us. This does not apply to the extent liability is based on intention, gross negligence or injuries to life, limb or health. The Purchaser may withdraw from the contract in terms of the law only if we are responsible for delivery delays. The above provisions do not lead to the burden of proof being reversed at the Purchaser's expense.
 - (7) If we request this, the Purchaser must state, within a reasonable period, whether they withdraw from the contract due to the delay or insist on delivery.
 - (8) If shipment or delivery is delayed by more than one month from readiness for shipment upon the Purchaser's request, we may charge storage fees for each additional month or a part thereof amounting to 0.5% of the price for the delivery items, but not more than 5%. This does not affect the parties' right to produce evidence showing higher or lower storage costs.

Sec. 5 Product quality

- (1) Only the quality level contractually agreed upon in writing and expressly indicated in the purchase order is the quality level agreed upon and guaranteed by the parties. The quality level described by us in product descriptions, specifications and labels must not be automatically deemed contractual quality levels. Public statements and advertisements from us represent neither quality agreements nor a type of use required under the Agreement.
- (2) If validly agreed upon, quality and features indications and other information only represent characteristics for which we provide a warranty under these Terms of Sale. However, they are no promises of guarantee.

- (3) Even contract items quality levels validly agreed upon do not exempt the Purchaser from their duty to check whether the items are adequate for the Purchaser's intended use. We do not accept warranty or liability of any kind with regard to usability for certain purposes.

Sec. 6 Liability for defects

We are liable for material defects based on the following:

- (1) All parts having material defects must, at our own choice, be rectified, re-delivered or rendered again free of charge, to the extent the reason has already existed at the time of risk transfer.
- (2) Claims for subsequent performance lapse 12 months after the legal limitation period; the same applies to withdrawal or price reduction. This period does not apply if the law, pursuant to sec. 438(1)(2) (Buildings and Building Components), sec 479(1) (Recourse Claim) and sec. 634a(1)(2) (Construction Defects) of the German Civil Code (BGB), indicates longer limitation periods for wilful intention, fraudulent concealment of defects and non-compliance with guaranteed quality levels. Provisions on limitation period suspension or new beginning are not affected by this.
- (3) The Purchaser must notify any defects in writing without undue delay.
- (4) With defect notifications, the Purchaser's payments may be retained to an extent adequate for the relevant material damage. The Purchaser may retain payments only if they notified us of defects with must be clearly rectified. The Purchaser has no right to retention once their claims for defects lapsed. If defect notifications were unjustified, we may request compensation from the Purchaser for expenses we incurred.
- (5) We must be granted an opportunity to subsequently perform within a reasonable period. If we fail, the Purchaser may withdraw from the Agreement or reduce remuneration – regardless of their claims for damages under para. 9.
- (6) Insignificant deviations from contractual quality levels, insignificant interference with the intended purpose, common wear or damage resulting from careless treatment, excessive strain, inadequate operating means or special external influence not provided for in the Agreement after the risk transferred establish(es) no claims for defects. If the Purchaser or third parties improperly modify or maintain the goods, they have no claims for defects regarding these works or the consequences thereof.
- (7) Claims of the Purchaser due to expenses required for subsequent performance, particularly transport, route, labour and materials costs, are excluded to the extent these expenses increase because the delivery items were subsequently brought to places other than the Purchaser's premises, unless this was necessary for the intended purpose.
- (8) The Purchaser has recourse claims in terms of sec. 478 of the *BGB* (Recourse of the Entrepreneur) against us only if they concluded no agreements with their customers beyond the statutory claims for defects. Para. 7 accordingly applies to the extent of the Purchaser's recourse claim against us in terms of 478(2) of the *BGB*.
- (9) The Purchaser has no claims for damages due to material defects; however, this does not apply if we fraudulently conceal defects, fail to comply with guaranteed quality levels, cause injuries to life, limb or health or intentionally/negligently violate duties. The above provisions do not lead to the burden of proof being reversed at the Purchaser's expense. Additional claims and claims of the Purchaser due to material defects other than those under sec. 6 are excluded.

Sec. 7 Other claims for damages of the Purchaser

- (1) Unless otherwise provided for in these Terms of Sale, the Purchaser has no other claims for damages, regardless of the legal reason, particularly due to violations of contractual obligations and tort.
- (2) This does not apply if we are liable
 - a) under the German Product Liability Act;

- b) for wilful intention;
- c) for gross negligence on the part of owners, legal representatives or managers;
- d) for malicious intent;
- e) for non-compliance with accepted guarantees;
- f) for culpably violating important contractual duties.

