

## **General Sales Terms**

### **§ 1 General – Area of Application**

- (1) Our sales terms shall apply exclusively; conflicting conditions or conditions of the buyer which deviate from our sales conditions are not recognized apart from if we explicitly agree to their validity in writing. Our sales terms and conditions shall also apply in cases where we are aware of a customer's contrary or deviating terms and conditions and unreservedly perform our supply commitment to this customer.
- (2) All agreements made between us and the customer for the purpose of performance of a contract shall be recorded in writing.
- (3) Our sales terms are also valid for all future business transactions with the customer.

### **§ 2 Offer – Offer Documents**

- (1) Our offers are without obligation unless indicated otherwise in the order confirmation. An effective agreement therefore is only concluded through our order confirmation of the delivery of the sales item.
- (2) We retain the property rights and copyrights to illustrations, drawings, calculations and other documents. This is also valid for such written documents that are described as „confidential“. The customer requires our explicit written consent before passing on these documents to third parties.

### **§ 3 Prices – Payment Terms**

- (1) If the order confirmation does not specify otherwise, prices are valid „ex works“, excluding packaging; this will be charged separately.
- (2) The statutory Value Added Tax is not included in our prices; it will be shown separately in the invoice at the statutory rate on the day of invoicing.
- (3) In the case of there being no more than 4 months between the day of contract conclusion and the day of delivery, without this being based on a delivery delay caused by us, and if our price list has changed in this period, we are able to charge

the valid list price on the day of delivery in place of the agreed purchase price. We will notify the customer of a corresponding price change at least 4 weeks in advance in writing. He will then be entitled to a termination or withdrawal right within one week from receipt of the notification for the time of this price change taking effect.

- (4) The deduction of cash discounts requires separate written agreements.
- (5) If the order confirmation does not specify otherwise, the net purchase price (without deduction) is due for payment within 30 days from the invoice date. The statutory regulations are valid regarding the consequences of payment default.
- (6) If circumstances become known to us after contract conclusion that raise doubts about the solvency of the customer, e.g. affirmation in lieu of oath, application for opening insolvency proceedings, payment to us or third parties not in due time, we can make the delivery dependent on a payment in advance by the customer. We can set the customer an appropriate time limit for the advance payment and withdraw from the agreement if we do not receive the advance payment on the due date. In place of the advance payment the customer may provide security by means of a bank guarantee.
- (7) The customer is only entitled to set off rights if his counterclaims have been established as final and absolute, are undisputed or have been acknowledged by us. Moreover, he is authorised to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.

#### **§ 4 Delivery Time**

- (1) Compliance with our delivery obligation is conditional upon the in-time and due and proper fulfilment of the customer's obligations. The plea of non-performance shall remain reserved.
- (2) If the customer delays acceptance or culpably violates other obligations to cooperate, we will be entitled to claim compensation for damages up to that point, including possible additional expenditures. Further claims or rights remain reserved.
- (3) To the extent that the conditions of paragraph (2) are given, the risk of accidental loss or an incidental deterioration of the object of sale shall be transferred to the customer from the moment the customer delays acceptance or defaults on payment.

- (4) The delivery dates stated in the agreement are only approximate providing they have not explicitly been declared binding by us. In the case of non-binding delivery dates a delivery within 90 days after the stated delivery time is still valid as in time.
- (5) We are liable according to legal regulations, providing the underlying purchase agreement is a fixed business transaction in terms of § 286 item 2 no. 4 BGB (German Civil Code) or of § 376 HGB. We are also liable according to legal regulations, providing the customer is entitled to assert claims where, as a result of a delay in delivery attributable to us, the customer shall be entitled to claim that he has no interest in continuing with the further performance of the agreement.
- (6) Furthermore, we are liable according to the statutory provisions, insofar as the delivery default is based upon a wilful contractual infringement for which we are responsible; an indebtedness of our representative or vicarious agents should be attributed to us. In as far as the delivery delay is due to an intentional or grossly negligent breach of agreement on our part, our liability for damages is limited to foreseeable and typical damage.
- (7) We are also liable, in accordance with statutory stipulations, insofar as the delivery delay attributable to us is based on a culpable breach of an essential contractual obligation; in this case, however, the liability for damages is limited to foreseeable, typical damage.
- (8) More extensive damage claims in the case of a possible delivery delay are excluded.

#### **§ 5 Transfer of Risks – Packaging Costs**

- (1) If the order confirmation does not specify otherwise, delivery „ex works“ is agreed.
- (2) Shipment shall be effected at the expense of the customer. The risk passes to the customer upon shipment, even when freight paid delivery has been agreed and/or the shipment is made with our own vehicles.
- (3) If requested by the customer, we will cover the delivery with a transport insurance; costs incurred by this insurance shall be borne by the customer. die
- (4) Providing nothing has been explicitly agreed to the contrary in writing, we are entitled to make part deliveries to a reasonable extent that will be charged individually.

