

GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY AND PAYMENT (ALZ)

1. Scope

1.1 Unless otherwise expressly agreed, the following "General Terms and Conditions of Delivery and Payment (ALZ)" shall apply to all contracts, deliveries and other services – including consultancy services provided on that occasion that are not the subject of an independent consultancy contract – in commercial transactions with non-consumers within the meaning of Section 310 (1) of the German Civil Code (BGB).

1.2 Differing terms and conditions, especially conditions of purchase of the buyer, are hereby rejected.

1.3 Within the framework of an ongoing business relationship between merchants, the ALZ shall also become an integral part of the contract even if the seller has not expressly referred to their inclusion in the individual case.

2. Offers and conclusion of contract

2.1 The offers contained in the seller's catalogues and sales documents, as well as offers on the internet that are not expressly referred to as binding, shall remain non-binding at all times, i.e. these are only to be seen as an invitation to submit an offer.

2.2 Orders shall be deemed to have been accepted if the seller confirms them in writing or carries them out immediately after the order is received. In this case, the invoice shall be considered to be the order confirmation. Drawings, illustrations, dimensions, weights and other performance data shall only be binding if they are expressly and specifically agreed in writing.

2.3 If, after entering into the contract, the seller becomes aware of facts, especially delayed payment with regard to previous deliveries, that imply according to proper commercial judgement that the purchase price claim is at risk due to the buyer's inability to pay, the seller shall be entitled at its discretion, after setting a reasonable grace period, to demand payment on delivery or corresponding securities from the buyer and, in the case of refusal, to withdraw from the contract, in which event the invoices for partial deliveries that have already been made shall become due immediately.

3. Data storage

The buyer is hereby informed that the seller processes the personal data obtained within the framework of the business relationship in accordance with the provisions of the German Federal Data Protection Act.

4. Delivery, transfer of risk and default

4.1 The risk shall be transferred to the buyer when the goods are placed at the buyer's disposal at the agreed place of delivery by the seller.

4.2 Partial deliveries shall be permitted to a reasonable extent.

4.3 The delivery period shall be reasonably extended – even within a period of default – in the event of force majeure or any unforeseen obstacles arising after the contract is concluded and for which the seller is not responsible (especially breakdown, strike, lockout or disruption of traffic routes), insofar as such obstacles demonstrably exercise a considerable effect on the delivery of the sold items. This shall also apply if these circumstances arise for the seller's suppliers or their subcontractors.

The seller shall inform the buyer as soon as possible of the start and end of such obstacles. The buyer may demand from the seller a declaration of whether it wishes to withdraw from the contract or to make delivery within a reasonable grace period. If the seller does not provide this declaration immediately, the buyer may withdraw from the contract.

Claims for damages shall be excluded in this case.

The above rules shall apply to the seller accordingly if the aforementioned obstacles occur for the buyer.

4.4 The seller shall be liable for punctual delivery only if it or one of its agents is at fault. It shall not be liable for the fault of its upstream suppliers, as these are not its agents. The seller shall, however, be required to assign to the buyer on request any claims due to the seller from its upstream suppliers.

4.5 In the event of a delay in delivery, the buyer shall, at the seller's request, be required to declare within a reasonable period whether it still insists on delivery or intends to withdraw from the contract because of the delay and/or to demand compensation in lieu of performance.

5. Payment

5.1 Unless otherwise agreed, the purchase price shall be due immediately, without deduction, on receipt of the goods.

5.2 Payments by bill of exchange shall only be permitted by special arrangement. Bills of exchange and cheques shall only ever be accepted on account of payment, not in lieu of payment. In the event of a cheque or bill protest, the seller may demand immediate payment in cash with the return of the check or bill of exchange.

5.3 The statutory regulations shall apply in the event of default in payment. Any discounts for cash payment that may have been agreed shall not be granted if the buyer is in default of payment with regard to previous deliveries.

5.4 If the buyer defaults in payment by way of a reminder (Section 286 (1) of the German Civil Code, BGB) or if it fails to honour a bill of exchange, the seller shall be entitled, after previously issuing a payment reminder, to take the goods back; if necessary, the seller shall be entitled to enter the buyer's premises and take the goods away. The seller may also forbid the removal of the delivered goods.

5.5 A refusal or withholding of payment shall be excluded if the buyer knew of the defect or other cause for complaint at the time of entering into the contract. This shall also apply if the buyer remained unaware of the defect or other cause for complaint due to gross negligence, unless the seller fraudulently concealed the same or provided a guarantee for the nature of the item. Furthermore, payment may only be withheld to a reasonable extent as a result of defects or other complaints.

5.6 Offsetting shall only be possible with claims that are accepted by the seller or that are established to be legally valid.

