

TERMS AND CONDITIONS OF DELIVERY AND BUSINESS

§ 1 General, conflicting general terms and conditions

1. All business transactions with ALCO shall be exclusively subject to the following terms and conditions; they shall be deemed to have been recognised upon placement of the order, at the latest upon acceptance of the delivery, unless the purchaser objects within one week of receipt of the order confirmation, in which ALCO has expressly referred to the validity of the following terms and conditions. In the event of an objection, a contractual relationship shall not materialise.

2 Without express and written acknowledgement of deviating terms and conditions of the purchaser by ALCO, these shall not become part of the contract, even if no express objection is made by ALCO.

§ 2 Prices

1. All prices are quoted in "EURO" (€) as shown. These prices apply only to resellers and are exclusive of VAT.

2. ALCO's offers are non-binding, unless a binding period is expressly stated. Otherwise - in the case of an ongoing business relationship - invoicing shall be based on the prices valid on the day of delivery. The list prices are only valid for original ALCO factory packaging with the quantities stated in the price list.

3. An order with deviations from the order units specified in the price list shall only be accepted if expressly confirmed in writing by ALCO. Otherwise, the purchaser is obliged to accept the replenishment of the order to the next full order unit according to the price list and to make payment in this amount. The purchaser accepts the quantity delivered as being in accordance with the contract at the latest upon receipt of the replenished delivery without objection.

§ 3 Execution

1. The customary tolerances shall apply to dimensions, quantities, weights, colours, surfaces and thicknesses. The Buyer recognises deviations in the production dimensions as a customary tolerance, unless the deviation is unreasonable for the Buyer in individual cases.

2. Customised goods are generally excluded from the right of return. The warranty rights [§ 8] remain unaffected by this. For customised products, the information contained in ALCO's written order confirmation shall be the exclusive basis for the execution of the order, unless ALCO receives a written objection from the purchaser without delay, at the latest within one week.

3. ALCO reserves the right to make changes and further developments to the listed items in the context of technical progress without special notification, unless the change is unreasonable for the purchaser in individual cases.

4. If the purchaser has provided drawings, models or samples for the execution of his special orders, he is responsible for ensuring that the industrial property rights of third parties are not infringed. The purchaser shall indemnify ALCO against any rights of third parties arising from infringements of industrial property rights and shall compensate ALCO for any damages exceeding the direct claims of third parties. If ALCO is prohibited from executing the special order due to an infringement of industrial property rights, ALCO may suspend the work until the legal situation has been clarified by mutual agreement or with legal effect.

5. For customised goods, ALCO reserves the right to make customary excess or short deliveries of up to 10%, unless the deviation is unreasonable in individual cases.

§ 4 Delivery obligation and delivery date

1. If ALCO is prevented from fulfilling its delivery obligation due to circumstances of force majeure for which it is not responsible, operational disruptions, delays in delivery or non-delivery of essential raw

materials and supplies, lack of labour, strike or consequences of industrial action, the delivery period shall be extended to a reasonable extent, at least for the duration of the disruption.

2. In the event of unreasonable delays, ALCO reserves the right to withdraw from the contract in whole or in part.

§ 5 Transfer of risk and costs

1. The delivery of ordered goods by ALCO is always at the expense and risk of the purchaser.

2. The risk of accidental loss and accidental deterioration of the goods shall pass to the purchaser in any case and irrespective of the obligation to bear the freight costs when the goods are handed over to the shipping agent, but at the latest when the goods leave ALCO's factory. If the handover to the shipping agent is delayed for reasons for which the purchaser is responsible, the risk shall pass to the purchaser one week after the date of notification of readiness for dispatch.

3. ALCO is not obliged to insure the goods.

4. ALCO is entitled to fulfil orders in partial deliveries. The purchaser assumes a corresponding acceptance obligation, provided that the acceptance of partial deliveries is not unreasonable in individual cases.

5. ALCO shall be entitled to choose the mode of despatch. Special wishes of the purchaser can only be taken into account if they have already been expressed in the order and confirmed in writing by ALCO. The additional costs for special despatch and delivery requests shall in all cases be borne by the purchaser. Supplementary and additional orders cannot be considered as such, but are deemed to be new orders for which ALCO issues a separate order confirmation. Freight charges are also handled separately.

6. Minimum order surcharges, free delivery limits, etc. for orders or deliveries within Germany or abroad are available upon request.

§ 6 Terms of payment

1. Payments are to be made in "EURO" (€) to one of ALCO's bank accounts specified in the invoice free of charge.

2. Within 10 days of the invoice date with a 2% discount or within 30 days net. We deliver to new customers against prepayment. In the event of late payment, all outstanding invoice amounts are due immediately. In addition, the usual interest rate for bank loans will be charged from 30 days. If the payment claim is jeopardised after the contract has been concluded, advance payment may be demanded. If this is not made, ALCO may withdraw from the contract

3. If ALCO agrees payment by bill of exchange with the purchaser, cash discounts are excluded. Likewise, the granting of a discount requires that all previous due and recognised invoices have been settled.

