



## General standard terms and conditions

### Article 1 Applicable scope

(1) These Terms of Sale shall be applicable exclusively to, and vis-à-vis, companies, legal entities under public law or public separate estates as defined by Article 310, Para. 1 of the German Civil Code (BGB). Any terms of the Purchaser that contradict and/or deviate from our Terms of Sale shall be excluded, unless we have specifically acknowledged them in writing.

(2) These Terms of Sale shall also apply to all future transactions with the Purchaser, insofar as they form part of a series of related legal transactions.

### Article 2 Offer and conclusion of agreement

Insofar as an order is to be deemed an offer as defined by Article 145 of the German Civil Code (BGB), we shall have two weeks in which to accept said offer.

### Article 3 Transfer of documentation

We will retain all rights of ownership and copyright with regard to any and all documentation transferred by us to the Purchaser in connection with placement of an order, e.g. calculations, drawings etc. Said documentation must not be made accessible to third parties unless we give the Purchaser our express written consent. Insofar as we do not accept an offer (order) from the Purchaser within the deadline set forth in Article 2, said documentation must be promptly returned to us. By electronic transmission, this data must be deleted irrevocably.

### Article 4 Prices and payment

(1) Unless otherwise agreed in writing, our prices shall be valid "ex works", without packaging but excluding the legally mandated rate of VAT. The cost of special packaging for the customer shall be invoiced separately.

(2) Payment of the purchase price must be made exclusively to the bank account specified on the corresponding invoice. No deductions or discounts shall be granted unless agreed in writing.

(3) Unless otherwise agreed, the purchase price shall be due within 30 of the delivery date. Overdue payments shall be subject to penalty interest in the amount of 8 % per annum over the prevailing key lending rate (discount rate). We reserve the right to assert claims for additional damages resulting from payment delay/default.

(4) the minimum order value is 15 € net. The fee for less than the limit is the difference between the contract value and the minimum order value.

(5) Unless a fixed price agreement has been made, reasonable price changes due to changes in labor, material and distribution costs for deliveries after 3 months or later after the contract are reserved.

### Article 5 Right of offset and retention

The Purchaser shall be entitled to assert the right of retention only insofar as his counterclaims are undisputed and have been affirmed in a court of law. The Purchaser shall be entitled to assert the right of retention only insofar as his counterclaim arises from the same contractual relationship.

#### **Article 6 Delivery schedule**

(1) Any delivery schedule which we specify shall be deemed to take effect only insofar as the Purchaser fulfils all his obligations in a timely and proper manner. The right to assert the legal defence of contractual non-performance shall remain unaffected.

(2) If the Purchaser delays acceptance or culpably breaches some other obligation to cooperate, we shall be entitled to indemnification for any resulting damages, including any excess costs. We also reserve the right to assert additional claims. Insofar as the afore-mentioned conditions obtain, the risk of accidental perishing/deterioration of purchased merchandise shall pass to the Purchaser once he defaults on acceptance and/or payment.

(3) All delivery schedules specified by us shall not be binding until a corresponding order has been accepted and/or all technical details have been clarified. In case of unforeseeable events for which we are not responsible (e.g. strikes, lockouts, force majeure, operating disruptions of vendors or transport delays), the delivery schedule shall be extended accordingly. The delivery schedule shall be deemed fulfilled insofar as the merchandise is handed over to the freight forwarder before the delivery deadline and readiness for dispatch has been confirmed.

(4) The supplier shall be entitled to choose the mode of delivery and the freight forwarder. The costs of shipping/handling and delivery shall be borne by the Purchaser.

#### **Article 7 Transfer of risk upon delivery**

Insofar as the Purchaser requests that delivery be made to him, the risk of accidental perishing/ deterioration of the purchased merchandise shall pass to the Purchaser once the merchandise has been dispatched to the Purchaser, or once the merchandise leaves the works/warehouse, whichever is earlier. The foregoing shall apply regardless of whether or not the merchandise is shipped from the place of performance, and regardless of who actually bears the shipping costs.

#### **Article 8 Retention of title**

(1) We shall retain title to all delivered merchandise until such time as all receivables arising from the corresponding delivery agreement have been paid in full. This shall also apply to all future deliveries, even if we do not explicitly claim said right of retention. We shall be entitled to repossess any delivered merchandise if the Purchaser is in breach of contract.

(2) So long as ownership has not yet passed to the Purchaser, he shall be obligated to treat all purchased merchandise with due care. The Purchaser shall be specifically obligated to adequately insure said merchandise for its full replacement value and at his own expense, against theft, fire and water damage. So long as ownership has not yet passed to him, the Purchaser must promptly inform us in writing if the delivered merchandise is confiscated or subjected to some other intervention by a third party. Insofar as said third party is not in a position to indemnify us for the legal costs and out-of-court costs associated with a lawsuit (as per Article 771 of the German Code of Civil Procedure (ZPO)), the Purchaser must indemnify us for any corresponding loss that we incur.

