

**General terms and conditions of sale of**  
**OVOBEST Eiprodukte GmbH & Co. KG**

**1. Scope of application**

- 1.1 These general terms and conditions of sale shall apply to all deliveries to [to be confirmed]. We shall not recognise conflicting terms and conditions of the Buyer that deviate from or supplement our general terms and conditions of sale unless we have expressly agreed that they are to apply. Our general terms and conditions of sale shall also apply if we accept delivery without reservation, in knowledge of terms and conditions of the Buyer that deviate from or supplement our general terms and conditions of sale.
- 1.2 Our general terms and conditions of sale shall apply exclusively to companies, legal persons under public law and special funds under public law.

**2. Conclusion of the contract; declarations**

- 2.1 The contract, including these terms and conditions of sale, shall set out all agreements made between us and the Buyer upon the conclusion of the contract. Our employees shall not be authorised to make oral agreements that deviate from or go beyond the written contractual agreement.
- 2.2 To have effect, unilateral legally-relevant declarations and notifications that are to be submitted to us by the buyer following the conclusion of the contract must be made in writing as a minimum requirement.

**3. Prices and payment**

- 3.1 Unless agreed otherwise, prices shall be EX WORKS, as per INCOTERMS 2020. The prices stated shall be net prices. To the extent that it is applicable, value-added tax shall be shown separately, at the statutory rate then in effect.
- 3.2 The purchase price shall be payable net cash upon delivery and receipt of the invoice.
- 3.3 If the Buyer does not pay within the agreed period, they will fall into arrears and must pay default interest of 9% p.a. above the basic interest rate. Claims for damages caused by continued default and the statutory right of revocation shall remain unaffected.
- 3.4 The Buyer's shall only have rights of offsetting and retention if their counterclaims have been established by a final judgement, are uncontested or have been recognised by us. This restriction shall not apply to claims of the Buyer based on defects or partial performance of the contract, to the extent that such claims result from the same contractual relationship as our receivables.

3.5 If, after the conclusion of the contract, we become aware of circumstances that pose a risk to our claim for payment, we shall be entitled to make outstanding deliveries solely in exchange for payment in advance or a security. If the Buyer does not provide payment in advance or a security within a reasonable period of time, we shall be entitled to revoke the contract.

#### **4. Delivery**

4.1 Compliance with the delivery period shall be conditional upon the prompt and proper fulfillment by the Buyer of all their contractual duties.

4.2 Unless agreed otherwise, prices shall be EX WORKS as per INCOTERMS 2020. The risk of accidental destruction or accidental deterioration of the goods shall be passed on to the Buyer no later than the point at which they are delivered. If the Buyer is in default of acceptance, this shall be considered as equivalent to delivery. In the case of a sale involving the carriage of goods, risk of accidental destruction or deterioration of the goods shall be passed on to the carrier, haulier or any other person appointed to carry out the shipment. If we send the goods to another destination at the request and expense of the Buyer, we shall be entitled to choose the mode of delivery (in particular, the shipping company, shipping route and packaging) ourselves.

4.3 Events that are beyond our control, which prevent us from fulfilling our duties; such as strikes, lawful lockouts, the effects of epidemics and pandemics, official ordinances, natural disasters and other force majeure events; shall release us from the duty to perform contractual duties we have assumed as long as the disruption continues. We shall undertake to inform the Buyer, without delay, of the occurrence and probable duration of such events. The delivery period shall be extended for the duration of the disruption, in addition to a reasonable start-up period. If such a disruption lasts for more than three months, each party shall be entitled to revoke the contract, however, the Buyer will be required to provide a warning to this effect before doing so. In this case, any consideration that may have already been provided shall be reimbursed without delay.

4.4 The duty to make deliveries shall be conditional upon correct and prompt delivery by our own suppliers.

4.5 If we default on delivery due to minor negligence, the damages we are required to pay for the delay (damages in addition to performance) shall be limited to a maximum of 5% of the net purchase price of the delayed delivery. Liability for culpable injury to life, limb or health shall remain unaffected.

4.6 We shall be entitled to make partial deliveries, to the extent that this is reasonable for the Buyer.

4.7 If the contract contains approximate values for the quantities purchased, it shall be understood as meaning that there may be a deviation in quantity of up to 10%.

4.8 If the Buyer is in default of acceptance or if they infringe any other duties of cooperation we shall be entitled to claim the resulting damages, including any additional expenses which may arise, unless the Buyer can prove that they are not responsible for the breach of duty. Any further statutory claims shall remain unaffected.

## **5. Warranty**

5.1 The warranty rights of the Buyer are conditional upon the proper inspection of the goods for defects in accordance with the rule set out in Section 377 of the German Commercial Code (HGB) and that any recognisable defects are reported without delay, within 24 hours. The defect must be reported in writing as a minimum requirement.

