



# General Terms and Conditions of Business

## § 1 General – Scope of application

- (1) Our Terms and Conditions of Purchase apply exclusively; we shall not recognise terms and conditions of the purchaser that oppose or deviate from our Terms and Conditions of Purchase unless we have explicitly confirmed their applicability in writing. Our Terms and Conditions of Purchase also apply in the event that we execute the purchaser's delivery without reservation and in awareness of the purchaser's conditions which oppose or deviate from our Terms and Conditions of Purchase.
- (2) All arrangements made between us and the purchaser for the purposes of executing this contract shall be set out in writing in this contract.
- (3) Our Terms and Conditions of Purchase shall only apply to contractors pursuant to § 310 para. 1 of the German Civil Code (BGB).

## § 2 Offer – Offer documents

- (1) Our offer is non-binding, unless otherwise specified on the order confirmation.
- (2) We reserve the ownership rights and copyright over illustrations, drawings, calculations and other documents. This shall also apply to those written documents that are deemed "confidential". The purchaser shall require our explicit written consent before disclosing these to a third party.

## § 3 Prices, terms of payment

- (1) Unless otherwise specified in the order confirmation, our prices are ex works excluding packaging; this shall be charged separately.
- (2) Statutory VAT is not included in our prices; this will be stated separately using the value applicable on the date of invoice.
- (3) The deduction of a discount requires special written agreement.
- (4) Unless stipulated otherwise on the order confirmation, the net purchase price shall be due for payment within 30 days from the invoice date, without the deduction of any discount. Legal regulations on the consequences of defaulted payment shall apply.
- (5) The purchaser is only entitled to offset claims if his counterclaims are legally binding, undisputed or acknowledged by us. The Buyer shall also be entitled to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

## § 4 Delivery time

- (1) The commencement of our quoted delivery time assumes that all technical issues have been clarified.
- (2) For us to observe our delivery obligation, the purchaser must fulfil their obligations in a timely and proper manner. We reserve the right to object to the non-fulfilment of the Contract.
- (3) If the purchaser enters into default of acceptance or violates other duties to cooperate through his own fault, then we shall have the right to demand compensation for the resultant damages we incur including any additional expenditures. We retain the right to further claims.
- (4) If the requirements of para. (3) apply, the risk of accidental loss or degradation of the purchased item shall be transferred to the purchaser from when it enters into default of acceptance or default of debt.
- (5) We shall be liable in accordance with the legal provisions, insofar as the underlying purchase contract is a short selling as defined in section 286 para. 2 No. 4 BGB or in section 376 HGB (German Commercial Code). In accordance with the legal provisions, we shall also be liable insofar as the purchaser is entitled to assert that his interest in further fulfilling the contract has ceased to exist as a consequence of a delay in delivery.
- (6) In accordance with the legal provisions, we shall also be liable if the delayed delivery is due to a breach of contract on our part, either on the grounds of intent or gross negligence. A fault on the part of our representatives or agents shall be attributed to us. Should the delay in delivery not stem from an intentional breach of contract for which we are responsible, our liability for compensation shall be limited to foreseeable, typical damages occurred.
- (7) In accordance with the legal provisions, we shall also be liable if the delayed delivery for which we are responsible is due to the culpable breach of a fundamental contractual obligation. In this case, however, our liability to pay damages shall be limited to the foreseeable, typical damages occurred.
- (8) We shall also be liable in the event of a delay in delivery within the scope of lump-sum damages for delayed performance in the amount of max. 5% of the delivery value.
- (9) The purchaser still has the right to assert further rights and claims.

## § 5 Transfer of risk – Packaging costs

- (1) Unless otherwise specified in the order confirmation, delivery is agreed ex works.
- (2) We shall not take back any transportation packaging or other packaging pursuant to the German Packaging Ordinance (Verpackungsverordnung), with the exception of pallets. The purchaser is obliged to dispose of the packaging at its own cost.
- (3) We shall only take out transport insurance to cover delivery if the purchaser expressly requests this and bears the associated costs.

## § 6 Liability for defects

- (1) The purchaser's warranty rights presuppose that the purchaser has duly satisfied his obligations to inspect the goods and to give notice of defects according to section 377 HGB.
- (2) If there is a defect in the purchased item, we can subsequently either remove the defect or deliver a new item which is without defect at our own discretion. In the event of the removal of the defect, we shall only bear the expenditure required up to the amount of the purchase price.

