

# General Terms and Conditions of Sale

effective from November 28, 2018

## Article 1 Scope of Application

1.1 Dokumental GmbH & Co. KG ("Dokumental") shall effect all sales and deliveries of goods ("transactions") to the other party ("Buyer") exclusively subject to the General Terms and Conditions of Sale ("General Conditions") set forth below unless otherwise expressly agreed in writing. This shall also apply to all other transactions, even if no express reference is made to these General Conditions by Dokumental.

1.2 Supplementary or deviating conditions of order or purchase, or other general business terms and conditions of the Buyer shall not be applicable even if referred to by the Buyer and not expressly rejected by Dokumental. Oral supplementary agreements and undertakings of Dokumental's employees or agents have to be confirmed in writing by Dokumental to be legally binding.

1.3 The Buyer accepts the General Conditions by ordering or acceptance of the products. The General Conditions also apply to future business transactions with the Buyer.

## Article 2 Orders, Specifications

2.1 All offers, price lists and other advertising material are non-binding. Orders are only binding for Dokumental if they have been confirmed in writing by Dokumental or performed by delivery of the product. Other price quotations or descriptions of the goods shall only become part of the contract if explicit reference is made to them.

2.2 Specifications on volume, nature and quality of the products in public announcements of Dokumental or its agents, in particular in advertising or labelling of the products, and characteristics that the Buyer can expect according to custom of trade are not part of the agreed quality, unless where expressly agreed on in the order confirmation of Dokumental. Guarantees are only binding for Dokumental if they are designated as such in an order confirmation and Dokumental's obligations arising out of such guarantees are set out in detail therein.

2.3 Dokumental reserves the right to change and amend the products in the course of technical development. This also applies to changes and amendments after an order has been confirmed but before it has been performed; in this event the Buyer has a right to rescind the contract within one week of notice of the change or amendment.

## Article 3 Pricelists

3.1 Prices quoted by Dokumental are net prices and, upon Dokumental's discretion, ex works or stock unless the parties have agreed upon another place of delivery. They do not include insurance and VAT if applicable. These shall be borne by the Buyer. Freight charges are subject to the terms of delivery as defined in the order or order confirmation. If they do not contain a respective provision, the Buyer shall bear the freight charges.

3.2 If upstream suppliers of Dokumental increase their prices between the conclusion of the contract and the delivery date, Dokumental reserves the right to adjust the agreed prices accor-

dingly vis-à-vis the Buyer. Sentence 1 shall not apply if there is less than one month between the conclusion of the contract and the delivery date.

## Article 4 Delivery and Default of Delivery

4.1 Place of Performance shall be at Dokumental's registered office in Ludwigshafen.

4.2 Dokumental's duty to delivery is subject to appropriate and in time supply of Dokumental by its providers.

4.3 Dokumental shall be entitled to effect part deliveries to the extent reasonably acceptable for the Buyer, if such part deliveries are usable for the Buyer given the intended use of the delivery, if the delivery of the remaining ordered goods is secured and if the part delivery does not cause any considerable additional costs to the Buyer.

4.4 Time limits, in particular delivery dates, shall only be binding if expressly confirmed by Dokumental in writing. Otherwise announced time limits shall be deemed as earliest possible dates of shipment; Dokumental reserves changes of time limits, also of binding ones, caused by delays of suppliers, production or delivery for which Dokumental is not responsible. A delivery time starts upon mailing of the order confirmation by Dokumental. The delivery date is observed if, before its lapse, the products have left Dokumental's warehouse or any other location agreed on according to sec. 3.1, or if Dokumental has notified the Buyer of the readiness to deliver. Dokumental remains entitled to deliver in whole or in part prior to the agreed delivery date.

4.5 Periods of delivery and performance shall be extended in the event of industrial actions, in particular strikes and legal lockouts as well as other unforeseeable events, force majeure, supply problems at Dokumental's or with a supplier that make delivery considerably more difficult for Dokumental, without Dokumental being responsible for these events or circumstances, for the duration of its effects regardless of whether the same occur at Dokumental's or at a supplier's. The before mentioned circumstances or events are not in Dokumental's responsibility, even if they arise during existing default. In case these circumstances or events last longer than 3 months, Dokumental shall be entitled to rescind the contract.

4.6 Dokumental is only entitled to rely on the rights under sec. 4.3 to 4.5 if it has notified the Buyer without undue delay. If Dokumental will not perform a delivery, Dokumental shall reimburse any advance payments to the Buyer.

4.7. In the case of non-binding delivery periods, Dokumental shall come into default by a written notification of the Buyer that may, at the earliest, be sent one month after the expiration of the non-binding delivery period.

4.8 If the Buyer is in default of acceptance, Dokumental shall be entitled to store the products at the Buyer's risk. The costs incurred by storage shall be paid by the Buyer, even if storage is made on Dokumental's own premises. If the Buyer fails to accept delivery after expiration of a reasonable period of grace, Dokumental shall be entitled to otherwise dispose of the products so stored and to charge the Buyer 15 % of the purchase price as lump sum damages unless the Buyer is able to prove that the

actual damage incurred by Dokumental was lower.