5.2 If the Buyer has properly fulfilled their duty to report defects, they shall be entitled to exercise their statutory warranty rights, on the condition that we shall have the right to choose the way in which subsequent performance is rendered and that claims for damages shall only arise under the conditions set out in Clause 6.

5.3 Claims for defects shall expire after a period of one year after delivery of the goods. Notwithstanding this, the statutory warranty period of two years shall apply in the case of damages due to intentional or grossly negligent breaches of duty or culpable injuries to life, limb or health. The statutory limitation rules in the case of supplier's recourse (recourse of the business owner) shall remain unaffected.

## **6. Liability**

6.1 We shall be liable in accordance with statutory provisions, to the extent that the Buyer asserts claims for damages that are based on intentional or grossly negligent conduct, including intentional or grossly negligent conduct on the part of our legal representatives, employees or other vicarious agents, or which are based on the culpable breach of a material contractual obligation. Material contractual obligations are those that must be met to achieve the purpose of the contract and upon which the Buyer regularly relies and is able to rely. In the cases set above, our liability shall be to limited foreseeable damages considered typical in the context of this contract, provided that we have not acted intentionally or with gross negligence.

6.2 The above limitations of liability shall not affect liability for culpable injury to life, limb or health. This shall also be the case for mandatory liability under the German Product Liability Act [Produkthaftungsgesetz].

6.3 Unless provided for otherwise above liability for damages shall be excluded regardless of the legal nature of the claim that is made. In the case of liability due to default, the limitation of liability under Clause 4.5 shall also apply.

6.4 If the Buyer makes a claim for reimbursement of futile expenses in lieu of performance, the above provisions shall apply *mutatis mutandis*.

## **7. Retention of title**

7.1 We shall retain title to the purchased item until all payments arising from the business relationship with the Buyer have been received. If there is a current account relationship between the Buyer and us, the reservation of title shall also apply to the relevant acknowledged balance or the causal balance.

7.2 The Buyer shall not be entitled to pledge the goods subject to retention of title or assign them to a third party as security. In the event that goods are pledged or there are other encroachments by third parties, the Buyer must inform us in writing, without delay. To the extent that the third party is not a position to reimburse us for the judicial and extrajudicial costs of the encroachment, the Buyer shall be liable for any losses we incur.

7.3 The Buyer shall have be entitled to resell the purchased item in the normal course of business, however they shall then assign to us all receivables arising from the resale to his customers or third parties equal to the value of the final invoice amount of our receivables. Even after the assignment, the Buyer shall retain the right to collect the receivables. This shall not affect our right to collect the receivables ourselves. However, we shall undertake not to collect the receivables provided that the Buyer meets their payment obligations arising from the proceeds received and insolvency proceedings have not been filed against their assets. If these conditions are no longer met, we shall have the right to demand that the Buyer informs us of the assigned receivables and their debtors, provides all information necessary for the collection, hands over the accompanying documents and notifies the debtors of the assignment.

7.4 If the item subject to retention of title is processed, it is hereby agreed that the processing shall take place on our behalf, as the manufacturer, and that we shall immediately acquire title over the newly-created item. If the processing is carried out using materials belonging to various parties or if the value of the processed item is higher than the value of the item that is subject to retention of title, we shall acquire joint title to the newly produced item in proportion to the ratio of the invoice value of the item subject to retention of title to the invoice value of the newly-created item. The Buyer shall hold the new item for us.

7.5 If the item subject to retention of title is combined with other items to create a single item or if it is intermixed or blended with other items and cannot be separated from them, the Buyer shall transfer joint title in the single item or the total quantity to us in proportion to the ratio

of the invoiced value of the item subject to retention of title relative to the other items that have been intermixed or blended.

- 7.6 We shall undertake to release the existing securities, at the request of the Buyer, to the extent that the realisable value of the securities exceeds that of the receivables to be secured by more than 10%. We shall have the right to choose which securities to release.

## **8. Choice of law and place of jurisdiction**

- 8.1 Provided that the Buyer is a merchant, a legal person under public law or a special fund under public law, the place of jurisdiction for all disputes arising from and in connection with this contract shall be that of our registered office. The Buyer shall exclusively be subject to this place of jurisdiction. However, we shall also be entitled to bring an action against the Buyer at their general place of jurisdiction.
- 8.2 German law shall be applicable, except for the UN Convention on Contracts for the International Sale of Goods.
- 8.3 In the event that any of the terms contained in the general terms and conditions are found to contain omissions or to be unenforceable, this shall not affect the validity of the remaining provisions.

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