

General Terms and Conditions of Dr. Demuth GmbH & Co. KG

§ 1 Conclusion of Contract/Scope

- Our General Terms and Conditions of Business apply for all present and future business relations between Dr. Demuth GmbH & Co. KG (hereinafter referred to as "Dr. Demuth") and those of our customers who are entrepreneurs within the meaning of § 14 BGB [German Civil Code], public law corporations or special public utility funds. Deviating, contradictory or supplementary General Terms and Conditions of Business of the customer shall not constitute an integral part of the contract unless we expressly consent in writing to the validity of said terms and conditions.
- Our customers can read and print the current version of our General Terms and Conditions of Business on our website: "www.katlenburger.com".
- If the customer places an order through electronic means, then Dr. Demuth, in accordance with § 312 e subsection 2 sentence 2 of the BGB, shall be released from the legal obligations of § 312 e subsection 1, nos. 1 – 3 of the BGB. Dr. Demuth shall store the data required in order to perform the contract; data shall not be disclosed to third parties. Upon request, said data shall be sent to the customer by e-mail along with these General Terms and Conditions of Business.

§ 2 Completion of Contract

Dr. Demuth's offers are subject to change. Dr. Demuth reserves the right to make technical changes as well as changes in form, colour and/or weight provided that these do not constitute a substantial deviation from the contractual or normal quality of the goods.

Contracts are completed subject to correct and on-time delivery by Dr. Demuth's suppliers. The customer shall be notified immediately if a specific good or service is unavailable; Dr. Demuth will immediately refund any payment already received. This shall also apply correspondingly in the event of substantial, unforeseeable disruptions or interruptions in Dr. Demuth's operations that are beyond Dr. Demuth's control.

§ 3 Delivery

- Delivery deadlines shall be observed. Dr. Demuth, however, shall be entitled to postpone and/or cancel any delivery obligations affected by strikes, lockouts, other interruptions of operations of any kind whatsoever or any difficulties occurring subsequently in procuring components and operating supplies, in delivering or transporting the goods, unless Dr. Demuth, its organs or those persons employed to perform Dr. Demuth's obligations, to whom special managerial tasks have been delegated, caused the delay maliciously or through gross negligence. The same shall also apply correspondingly in the event of improper and/or late delivery by Dr. Demuth's suppliers or when other hindering circumstances that are beyond Dr. Demuth's control occur.
- Even if the parties agree on a fixed time of delivery or a fixed delivery deadline, Dr. Demuth shall not be held in default until the customer has granted Dr. Demuth a reasonable grace period in writing. Upon the expiration of said grace period without result, the customer shall be entitled to withdraw from the contract for any goods or services that were not announced as ready for dispatch.
- Partial delivery is permitted, as long as this is considered reasonable by the customer.
- In the event of agreed collection of goods, the risk of accidental loss and/or accidental damage to the goods shall pass to the customer upon the notification to the customer that the goods are ready for collection. In cases of goods being shipped, the risk of accidental loss and/or accidental damage shall pass, upon the handing over of the goods, to the person(s) designated to carry out the delivery.
- The dimensions, weights and amounts stated in the documents accompanying the delivery shall be definitive for the invoice. Complaints against delivery dimensions, weights or amounts must be made in writing, at the latest, immediately on the receipt of the goods at the delivery address.

§ 4 Prices/Payment Terms/Invoice/Set off

- Agreed prices are stated as net prices, exclusive of the respective statutory value-added tax in effect at that time.
- The customer is not entitled to withhold or set off payments due to claims of any kind, including any claims due to defects, unless said claims are recognised, have a legal basis or are ready to be judged in a court of law.
- If the customer fails to pay in accordance with the contracted terms, Dr. Demuth is entitled, in accordance with § 353 German Commercial Code, to charge interest from the due date onwards.
- With the occurrence of circumstances which are capable of reducing the credit worthiness of the customer (i.e. the dishonouring of a cheque), Dr. Demuth shall be entitled to demand all outstanding payments from the business contract regardless of agreed payment dates. Deliveries can be made conditional to the payment.

