

1. Scope

Dickow Pumpen GmbH & Co. KG (hereinafter called "Dickow") sells and supplies goods solely in accordance with the following General Terms & Conditions of Sale and Delivery (hereinafter referred to as "Terms & Conditions of Delivery"), duly acknowledged by the buyer when placing the order. Once applied, these Terms & Conditions of Delivery shall also apply to any future transactions with the buyer. Any confirmations to the contrary by the buyer making reference to the latter's own terms & conditions of business and/or purchase will not be acknowledged and shall not form part of agreements unless expressly confirmed and accepted by Dickow.

2. Conclusion of Contract

2.1 The range of products presented in catalogues and in other advertising materials or on the internet is non-binding. Unless otherwise agreed, a contract shall enter into effect upon the written order confirmation of Dickow and shall be governed exclusively by the content of the order confirmation and these Terms & Conditions of Delivery. Any verbal agreements or undertakings will be confirmed by Dickow in writing.

2.2 Dickow reserves all rights to the sales documents (especially illustrations, drawings, weights and dimensions) and to the designs. These must not be made accessible to third parties and must be returned to Dickow immediately on request.

3. Export Controls

3.1 Dickow's offer and confirmation order as well as Dickow's obligation to perform shall be made subject to the proviso that performance is not restricted by or in violation of any applicable national, European and international export control laws. The buyer undertakes to present to Dickow any information relevant to export control compliance (e.g. specific use of products, target countries in case of resales, etc.).

3.2 In case of regulatory licensing proceedings, for which Dickow is not responsible, Dickow's obligation to timely perform shall be suspended until completion of such administrative proceedings. Subsections 4.2 sent. 2 and 4.4 shall apply accordingly.

3.3 The buyer undertakes not to use Dickow's goods for any nuclear or MWD purposes or for military purposes in weapon embargoed countries. Furthermore, buyer agrees not to re-deliver Dickow's goods to any third party to be used for nuclear or MWD purposes or for military purposes in weapon embargoed countries.

3.4 The buyer shall indemnify and hold harmless Dickow from and against any actions and claims arising out of culpable non-compliance with subsection 3.3 (including legal fees incurred to the extent necessary) and shall compensate Dickow for any damages, losses and expenses resulting therefrom. Dickow shall without undue delay inform buyer of any claim made by a third party. Buyer shall without undue delay provide Dickow with any documents and information necessary to defend such claims.

4. Delivery Dates and Deadlines

4.1 Delivery dates and deadlines shall only be binding if they have been confirmed as such by Dickow, if the buyer has duly provided Dickow with all the information and documents required for the execution of the delivery and has remitted any agreed advance payments as arranged. Agreed delivery periods shall commence on the date of the order confirmation. The deadlines shall be extended accordingly if the buyer adds to the order at a later date.

4.2 Unforeseeable and unavoidable events which are beyond the control of Dickow and for which Dickow is not responsible, such as force majeure, war, natural disasters or industrial disputes, shall release Dickow from its obligation to meet delivery or performance deadlines for such time as the circumstances persist. Agreed deadlines shall be extended by the duration of the disruption, and the buyer will be informed in an appropriate manner of the occurrence of the disruption.

4.3 Orders for items which Dickow does not manufacture itself shall be subject to due and correct delivery from upstream suppliers. If the item ordered is not available or is temporarily unavailable, Dickow will inform the buyer thereof immediately after the purchase order has been placed. Dickow shall be released from its obligation to perform until supplied with the goods, unless Dickow is responsible for the failure of the upstream supplier to deliver the goods.

4.4 If the deliveries due from Dickow are delayed, the buyer shall only be entitled to withdraw from the contract if Dickow is responsible for the delay and a reasonable deadline for delivery set by the buyer has expired without result.

4.5 If the buyer is in default of acceptance or fails to meet other cooperation obligations, Dickow shall be entitled, without prejudice to its other rights, to store the delivery item in appropriate conditions at the risk and expense of the buyer or to withdraw from the contract after a request for acceptance has been ignored and a reasonable grace period has been allowed.