- (3) Should the subsequent procedure fail, then the purchaser shall be entitled to request a cancellation or a reduction.
- (4) We shall also bear liability in accordance with the legal provisions if the purchaser claims damages on the grounds of intent or gross negligence, including intent or gross negligence on the part of our representatives or agents. Unless we are accused of an intentional breach of contract, our liability to pay damages shall be limited to the foreseeable, typically incurred damages.
- (5) In accordance with the legal provisions, we shall be liable if we are in culpable breach of an essential contractual obligation. In this case, however, our liability to pay damages shall be limited to the foreseeable, typical damages occurred.
- (6) This shall not affect liability for culpable injury to life, the body or health. This shall also apply for mandatory liability in accordance with the German Product Liability Act.
- (7) Unless regulated otherwise above, liability shall be excluded.
- (8) The statute of limitation for defect claims is 12 months, commencing from the transfer of risk.
- (9) This shall not affect the limitation period for recovering as provided for under sections 478 and 479 BGB; it shall be five years commencing from the point of delivering the faulty goods.

## § 7 Joint liability

- (1) Additional liability for compensation not mentioned in § 6 shall not be accepted irrespective of the legal nature of the asserted claim. This particularly applies to claims for compensation resulting from culpa when concluding the contract, due to other breaches of duty or due to tortious claims for compensation for material damage in accordance with section 823 BGB.
- (2) Insofar as our liability for compensation is excluded or limited, this also applies to the personal liability for compensation of our employees, workers, co-workers, representatives and vicarious agents.

## § 8 Guarantee of retention of title

- (1) We shall reserve ownership of the purchased item up to receipt of all payments resulting from the business connection with the purchaser. Should the purchaser act in breach of the Contract, particularly in the case of default of payment, we shall have the right to repossess the purchased item. The repossession of the purchased item by us does not constitute withdrawal from the contract, unless expressly indicated by us in writing. The seizure of the purchased item by us shall always signify a withdrawal from the contract. After recovery of the purchased item, we shall be entitled to make commercial use of it; the earnings from the disposal of this item—less reasonable disposal costs—shall be offset against the purchaser's liabilities.
- (2) The purchaser shall be required to handle the purchased items with care. In particular, the purchaser shall be obliged to insure the purchased items to their replacement value against fire, water and theft, at the purchaser's own cost. If maintenance and inspection work is necessary, the purchaser shall carry out such work at its own cost in good time.
- (3) In case of seizure or another form of intervention by third parties, the purchaser must immediately notify us in writing so that we can file an action in accordance with section 771 ZPO (German Code of Civil Procedure). If the third party is not in a position to reimburse us for the court and out of court costs due to a law suit in accordance with section 771 ZPO, the purchaser shall be liable for any loss incurred to us as a result of this.
- (4) The purchaser shall be entitled to resell the purchased item in the ordinary course of business; however, the purchaser assigns to us here and now all receivables in the amount of the final invoice amount (including value added tax) of our claim it collects from its customers or third parties from the resale, irrespective of whether the purchased item was resold before or after processing. The purchaser shall also remain authorised to collect this claim even after the assignment. This shall not affect our authorisation to collect the claim ourselves. However, we shall be obliged to refrain from collecting the claim ourselves for as long as the purchaser fulfils their payment obligations from the revenues collected, is not in default of payment, and, in particular, if composition or insolvency proceedings have not been applied for or payments have not ceased. However, if this is the case, we may request that the purchaser disclose the claims assigned and the debtor in question, make all indications required for collection, surrender the relevant documents, and notify the debtor (third parties) of such assignment of claims.
- (5) The processing or reworking of the purchased items by the purchaser shall always be carried out for us. If the purchased item is processed with other items that do not belong to us, then we shall acquire joint ownership of the new item in proportion to the value of the purchased item (final invoice amount, including value added tax) compared to the value of the other processed items at the time of the processing. Items arising as a result of processing are subject to the same conditions as a purchased item delivered under retention of title.
- (6) If the purchased item is mixed with other items that do not belong to us, then we shall acquire joint ownership of the new item in proportion to the value of the purchased item (final invoice amount, including value added tax) compared to the value of the other mixed items at the time of the mixing. If the mixing is done in such a way that the purchaser's item is considered the main item, it is understood that the purchaser shall assign proportional joint ownership to us. The purchaser shall hold the resulting sole or joint ownership for us.
- (7) The purchaser shall also assign us our claims against it to secure the claims due to it from a third party owing to the association of the purchased item with a property.
- (8) At the purchaser's request we shall undertake to release the securities to which we are entitled if and when the realisable value of our securities exceeds the claims to be secured by more than 10 %. The choice of security released shall be at our discretion.

## § 9 Place of jurisdiction and performance

- (1) If the purchaser is a registered trader, our registered office shall be the place of jurisdiction; however we shall be entitled to take measures against the purchaser at his local court.
- (2) The law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- (3) Unless otherwise specified on the order confirmation, our registered office shall be the place of performance.