

# General sales and delivery terms for commercial business transactions

## 1. General requirements – scope

- 1.1** The offer, order and contractual relationship are exclusively based on our general sales and delivery terms. We will not accept customer terms that contradict or deviate from our sales and delivery terms unless we have expressly agreed to their applicability in writing. Our sales and delivery conditions also apply if we have knowledge of customer terms that contradict or deviate from our sales and delivery terms and provide the delivery without reservation.
- 1.2** These general sales and delivery terms also apply to all future business transactions between the contracting parties without needing to be referred to again; this also applies where they should only have become known to the customer after contract conclusion in the first business transaction.
- 1.3** These general sales and delivery conditions are considered agreed if the customer fails to object to them immediately after the surrender of goods.
- 1.4** These general sales and delivery conditions only apply vis-a-vis businesspersons (section 310.1 of the German Civil Code) and only if the contract serves the operation of that businessperson's commercial enterprise.

## 2. Offer and offer documents

- 2.1** We can accept the client's order within 4 weeks.
- 2.2** Our offers are not binding. Our written order confirmation and possible addenda thereto are decisive for the scope and terms of the delivery. The acceptance of orders calls for our confirmation in writing. All statements made verbally or on the telephone require our confirmation in writing.
- 2.3** We reserve the property rights and copyrights for offers, illustrations, drawings, calculations and other documents, which must not be made available to third parties without our express approval in writing. This in particular applies to written documents identified as "confidential". The customer requires our express approval in writing to forward them to third parties.

### 3. Prices – payment terms

- 3.1** In the absence of contrary provisions in the order confirmation, our prices are "ex factory", including packaging as customary in the trade.
- 3.2** Our prices remain fixed for deliveries to be provided up to four months after concluding the transaction unless the delivery is provided under a continuing obligation. For deliveries to be provided later than 4 months after concluding the transaction, we reserve the right to adjust our prices on the basis of cost changes to have occurred in the meantime. We will substantiate the cost changes to the customer upon request.
- 3.3** Statutory VAT is not included in our prices. It will be separately shown in the invoice with the statutory amount on the invoice creation date.
- 3.4** In the absence of other agreements, the payment conditions for payments from the invoice date are 2 % discount within 14 days, or within 30 days net. Our receipt of the invoiced amount is decisive. If "payment against documents" is agreed, all the costs of collecting the payment must be borne by the customer.
- 3.5** If the customer defaults on payments, the outstanding amounts will be subject to interest at a rate that is 9 percentage points above the base rate per annum. If we are able to substantiate greater damages caused by the delay, we will be entitled to claim them.
- 3.6** The customer is only entitled to offset and retention rights if his or her counterclaims have been recognized by declaratory judgement, are uncontested, or recognized by us.

### 4. Delivery – liability for delays

- 4.1** If our delivery is delayed for reasons we are answerable for, the customer will need to declare within a period of 2 weeks from the start of the delay whether he or she wishes to be supplied, to withdraw from the contract or to claim compensation in place of delivery. Customers failing to declare themselves within this period will only be entitled to demand supplementary performance.
- 4.2** The disclaimer as per paragraph 1 does not apply if the delay is based on delibe-

rate intent or gross negligence or aviolation of a material contractual obligation. It also does not apply where a commercial transaction has been agreed for delivery by a fixed date.

- 4.3** Compliance with our delivery obligation requires timely and compliant fulfilment on the part of the customer.
- 4.4** In the absence of other provisions in the transaction, the customer is required to provide us with a delivery schedule no later than 4 weeks before the agreed delivery date.
- 4.5** Over- or under-deliveries of up to 10 % of the ordered quantity are unobjectionable. The remuneration will be adjusted by the respective percentage.
- 4.6** We will not be answerable for performance or delivery delays based on force majeure owing to events which substantially complicate or prevent the delivery for us – particularly including strikes, lock-outs, administrative orders, also if occurring at our suppliers or sub-suppliers – even if periods and deadlines have been bindingly agreed. These events entitle us to postpone the delivery and/or performance for the duration of the obstacle plus a reasonable lead time, or to withdraw from the contract partly or entirely because of the not yet fulfilled part.
- 4.7** Partial deliveries are permissible.

## 5. Transport – transfer of risk

- 5.1** In the absence of other provisions in the order confirmation, "ex factory" delivery is agreed.
- 5.2** The risk is transferred to the customer no later than at the time of dispatching the delivered parts, also in case of partial deliveries or where the supplier has taken on other services, e.g. the shipping costs or transport. Upon the customer's express wish, we can insure the shipment against theft, breakage, transport, fire and water damage as well as other insurable risks as desired by the customer, at the customer's cost.
- 5.3** If the customer demands packaging that differs from § 3.1, these costs will be

invoiced to the customer separately. If the delivery is performed using the supplier's own and re-usable palettes, transport containers, reusable coils or similar transportation aids, the customer is required to return these in a usable condition, carriage paid, within a reasonable period of time. If the customer fails to return them despite the setting of a deadline or if the returned object is damaged owing to circumstances the customer is answerable for, the customer will bear the costs of replacing it or for the expenses required to restore the damaged transportation aid to a usable condition.

- 5.4** If the shipment is delayed by circumstances the customer is answerable for, the risk is transferred to the customer from the date of readiness for dispatch. We are willing, however, to occasion the insurance policies requested by the customer at the customer's wish and costs.
- 5.5** Delivered items must also be accepted by the customer if they are slightly defective, without prejudice to the customer's rights arising from the defect liability provisions of these terms and conditions.

