



The original German edition of the General Terms of Trade is subject to this agreement.

Article 1 Validity

1. Our conditions are only valid as against companies as defined by Article 310 BGB (German Civil Code).

2. The following sales and payment conditions apply to all our contracts, deliveries and other services in so far as they have not been altered or excluded with our express written approval. They apply in particular even if we carry out unconditional delivery/service whilst being aware of our client's divergent conditions. The general business conditions of our contractual partner shall only then be applicable if we have confirmed these in writing.

3. Our conditions shall also apply to all future contracts, delivery and services even if the wording (of these conditions) is not sent to our contractual partner again with our quotation or our confirmation of order.

Article 2 Quotation and Conclusion

1. Our quotations are without obligation. Contracts and other agreements shall not be binding until our written confirmation is issued or delivery made/service provided.

2. All agreements entered into with our clients shall be recorded in writing upon conclusion of contract.

Agreements between our employees or representatives and our clients reached upon or after conclusion of contract shall be subject to our written confirmation before becoming valid. The representative authority of our employees and representatives is thus limited.

Article 3 Prices, Price Increase and Payment

1. Our prices apply to delivery ex works excluding packing, freight charges, customs duty, insurance and V.A.T. V.A.T. will be charged additionally in all cases at the rate applicable on the day of delivery or service.

2. Should our purchase prices and/or the wage or salary agreement applicable to our company increase between conclusion of contract and execution of the order with regard to orders that are to be fulfilled later than four months after conclusion of contract or that can only be fulfilled later than four months after conclusion of contract due to reasons for which our client is responsible, we are authorised to demand a price that has been increased reasonably and in proportion to the percentage proportion of the affected purchase price and/or costs of labour. In the case of continuous obligations we also have this right if the period between the conclusion of contract and fulfilment is shorter than four months.

3. Unless agreed otherwise or allowed for in our quotation/confirmation of order, our invoices are due for payment without deduction.

4. We are entitled to charge interest at a rate of 8 % above the respective base interest rate as from the due date. More far-reaching claims – in particular on account of the contractual partner being in default – shall remain unaffected.

5. Set-off against counterclaims that we have disputed and that have not been finally and conclusively determined is not permissible. Assertion of a right of retention regarding claims that do not refer to the same contractual relationship is excluded if we have not acknowledged these claims and they have not been finally and conclusively determined.

6. Our client may only hold back payments on account of a deficiency claim if there can be no doubt regarding the justification of the deficiency claim and moreover only to an extent that is in reasonable proportion to the deficiencies that have arisen.

Article 4 Despatch and Transfer of Risk, Insurance

1. As far as contracts of purchase are concerned the risk is transferred to our clients in each case following despatch of the goods irrespective of the place of despatch.

As far as contracts for services are concerned the risk is transferred to our clients following acceptance.

2. If despatch instructions are not issued by our contractual partner or in cases of deviation from such (instructions) being deemed necessary, we shall arrange despatch to the best of our judgement without being obligated to select the fastest or cheapest freight method.

We shall only insure the delivery item against every insurable risk required by our contractual partner following his/her request and for his/her account, in particular against theft and transport damage.

Cases of transport damage shall be reported to us immediately. Furthermore, the recipient shall ensure that the haulage contractor is notified of the appropriate claims and reservations following delivery.

3. The goods shall be stored for the account and risk of our contractual partner if despatch is delayed upon the request of our contractual partner or for reasons for which our contractual partner is responsible.

Article 5 Delivery Deadlines, Goods on Call

1. Delivery deadlines and schedules shall only be regarded as binding if we have confirmed them in writing.

2. A performance period that has only been determined with regard to duration shall commence following the expiry of the day on which an agreement has been reached regarding all details of the content of the order, earliest however following our acceptance of the order, however not before submission of all documents, approvals and clearances to be provided by the person ordering and not before receipt of any down payment to be made by the person ordering.

3. A delivery period or delivery deadline is maintained following despatch of the goods on our part or following our notification of readiness to deliver before expiry of the deadline in cases where the goods cannot or are not to be despatched.

4. Delivery deadlines shall be extended fairly and reasonably – also within a period of default – in cases of force majeure and unforeseen obstacles arising after conclusion of the contract, for which we are not responsible, as long as these obstacles probably have a considerable influence on the delivery of the sold item. Strikes and lockouts are definitely regarded as acts for which we are not responsible as defined by this paragraph. The above regulations shall also apply if the delaying circumstances occur on the premises of our suppliers or their sub-contractors.

In so far as delays in delivery caused in this fashion should continue for longer than six weeks, our contractual partner is entitled to withdraw from the contract excluding all further claims.