5. Prices and Payment Terms

5.1 If the contracting parties have not agreed on a specific price, the price indicated on the price list published by Dickow at the given time shall apply.

5.2 All prices quoted by Dickow apply ex works excluding the statutory value added tax applicable in any given case and the packaging and shipping costs, which will be charged separately. The buyer shall bear any public charges or customs duties arising in connection with the import of the delivery item.

5.3 The terms of payment agreed in the individual contract shall apply. If the deadline specified in the terms of payment is not met, this will be considered default without the need for a further reminder. If the buyer is in default of payment, Dickow shall be entitled to charge default interest at the statutory rate, duly reserving the right to claim damages for delay in excess of this amount.

5.4 The buyer shall not be entitled to offset claims which are outside the framework of reciprocity of performance and consideration. The prohibition of set-off shall not apply if the counterclaims of Dickow are undisputed, established as final and absolute, or ready for adjudication. The buyer may not assert a right of retention as a trader unless one of the aforementioned exceptions exists.

5.5 If Dickow becomes aware after conclusion of the contract that there is a risk of inability to pay on the part of the buyer, or if the buyer is in default of payment, Dickow shall be entitled to demand immediate payment of outstanding receivables and to take action in respect of outstanding deliveries and services, choosing either to demand payment upon delivery, advance payment or the furnishing of security. Dickow will in particular assume an inability to pay in the event of unsatisfactory credit reports about the buyer. If the advance payments or security deposits have not been provided even after allowing a reasonable additional period of grace, Dickow may withdraw from some or all of the relevant contracts in whole or in part. Dickow shall be at liberty to assert further rights.

6. Dispatch and Transfer of Risk

6.1 Unless agreed otherwise, the goods will be shipped by an appropriate route in the usual packaging. Insurance will only be taken out at the request and expense of the buyer.

6.2 The risk shall pass to the buyer on handover of the delivery item to the transport company or to the buyer. This shall also apply if Dickow bears the transport costs. If the handover or dispatch is delayed for reasons for which the buyer is responsible, the risk shall pass to the buyer on the day of notification that the delivery item is ready for shipment.

7. Quality, Claims of the Buyer based on Defects, Duty to inspect

7.1 The intended quality of the delivery item on the transfer of risk shall be measured solely by the specific agreements reached by the parties regarding the properties, features and performance characteristics of the delivery item. Information in catalogues, price lists and other literature issued to the buyer by Dickow and any product descriptions shall not under any circumstances constitute guarantees of a particular quality in respect of the delivery item. Any such quality guarantees must be expressly agreed. The buyer shall be obliged to accept delivery of items with minor defects without prejudice to any claims based on defects pursuant to the terms set out below.

7.2 Dickow reserves the right to make slight modifications to the design, material and/or construction of the delivery item provided that these do not alter the agreed quality.

7.3 Any claims based on defects shall be subject to the buyer inspecting the delivery item after handover and notifying Dickow in writing of any defects without undue delay and within two weeks of delivery, stating the specific nature of the defects. Should the buyer neglect this duty of immediate notification, the goods shall be deemed to have been accepted unless the defect would not have been visible on inspection. Hidden defects must be reported to Dickow immediately upon discovery in writing in accordance with subsection 7.3 sentence 1. Dickow shall have the right to inspect and examine the rejected delivery item in any case where defects are reported. The buyer shall grant Dickow the necessary time and opportunity to conduct said inspection. Dickow may also ask the buyer to return the rejected item to Dickow at the expense of Dickow.

7.4 If the item is found to be defective, the buyer shall be required to allow Dickow a reasonable amount of time for renewed performance. Dickow shall be entitled to refuse the form of renewed performance chosen by the buyer if this type of renewed performance would entail disproportionate costs. This shall in particular apply in the following cases:

- the costs of renewed performance exceed the value of the delivery item if it were free of defects, or
- the costs of renewed performance exceed the amount by which the defects reduces the value of the delivery item, or
- there is a form of renewed performance which is cheaper than that chosen by the buyer and does not entail any significant disadvantages for the buyer.

