

Occhio GmbH

General Conditions of Business and Supply

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§1 GENERAL AREA OF APPLICATION

01 These business conditions apply to all current and future business relationships. No other General Business Conditions that deviate from or are contrary or additional to these can become an integral part of the contract, even when their existence is known, unless it is specifically agreed in writing that they shall apply.

02 In these Business Conditions the term "users" ("Verbraucher") means natural persons with whom a business relationship has been entered into without it being possible for a commercial or independent professional activity to be attributed to these. In these Business Conditions the term "companies" ("Unternehmer") means natural persons or legal entities or partnerships with legal status with whom a business relationship is entered into and who act in pursuance of a commercial or independent professional activity. In these Business Conditions the term "customers" covers both users and companies.

§2 CONTRACTS

01 Our offers are subject to change without notice. The right to make reasonable technical modifications and changes to the form, colour, length, equipment, material or design is reserved.

02 When a customer orders goods he makes the binding declaration that he wishes to acquire the goods ordered. We are entitled to accept the contractual offer contained in the order within two weeks of receipt. This acceptance may either be expressed in writing or by delivery of the goods to the customer.

03 Contracts are entered into subject to the condition that our suppliers deliver to us correctly and on time. This applies only in the event of non-delivery not being our responsibility, in particular if a covering transaction implying intent has been entered into with one of our suppliers. The customer will be informed without delay of the non-availability of the service required. The customer will be reimbursed without delay with a quid pro quo consideration.

04 If the customer orders the goods by electronic means, the text of the order or contract will be stored by us and sent to the customer on request, together with these General Business Conditions, by email.

05 Fixed delivery dates are only binding if they are confirmed by us in writing.

§3 PAYMENTS

01 Our invoices that show statutory VAT as a separate item must be paid immediately and without any deduction.

02 If the customer is a user, he must pay interest charges at a rate of 5% p.a. above the base rate set by the Deutsche Bundesbank for any delay and if he is a company he must pay interest charges at a rate of 8% p.a. above the base rate set by the Deutsche Bundesbank. We further reserve the right in respect of companies to provide evidence of higher loss or damage due to the delay and to pursue this claim.

03 A customer has a right to offset payment only if his counter-claims are legally valid or have been accepted by us. He may only exercise the right to retain payment if his counter-claim rests on the same contractual relationship.

04 Even if a customer has clauses to the contrary, we are entitled to offset payment against older liabilities incurred by the customer, and in this case payments will initially be offset against interest and costs, and only subsequently against the main claim.

05 Commercial representatives and commercial clerks are only authorised to collect payment on our behalf if they are in possession of a corresponding authorisation from us.

§4 TRANSFER OF RISK AND SALE TO DESTINATION ACCORDING TO BUYER'S INSTRUCTIONS

01 The risk of accidental destruction and accidental damage to the goods transfers to the customer on handover. If at the customer's request the goods are sent to a location different to the place of performance, the transfer of accidental destruction and accidental damage transfers to the customer for this sale to destination according to buyer's instructions when the goods are transferred to the carrier, freight forwarding company or other person or institution instructed to transport the goods. At the customer's request, the shipment will be insured by us at the customer's expense.

02 Handover takes place, even if the customer delays acceptance of the goods.

03 Acts of God including strike, lock-out, mobilisation, war, blockade, export and import prohibition, shortage of raw materials and fuel, fire, transport being blocked, interruptions to operations or transport or any other circumstances which make it difficult or impossible for us or our suppliers to deliver on time without fault shall entitle us to postpone delivery or, at our discretion with regard to the as yet unfulfilled part of the contract, to withdraw from the contract in whole or in part. The customer may ask us to state whether we will deliver the goods within a reasonable period or withdraw from the contract.

04 Goods for which notification of readiness to despatch has been sent must be called up immediately on the agreed date. Failure to do so shall entitle us to place the goods in storage as we see fit at the cost and risk of the customer and to regard these as being delivered from the works or from storage. The same applies if despatch cannot take place as a result of transport being blocked or other circumstances for which we are not responsible or if the goods are placed in storage at the customer's request. In the case of delivery free to the customer's place of use, the customer bears all the costs from the point at which he has to accept the goods.

05 The transport route and the methods of transport and protective packaging are at our discretion. The customer shall bear the cost of shipment if the goods are to be sent to a location different from the place of performance.

