

General Terms and Conditions of Sale and Delivery of ulrich GmbH & Co. KG

§ 1 Scope of application of these Terms and Conditions

1. The present General Terms and Conditions shall apply exclusively to entrepreneurs within the meaning of section 14 of the German Civil Code [BGB].
2. We do not recognize any terms and conditions of the contract partner which conflict with or differ from the present General Terms and Conditions or from the statutory provisions, unless we have expressly agreed with their applicability in writing.

§ 2 Conclusion of contracts

1. Our offers are non-binding. The customer shall be bound by its offers for a maximum period of two weeks.
2. A contract shall only be concluded by our confirmation of an order in text form or by delivery of the goods ordered by the customer.

§ 3 Delivery time

1. The delivery dates or periods specified by us are non-binding, unless expressly otherwise agreed upon.
2. Two weeks after exceeding a non-binding delivery date or a non-binding delivery period, the customer may call upon us to perform within an appropriate period of time.

§ 4 Terms of payment

1. Unless expressly otherwise agreed upon, our prices shall be "ex works", i.e. exclusive of packing and transportation costs. The statutory value-added tax is not included in our prices; its amount will be shown explicitly in the invoice at the rate applicable on the date of invoicing.
2. Unless otherwise expressly agreed upon, the purchase price shall be due for payment within 10 days of the invoice date and shall be paid without any deductions.
3. We reserve the right to bill our goods and services either by a paper invoice sent by mail or an electronic invoice sent by E-Mail.

§ 5 Passing of risk

Unless otherwise expressly agreed upon, all deliveries shall be effected "ex works".

§ 6 Retention of title

1. We reserve title to the items delivered until the receipt of all payments based on the respective underlying supply contract. Furthermore, we also reserve title to the items delivered until the fulfilment of all payment obligations based on the business relationship with the customer.
2. The customer shall hold the items purchased in custody at no charge, with the due care and diligence of a prudent businessman. The customer shall not be entitled to pledge any items subject to retention of title or to transfer them by way of security. In the event of seizure or any other action by third parties affecting the items subject to retention of title, the customer shall inform us in text form without delay and shall provide us with all documents required for the protection of our rights, in particular those required to institute third-party proceedings to prevent the execution of a judgment pursuant to section 771 of the German Code of Civil Procedure [ZPO].
3. The customer shall be entitled to resell the items subject to retention of title in the ordinary course of business. However, the customer hereby assigns to us in advance all claims to the amount of the gross purchase price agreed with us which it has or will have against its clients or any third parties based on such resale. This applies regardless of whether the items subject to retention of title have been resold without or after further processing.
The customer shall remain entitled to collect such claims even after such assignment. However, this shall not affect our entitlement to collect the claims ourselves. We nevertheless undertake to refrain from collecting the claims ourselves if the customer properly complies with its payment obligations towards us and is not in default in payment and, in particular, if no application to open insolvency proceedings has been filed and/or if payments have not been suspended. In the event of default in payment, suspension of payments or filing for insolvency, the customer's right to sell the items subject to retention of title or to collect the claims assigned from its clients shall cease. In such case, the customer shall provide us with all details and all documents required to collect the claims and shall inform the third party concerned of the assignment.
4. Any sums which the customer collects on claims assigned shall be kept in a separate account until transferred to us so as to avoid the netting and/or set-off against balances in debit accounts.

5. We undertake, at the customer's request, to release the securities to which we are entitled to the extent that the realisable value of the securities provided exceeds our claims by more than 10%. The securities to be released shall be chosen by us at our reasonable discretion.

§ 7 Warranty

1. The customer shall be obliged to inspect the purchased items for defects, including those intended for resale, and to notify us of any defects recognised during such inspection without delay or at the latest within one week, with compliance with this deadline being determined by the time of sending the notification. Should the customer fail to comply with this obligation to inspect and notify, the goods shall be deemed to conform with the contract.
2. In the event of defects as to quality and title, which are not merely immaterial, we shall be entitled to rectify the defect twice. If it becomes apparent from the nature of the item or of the defect or from other circumstances that subsequent rectification has not yet failed, and if the contract partner can be reasonably expected to accept this, we shall have the right to carry out additional rectifications. If the subsequent rectification has failed, the contract partner shall have the right to reduce the purchase price or withdraw from the contract at its own discretion, while claiming compensation in accordance with the statutory provisions and pursuant to Article 8 of the present General Terms and Conditions.
3. The limitation period for warranty claims shall be 12 months from the delivery of the purchased item, while for rechargeable batteries which are stored and used correctly, and for things that are not newly produced, the limitation period shall be 6 months from delivery of the purchased item. No warranty is given to parts which are declared as wear parts. Depending on the usage of the products, these parts can be worn out. Therefore it might be that the wear parts have to be replaced at the expense of the customer. This regulation in regards to the warranty limitation shall not apply to any claims of the customer based on an injury to life, limb or health or to any other damage suffered by the contract partner that is based on an intentional or grossly negligent breach of duty by us, our legal representatives or vicarious agents, or to any claims under the German Product Liability Act [Produkthaftungsgesetz].

§ 8 Limitation of liability

1. Any liability on our part for damages shall be excluded, unless provided otherwise by the below provisions.
2. For any injury to life, limb or health, for any damage based on a breach of duty, whose fulfilment is essential for the due and proper performance of the contract and whose fulfilment the ordering party may rely on as a matter of course (material contractual obligations), or for any other damage based on an intentional or grossly negligent breach of duty by us or by one of our legal representatives or vicarious agents, our liability shall be determined by the statutory provisions. The same applies to claims for damages based on the German Product Liability Act.
3. In the case of a negligent breach of material contractual obligations, our liability shall be limited to the damage typically foreseeable at the time of the conclusion of the contract.
4. To the extent that our liability is excluded or limited in accordance with the above provisions, this shall also apply to the personal liability of our employees, representatives and vicarious agents.

§ 9 Place of performance, choice of law, legal venue

1. The place of performance for all claims arising between the Parties from the contractual relationship shall be the place of our company's registered office. However, we shall also be entitled to bring an action at the place of the customer's registered office.
2. The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). The agreement and its terms shall be construed according to German law. If the English legal meaning differs from the German legal meaning of this agreement and its terms, the German meaning shall prevail.
3. If the customer is a business person within the meaning of the German Commercial Code [Handelsgesetzbuch], the exclusive venue for all disputes arising from the contract shall be the court competent for our company's registered office. However, we shall also be entitled to bring an action against the customer at the court competent for its/his/her residence or registered office.

ulrich GmbH & Co. KG
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