The warranty claim of the buyer in this case shall be limited to the other type of renewed performance. If the other type of renewed performance would also entail disproportionate costs, Dickow may refuse renewed performance altogether. The buyer shall grant Dickow such time and opportunity for renewed performance as is necessary and reasonable. Only in urgent cases where required to avert danger to operational safety or to avoid disproportionate damages, or in cases where Dickow is behind schedule with the rectification of the defect, will the buyer have the right, after notifying Dickow in advance, to rectify the defect or to have it rectified by third parties and to claim recompense from Dickow for the necessary costs.

7.5 Parts replaced by Dickow shall be returned to Dickow at its request.

7.6 Claims of the buyer based on defects shall lapse in the event of natural wear and tear or if defects occur for reasons for which the buyer is responsible, e.g. due to improper use, failure to follow the operating instructions, incorrect commissioning or incorrect handling (e.g. excessive strain), incorrect assembly and/or installation by the buyer, the use of unsuitable accessories or unsuitable spare parts, or the execution of unsuitable repair work, provided that Dickow is not responsible for the defects.

7.7 If the attempt at renewed performance fails or is unreasonable for the buyer, or if renewed performance has been refused by Dickow under subsection 7.4 of these T&C or under section 439 (4) of the German Civil Code (Bürgerliches Gesetzbuch - BGB), the buyer may exercise its discretion pursuant to the statutory provisions and choose to withdraw from the contract or ask for a reduction of the purchase price and/or claim damages pursuant to subsection 8 or reimbursement of its expenses.

7.8 The warranty period shall be one year from the delivery of the item or from the passing of risk as defined in subsection 6.2. This shall be without prejudice to the statutory limitation periods for recourse claims (section 445b BGB), insofar as section 478 BGB becomes applicable. In addition, the statutory term of warranty shall apply in the event of deliberate intent or fraudulent concealment of a defect or if Dickow has furnished a guarantee for the quality and condition of the delivered item. The statutory term of warranty shall also apply in respect of claims for injury to life, limb or health, in case of claims under the law on product liability, in the case of gross neglect of duty or failure to discharge fundamental contractual obligations, i.e. such contractual duties as actually enable due fulfilment of the contract and upon compliance with which the buyer may routinely rely, and the neglect of which by the other party would jeopardise the accomplishment of the purpose of the contract.

8. Liability and Damages

8.1 Claims for damages for breach of duty and unlawful acts and claims for reimbursement of expenses incurred in vain may not be brought against Dickow or against its agents and servants unless the damage was caused through deliberate intent or gross negligence.

8.2 The limitation of liability defined in subsection 8.1 shall not apply in the other cases specified in subsections 7.8, sentences 3 and 4.

8.3 In the event of claims for damages resulting from slight neglect of fundamental contractual obligations, and in the event of gross neglect of secondary contractual obligations, liability shall be limited to such damages as are reasonably foreseeable and typical under the relevant contracts. This shall not apply in cases of personal injury or of damages based on the absence of a warranted characteristic, nor shall it apply in cases in respect of which liability is covered under the law on product liability.

8.4 In cases involving mistakes and misprints or errors arising in the transmission of information, for which no blame can be allocated and which entitle Dickow to contest the validity, the buyer may not claim damages as a result of the contest.

9. Reservation of Title

9.1 The products delivered shall remain the property of Dickow until such time as all accounts receivable due to Dickow arising from the business relationship with the buyer have been paid in full. In current account arrangements, the goods subject to reservation of title shall constitute security for the outstanding balance due to Dickow.

