

**TERMS & CONDITIONS | SR-COLLECTION****ISM GMBH**

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**SECTION 1. VALIDITY**

Para. I The following conditions of sale shall only apply to companies in terms of section 14 BGB [German Civil Code] for all contracts, deliveries and other services including consultancy services dealing with the sale of ISM GmbH (following: ISM) products to their customers. The conditions of the buyer shall not apply even if ISM does not explicitly oppose the conditions again.

Para. II In case of permanent business relations this shall apply even if ISM did not invoke these conditions explicitly in the course of the business relations.

**SECTION 2. OFFER AND CONCLUSION**

Para. I By presenting the "order" the buyer shall submit an offer to the company ISM to conclude a contract. In case of first orders the order shall be considered as accepted if ISM does not explicitly refuse it within 20 days, a period of 10 days shall apply in case of subsequent orders. This acceptance fiction shall not apply if the buyer changed the catalogue prices of the company ISM without prior consultation.

Para. II The documents and figures (drawings, weight specifications and dimensions) forming a part of the offer shall be only approximately authoritative.

Para. III If salespersons or commercial agents come to oral subsidiary agreements or give assurances exceeding the written contract of sale, these subsidiary agreements and assurances shall always require the written confirmation by ISM.

**SECTION 3. DELIVERY PERIOD, DELAY AND NON-DELIVERY**

Para. I The delivery period shall only be considered as approximately agreed unless ISM explicitly guaranteed the delivery in written form. Thus ISM shall not default without demand for delivery which must be recorded in writing.

Para. II Equally, the fixing of a period of time necessary for section 281 BGB [German Civil Code] (Damages instead of performance) and section 323 BGB [German Civil Code] (Withdrawal) must also be made in writing and add up to at least 30 working days.

Para. III Events of force majeure as well as unforeseen obstacles equal to force majeure, in particular industrial disputes, shall entitle both ISM and the buyer to extend the delivery or acceptance periods for the duration of obstruction, however not for longer than three weeks; this shall also apply if such circumstances occurred with sub-suppliers. After expiration of this period both ISM and the buyer shall be entitled to withdraw from the contract.

Para. IV In no case shall ISM be responsible for delayed deliveries or non-deliveries through the sub-supplier's fault.

**SECTION 4. CARRYING OUT OF DELIVERIES**

Para. I The deliveries shall be made ex warehouse ISM for the account and at the risk of the buyer. Deliveries in instalments shall be allowed to a reasonable extent. They shall be considered as independent deliveries. For orders over a net goods value of 500 euros, shipping is free within Germany. For orders under 500 euros, the following shipping costs are charged:

Up to 150 euros: 11.95 euros

151-300 euros: 8.95 euros

301-500 euros: 6.95 euros

Para. II If the shipment is delayed through the buyer's fault, the goods shall be stored at the expense of and at the risk of the buyer.

Para. III Additional costs incurred due to the mode of shipment required by the buyer, e.g. by mail, courier or express, shall be borne by the buyer.

**SECTION 5. PRICES AND PAYMENT**

Para. I ISM shall be entitled to raise prices if the goods are to be delivered four months (or longer) after the conclusion of contract and the situation as to costs with ISM has verifiably changed.

Para. II The invoices of ISM shall be due for payment immediately. The standard payment term is 30 days.

Para. III In case of payment by note the discount charges shall be at the expense of the buyer and must be paid without deduction immediately. Discounts shall not be given if the buyer is in arrears with his payment of previous deliveries. If any special mode of payment is agreed, this mode shall be authoritative exclusively.

Para. IV If the terms of payment are not completely observed in the case of acceptance of a note or if facts become known which make the creditworthiness of the buyer seem doubtful according to the best commercial judgement of ISM, any note and the note receivable shall become due immediately irrespective of the due date agreed. ISM shall then also be entitled to carry out outstanding deliveries against payment in advance only or to request appropriate security or to withdraw from the contract or to demand damages instead of performance notwithstanding any extensive statutory laws.

Para. V Set-offs shall only be possible with undisputed claims or claims which have become res judicata. In the same way, retentions shall only be possible due to undisputed claims or claims which have become res judicata.

## SECTION 6. RESERVATION OF TITLE

Para. I ISM shall reserve the title to good till settlement of all claims against the buyer resulting from the business connection including the claims to be accrued in the future from contracts concluded at the same time or later. This shall also apply if single or all claims of ISM are included in one current account and the balance is struck and admitted. In case of infringement of important contractual obligations, in particular in the case of delay in payment, the total debit balance shall become due immediately. Then ISM shall be entitled to take back the goods and shall be allowed to enter the buyer's premises for this purpose and to take possession of the goods subject to reservation of title and to make use of them by private sale at the best at its sole discretion. The proceeds shall be credited against the buyer's payables after deduction of the usual trade margin as well as the costs incurred and a possible surplus shall be paid to the buyer. The taking back as well as levying execution on the object by ISM shall only be a withdrawal from the contract if ISM states this expressly in writing.

Para. II The buyer shall be entitled to resell or to process the goods in the course of proper business. The buyer shall assign debts resulting from this to ISM already now. If the goods subject to reservation of title are sold by the buyer together with other goods that were not delivered by ISM, the assignment shall apply to the amount of debts stated in the invoices of ISM only. ISM shall be entitled but not obliged to recover the debt.

Para. III Any pledging or transfer by way of security of the goods subject to reservation of title in favour of third parties shall not be admissible without the consent of ISM. In case of attachments or other interventions of third parties the buyer must notify ISM in writing immediately.

## SECTION 7. NOTICE OF DEFECTS AND WARRANTY

Para. I The buyer must check the amount and condition of the received goods immediately after receipt. The buyer must give written notice of obvious defects to ISM within 10 days after receipt of goods with the receipt of notice by ISM being authoritative. The statutory provisions, in particular provisions concerning commercial transaction according to sections 377 and 378 HGB [German Commercial Code], shall apply in case of hidden defects.

Para. II In case of legitimate complaints ISM shall repair or replace defective goods at its option. For the removal of defects the buyer shall give ISM the required time and opportunity according to reasonable discretion, in particular to make the rejected object or its sample available; otherwise the warranty shall be cancelled.

Para. III The fixing of period necessary for the assertion of rights stated in Section 437 BGB [German Civil Code] (supplementary performance, withdrawal, reduction and damages) must be made in writing and be a period of at least 30 working days.

Para. IV In case of new things the warranty shall be limited to 2 years, in case of used things the warranty shall be completely excluded.

Para. V The regulations of Section 7 I to Section 7 IV shall not apply in the case of Section 478 BGB [German Civil Code] (recourse of the company in case of purchase of consumer goods).

## SECTION 8. GENERAL LIMITATION ON LIABILITY

Para. I The liability of ISM shall depend on existing conditions exclusively. A fault liability of ISM shall be limited to the existence of intention or gross negligence unless

an essential contractual obligation is affected, it concerns the injury of body, life or health, it concerns the liability according to the ProdHaftG [German Product Liability Act] or according to other mandatory liability standards.

Para. II The limitation of liability shall apply to the buyer correspondingly.

## SECTION 9. MISCELLANEOUS

Para. I The seat of ISM shall be the place of performance and exclusive jurisdiction for deliveries and payments as well as for any disputes arising between the parties. At the option of ISM the buyer may be sued at its jurisdiction as well.

Para. II The relations between the parties shall be regulated according to the domestic German law valid in the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods exclusively.

Para. III Alterations, supplements and subsidiary agreements to this contract must be made in writing. This shall also apply to the avoidance of this clause concerning the written form. This contractual written form shall be observed when sending a signed fax.