

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

SECTION 1 SCOPE OF APPLICATION

1. The present Terms and Conditions shall apply to all sales contracts concluded by MAGNETEC – Gesellschaft für Magnettechnologie (hereinafter "MAGNETEC") as Vendor.
2. The GTCs of MAGNETEC shall apply exclusively. Deviating, contradicting or supplementary general terms and conditions of Purchaser shall only become part of this contract insofar as we have given our express written consent to their application. This requirement of consent shall apply in any event, even if we, being aware of Purchaser's general terms and conditions, execute delivery to it without reservations.
4. MAGNETEC shall, at Purchaser's request, release securities of its choice if and insofar as the realisable value of the securities assigned to MAGNETEC exceed MAGNETEC's claims against Purchaser by 20% or more.
5. For the duration of the period of MAGNETEC's retention of title to the goods, Purchaser undertakes to
 - (i) maintain the goods in a due and proper and saleable condition;
 - (ii) compensate MAGNETEC for any damage incurred to the goods during this period;
 - (iii) and ensure that the goods under MAGNETEC's retention of title are marked in such a way that third parties can clearly identify them as MAGNETEC's property.

SECTION 2 CONCLUSION/AMENDMENT OF CONTRACT

1. Purchaser's orders shall be deemed binding. They may be accepted by MAGNETEC either through written confirmation within **fourteen (14)** days or through delivery of the ordered goods by MAGNETEC within the aforementioned period. The fourteen-day period starts from receipt of the offer by MAGNETEC.
2. All offers made by MAGNETEC shall be non-binding.
3. Subsequent amendments to contracts concluded with MAGNETEC must be made in writing. Any individual agreements concluded with Purchaser on a case by case basis (including subsidiary agreements, supplements and/or amendments) shall take precedence over these GTCs in all cases. In the absence of proof to the contrary, a written contract and/or written confirmation by MAGNETEC shall be authoritative in respect of the content of such agreements. To comply with the written form, transmission by means of telecommunication, especially telefax or email, shall suffice, provided that the copy of the signed statement is transmitted.
5. If the goods subject to retention of title are processed by Purchaser, it is agreed that this shall be effected in the name and for the account of MAGNETEC as manufacturer and that MAGNETEC shall acquire ownership in the new products or – should the processing of such goods involve materials supplied by multiple manufacturers or should the value of the processed goods be greater than that of the reserved-title goods – to co-acquisition (co-ownership) of the newly created good, taking into account the value of the reserved-title goods in relation to that of the newly created good. To the extent that no such ownership is acquired by Vendor, Purchaser hereby transfers to Vendor as security Purchaser's future ownership interest or – in the aforementioned proportion – co-ownership interest in such newly created goods. If the goods subject to retention of title are combined with other goods to form a homogeneous good or are inseparably mixed, and if one of the other goods is considered to be the main good, Vendor shall assign co-ownership in the homogeneous good to Purchaser in the proportion defined in Sentence 1 above, insofar as the main good belongs to Purchaser.

SECTION 3 DELIVERY

1. Unless otherwise expressly agreed vendor will supply the goods according to DIN EN ISO 9001.
2. Vendor shall be entitled to effect partial deliveries where

- the partial delivery can be used by Customer within the scope of the contractual intended use
- delivery of the remaining ordered goods is ensured and
- no substantial additional expenditures or additional costs are incurred for Customer (unless Vendor has declared its readiness to assume such costs).

3. Fixed-date purchases shall require explicit written confirmation by MAGNETEC. Only managing directors and authorised signatories are authorised to agree transactions for delivery at a fixed date verbally. Representatives may only agree such transactions in writing.
4. In the event that a non-binding delivery date is exceeded by **twenty (20)** days, Purchaser shall be entitled to request delivery within a reasonable period. Issuance of this request places MAGNETEC in default. Should MAGNETEC fail to comply with this request within the reasonable period specified by Purchaser, Purchaser shall be entitled to cancel the contract. In respect of damages caused by default or delay, Section 9 (Liability for Damages from Culpability) shall apply.