§ 5 Retention of Title

- The goods shall remain our property until the fulfilment of the mutual and future claims arising from the business agreement with the customer. This shall also apply even if the individual claim is included in the ongoing account and the balance is recognised.
- The customer is obligated to carefully store the goods subject to retention of title and to safeguard them against loss and damage at their own expense. The customer shall assign beforehand any claims arising from insurance contracts to Dr. Demuth. Dr. Demuth shall accept this assignment. The customer is obligated to store and mark the goods belonging to Dr. Demuth separately.
- If the customer processes or reorganises the goods that are subject to retention of title, then the customer does so without any obligations resulting on the part of Dr. Demuth. If the customer combines, mixes and processes the goods subject to retention of title with other goods or reorganises the goods subject to retention of title with other goods, then Dr. Demuth shall be entitled to a share in the ownership of the new goods in relation to the invoice value of the goods subject to retention of title in comparison to the value of the other goods. The new goods shall be deemed to be goods subject to retention of title within the meaning of these terms and conditions.
- The goods subject to retention of title are only permitted to be disposed of in the normal course of business. Other disposals, such as the pledging or assignment of security of goods subject to retention of title, are not permitted. The customer hereby assigns all claims, in advance and in full, with regard to goods subject to retention of title arising from re-sale or other legal grounds, to Dr. Demuth. In the event of co-ownership, the assignment only encompasses the proportion of the claim corresponding to the share of our co-ownership. Dr. Demuth hereby accepts this assignment. Re-sale is only permitted when this assignment is guaranteed.
- The customer is authorised to collect assigned claims on a revocable basis in the course of ordinary business. Upon request by Dr. Demuth, the customer shall notify their debtors of the

assignment. Dr. Demuth shall be entitled to carry out this notification of assignment at any time if the customer is in arrears with payment.

- The customer's authorisation to dispose of the goods subject to retention of title and to the collection of assigned claims shall lapse upon the noncompliance with payment conditions, the unauthorised disposal of goods subject to retention of title or the protesting of a cheque or bill as well as if insolvency proceedings are commenced against the customer or Dr. Demuth becomes aware of a significant worsening of the customer's financial situation.
- In the event of No. 5, Dr. Demuth shall be entitled to immediately take possession of goods subject to retention of title without cancellation of the contract, enter the customer's place of business in order to do so, demand relevant information regarding the goods subject to retention of title and any claims arising from the re-sale of said goods as well as to inspect the customer's accounts as long as this serves the safeguarding of Dr. Demuth's rights. Dr. Demuth's possession of the goods shall not constitute a cancellation of the contract unless Dr. Demuth expressly declares so.
- If the value of the securities held by Dr. Demuth exceeds Dr. Demuth's total claims by more than 10%, then Dr. Demuth shall be obligated to release the excess securities at their own discretion and of their own choosing.

§ 6 Defects

- A quality or shelf life guarantee shall only apply as provided by Dr. Demuth if Dr. Demuth confirms said guarantee in writing. Should the subject matter of a contract not feature a provisionally agreed quality guarantee, then the customer shall bear the legal responsibility of any defect. A particular guarantee, resulting in rights above and beyond those granted by the law, shall not be undertaken. Furthermore, any agreement about the quality of a specific good shall not result in stricter liability than that of the law.
- The customer shall be obligated to report any defects in writing immediately, or at the latest, within 7 days of the receipt of the goods at the delivery address. Defects that were not able to be detected within this time period shall nevertheless be reported in writing immediately upon discovery, or, at the latest, within 7 days. Noncompliance with the defect reporting period shall result in the goods being considered as approved. Should Dr. Demuth not be granted the opportunity to review the defects, or should the customer carry out changes to the goods subject of the complaint without the permission of Dr. Demuth, then the customer shall forfeit the warranty claims.
- In the event of substantiated defects, Dr. Demuth shall, at its own discretion, either fix the defect free-of-charge or supply a replacement free-of-charge upon receipt of the good subject of the complaint. If Dr. Demuth does not honour its obligations within appropriate time period according to the contract, the customer shall provide a reasonable additional deadline in writing within which Dr. Demuth must fulfil its obligations. If this deadline passes without result, the customer shall be entitled to request a price reduction or to withdraw from the contract. For defects which only affect the value or the suitability of the goods insignificantly, no right to claim for defects shall exist with the exception of price reduction claims.
- Claims for defects shall be subject to a limitation period of 12 months from the transfer of the goods at the respective delivery address. This shall not apply if a longer period is stipulated by law.