6. Drawings and design modifications

6.1 The seller shall retain ownership of and the copyright to all drawings, sketches and other company documents. These documents may only be duplicated, utilised or made accessible to third parties with the seller's written consent. The documents must be returned on request. The seller warrants that the documents it provides are not subject to third-party industrial property rights and shall indemnify the buyer against possible claims by third parties. The seller shall reserve the right to make design modifications at any time.

It is not, however, required to carry out such modifications to products that have already been delivered.

7. Installation and assembly

7.1 Installation and commissioning of machines and equipment shall be performed only by special order. The aforementioned and following terms and conditions shall apply to all kinds of assembly, commissioning and customer-service work by the seller unless written agreements to the contrary were made in the individual case.

7.2 The buyer must bear the costs for and provide in good time:

- supporting personnel such as specialist workers and assistants, along with the tools they need in the necessary quantity;
- the equipment and materials necessary for assembly and commissioning, as well as scaffolds, lifting devices, ladders, welding devices and all other necessary equipment;
- operating power in the required form, including the necessary connections to the place of use, heating and general lighting;
- sufficiently large, suitable, dry, and lockable rooms at the assembly site for the storage of the machine parts, apparatus, materials, tools, etc. and appropriate working rooms and heated common rooms for the assembly personnel, including sanitary installations appropriate to the circumstances;
- protective clothing and protective equipment that are necessary for the assembly site due to special circumstances and that are not customary for the buyer.

7.3 If the installation, assembly or commissioning is delayed due to circumstances on the construction site through no fault of the seller, the buyer must bear all costs for the waiting period and necessary travel of the assembly personnel.

7.4 The buyer shall be required to inspect the assembly for acceptance purposes as soon as it is notified of its termination and completion. The system shall be checked during the inspection. If the inspection for acceptance is delayed through no fault of the seller, the assembly is deemed to have been accepted since the termination and/or completion of assembly. When the inspection and acceptance of the assembly work is completed, the risk in relation to the goods shall pass to the buyer.

7.5 The seller shall only be liable for proper handling and installation or assembly of the delivered item; liability shall not be assumed for the buyer's auxiliary personnel in connection with installation or assembly.

8. Notice of defects, warranty and liability

8.1 The seller shall only be liable as follows for defects within the meaning of Section 434 of the

German Civil Code (BGB):

The buyer must inspect the quantity and quality of received goods immediately. The seller must be given immediate written notice of obvious defects. In the case of mutual commercial transactions between merchants, Sections 377 and 378 of the German Commercial Code (HGB) shall remain unaffected.

8.2 If the buyer finds defects in the goods, it must not exercise possession over them – i.e. the goods must not be divided, resold or further processed – until an agreement is reached on the handling of the complaint.

8.3 In the event of justified complaints, the seller shall be entitled to specify the type of supplementary performance (replacement delivery, improvement), taking into account the type of the defect and the justifiable interests of the buyer.

8.4 The buyer must inform the seller as soon as possible of any warranty claim arising with regard to a consumer.

8.5 Claims due to defects shall lapse after 12 months. This shall not apply where longer periods are prescribed by law according to section 438 (1) no. 2 (buildings and things for buildings), section 479 (1) (recourse claim) and section 634a (1) no. 2 (building defects) of the German Civil Code (BGB).

8.6 Claims for compensation shall be subject to section 9 (General limit of liability).

9. General limit of liability

9.1 Claims for damages and reimbursement by the buyer (hereinafter: claims for compensation), in particular due to breach of duties arising from a contractual obligation and from wrongful action, shall be excluded regardless of their legal basis. This shall not apply in cases where a guarantee was provided or a procurement risk was assumed. This shall also not apply in cases where liability is mandatory, e.g. according to the German Product Liability Act (Produkthaftungsgesetz) or in cases of gross negligence or intent, injury to life, body or health, or breach of essential contractual duties. Claims for compensation for the breach of essential contractual duties shall, however, be limited to the foreseeable damages typical for this type of contract, provided there is no gross negligence or intent or liability due to injury to life, body or health. This does not entail a change in the burden of proof to the buyer's disadvantage.

9.2 This rule shall apply to the seller accordingly.

10. Reservation of title

10.1 The seller shall reserve ownership of the goods until the purchase price has been paid in full. In the case of goods that the buyer purchases from the seller within the framework of an ongoing business relationship, the seller shall reserve ownership until all claims against the buyer arising from the business relationship are settled, including claims that arise in future, even from contracts entered into simultaneously or at a later time. This shall also apply if individual claims or all claims of the seller have been included in a current account and the balance has been calculated and accepted.

If, in connection with the buyer's payment of the purchase price, liability of the seller on the basis of a bill of exchange is established, the reservation of title shall not expire prior to the redemption of the bill of exchange by the buyer as the drawee.

In the event of delayed payment by the buyer, the seller shall be entitled to take back the goods after issuing a reminder, and the buyer shall be required to surrender the goods.