## 6. Refusal of acceptance

If the customer refuses to accept the delivery and has also not accepted the delivery within a set grace period, we are entitled to claim 20 % of the remuneration agreed for the delivery in damages, without needing to substantiate the actual losses incurred, unless the customer is not answerable for the breach of duty. It is left to the customer to prove lesser damage.

## 7. Warranty

- 7.1** The customer's warranty rights only apply if the customer has duly complied with the customer's statutory examination and inspection obligations.
- 7.2** In case of a defect being eliminated (supplementary performance), we will bear the cost of such elimination within the legally required framework insofar as we are answerable for the defective delivery.
- 7.3** We guarantee the freedom of our product from defects for the period of one year from delivery.
- 7.4** The liability derives from § 8 of these sales and delivery conditions.

## 8. Liability

- 8.1** Our liability for damages is only unlimited in cases of deliberate intent or gross negligence or of culpable injury to life, body or health. If essential contractual obligations are violated deliberately or negligently, the liability is limited to the foreseeable damage typical for this contract. An essential contractual obligation is an obligation whose fulfilment makes the due performance of the contract possible in the first place and on whose fulfilment the contractual partner may rely. Liability is excluded in all other respects.
- 8.2** If liability is excluded, this also applies to the liability of bodies, executives and vicarious agents.
- 8.3** The customer holds us harmless from third-party claims to the extent in which we are not liable to the customer on the basis of the disclaimer.
- 8.4** Application-related advice provided by us is only binding if our consultant has been duly and fully informed about all the circumstances of relevance for an assessment.
- 8.5** The requirements of product liability law remain unaffected.

## 9. Retention of title

- 9.1** We reserve ownership of the purchased item until our receipt of the full payment from the delivery contract.
- 9.2** The customer is required to treat the purchased item with care and in particular also to adequately insure it at its original value against fire, water and theft at the customer's own expense.
- 9.3** In the event of seizure or other third-party intervention, the customer is required to immediately inform us in writing so that we can enforce the rights to our items. Upon request, the customer is required to provide us with all the information and all documents required for us to uphold our rights. To the extent in which the third party is not able to reimburse our judicial and extra-judicial costs of pursuing our rights to our items, the customer will be liable for the resulting loss.

- 9.4** The customer is entitled to resell the purchased item in the ordinary course of business, but already at this point in time assigns to us all claims to the amount of the invoice total (including VAT) arising for the customer against the customer's buyer or third parties from the resale, irrespective of whether the purchased item has been resold without or after processing. The customer undertakes to make the assigned claims and their debtors known to us, and to provide all the information and hand over to us the attendant documents required for collection. The customer also remains entitled to collect this claim after its assignment. Our entitlement to collect the claim ourselves remains unaffected by this. But we undertake not to collect the claim as long as the customer meets the customer's payment obligations from the agreed proceeds, refrains from defaulting and, in particular, as long as no application has been filed for the institution of bankruptcy, composition or insolvency proceedings or suspension of payment applies.
- 9.5** The processing or alteration of the purchased item by the customer are always performed for us. If the purchased item is processed with other items that do not belong to us, we acquire co-ownership of the new item in proportion to the ratio between the purchased item's value and that of the other processed items at the time of processing. In all other respects, the item created by the processing is subject to the same requirements as the purchased item delivered under retention of title.
- 9.6** If the purchased item is inseparably combined with other items not belonging to us, we acquire co-ownership of the new item in proportion to the ratio between the purchased item's value and that of the other combined items at the time of combining. If the combining is performed in a manner so that the customer's item is to be regarded as the main item, it is agreed that the customer transfers the proportional co-ownership to us.
- 9.7** The customer holds the sole or joint property arising from above provisions in safe custody for us. In all other respects, the item created by processing or combining is subject to the same requirements as a purchased item delivered under retention of title.
- 9.8** If the purchased item delivered under retention of title is combined with a property or building by the customer in the course of processing and thereby becomes a vital part of this property or building, the customer already assigns to us now by way of security, without any further special declarations being necessary, any payment claims due to the customer as compensation for the processing work, with all ancillary rights, in proportion to the ratio between the combined purchased item's value and that of the other combined items of the customer at the time of combining, with the claim assigned to us taking precedence over the remaining part of the payment claim. The assigned payment claims are subject

to the provisions for pre-assigned purchase price claims in section 4 accordingly.

- 9.9** We undertake to release the securities due to us upon the customer's request insofar as the value of our securities exceeds the claims to be secured by more than 20 %. The selection of the securities to be released is up to us.
- 9.10** We are entitled to repossess the purchased item if the customer is in breach of contract, and in particular in default. After its repossession, we are entitled to realize the purchased item and the realization proceeds need to be offset against the customer's liabilities – minus reasonable realization costs.

## 10. Ineffectiveness of a provision

- 10.1** If a provision of these terms and conditions should be or become ineffective or if they should contain a loophole, the legal effectiveness of the remaining provisions will remain unaffected by this.
- 10.2** Instead of the ineffective provision, an effective provision that most closely approximates the one intended by the parties counts as agreed in this case. The same applies in the case of a loophole.

## 11. Place of jurisdiction – place of performance

- 11.1** The place of performance for delivery and payment is our place of business. We are also entitled to sue the customer at the customer's place of residence, however.
- 11.2** The contractual relationship is subject to the laws of the Federal Republic of Germany. The UN Sales Convention is excluded.