

GENERAL TERMS AND CONDITIONS

of MergeOptics GmbH for the purchase of goods and services

I. Scope

1. These terms and conditions shall apply to all present and future orders MergeOptics GmbH ("MergeOptics") may place with the supplier of goods and services unless agreed otherwise in writing.
2. Failing specific agreement to the contrary, the general terms and conditions of the supplier shall not be part of the contract. The terms and conditions of MergeOptics shall also apply where we accept delivery without reservation and where we are aware of the supplier's contrary terms or terms diverging from our terms and conditions.

II. Formation of Contract

1. Purchase orders, orders, contracts and any other agreements and declarations entered into or made by MergeOptics shall only have binding legal effect once they have been confirmed by an authorized representative of MergeOptics in writing. Any purchase order or other order placed by MergeOptics must be confirmed by the supplier in writing without delay, indicating the order code of MergeOptics. Should no written confirmation containing the order code reach MergeOptics within a period of 14 days from the date the purchase order or order was sent, we shall be entitled to withdraw said order. Such withdrawal shall not give rise to claims in favour of the supplier.
2. Any appendices, drawings, illustrations, technical data and specifications contained in brochures, catalogues, mailings, advertisements, price lists, the internet or any documents related to the supplier's offer shall become part of the contract.

III. Prices

1. All prices shall be fixed prices. Prices include statutory value added tax.
2. Prices shall, unless otherwise agreed, apply carriage paid, and include packaging. Return of packaging shall be subject to specific agreement.

IV. Delivery and Delay

1. All delivery dates shall be fixed dates.
2. Regarding the delivery the provision "DDP" pursuant to the International Commercial Terms (Incoterms) 2000 shall apply.

3. Failing specific agreement to the contrary, deliveries shall be made carriage paid. The goods to be delivered must be packed according to usual trade practice. The supplier shall be liable for any damage caused by faulty packaging. Unless otherwise agreed in writing, the supplier shall bear all costs accrued in connection with packaging, possible storage costs as well as any ancillary shipping costs.
4. MergeOptics shall be entitled to compensation for default consolidated into a lump sum of 0,5% of the value of the goods to be delivered for each complete week the supplier is in default, the total amount of which shall not, however, exceed 5% of the value of the goods to be delivered. This shall be without prejudice to the statutory right of MergeOptics to enforce other, broader claims, particularly for compensation in the place of performance and MergeOptics' right to rescind the contract. The supplier shall be entitled to furnish proof that no damage or considerably lower damage occurred as a consequence of the default.
5. If the supplier's performance of the contract is temporarily hindered due to force majeure, industrial disputes, lawful lock-out or similar events which lie beyond the control of the supplier, MergeOptics shall be entitled to rescind the contract if such hinderance results in an unreasonable delay. An unreasonable delay shall generally be deemed to have occurred if the delivery date is being exceeded by more than 4 weeks.
6. The supplier shall not be entitled to make part delivery.
7. Risk shall pass at the earliest once MergeOptics has gained actual physical control over the goods.
8. Ownership of the goods to be delivered shall pass to MergeOptics upon payment, delivery or acceptance of the goods, whichever event shall take place first.

V. Guarantee and Warranty

1. The supplier guarantees that the goods are fit for the intended purpose and of merchantable quality.
2. The supplier guarantees that the goods have no defect and that said goods comply with all relevant specifications, technical requirements, drawings, illustrations and samples as well as any applicable statutory regulations.
3. The supplier shall indemnify MergeOptics against any third party claims on the grounds of defects vis-à-vis MergeOptics, unless MergeOptics and / or the

third party is / are responsible for such defects. MergeOptics shall be obliged to notify the supplier of any wrong, short or excess delivery within a period of 14 days as of the date of receipt of goods, or, in the event of latent defects give notice of defects as of the date of detection of said defects

4. To the extent that the delivered goods are defective, the supplier shall be obliged to replace said goods without delay. Alternatively, MergeOptics may, at its own discretion, rescind the contract, reduce the purchase price or opt for compensation in the place of performance and / or reimbursement of expenses it made in vain.
5. The supplier guarantees that no patents, copyrights or other third party rights are infringed in connection with its delivery. Should a third party assert a claim in this regard against MergeOptics, the supplier shall indemnify MergeOptics against such claim upon first request.

Should a third party assert a claim in this regard against MergeOptics, the latter shall be entitled to compensation for any damage incurred.

6. These aforementioned guaranties and indemnities are subject to the usual limitation period set out in Section 195 of the German Civil Code.

VI. Confidentiality

The supplier shall be obliged to observe the strictest confidentiality with regard to all and any illustrations, drawings, calculations and other documents and information it received. These shall only be disclosed to third parties with the express prior consent of MergeOptics. The obligation of strict confidentiality shall remain following termination of the contract. It shall end, once the know-how contained in such illustrations, drawings, calculations and other documents has been made generally available to the public

VII. Liability

1. The supplier hereby waives its right to evidence in exoneration pursuant to Section 831 subsections 1 sentence 2 of the German Civil Code.
2. The liability of MergeOptics shall only be unlimited for intent or gross negligence, and for culpable loss of life, bodily injury or damage to health. This shall also apply in the case of mandatory liability pursuant to the German Product Liability Act.
3. In the case of slight negligence, the liability of MergeOptics shall be limited to a breach of our cardinal duties. In such case, liability for damages shall however be limited to predictable and typical occurrences of damage.
4. Clauses 2. and 3. shall also apply in favour of any legal representatives employees, representatives and agents of MergeOptics and other persons commissioned with contractual performance.

5. The limitation of liability stipulated in clauses 2., 3. and 4. shall also apply to claims for damages irrespective of the cause in law.

VIII. Setting-off and Rights of Retention

1. MergeOptics shall, without limitation, be entitled to offset payments vis-à-vis the supplier in accordance with statutory provisions. In any event, MergeOptics may exercise its statutory right of retention pursuant to Sections 273, 320, 478 of the German Civil Code.
2. The supplier may not assign or pledge accounts receivable without the prior written consent of MergeOptics. MergeOptics shall be notified without delay should the goods be seized by Act of State.

IX. Jurisdiction and Choice of Law

1. The contractual relationship shall be governed by the laws of the Federal Republic of Germany. UN-sales convention shall be precluded.
2. Except for mandatory exclusive jurisdiction, place of jurisdiction shall be Berlin.

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