SECTION 4 PASSING OF RISK, PLACE OF FULFILMENT

1. Risk passes to Purchaser as soon as MAGNETEC has handed the goods over to the forwarding agent, the carrier or any other party appointed to carry out the delivery. This shall also apply in cases where MAGNETEC has assumed responsibility for the dispatch.

SECTION 5 INVOICES

1. All prices quoted by MAGNETEC are net, i.e. exclusive of VAT. Prices are quoted in EUROS.
2. Invoices made out to Purchaser by MAGNETEC shall be considered complete and correct in all respects unless challenged by Purchaser on justifiable grounds within thirty (30) days after receipt of the invoice. Claims arising under Section 8 (Product Liability/Defects in Quality and Title) shall remain unaffected.

SECTION 6 TERMS OF PAYMENT

1. Purchaser shall be liable to pay statutory default interest on payments still outstanding thirty (30) days after their due date and receipt of invoice or following receipt of an overdue payment reminder. We reserve the right to assert claims for damages caused by default in excess of this.
2. If Purchaser is in default of payment or if there exist reasonable grounds to doubt Purchaser's ability to pay and creditworthiness, provided these arise at a later date or become known to MAGNETEC at a later date, MAGNETEC shall be entitled – without prejudice to other rights -
 - (i) to cancel the contract;
 - (ii) to request additional security for delivered goods up to the limit stipulated under Section 7, Sub-section 4;
 - (iii) to request advance payments on outstanding amounts receivable;
 - (iv) to call due all claims, including interest, arising from the business relationship; and
 - (v) to repossess any goods which remain the property of MAGNETEC.
3. Purchaser can only offset such counterclaims against MAGNETEC that are undisputed or recognised by declaratory judgement by MAGNETEC.

SECTION 7 RETENTION OF TITLE

1. The goods supplied shall remain the property of MAGNETEC until all outstanding debts resulting from the business relationship between MAGNETEC and Purchaser have been paid in full. Purchaser shall, however, be entitled to resell and process the supplied goods in the ordinary course of business. Pledges, transfers by way of security or other encumbrances on the goods are not permissible.
2. Purchaser here and now assigns to MAGNETEC as security all claims accruing to it against third parties from the resale of the goods. Purchaser shall be entitled to collect the assigned claims on

SECTION 8 PRODUCT LIABILITY DEFECTS IN QUALITY AND TITLE

1. All specifications given by MAGNETEC in respect of the characteristics (e.g. intended use, workmanship, application etc.) of the supplied goods are made to the best of our knowledge; however, these are quality descriptions and do not constitute any promises or guarantees. They do not release Purchaser from the obligation to check and otherwise examine the goods supplied.
2. Purchaser undertakes to examine the goods supplied for defects or damage immediately upon receipt – where reasonable also by means of a random sampling – and to inform MAGNETEC without delay of any defects or damage identified. Purchaser shall notify MAGNETEC of any defect or damage not apparent on reasonable examination but coming to light at a later date, immediately upon discovery of said defect or damage. Should Purchaser fail to examine or notify immediately in accordance with this Sub-section, the goods shall be considered accepted as delivered.
3. All claims on the part of Purchaser in respect of defects or damage to the goods supplied shall become invalid after a period of one (1) year after transfer of risk.
4. In the event of material defects to the goods supplied, Vendor shall, at its own discretion and within a reasonable period, be obliged and entitled to either remedy the defect or replace the goods concerned. If subsequent performance fails i.e. repair or replacement is impossible, unreasonable, refused or unacceptably delayed, Purchaser shall be entitled to cancel the purchasing contract or demand a reduction in price.
5. MAGNETEC shall be liable for any further claims brought against it by Purchaser only to the extent set out under Section 9 (Liability for Damages from Culpability).
6. Purchaser may only return rejected goods to MAGNETEC with MAGNETEC's explicit advance authorisation.

