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Multicork Solutions
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March 2017

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Terms and conditions of sale

Our printed delivery and payment conditions are exclusively applicable to all sales.

§ 1 Scope of application

(1) These sales conditions apply exclusively to companies, legal persons or entities as defined by German law in paragraph 310 of the German Civil Code (BGB), and any judicial entity whose separate estate is governed by public law. In the case of alternative terms and conditions of contractual partners, these will only be accepted as applicable when specifically stated in writing by Multicork Solutions.

(2) These sales conditions also apply to all future business and contracts with customers in as far as the subject matter of the legal transactions are of a similar nature.

§ 2 Offer and formation of contract

As soon as an order is identified as a firm offer in accordance with section 145 of the German Civil Code, Multicork Solutions can accept it within two weeks.

§ 3 Relevant documents

All documents provided during contractual dealings remain the property of Multicork Solutions and are under copyright, for example, calculations or diagrams. These documents are not allowed to be communicated to third parties without the specific written approval of Multicork Solutions. Should an offer not be accepted within the time limit in para. 2, all such documents must be returned without delay.

§ 4 Price and payment

(1) Providing no written agreement to the contrary exists, all prices are ex-factory, excluding packaging and VAT which will be charged at the relevant current rate. Costs of packaging will be listed and charged separately.

(2) Payment of the purchase price is to be made exclusively to one of the two named bank accounts. Discount deductions are not permitted unless specifically stated in writing.

(3) In the absence of any direct alternative agreement the purchase price is to be paid within 14 days of the date of the invoice. Interest for late payment will be charged at 8% above the annual base rate. The right is reserved to charge damages at a higher rate for payment delay.

(4) In the absence of a fixed price agreement Multicork Solutions reserves the right to increase the purchase price by a reasonable amount to cover changes in salaries, raw materials and distribution costs on deliveries made 3 months or later than the date of the original contract.

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Amtsgericht Bremen/HRA 23 174
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§ 5 Right of retention

The purchaser is only permitted to exercise a right of retention in as far as his counterclaim is based on the same contractual relationship.

§ 6 Delivery period

(1) The start of the delivery period as named by Multicork Solutions is based on the correct and timely completion of duties by the purchaser. Multicork Solutions reserves the right to plead the non-performance of the contract.

(2) In default of acceptance of delivery by the purchaser or in the case of violation of the purchaser's obligation to cooperate, the seller is entitled to charge damages for the resulting additional expenses. Multicork Solutions reserves the right to further claims. Should the aforesaid conditions exist, the risk of accidental loss and/or deterioration of the consignment passes to the purchaser when he is in default of acceptance or payment.

Delivery deadlines are not binding. Immediate deliveries require specific written confirmation. Part deliveries are permissible. Correct and in-time deliveries from our suppliers are a prerequisite for our own compliance with delivery deadlines to our customers. Force majeure and all events outside our control discharge us from delivery obligations arising from agreements entered into and give us the right to wholly or partially withdraw from contracts or to delay delivery by the same length of time as the aforesaid event. Claims for damages in any form cannot be considered.

(3) Multicork Solutions is responsible for any delay in delivery not caused intentionally or negligently at a flat rate of compensation of 3% of the delivery value for each complete week. The maximum extent of liability is not to exceed 15%.

(4) The statutory rights of the purchaser regarding delivery delays remain unaffected by this agreement.

§ 7 Transfer of risk upon shipment

On request by the purchaser to ship the ordered goods, the risk of accidental loss or deterioration transfers to him automatically at the latest when the goods leave the factory or warehouse. This applies irrespective of which party bears the freight costs and notwithstanding the location from which despatch takes place.

§ 8 Retention of title

(1) Ownership of the delivered goods remains with the seller Multicork Solutions until all claims arising under the contract have been paid in full. This applies to all future deliveries even in the absence of direct reference to this clause. In the case of default of payment or other conduct contrary to the terms and conditions of delivery, Multicork Solutions is entitled to reclaim the goods.

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(2) The purchaser is obliged to handle the goods with care so long as the title to the goods has not passed to him. He is particularly obliged to insure the goods against theft, fire damage and flood damage at his own expense.

The purchaser is obliged to immediately inform Multicork Solutions, until such time as ownership of the goods passes to him, of any seizure of the goods by third parties or any other intervention involving third parties. Should the third party be unable or unwilling to reimburse the court costs and all other legal costs of an action under paragraph 771 of the German Code of Civil Procedure, the purchaser is responsible for the reimbursement of any losses.