However, claims for damages due to violations of important contractual duties is limited to foreseeable damage typical of the type of contract, unless another of the cases above applies.

- (3) The above provisions do not lead to the burden of proof being reversed at the Purchaser's expense.

Sec. 8 Retention of title

- (1) Delivery items (items subject to retention of title) remain our property until all our claims against the Purchaser under the business relationship were fulfilled. If the value of all security interests to which we are entitled exceeds the value of secured claims by more than 20%, we will release the relevant part of the security interests if the Purchaser requests this; we may choose which security interests we actually release. While retention of title applies, the Purchaser is prohibited from pledging or assigning by way of security, and reselling is admissible only for resellers in the ordinary course of the business, provided resellers receive payments from their customers or impose a condition according to which property is transferred to the customer once they fulfilled their payment duties.
- (2) The Purchaser must immediately inform us about any attachments, seizures and other dispositions or third-party measures. They must treat items subject to retention of title carefully and, particularly, purchase sufficient insurance for them against fire, water damage and theft to cover the replacement value. Should maintenance and inspections be required, the Purchaser must perform this on time at their own expense.
- (3) If the Purchaser resells the items subject to retention of title, they assign to us their future claims from reselling against their customers, including all ancillary rights, by way of security right from the beginning, without the need for additional declarations. If the items subject to retention of title are sold together with other items without an individual price being determined for them, the Purchaser assigns to us the part of the overall invoice amount which corresponds to the price we requested for the items subject to retention of title.
- (4) The Purchaser may process, mix with or connect the items subject to retention of title to other items; they process them on our behalf. The Purchaser stores the new item resulting from this and applies a level of care which prudent businesspersons would apply. The new items are considered items subject to retention of title.

The Purchaser and we agree, right from the beginning, that, if they are mixed with or connected to other items we do not own, we have co-ownership of the new item in the ratio of the value of the connected or mixed items subject to retention of title to the value of the other items at the time of connection or mixing. The new items are considered items subject to retention of title.

The provisions on assignment of claims under para. 3 also apply to new items. However, assignment is valid only up to the amount corresponding to the amount we charged for the processed, connected or mixed item subject to retention of title.

If the Purchaser connects items subject to retention of title to properties or movable items, they also assign to us by way of security, without the need for additional declarations, their claims in the form of remuneration for connecting the items, including all ancillary claims, in the ratio of the value of con-

nected items subject to retention of title to other connected items at the time of the connection.

- (5) Until the time of revocation, the Purchaser may collect assigned claims from reselling. For important reasons, particularly with late payments, payment suspension, insolvency proceedings institution or justified reasons to assume over-indebtedness or imminent inability of the Purchaser to pay, we may revoke the Purchaser's collection authority. After a warning subject to a reasonable period, we may also disclose the assignment by way of security, use the claims assigned and request disclosure by the Purchaser towards the customer.

Sec. 9 Impossibility; contract adjustments

- (1) If delivery is impossible, the Purchaser may request damages, unless the reason of impossibility is beyond our control. However, the Purchaser's claim for damages is limited to 10% of the part of the delivery which cannot be used according to the purpose due to delivery impossibility. This limitation does not apply to liability for wilful intention, gross negligence or violations to life, limb or health; the above provisions do not lead to the burden of proof being reversed at the Purchaser's expense. The Purchaser's right to withdrawal from the Agreement is not affected by this.
- (2) If events in terms of sec. 4 para. 2a) to c) considerably change the economic significance or the contents of the delivery or have considerable impact on our operations, the Agreement is reasonably adjusted in good faith. If this is not acceptable in economic terms, we may withdraw from the Agreement. If we intend to exercise the right to withdrawal, we must notify the Purchaser thereof immediately after determining the extent of the event, also if we had initially agreed upon extending the delivery period with the Purchaser.

Sec. 10 Venue; applicable law

- (1) If the Purchaser is an entrepreneur, our registered office is the venue for any disputes directly or indirectly resulting from this Agreement. However, we may also file a suit at the Purchaser's registered office.
- (2) The Agreement, including its interpretation, is subject to German law; the UN Convention on Contracts for the International Sale of Goods (CISG) does not apply.
- (3) The place of delivery fulfilment is our registered office.

Sec. 11 Severability clause

This Agreement remains in effect even if single paragraphs are invalid. This does not apply if insisting on contract fulfilment represents a case of unacceptable hardship for either party. The contractual parties cooperate to replace invalid provisions by valid ones coming closest to the invalid provisions.