9.2 The buyer shall only be permitted to sell the products subject to reservation of ownership ("Reserved Products") in the ordinary course of business. The buyer shall not be entitled to pledge the Reserved Products, to assign them as collateral, or to make any other dispositions which jeopardise the property of Dickow. The buyer hereby assigns to Dickow the claim arising from the resale, and Dickow hereby accepts this assignment. If the buyer sells the Reserved Products after they have been processed or altered or after they have been combined with other goods or together with other goods, the assignment of the claim shall be understood to be limited to the amount which corresponds to the price agreed by Dickow and the buyer for the relevant part plus a contingency margin of 10% of this price. The buyer shall have the revocable right to collect the claims assigned to Dickow and hold the funds in trust for Dickow in its own name. Dickow may revoke this authorisation and the right to resell the goods if the buyer has failed to meet fundamental obligations, such as the transfer of payment to Dickow. In the event of revocation, Dickow shall be entitled to collect the claim itself.

9.3 Any processing or alteration of the Reserved Products by the buyer shall always be carried out on behalf of Dickow. Insofar as the Reserved Products are processed with other objects, Dickow shall acquire a share in ownership of the new item depending on the value of the Reserved Products in proportion to the other objects at the time of processing. In all other respects, the same shall apply to the item resulting from processing as applies to the products supplied subject to reservation of title. Insofar as the Reserved Products are combined with other objects, Dickow shall acquire a share in ownership of the new item depending on the value of the Reserved Products relative to the other objects at the time of the combining. Insofar as the objects are combined in such a way that the buyer's item is to be regarded as the main item, it shall be deemed to have been agreed that the buyer shall transfer the proportional share of the ownership to Dickow. The buyer shall hold the resulting share in ownership for Dickow.

9.4 The buyer shall provide Dickow with any information requested about the Reserved Products at any time or about claims assigned to Dickow under these terms. The buyer shall notify Dickow immediately of any third-party attachments or claims to Reserved Products and shall hand over the necessary documents. At the same time, the buyer shall inform the third party of the title reserved by Dickow. The costs of any defence against such attachments and claims shall be borne by the buyer.

9.5 If the realisable value of the securities exceeds the total amount of the relevant claims of Dickow by more than 10%, the buyer shall be entitled to request the release of securities in this respect.

9.6 If the buyer fails to discharge fundamental obligations, such as the transfer of payment to Dickow, and if Dickow withdraws from the contract, then Dickow may reclaim the Reserved Products, without prejudice to other rights, and make alternative use of them for the purpose of satisfying due claims against the buyer. In this case, the buyer shall grant Dickow or the authorised agent of Dickow immediate access to the Reserved Products and shall surrender them.

9.7 In cases where goods are delivered to other legal systems in which the above reservation of title clause does not have the same legal security effect as in Germany, the buyer shall do everything possible to create corresponding security rights for Dickow without delay. The buyer shall cooperate with all measures, such as registration, publication, etc., which are necessary and conducive to the effectiveness and enforceability of such security interests.

9.8 At the request of Dickow, the buyer shall be obliged to take out adequate insurance cover for the Reserved Products, to provide Dickow with the corresponding insurance certificate, and to assign the claims arising from the insurance policy to Dickow.

10. Data Protection

The data protection practices at Dickow are in accordance with the provisions of the Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG), the General Data Protection Regulation (GDPR) and the German Telemedia Services Act (Telemediengesetz - TMG). Dickow will use the data provided by the buyer, such as their name, address, telephone number, fax number and email address, solely for the purpose of processing the purchase order and other contractual relationships with the buyer. The buyer may refer to the data privacy policy on the Dickow website for further details.

11. General Provisions

11.1 Any verbal agreements, supplementary agreements and other agreements made by the parties shall only be legally effective if they are confirmed in writing by Dickow. This shall also apply to any agreement to waive written form.

11.2 Should any provision set out in the contract and/or in these Terms & Conditions of Delivery be wholly or partially invalid, this shall be without prejudice to the validity of the remaining provisions. In this case, the parties undertake to replace the invalid provision with a valid provision which comes closest to the commercial purpose of the invalid provision.

11.3 The place of exclusive jurisdiction for all disputes arising from or in connection with the contractual relationship shall be the registered place of business of Dickow. However, Dickow shall be entitled to bring an action against the buyer at any other venue.

11.4 The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) and German private international law.