(3) The purchaser is entitled to resell the goods which form the subject matter of the contract in normal business transactions. The purchaser assigns the rights and claims arising out of the resale of the goods to Multicork Solutions in advance, to the extent of the agreed contract price as stated in the invoice including VAT. This assignment of rights is binding, irrespective of whether the goods are sold on, with or without further alterations. The purchaser remains responsible for the recovery of debts even after the assignment of rights to Multicork Solutions. The legal right of Multicork Solutions to recover the debt directly themselves remains unaffected. However, this right of debt recovery will not be taken advantage of as long as the purchaser maintains the agreed payment obligations and does not lapse into arrears, opens an insolvency action or suspension of payment action.

§ 9 Guarantees, warranties and recourse against the manufacturer

(1) Any recourse against the manufacturer under guarantee is based on the purchaser having correctly followed the obligations of paragraph 377 of the German Commercial Civil Code.

(2) Claims for defects become time-barred after 12 months from the date of delivery of the goods to the purchaser. In claims for damages regarding wilful intent, gross negligence or injury to life and limb or health which are based on intentional or negligent breach of duty to the user, the statutory claim period applies.

Statutory provisions will apply where mandatory claim periods are prescribed.

The consent of Multicork Solutions must be obtained prior to any return of goods.

(3) Should the delivered goods, in spite of the utmost care, show any defects which were present at the time of the transfer of risk, and when the claim is made within the time limit, Multicork Solutions will at their discretion either repair or replace the article. Multicork Solutions must always be given the opportunity to rectify the defect within a reasonable time. Statutory rights of recourse remain unaffected by the above clause.

(4) Should the correction of defects within a reasonable time period fail, the purchaser is entitled to withdraw from the contract or reduce the price, without affecting his statutory right to damages.

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(5) Claims for damages under warranty will not be considered if based on insignificant deviations from the agreed quality, minor impairment of usability, natural wear and tear or for damage occurring after the transfer of risk as a consequence of incorrect or negligent handling, excessive strain, the use of unsuitable equipment, defective workmanship, inappropriate foundations or are the result of external influences not foreseen in the contract. Likewise, if repair work or modifications are improperly carried out by the purchaser or a third party, claims for any defects arising cannot be accepted.

(6) Claims relating to the reimbursement of expenses for rectifying performance particularly with regard to the cost of transportation, travel, work and material costs will not be considered where such expenses have been increased due to the fact of the delivered goods being subsequently transported to another location other than the purchasers place of business unless such relocation is consistent with the goods' intended use.

(7) The purchaser's statutory rights of recourse against us are only admissible insofar as no agreement has been made with their client which goes beyond statutory warranty claims. Regarding the extent of the purchaser's claim for damages against the supplier, subsection 6 shall be applied accordingly.

(8) Guarantees

The purchaser is under the obligation to carefully examine all sent proofs or samples in any stage of completion as well as the finished goods immediately upon arrival and to register any complaint in writing without delay. Hidden defects which cannot reasonably be discovered by careful examination must be communicated in writing immediately after discovery. Reproductions of colour in all stages of printing processes may vary from the original. Similarly small differences may occur between proofs and production runs. Such technically unavoidable differences are deemed to be reasonable and acceptable to the purchaser and hence do not form the basis of a litigious claim under guarantee. The supplier has no duty to test any material, including data media, delivered from the purchaser or any third party appointed by him. Third parties are under no obligation from the supplier to test. Claims for deliveries differing in quantity, either above or below 10% of the ordered amount cannot be the subject of a claim.

§ 10 Other provisions

(1) The purchaser may only transfer rights and obligations arising from this contract to a third party with the prior written agreement of Multicork Solutions

(2) The purchaser is in agreement that their data will be entered into Multicork Solutions' computer system and used within the normal course of business relationships.

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(3) The purchaser is aware that the export of goods subject to the embargo provisions pursuant to the Foreign Trade and Payments of the Federal Republic of Germany, and the American and British import and export control provisions shall be subject to the consent of the relevant authority. The usage of goods marked with # is only allowed in Germany by the competent US authority. The re-export is prohibited without permission by paragraph 73.3 of the US Export Administration Regulations. The purchaser is responsible for compliance with the relevant provisions and rules and the resulting export limitations to the consumer and releases Multicork Solutions from all claims which could arise from the violation of such regulations.

§ 11 Final clauses

(1) German law is applicable to this contract. Regulations of the UN sales law do not apply.

(2) Any conflict arising from the business dealings based on this contract between the purchaser and Multicork Solutions fall exclusively within the jurisdiction of the courts in Bremen. It is however within the competent of Multicork Solutions to apply to a different jurisdiction in so far as legislation allows.

(3) Should individual terms in these general terms and conditions be or become partly or wholly legally invalid, the validity of the remaining provisions will not be affected. The partly or wholly invalid or unenforceable clause shall be replaced by a clause as close as possible to its original commercial intention.

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