(3) The Purchaser shall be entitled to re-sell merchandise that is subject to retention of title in the context of normal business operations. The Purchaser hereby assigns to us in advance any and all receivables owed to him by sub-purchasers in connection with his future re-sale of merchandise subject to retention of title. The scope of said assignment shall equal the final invoice amount agreed between us and the Purchaser (including VAT). Said assignment shall be valid regardless of whether the merchandise in question is re-sold "as is" or following further processing. The Purchaser shall retain the right to collect receivables even after they have been

assigned, but this shall not affect our right to collect such receivables ourselves. We shall not exercise our right of collection, however, so long as the Purchaser forwards all revenues owed to us in a timely manner, does not default on his payment obligations and/or stop payment, and does not become the subject of an insolvency proceeding.

(4) Any processing, adaptation and/or modification of purchased merchandise by the Purchaser shall be deemed to occur in our name and for our account. In this case, the Purchaser's remainder interest shall extend to the processed, adapted and/or modified merchandise. Insofar as purchased merchandise is combined with items not owned by us in the course of processing, adaptation and/or modification, we will obtain a pro-rata, co-ownership right in the newly created item based on the objective value of our merchandise in proportion to the other components at the time of creation. The foregoing shall also apply in cases of commingling. Insofar as the property of the Purchaser can be deemed to constitute the primary portion of commingled property, the Purchaser shall assign to us a pro-rata, co-ownership right to said commingled property, and shall safeguard all resulting wholly owned/co-owned property on our behalf. In order to guarantee the receivables which he owes to us, the Purchaser also hereby assigns to us in advance any claims which he may have against third parties due to the bundling of real property with merchandise subject to retention with title; we hereby accept said assignment in advance.

(5) Upon the Purchaser's request, we shall release any sureties owed to us, insofar as their value exceeds the receivables to be guaranteed by more than 20 %.

#### **Article 9 Warranty and complaint notification; re-course; recourse against manufacturer**

(1) The Purchaser shall be entitled to assert warranty rights only insofar as he has duly fulfilled his obligations to inspect for defects and makes a complaint as provided for under Article 377 of the German Commercial Code (HGB).

(2) All defect claims shall lapse 12 months after the corresponding merchandise supplied by us has been fully delivered to the Purchaser. Our approval must be obtained before any merchandise is returned. However, the foregoing provision shall not apply insofar as a longer warranty/limitation period is legally stipulated under either Article 438, Para. 1, No. 2 of the German Civil Code (BGB) (Construction and Construction-related Goods), Article 479 Para. 1 of the German Civil Code (BGB) (Rights of Recourse) and/or Article 634a Para. 1 of the German Civil Code (BGB) (Construction Defects).

(3) If, despite exercising all due care, we deliver merchandise that was already defective before the transfer of risk, we shall have the option of either replacing said merchandise or taking remedial action, provided the defect has been reported in a timely manner. In all cases, we shall have the option of subsequent performance within a reasonable deadline. The preceding provision shall in no way limit the right of recourse.

(4) If subsequent performance fails or falls short, the Purchaser shall be entitled to withdraw from the Agreement and reduce the payment owed – without prejudice to his right to assert additional damage claims.

(5) None of the following shall suffice to justify a defect claim with regard to delivered merchandise: minor deviations in agreed features; minor impairments of functionality; normal wear and tear. This shall also apply to damage occurring after the transfer of risk and caused by any of the following: improper or negligent use, failure to comply with lubrication/maintenance guidelines, excessive use, use of improper tools, defective assembly; extraordinary external factors not foreseen by the Agreement. Defect claims shall also not be assertable for any damage due to improper repair work or modifications undertaken by the Purchaser and/or a third party.

(6) The Purchaser shall not be entitled to be indemnified for the required costs of subsequent performance (e.g. transport, shipping and handling, time and materials), insofar as these are excess costs arising from the fact that merchandise delivered by us was subsequently moved to a location other than the Purchaser's place of business, unless such relocation complies with the agreed use of said merchandise.

(7) The Purchaser shall have recourse rights against us only to the extent that he does not contractually grant his sub-purchasers recourse rights in excess of those mandated by law. The scope of the recourse rights of the Purchaser against the Supplier shall also be subject to Para. 6, which shall apply analogously.

(8) The indemnification of damages resulting from a contractual breach shall be subject to the applicable legal limitations, and shall only be required in cases of intentional or grossly negligent conduct. This shall also apply to damage claims based on the Product Liability Act.

#### **Article 10 Miscellaneous**

(1) This agreement, as well as all legal relationships between the Parties, shall be subject to the laws of the Federal Republic of Germany, with the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) The place of performance and exclusive legal venue for all disputes arising from this agreement shall be our place of legal domicile.

(3) All terms agreed between the Parties for purposes of contractual performance of this Agreement have been set forth in writing herein.

(4) If individual provisions of this Agreement are or become invalid, or if they contain a legal gap, this shall not affect the validity of the remaining provisions herein.

As at: April 2014