4. Payments by cheque or bill of exchange shall only be deemed to have been made on account of performance. ALCO shall pass on to the purchaser all costs associated with honouring the cheque or bill of exchange.

5. The purchaser may only offset against ALCO's claims or exercise a right of retention if his counterclaims are recognised or have been legally established.

§ 7 Retention of title

1. The delivered goods shall remain the property of ALCO until the fulfilment of all claims to which ALCO is entitled against the purchaser. In the case of an ongoing business relationship, the retention of title shall apply to all deliveries until the current account balance has been settled. Group companies attributable to the specific customer shall also be deemed to be purchasers.

2. Until the current account balance has been settled in full, the buyer shall only be entitled to resell the goods in the ordinary course of business. Pledging and transfer by way of security of the goods subject to retention of title are expressly excluded from the purchaser's right of disposal. The purchaser undertakes to ALCO to agree a further retention of title with his customer in the event of resale of the goods.

3. The purchaser assigns to ALCO any claims against its customers arising from the resale of the goods subject to retention of title until complete fulfilment of the rights mentioned under Clause 1. The purchaser undertakes to disclose all information and hand over all documents required by ALCO to assert the rights arising from the extended retention of title against the purchaser's customers.

4. If the value of the securities provided in ALCO's favour exceeds the outstanding claims against the purchaser within the meaning of Clause 1 by more than 20%, ALCO shall be obliged to release securities in excess thereof at the purchaser's request. ALCO shall be responsible for selecting the securities to be released. The nominal purchase prices according to ALCO's invoice and the nominal sales prices of the purchaser from its invoices to its respective customers are decisive for the valuation of ALCO's outstanding claim against the purchaser on the one hand and the collateral provided on the other.

5. ALCO must be notified immediately of any interference with the reserved goods by third parties, for example through seizure or confiscation. Any intervention costs incurred by ALCO shall be reimbursed by the purchaser in all cases.

6. If ALCO takes back goods subject to retention of title in accordance with the above security agreements, the amount of the nominal amounts shown on the sales invoices shall be offset against the outstanding claims. However, ALCO reserves the right to assert claims for damages, in particular loss of profit, separately.

§ 8 Warranty/liability

1. Complaints about the quantity and/or quality of a delivery, insofar as these are so-called obvious defects, must be reported to ALCO in writing immediately, at the latest within one week of receipt of the goods.

2. In the event of justified complaints, ALCO shall choose whether to repair or replace the goods. If ALCO is unable to rectify the defect or make a replacement delivery or is entitled to refuse to rectify the defect or make a replacement delivery in accordance with Section 439 (3) BGB, or if there is a delay in rectification or replacement delivery beyond a reasonable period for which ALCO is responsible, or if the replacement delivery or rectification fails twice, the purchaser shall be entitled to withdraw from the contract or demand a corresponding reduction in the purchase price.

3. The purchaser's statutory rights of recourse against ALCO shall only exist insofar as the statutory requirements are met. Therefore, there are no rights of recourse if the purchaser has made agreements with his customer that go beyond the statutory claims for defects within the framework of a guarantee or as a gesture of goodwill.

4. Insofar as the statutory provisions on the sale of consumer goods (§§ 474 ff. BGB) do not apply, in particular with regard to recourse liability (§§ 478 ff. BGB), in the absence of the statutory requirements, a one-year warranty period shall apply.

5. The statutory consequences of a breach of the commercial duty to inspect and give notice of defects (in accordance with § 377 HGB) shall remain unaffected by this.

6. Claims for damages by the buyer, irrespective of the legal grounds, in particular for breach of duties arising from the contractual obligation and from tort, are excluded, unless mandatory liability arises under the Product Liability Act, in cases of liability for intentional or grossly negligent behaviour, for injury to life, limb or health, or for breach of material contractual obligations.

7. However, the claim for damages for the breach of essential contractual obligations is limited to the foreseeable damage typical for the contract, unless a limitation is excluded for another reason due to intentional or grossly negligent behaviour or due to injury to life, limb or health.

8. Returns that are not based on the purchaser's right of cancellation within the scope of their warranty rights will only be accepted with ALCO's prior consent. If this is not the case, ALCO may refuse acceptance or return the goods at the sender's expense. If the return of faultless goods is authorised, the price applicable at the time of invoicing will be charged, less the freight and reconditioning costs incurred, provided ALCO is not responsible for the return.

§ 9 Data protection

1. Personal data of the purchaser that becomes known directly or through third parties in the course of the business relationship shall be stored by ALCO in an automatic file and processed for business transactions (information in accordance with the Federal Data Protection Act).

2. The purchaser consents to the processing by ALCO of the personal data that becomes known about him directly or through third parties.

§ 10 Place of fulfilment and jurisdiction

1. The place of fulfilment for both parties' primary and secondary obligations arising from the contractual relationship as well as all mutual rights and obligations arising from the contractual relationship is Arnsberg.

2. The place of jurisdiction for all disputes arising from and in connection with the contractual relationship is Arnsberg. German law shall apply exclusively.

ALCO-Albert GmbH & Co. KG