

General Terms for Deliveries and Services

1. General information - scope

- 1.1** Our services and deliveries will be provided exclusively on the basis of these terms for deliveries and services. We do not recognize any contrary conditions by the purchaser unless we expressly agree to their applicability.
- 1.2** Our terms for deliveries and services only apply insofar as the purchaser is an entrepreneur (§14 German Civil Code), legal entity under public law or special fund.

2. Quotations

- 2.1** Our offers are subject to change and without obligation unless they are not explicitly marked as binding. An order is valid as a binding offer of contract. As far as nothing else results from the order we have the right to accept this offer of contract within two weeks after reaching us.
- 2.2** Any declarations with regard to the conclusion of contract (offer and acceptance) can only be declared in writing, by fax or by e-mail. We are entitled to declare the acceptance of a contract by delivering the ordered goods to the purchaser.
- 2.3** The documents supplied by the purchaser (information, drawings, data, samples etc.) are binding for us – the customer is responsible for the correctness of their contents, their technical practicability and completeness – we are not obliged to review or verify them.

3. Delivery time - delay in delivery

- 3.1** Statements regarding the delivery time are always to be considered as approximate insofar as nothing has been specifically agreed to the contrary. A delivery period does not begin until the moment at which all particularities of the performance have been clarified and both parties have agreed on all conditions of the order. The agreed periods for delivery will extend accordingly.
- 3.2** Furthermore, the fulfilment of our delivery obligations requires the punctual and proper supply of drawings, documents, specifications, data, samples and/or other records by the purchaser.
- 3.3** If we are prevented from the punctual fulfilment of our obligations due to reasons which are beyond our control, we are obliged to immediately inform the purchaser. Should, as a result, the delivery or performance proves to be impossible, the obligation to deliver shall no longer apply and payment of compensation be excluded. If the customer demonstrates that subsequent fulfilment as a result of the delay is of no advantage to him, the customer will be able to rescind the contract under exclusion of any further claims.
- 3.4** The occurrence of default in delivery is determined in accordance with legal regulations. However, a reminder by the purchaser is required in any case. If a reasonably set grace period remains fruitless, the purchaser is entitled to withdraw from the contract.
- 3.5** For compensation of damages, we are only liable according to section 8 of these terms. For a withdrawal from the contract, the legal regulations apply.

4. Transfer of risk - shipment - acceptance

- 4.1 Unless otherwise stated in the order confirmation, delivery “EXW” (according to the Incoterms 2010 or latest edition) is agreed. Place of delivery and performance is the site of eMSL GmbH.
- 4.2 If shipment had been agreed, the risk of accidental loss and deterioration will be passed over to the buyer exactly at the moment when the goods are delivered to the person or institution designated to execute the shipment. This also applies if we pay the shipping costs or have advanced them for our customer. If dispatch or handover is delayed due to circumstances for whose cause the purchaser is responsible, the transfer of risks to the client takes place on the day when the goods are ready for dispatch and we have notified this to the customer.
- 4.3 We are entitled to effect partial deliveries, provided that this is reasonable for the purchaser under consideration of his interests.
- 4.4 As far as acceptance had been agreed on, this is authoritative for the passing of risk. The statutory provisions of the law on contract for services shall apply analogously in other respects to an agreed acceptance. Default of acceptance will have the same effect as delivery to the buyer and acceptance.
- 4.5 If the purchaser fails to accept the goods or is the delivery delayed due to reasons for which the purchaser is responsible, we are entitled to demand substitution for any damages arising from that including any additional expenses. In these cases, we are going to store the goods at risk of the purchaser and issue an invoice for the storage.

5. Prices - terms of payment

- 5.1 Unless otherwise stated in the order confirmation, our prices are calculated “EXW” (according to the Incoterms 2010 or latest edition) from the site of eMSL GmbH. Transport costs ex warehouse for the shipment, possible insurances, tariffs, fees, taxes and other public duties will be paid by the purchaser.
- 5.2 All our prices are net. The value added tax is not included in our prices and will be indicated separately on the date of billing in the statutory amount.
- 5.3 Unless otherwise stated in the order confirmation, our invoices are payable net (without deduction) within 14 days from the date of invoice and receipt of it.
- 5.4 For contracts which contain delivery and performance values of more than 10.000 EUR, we are entitled to claim an advance payment of 30 % of the purchase price. The deposit will be due and to be paid within 7 days after billing.
- 5.5 The purchaser is not entitled to retain or off-set payments because of counterclaims arising from other contractual relationships. An exception are recognised, undisputed or legally determined claims which had been acknowledged by us.

6. Retention of title

- 6.1 We reserve the right of ownership of the goods and performances delivered until the customer has made the payment due from the business relationship.
- 6.2 The reserved goods may not be pawned or transferred by way of security to third parties by the purchaser. He is obliged to immediately inform us in writing if and when there are any accesses of third parties to the goods which belong to us.
- 6.3 The purchaser is entitled to further process and to resell the delivered goods in the ordinary course of business. Reservation of ownership shall also apply to goods resulting from the processing, mixing or combining of our goods and performances in their full amount whereas we gain joint ownership to the new goods in relation

of the value of the reserved goods to that of the other used mixed or joint items at the time of mixing or joining. Incidentally, the same applies for the resulting product as for the goods and performances delivered under reservation of title.