## **Article 5 Risk of Loss and Shipment**

5.1 Risk to the products shall pass to the Buyer on delivery to the carrier or any other transport person notwithstanding which party has undertaken to bear the costs of shipment in the individual case.

5.2 If the products are ready for shipment and shipment or acceptance of the products is delayed on grounds outside Dokumental's responsibility, risk shall pass to the Buyer upon receipt of the notice that the products are ready for shipment.

5.3 The preceding sec. 5.1. and 5.2. shall also apply to part deliveries.

5.4 Dokumental is only obliged to take out shipment insurance if it has been so instructed expressly and in writing by the Buyer, and the Buyer bears the costs of the insurance.

## **Article 6 Retention of Title**

6.1 Dokumental retains title to the delivered products ("reserved goods") until full settlement of the invoice and all other open claims for the delivery of products resulting from the current contractual relationship including accessory claims ("settlement of balance") (in case of payment by cheque or promissory note Dokumental remains owner of the reserved goods until the respective amount has been irrevocably credited to Dokumental's bank account). In the amount of the value of the reserved goods the Buyer is not entitled to grant a pledge in the reserved goods or to transfer title for security reasons before title has passed.

6.2 The Buyer shall store the reserved goods for Dokumental with the diligence of a reasonable businessman and insure the reserved goods against fire, water, theft and other risks of liability at his expense. Upon conclusion of the purchase agreement the Buyer simultaneously assigns his corresponding claims under the insurance policies to Dokumental. Dokumental herewith accepts such assignment.

6.3 When the Buyer processes, mixes or reworks the reserved goods this shall be done for Dokumental as manufacturer for the purposes of sec. 950 of the German Civil Code (Bürgerliches Gesetzbuch, "BGB") and Dokumental shall acquire ownership or a co-ownership share in the interim or final product. In the case of processing, mixing or mingling of the reserved goods with other products not owned by Dokumental, Dokumental shall be entitled to shared ownership in the new products in proportion of the value of the reserved goods to the value of the other processed products at the time of processing, mixing or combining. The Buyer shall store the new products which are in sole or co-ownership of Dokumental for Dokumental according to sec. 6.2.

6.4 The Buyer shall be revocably entitled to resell reserved goods or products in which Dokumental holds ownership or a co-ownership share in the ordinary course of business subject to retention of title. As a security, the Buyer hereby assigns to Dokumental his future claims ("account receivables") in the amount of the corresponding invoice value (including VAT) of Dokumental's claims according to sec. 6.1. that he attains from the resale of the reserved goods against his customer or third parties; Dokumental hereby accepts such assignment. If Dokumental only holds a co-ownership share in the new products, the claims shall be considered assigned in the amount of the market value of such share and shall have priority over all other claims.

6.5 Dokumental herewith revocably authorises the Buyer to

collect the account receivables in its name for the account of Dokumental, as long as the Buyer honours his payment obligations from the collected proceeds and does not come into arrears with its payments, and in particular no application for insolvency proceedings is filed, or cease payment. In each of the aforementioned cases Dokumental shall be entitled, without prior recession of the agreement that can only be effected by explicit declaration and shall not require the prior setting of a grace period, to take possession of the reserved goods and to enter the Buyer's business premises for this purpose. The proceeds from the collection of claims that Dokumental is entitled to are to be rendered to Dokumental without undue delay. The Buyer must not include the account receivables into a current account with its customer.

6.6 The Buyer is further obliged to inform Dokumental at any time about its debtors and the amount of receivables which have been assigned to Dokumental according to sec. 6.4. Upon request of Dokumental the Buyer shall notify its debtor of the assignment and shall assist in all measures which are necessary to secure Dokumental's rights. Dokumental is entitled to notify the debtors that shall be named on request of the assignment and to instruct them.

6.7 The Buyer shall promptly notify Dokumental in writing of any attempts of seizure or other impairment of the reserved goods, interim or final products according to sec. 6.3., or assigned claims according to sec. 6.4. and shall make available any documents to challenge the seizure or other impairment. If and in so far as the third party in the case of its defeat is not able to settle the in-court and out-of-court legal costs for the safeguarding of Dokumental's rights, the Buyer shall reimburse Dokumental for the loss.

6.8 Should the liquidable value of Dokumental's securities exceed 110% of Dokumental's claims, Dokumental shall, upon demand of the Buyer and at Dokumental's own discretion, release securities.

## **Article 7 Terms of Payment**

7.1 Unless otherwise expressly agreed Dokumental's invoices are due and payable immediately without any deduction (discount). Any discount, if any, is subject to all prior invoices due being settled.

7.2 In any case of the Buyer culpably exceeding payment terms (late payment) Dokumental is entitled to charge interest at the rate of 9 percentage points p.a. above the base rate ("Basiszins", Sec. 247 BGB, German Civil Code). If Dokumental can prove higher damages caused by the default, Dokumental is entitled to claim such higher damages.