### **§ 6 Liability for Defects**

- (1) Claims for defects asserted by the customer shall be subject to him having fulfilled the inspection and notification obligations properly in accordance with § 377 HGB.
- (2) To the extent that the purchased items are defective, the buyer can, according to his own choice, require subsequent performance in the form of removal of the defect or in the form of delivery of a new defect-free product. In the case of removal of defects or replacement we are obliged to bear all necessary transportation, shipping, work and material costs, if they are not increased by the fact that the item was brought to another location other than the place of fulfilment.
- (3) If supplementary performance fails, the customer is entitled to either cancel the agreement or demand a price reduction.
- (4) We are liable in accordance with the statutory provisions to the extent that the customer asserts claims to damages that are due to intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. To the extent that we are not accused of an intentional breach of contract, liability for damages is limited to foreseeable and typical damage occurring.
- (5) We are liable in accordance with statutory stipulations if we negligently violate an essential contractual obligation; also in this case, however, the damage compensation liability is limited to foreseeable, typical damage occurring.
- (6) Liability on the grounds of culpable harm to life, body or health remains unaffected, as is liability according to the German product liability act ("Produkthaftungsgesetz")
- (7) In the absence of any provisions to the contrary above, liability shall be excluded.
- (8) The limitation period for defect claims is 12 months from the transfer of risk.

### **§ 7 Joint and Several Liability**

- (1) Liability regarding damages beyond what is provided for in § 6, is excluded – without consideration of the asserted claim's legal nature. This applies in particular to damage claims for default on contract execution, or due to other breaches of duty, or due to claims for offences under § 823 of BGB (German Civil Code).
- (2) The definition of paragraph (1) applies as well as if the customer demands reimbursement of void expenses instead of claiming compensation for the damage.

- (3) Providing our liability for damages has been excluded or limited, this also applies with regards to the personal liability for damages of our staff, employees, freelance workers, representatives and vicarious agents.

### **§ 8 Reserved Ownership Rights**

- (1) We reserve title in the purchased goods until receipt of all payments from the purchase agreement. In the event of a breach of contract by the customer, especially a delay in payment, we are entitled to take back the goods. With the taking back of the item by us goes a withdrawal from the agreement. We are authorised to sale of the purchase item after retraction; the proceeds of sale are to be deducted from the commitments of the customer - minus appropriate costs for recovery.
- (2) The customer is obliged to treat the item with care; he is especially obliged to insure it sufficiently at his own expense against fire, water and theft damages to the replacement value. And insofar maintenance and inspections are necessary these have to be done at regular intervals at his expense.
- (3) In the event of attachment or other acts of possession by third parties, the customer must notify us in writing immediately so that we can file legal action under Section 771 of the Civil Procedure Code. In as far as the third party is not capable of refunding us with the cost of the action in and out of court according to §771 ZPO (German Civil Proceedings Code), the customer shall be liable for our loss.
- (4) The customer shall be entitled to resell the object sold in the ordinary course of business.; but even now, he assigns to us all claims in the amount of the final amount of the invoice (including VAT), which he is entitled to from resale against his customers or third parties, and this independent of the fact whether the purchased goods were resold without or after processing. For the inclusion of this request the customer stays authorized also after the transfer. Our authority of collecting the receivables ourselves remains untouched by this. However, we undertake to refrain from collecting the claim as long as the customer meets the payment obligations from the collected revenues, is not in delay of payment or, in particular, has not filed an application to open insolvency proceedings, or cessation of payments is given. If this is the case, however, we can demand that the customer make their accrued claims and their debtors known to us, report all necessary information for collection, hand over the corresponding documentation and inform the debtors (third parties) of the surrender.
- (5) Processing or transformation of the purchased goods by the customer is in each case performed for us. If the purchased goods are processed jointly with other items not being our property, then we acquire co-ownership in the new items in

relation of the value of the purchased goods (end amount on the invoice, including VAT) to the other objects processed at the time of processing. As for the rest, the same shall apply to the item arising due to processing as to the object of sale delivered under reserve.

- (6) If the object of sale is inseparably commingled with other objects that do not belong to us, we shall acquire co-ownership of the new item proportionate to the value of the object of sale (end amount on the invoice, including VAT) to the value of the other commingled objects at the time of commingling. If the mixing/joining occurs in such a way that the customer's object is to be regarded as the principal object, then it to be regarded as agreed that the buyer transfers a share in the title to us.
- (7) We oblige to release the collateral due to us upon request of the customer to such an extent as the value of our collateral exceeds the claims to be secured by more than 10 %; the selection of the collateral to be released is incumbent upon us.

### **§ 9 Data Processing**

The customer agrees that we process and in particular store data about him collected in connection with the business relationship, provided this takes place in line with the definition of the purpose of the agreement, taking into account the Federal Data Protection Act for the fulfilment of own business purposes.

### **§ 10 Court of Jurisdiction – Place of Fulfilment**

- (1) If the customer is a salesman, our headquarters is our venue of jurisdiction; however, we are authorized to bring suit against the customer at the court in his area of residence.
- (2) The laws of the Federal Republic of Germany shall have exclusive application; the UN Purchasing Convention shall not be applicable.
- (3) If the order confirmation does not specify otherwise, our company seat is the place of performance.