§ 7 Limitations of Liability

- Dr. Demuth shall be liable, in accordance with both the preceding and the following limitations of liability, for any loss of life, personal injury or illness which occur due to a deliberate or negligent breach of duty on the part of Dr. Demuth, its legal representatives or its agents, as well as for damages incorporated in the *Produkthaftungsgesetz* (German Product Liability Act), and as well as for damages which are based on the deliberate or negligent breach of duty, fraudulent intent or the undertaking of a guarantee.
- Furthermore, Dr. Demuth shall be liable for damages which occur through ordinary negligence, so long as said negligence pertains to a breaching of certain contractual duties, whose content is of importance for the completion of the contractual purpose (cardinal obligations). However, Dr. Demuth shall only be liable so far as the damages are related to the contract and foreseeable, and liability shall be restricted to a maximum amount of € 1,0 Mio. per damage claim as well as a maximum of € 1,5 Mio. per year.
- The limitations of liability stated in the above clauses shall also apply in the same measure as the liability of legal representatives, executives and other agents of Dr. Demuth. Any further liability shall be excluded, irrespective of the legal nature of the claim lodged. So far as the liability of Dr. Demuth is excluded or limited, the personal liability of its employees, labourers, staff, representatives or other agents shall also be excluded or limited in the same measure.
- Claims for damages shall be subject to a limitation period of one calendar year after the delivery of the goods or the fulfilment of the service, regardless of any customer knowledge of the cause of the damages and/or those that caused the damage. The limitation period shall not apply if gross negligence exists on the part of Dr. Demuth or in cases of personal injury or death for which Dr. Demuth is responsible or in other cases where the law stipulates a longer limitation period.

§ 8 Rights of Third Parties/Copyrights

- If deliveries are made according to plans, diagrams, models, analytical specifications or other customer specifications, and, through them, any rights of third parties, particularly trade mark rights, are breached, then the customer shall be obligated to absolve Dr. Demuth from any claims upon first request by Dr. Demuth and shall also be obligated to provide a cash security in the form of a directly enforceable and unlimited bank guarantee.
- Dr. Demuth reserves all rights of ownership and copyright for designs and proposals. These items and/or this information may only be used in relation to goods supplied by Dr. Demuth and may only be disclosed to third parties upon written permission from Dr. Demuth.

§ 9 Place of Performance/Jurisdiction/Applicable Law

- Place of performance is Katlenburg-Lindau unless another place of performance is prescribed by law. Jurisdiction over all disputes arising from or in relation to this contract and its interpretation and these General Terms and Conditions of Business is Katlenburg-Lindau, unless a different sole place of jurisdiction is established by law. This shall also apply for legal action in proceedings for cheques and bills. However, Dr. Demuth reserves the right to begin legal proceedings in the legal domicile of the customer.
- For all legal relations between Dr. Demuth and the customer, the law of the Federal Republic of Germany shall apply exclusively in its current version with the exception of the rules of conflict of private international law and the United Nations Conventions on Contracts for the International Sale of Goods.

§ 10 Concluding Provisions

Further supplementary agreements alongside the written contract and these General Terms and Conditions of Business shall not exist. Alterations or additions shall be made in writing. Should a provision in the contract or in these General Terms and Conditions be or become ineffective, this shall not affect the validity of the rest of the contract or of these General Terms and Conditions. The parties are obligated to replace any ineffective provision with a provision which most-closely approximates the intended, legal and/or economic purpose. Should this not be possible, then any ineffective provisions shall be reduced to a level at which they are legally valid (reduction of ineffective provisions to preserve validity).
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