7.3 Set-off with counter claims shall not be admissible, unless the Buyer's counter claim is recognised res judicata, undisputed or has been accepted by Dokumental. The Buyer is only entitled to exert a right of retention, if the counter claim is based on the same contractual relationship.

7.4 In the event of late payments or reasonable doubts on the ability to settle its debts or credit worthiness of the Buyer Dokumental is entitled, notwithstanding other rights, to request further security or advances for outstanding shipments and to declare all payment claims arising from the business relationship to become immediately due.

7.5 For export business the Buyer undertakes to open at his expense an irrevocable and assignable letter of credit in favour of Dokumental with a major European bank in the amount of the purchase price. In the event that Dokumental does not receive a

confirmation of the opening of the letter of credit within 14 days of the order, but at the latest on the date agreed in writing for this, Dokumental is entitled to rescind the contract. Dokumental is entitled to withhold shipment of the products until receipt of the confirmation.

## **Article 8            Warranty**

8.1 Warranty claims of the Buyer require that the Buyer met his obligations pursuant to sec. 377 of the German Commercial Code (Handelsgesetzbuch, "HGB") to inspect the products and to notify Dokumental of any defects. Notifications of defects shall be effected in writing. Notifications for obvious defects have to be received by Dokumental without delay, however at the latest within 10 days of the receipt of the products. Notifications for hidden defects have to be received by Dokumental without delay, however at the latest within 10 days of their discovery.

8.2 If the delivered products prove to be defective, Dokumental may, at its discretion, repair the defect or effect substitute delivery (subsequent performance). If Dokumental refuses subsequent performance, if it is delayed beyond a reasonable time for reasons that Dokumental is responsible for, or if subsequent performance permanently fails, the Buyer may demand cancellation of the contract or a proportionate reduction of the purchase price.

8.3 The limitation period for claims for defects shall be twelve months from delivery. If Dokumental has maliciously concealed a defect or if Dokumental is liable according to sec. 9.6, the statutory limitation period shall apply.

8.4 Additional claims for defects of the Buyer, irrespective of their legal foundation, shall be excluded except for any limited damage claims according to sec. 9.

## **Article 9            Liability**

9.1 Dokumental is only liable for any damages irrespective of their legal basis if Dokumental has culpably violated an essential obligation of the contract (cardinal obligation, "Kardinalpflicht") in a manner jeopardising the purpose of the agreement if the damage is attributable to an intentional or grossly negligent violation by Dokumental, or if it results from the granting of a guarantee.

9.2 If the violation of cardinal obligations by Dokumental is not grossly negligent or intentional, the liability of Dokumental is limited to such typical damage or to the typical extent of such damage as was reasonably foreseeable for Dokumental at the point in time of the conclusion of the agreement. The same applies in the event of a grossly negligent violation of obligations which are not cardinal obligations by employees or agents who are not executive officers or legal representatives of Dokumental, as well as in the case of a granting of a guarantee, unless it has explicitly been granted in respect of the quality of the products ("Beschaffheitsgarantie").

9.3 In the instances of sec. 9.2. Dokumental's liability is limited to the double value of the products of the shipment in question.

9.4 The limitation period for damage claims in the cases of sec. 9.2. shall be two years after the Buyer has become aware of the damage or, irrespective of such knowledge, three years after the damaging event. For claims for defects of the products the limitation period of sec. 8.3. shall remain applicable.

9.5 Sec. 9.1. to 9.4. shall also apply if the products are only specified in kind.

9.6 Dokumental's liability pursuant to the German Product Liability Act for the injury of life, body and health, for the malicious concealment of defects and the granting of a guarantee in respect of the quality of the products remains unaffected by the aforementioned limitations of liability.

9.7 Sec. 9.1. to 9.6. also apply in the case of damage claims of the Buyer against employees or agents of Dokumental.

## **Article 10          Miscellaneous**

10.1 In the event that individual or several provisions of the General Terms and Conditions of Sale are unenforceable or void, the validity of the remaining provisions shall not be affected hereby. Provisions which are deemed unenforceable or void by future jurisdiction shall be replaced by Dokumental by provisions which according to their economic effect come closest to the unenforceable or void condition and which do not disadvantage the Buyer more than the unenforceable or void condition.

10.2 Any changes or modifications of these General Terms and Conditions of Sale shall be made in writing. This written form requirement may only be waived by written and explicit agreement concluded between the parties.

10.3 This contract shall be exclusively governed by the laws of the Federal Republic of Germany. The UN Convention on the International Sale of Goods (C.I.S.G.) shall be excluded.

10.4 Exclusive venue for all legal disputes arising out of or in connection with the contractual relationship shall be the competent court at Dokumental's place of business unless an exclusive venue is prescribed by law. Dokumental shall be entitled to bring an action or institute other legal proceedings at the Buyer's registered office or seat of business.

10.5 This Translation is for convenience purposes only. In case of dispute the German language version of these General Terms and Conditions of Sale shall prevail.