SECTION 9 LIABILITY FOR DAMAGES FROM CULPABILITY

1. Vendor's liability for damages, irrespective of the legal grounds, especially arising from impossibility, default, defective or incorrect delivery, breach of contract, infringement of duties during contract negotiations and/or tort, insofar as it is at fault in all cases, shall be restricted in accordance with this Section 9.
2. MAGNETEC shall not be liable for damages in cases of simple negligence by its governing bodies, legal representatives, employees or other vicarious agents, as long as there is no breach of cardinal contractual obligations. Cardinal contractual obligations include the obligation to make punctual deliveries of the delivered goods which are free from defect of title or such material defects as impair their functionality or usability more than insubstantially, as well as such advisory, custodial and duty of care obligations as are designed to enable Principal to use the goods delivered as intended in the contract, or which serve to protect the life and limb of Principal's employees or protect the property of the latter from material damage.
3. Insofar as Vendor is liable for damages on the grounds of and in accordance with Section 9, this liability is limited to damage which Vendor has foreseen when concluding the contract as a possible consequence of a contractual infringement or which, by applying due care and attention, it should have foreseen. Indirect damages and consequential loss arising from defects in the delivered goods shall only be eligible for compensation to the extent to which such damages may typically be expected when the goods delivered are used for their intended purpose.
4. In the event of liability for simple negligence, Vendor's obligation to pay compensation for material damage and any consequential damages shall be limited to an amount of EUR 5,000,000 per claim (corresponding to the current cover sum of its product liability insurance or third-party insurance), even if this affects an infringement of cardinal contractual obligations.
5. The aforementioned exclusions and limitations of liability shall apply to the same extent for the benefit of the governing bodies, legal representatives, employees and other vicarious agents of Vendor.
6. Insofar as the Vendor provides technical information or acts in an advisory capacity and such technical information or advice does not belong to the scope of performance which is owed and contractually agreed, this shall be provided free of charge and under exclusion of all liability.
7. The above limitations of liability do not apply to Vendor's liability with regard to wilful, grossly negligent misconduct, guaranteed characteristics of state, injury to life, limb or health or claims under the German Product Liability Act.

SECTION 10 PLACE OF JURISDICTION, APPLICABLE LAW, LANGUAGE

1. The place of jurisdiction for all disputes arising from the contractual relationship between MAGNETEC and

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behalf of MAGNETEC, subject to revocation by MAGNETEC or until cessation of its payments to MAGNETEC. Purchaser is not permitted to assign, pledge or otherwise encumber such claims. This shall also apply to assignments for the purpose of collecting these debts by way of factoring, unless at the same time the factor is obligated to transfer the collected amounts up to the amount owed directly to MAGNETEC, insofar as MAGNETEC still has outstanding claims against Purchaser.

3. Purchaser shall inform MAGNETEC immediately of any third party enforcement measures and other seizures of goods to which MAGNETEC has retained title.

Langenselbold, 6th April 2018

Purchaser is Hanau, Federal Republic of Germany. MAGNETEC shall also be entitled to institute legal proceedings in connection with any matter arising from the contractual relationship at Purchaser's general place of jurisdiction.

2. All contracts concluded between MAGNETEC and Purchaser are governed by the substantive law of the Federal Republic of Germany.
3. The UN Sales Law Convention (CISG) shall not be applicable to contracts concluded between MAGNETEC and Purchaser.
4. The German version of these Terms and Conditions shall have precedence over any foreign language versions and is the sole legally valid and binding version for the interpretation of contracts signed between MAGNETEC and Purchaser. This shall also apply where translations of these Terms and Conditions of Sale are signed by the parties or where MAGNETEC makes such translations available to Purchaser.
5. If any provision has been inadvertently omitted from the contract or these General Terms and Conditions, the resulting gap shall be filled with such valid provision as most closely reflects what the parties would, in consideration of the commercial intent and purpose of the contract and the purpose of these General Terms and Conditions, have agreed upon, had they been aware of the omitted provision from the outset.
6. Purchaser shall be notified in writing of any changes or amendments to these Terms and Conditions. These shall be considered accepted unless notice of objection is given in writing within six (6) weeks of notification of the amendment. MAGNETEC shall particularly draw Purchaser's attention to this implication when issuing notification of any changes.

MAGNETEC

MAGNET TECHNOLOGY

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