- 6.4 If we receive a part from the customer for the purpose of treatment and processing and will he also remain sole owner after treatment and processing of the processed object, it is here and now agreed that the customer transfers proportional co-ownership to us in relation of the value of our treatment and processing (invoice – total amount incl. VAT) to the value of the provided object at the time of processing.
- 6.5 The claims which arise from the resale of the goods and performances are assigned to the full extent or in the amount of our possible co-ownership share from the purchaser to us.
- 6.6 Alongside us, the purchaser remains entitled to collect the claim. We agree not to recover debts ourselves as long as the purchaser complies with his payment obligations with us, does not default, does not file a petition for opening insolvency proceedings and no other lack of his financial capacity occurs. However, if any of these circumstances arises, we can demand that the purchaser informs us of the assigned claims and their debtors, provides all information which are necessary for the collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.
- 6.7 On customer's request we undertake to release the securities to which we are entitled, as far as the realizable value of our securities exceeds the claims to be secured by more than 10 % – the choice of the securities to be released is within our scope of responsibility.

7. Warranty - liability for breaches of contractual obligations

- 7.1 Unless otherwise stated in the following provisions, the statutory provisions shall apply for the customer's rights in case of material defects and defects of title (including wrong and short delivery). Special statutory provisions on final deliveries of products to a consumer shall in any case remain unaffected (§§ 478, 479 German Civil Code).
- 7.2 If we work on the basis of drawings, data, specifications, samples, requirements and/or other corresponding documents of the purchaser, the latter shall bear the risk of suitability for the envisaged purpose. Also, he is responsible for the correctness and completeness of the required information in accordance with clause 2.3 and 6.4 of these General Terms for Deliveries and Services.
- 7.3 The purchaser's warranty rights presuppose that the customer has properly met his inspection and objection obligations pursuant to § 377 of the German Commercial Code. If the contractual relationship between the purchaser and ourselves is a contract for work and services, § 377 of the German Commercial Code shall be applicable accordingly.
- 7.4 We must be given the opportunity to check a reported lack at the place and position. If the purchaser or a third party has carried out unauthorised modifications or improper repair works, claims for defects for these or for results incurred from this do not exist.
- 7.5 If the delivered goods or performances are faulty, we are entitled to choose whether to repair the goods or to send a replacement part. Therefore, the purchaser has to give us the necessary time and opportunity for supplementary performance or replacement delivery. We are obliged to carry all necessary expenses incurred in the course of post-fulfilment. We may claim reimbursement

of arising costs if the procedure of remedy proves to be unjustified. We are entitled to make the owed subsequent performance dependent from the fact that the purchaser pays the due purchase price. The Buyer is however entitled to retain a part of the purchase price which is reasonable in the ratio to the defect.

- 7.6** If the post-performance fails or if it is not required according to the statutory provisions, the purchaser is entitled to withdraw from the contract or to demand a reduction of the purchase price. This right of withdrawal does not exist with an insignificant defect.
- 7.7** Claims of the purchaser for damages or reimbursement of fruitless expenses shall only exist according to clause 8 of these General Terms for Deliveries and Services and are incidentally excluded.

8. Other liability - limitation of liability

- 8.1** Unless otherwise stated in these General Terms for Deliveries and Services including the following provisions, we are liable in case of any breach of contractual or non-contractual duties in compliance with the relevant legal provisions.
- 8.2** Claims for damages resulting from the destruction of life, personal injury or health damages and damages resulting from the breach of an essential contractual duty remain unaffected from the exclusions and limitations of liability regulated in clause 8.1.
- 8.3** The mentioned limitations of liability do not apply if we have fraudulently concealed the defect or if we are liable due to an assumption of a guarantee or a procurement risk. The same shall apply for claims of the purchaser according to the Product Liability Law.
- 8.4** As far as the liability for compensation against us is excluded or restricted, this shall be valid as well with respect to the personal liability for compensations of our legal representatives, employees, staff members, agents as well as vicarious agents which are based upon the same legal relationship.
- 8.5** In the event of a breach of duty that is not attributable to a defect, the purchaser can only withdraw if we have to justify the breach of duty. A free right of cancellation for the customer (in particular in accordance with paragraphs 649 and 651 of the German Civil Code) is excluded.

9. Statute of limitation

- 9.1** Departing from § 438 section 1 number 3 and § 634a section 1 number 3 of the German Civil Code, warranty claims of the purchaser due to material defects and defects of title shall expire within one year from the statutory limitation period.
- 9.2** Special statutory provisions concerning a third party's surrender claims (§ 438 clause 1 number 1 German Civil Code), deceit committed by our company (§ 438 clause 3 and § 634a clause 3 German Civil Code) and claims in the supplier recourse in case of final delivery to a customer (§ 479 German Civil Code) shall remain unaffected.
- 9.3** The above-mentioned periods of limitation also apply to contractual or non-contractual claims of damages of the purchaser based on a defect in the delivery item unless application of the normal statutory limitation period (Paragraphs 195 and 199 German Civil Code) would, in the individual case, lead to a shorter limitation period. The limitation periods of the Product Liability Law will remain unaffected in any case.

9.4 Insofar as the limitation of claims will be shortened with us, this shortening applies accordingly for possible claims of the purchaser against our legal representatives, employees, staff members, agents as well as vicarious agents which are based upon the same legal relationship.

10. Choice of law - place of jurisdiction

10.1 If the purchaser is a merchant, legal entity under public law or a special fund under public law, the place of jurisdiction for all disputes arising from the contractual relationship is Chemnitz.

10.2 For the contractual relationship, the exclusive right of the Federal Republic of Germany will be applied. The application of the UN sales law will be excluded.

10.3 In case that any provision stated in these General Terms for Deliveries and Services or a provision in the frame of any other agreement is or will become invalid, the effectiveness of all other provisions or agreements will not be affected.

Information concerning the company name:

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Managing director: Katja Lorenz
District court Chemnitz: HRB 30165

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