10.2 If the goods subject to reservation of title are processed by the buyer into a new movable item, the processing is carried out on the seller's behalf, without an obligation thereby arising for the seller; the new item shall become the property of the seller. In the case of processing together with goods not belonging to the seller, the seller shall acquire joint ownership of the new item according to the ratio of the value of the goods subject to reservation of title to the value of the other goods at the time of processing. If the goods subject to reservation of title are connected, combined or blended with goods not belonging to the seller in accordance with sections 947 and 948 of the German Civil Code (BGB), the seller shall become joint owner in accordance with the statutory provisions. If the buyer acquires sole ownership through connection, combination or blending, it shall already assign joint ownership to the seller according to the ratio of the value of the goods subject to reservation of title to the value of the other goods at the time of the connection, combination or blending. In such cases, the buyer must safeguard at no charge the item subject to the seller's ownership or joint ownership, which shall also be considered as goods subject to reservation of title within the meaning of the above condition.

10.3 If goods subject to reservation of title are sold alone or together with goods not belonging to the seller, the buyer shall already assign the claims arising through the resale in the amount of the value of the goods subject to reservation of title, with all auxiliary rights and with priority over the other claims; the seller shall accept the assignment. The value of the goods subject to reservation of title shall be the seller's invoice amount, which shall, however, be excluded if this infringes the rights of third parties. If the resold goods subject to reservation of title are jointly owned by the seller, the assignment of the claims shall extend to the amount corresponding to the proportional value of the seller's joint ownership.

10.4 If the buyer installs goods subject to reservation of title as an essential component of a piece of immovable property, a ship, a ship under construction, or an aircraft belonging to a third party, the buyer shall already assign the assignable claims for remuneration that arise against the third party or the person concerned in the amount of the value of the goods subject to reservation of title with all auxiliary rights, including those such as the granting of an equitable mortgage, with priority over the other claims; the seller shall accept the assignment. The second and third sentences of number 10.3 shall apply accordingly.

10.5 If the buyer installs goods subject to reservation of title as an essential component in a piece of immovable property, a ship, a ship under construction, or an aircraft of the buyer, the buyer shall already assign any claims arising from the sale of the immovable property, rights to immovable property, ship, ship under construction, or aircraft in the amount of the value of the goods subject to reservation of title with all auxiliary rights and with priority over the other claims; the seller shall accept the assignment. The second and third sentences of number 10.3 shall apply accordingly.

10.6 The buyer shall be only entitled and authorised to resell, utilise or install the goods subject to reservation of title within the scope of ordinary business activities and only with the stipulation that the claims pursuant to numbers 10.3 to 10.5 are actually transferred to the seller. The buyer shall not be entitled to make other dispositions of the goods subject to reservation of title, especially by pledging or assigning them by way of security.

10.7 The seller shall authorise the buyer, whilst reserving the right to withdraw this authorisation, to collect the claims assigned pursuant to numbers 10.3 to 10.5. The seller shall not exercise its own authority to collect these claims, provided the buyer meets its payment obligations, including those to third parties. At the seller's request, the buyer must name the debtors in the assigned claims and notify the debtors of the assignment; the seller shall also be authorised to notify the debtors itself.

10.8 The buyer must inform the seller immediately of enforcement proceedings by third parties with regard to the goods subject to reservation of title or the assigned claims and must provide all documents that are necessary to object to these proceedings.

10.9 Suspension of payment and/or application to open insolvency proceedings shall lead to the expiration of the right of resale, utilisation or installation of the goods subject to reservation of title or of the authorisation to collect the assigned claims; the authorisation to collect these claims shall also expire in the event of a cheque or bill protest. This shall not apply to the rights of the insolvency administrator.

10.10 If the value of the granted securities exceeds that of the claims (reduced by payments on account and partial payments, where applicable) by more than 20%, the seller shall be required to carry out, at its discretion, a retransfer or release to this extent.

Once all of the seller's claims arising from the business relationship have been repaid, ownership of the goods subject to reservation of title and assigned claims shall pass to the buyer.

11. Construction work

The Construction Tendering and Contract Regulations (VOB, parts 8 and C) in the current version at the time of the contract's conclusion shall apply to services consisting solely of construction, including assembly, if the order is placed by a contractual partner active in the construction industry.

12. Place of jurisdiction and applicable law

12.1 Provided the buyer is a merchant, a legal person under public law, or a special-purpose fund under public law, Melle shall be the place of performance and place of jurisdiction for deliveries and payments (including complaints with regard to cheques and bills of exchange), as well as for all disputes arising between the parties. The seller shall, however, be entitled to bring a claim against the buyer at its registered place of business.

12.2 The relationships between the contractual parties shall be governed exclusively by the laws applicable in the Federal Republic of Germany to the exclusion of the UN Sales Convention.

GLA-WEL GmbH, 49324 Melle (as at: 15th May, 2014)