06 If the customer is a trader, § 377 of the German Commercial Code applies, and a maximum period of two weeks is granted. If the customer is a user, he must register any complaint in writing about visible defects in the goods supplied within two months of handover of the goods to him. If acceptance and/or inspection do not take place on time or are incomplete for reasons for which the customer is responsible, we

are entitled to despatch the goods or to store them at the customer's cost and risk without any acceptance or examination. As far as companies are concerned, when the goods are despatched or placed in storage, they are deemed to be supplied and accepted in accordance with the terms of the contract in every respect.

§5 RETENTION OF OWNERSHIP, EXTENDED RETENTION OF OWNERSHIP

01 We reserve the right to retain ownership of the goods until settlement of all claims arising from an ongoing business relationship. In transactions with users, this only applies to our claims arising from the current contract of supply.

02 The customer is entitled to sell the goods on in a normal business transaction. He here and now assigns to us all claims to the amount of the invoice that accrue to him in respect of a third party as a result of an onward sale. We accept this assignment. After assignment the customer has authority to collect the claim. We reserve the right to cover assignment and to collect the claim ourselves if the customer fails to meet his payment obligations correctly and delays in making payment.

03 Processing of the goods by the company always takes place on our behalf and in our name. If processing takes place with objects that do not belong to us, we acquire joint ownership of the new item in the ratio of the value of the goods supplied by ourselves to the other items processed.

§6 WARRANTY

01 Companies must notify us in writing as specified in § 377 of the German Commercial Code of visible defects within a maximum period of two weeks after receipt of the goods; failure to do so shall exclude the pursuit of warranty claims. It is sufficient for the goods to be despatched on time for this period to be granted. The full burden of proof for all prerequisites for claims lies with the company, in particular for the defect itself, for establishing the date on which the defect was detected and for lodging the complaint within the time limit set.

02 Within the outline of our warranty against defects of goods, if the customer is a company, we are entitled to elect first either to repair the defective goods or to supply a replacement. Should this subsequent performance fail to correct the defect, then the company is in principle entitled to elect to demand either that the purchase price be reduced ("Minderung") or that the contract be cancelled ("Rücktritt"). The company's right of withdrawal from the contract, however, is excluded for minor non-compliance with the contract, in particular for minor faults. In the event the company withdraws from the contract for defect of title or quality after the subsequent performance has failed, it is also entitled to damages, but only for gross negligence and deliberate intent on our part with respect to the defect; this does not apply to any damages for personal injury.

03 If the customer is a user, the legal provisions on warranty apply.

04 Our warranty period is one year for companies, two years for users, in each case starting on the date of transfer of risk as defined in § 4 hereof.

05 Our product description or that of our suppliers is definitive in respect of the quality of the goods. Public statements, sales pitches or advertisements do not constitute a contractual warranty of the quality of the goods.

06 The customer does not receive legal guarantees from us. Manufacturer's warranties remain unaffected by this.

§7 LIMITATION OF LIABILITY

01 In case of a slightly negligent breach of any of our obligations under the contract, our liability is limited to the direct average damage that is foreseeable due to the nature of the goods and typically related to the contract. This also applies to any slightly negligent breach of any contractual obligation by our legal representatives or vicarious agents. Companies are not entitled to damages for slightly negligent breach of immaterial contractual obligations. These limitations of liability do not apply to the customer's claims based on product liability and to claims for personal injury and gross fault (§ 309 No. 7(a) and (b) of the German Civil Code).

§8 DISPOSAL ACCORDING TO THE ACT ON ELECTRICAL APPLIANCES AND ELECTRONICS (ELEKTRO- UND ELEKTRONIKGERÄTE-GESETZ)

01 For any supplied goods coming under the German Act on Electrical Appliances and Electronics and no longer used, the customer (being a company) shall assume the obligation to duly dispose of them according to the legal provisions at its expense at its site or at the sites of its customers.

02 The customer (being a company) shall release us from our obligations under § 10 para 2 of the Act on Electrical Appliances and Electronics (manufacturer's obligation to take these goods back) and from any related claims of third parties.

03 Our right to assumption/release by the customer (being a company) does not become statutebarred before the end of a two-year period from the definite end of use of the device. This limitation period starts at the earliest upon receipt by us of a written notice by the company and/or its customers of the end of use.

§9 CONCLUDING PROVISIONS

01 The law of the Federal Republic of Germany applies. The clauses of UN Purchase Law do not apply.

02 If the customer is a businessman, the exclusive court of jurisdiction for all disputes arising from the contract is Munich. The same applies even if the customer does not have a general court of jurisdiction in Germany.

03 Should individual clauses of these General Business Conditions be or become inoperable, whether wholly or in part, the validity of the other clauses is not thereby affected. The wholly or partially inoperable clause shall be replaced by a clause that comes as close as possible to the inoperable clause in its economic effect.