5. Delivery deadlines shall be extended by the period in which the purchaser is in default with his/her obligations – also within current business relations arising from other contracts – or does not create the pre-requisites for beginning or continuing the work that he/she is required to create, in particular if he/she does not provide necessary documents, plans or other details. The burden of producing evidence that the necessary pre-requisites have been created and necessary documents, plans or other details have been provided, shall remain with our contractual partner.

6. Orders on call shall only be accepted with acceptance deadlines. If the acceptance deadline is not specified exactly, this shall expire 6 months after conclusion of contract.

If acceptance does not take place within the agreed period, we shall decide whether to immediately despatch completed consignments without further notification or to place these in storage for the purchaser's account. Furthermore, we are entitled to set our client a final deadline for acceptance in conjunction with the warning that we shall reject acceptance of the goods in the case of fruitless deadline expiry. Should the final deadline be fruitless upon expiry we are entitled to withdraw from the contract giving notice of termination of our delivery obligation or to demand compensation instead of the service. This, however, shall only apply with regard to the part of the contract that we have not yet fulfilled.

7. We are entitled to carry out partial deliveries and debit these separately.

Article 6 Default, Exclusion of the Obligation to Perform

Should we be in default with the delivery or if our obligation to perform is excluded according to Article 275 BGB (German Civil Code), we shall only be liable for compensation under the pre-requisites and to the extent of Article 11 sub-clause 4. The following additional directives shall apply:

1. Should we be in default with the delivery and if this only concerns a case of mild negligence on our part, the compensation claims by our customer shall be limited to lump-sum default compensation amounting to 1% of the consignment value for every full default week, however to a maximum of 8% of the consignment value, whereby we shall reserve the right to prove that no

damages whatsoever or only slight damages have been incurred as a result of the default in delivery.

2. If we are in default our client shall only have a claim to compensation instead of performance if he/she has set a reasonable final delivery deadline of at least 4 weeks prior to this, whereby he/she shall have the right to set a reasonable deadline of less than 4 weeks in so far as a minimum final deadline of delivery of 4 weeks is unreasonable for him/her in any individual case.

3. In principle, any right to withdraw from a contract and claim to compensation to which the client is entitled shall be limited to the unfulfilled part of the contract, unless it does not make good sense for the client to continue to be interested in the fulfilled part of the contract.

4. Any compensation claims filed against us on account of default or exclusion of the obligation to perform in compliance with Article 275 BGB (German Civil Code) shall become statute-barred after expiry of one year after the legal period of limitation begins to run.

5. The preceding regulations shall not apply if damages are concerned resulting from violation of life, body, health or freedom of our contractual partner or if the damages stem from an intentional or grossly negligent breach of duty for which we, one of our legal representatives or persons employed in performing an obligation for whom we are vicariously liable are responsible. Furthermore, they shall not apply in the case of default if a transaction at a fixed date has been arranged.

Article 7 Default in Acceptance on the Part of our Contractual Partner

1. Should our contractual partner be in default in whole or in part regarding the acceptance of our services and following the fruitless expiry of a reasonable final deadline that we have set in conjunction with the warning that we shall reject the acceptance of our service by the client in case the deadline expires, we are entitled to withdraw from the contract and demand compensation instead of the service, this however only with regard to the part of the contract that we have not yet fulfilled.

Our legal rights in the case of default in acceptance on the part of our client shall remain unaffected.

2. The client shall refund to us our storage costs, store rent and insurance costs for the goods that are due for acceptance but that have not yet been accepted. However, we are not under any obligation to insure goods in storage.

3. If the delivery of the goods is delayed in compliance with the client's wishes or if he/she is in default of acceptance, we may make storage charges amounting to 0.5% of the invoice amount for every month of storage or part thereof after expiry of one month after despatching notification of our readiness for delivery, whereby we shall reserve the right to assert a claim for any actual greater damages. Our client shall reserve the right to provide evidence that storage charges have not been incurred or not to the required minimum extent.

Article 8 Cancellation of Orders, Withdrawal of Goods, Termination, Compensation Instead of Service

Should we, in compliance with our client's wishes, express our willingness to agree to the cancellation of an order that has been placed, accept the return of goods we have delivered for reasons for which we are not responsible exempting the person ordering from his/her acceptance and payment obligation, should our client terminate a contract for services for a reason for which we are not responsible in accordance with Article 649 BGB (German Civil Code) or if we have a claim to compensation instead of the service, we may demand 20% of the contractual price share that corresponds to the affected part of the delivery item as compensation without providing proof, whereby our client reserves the right to provide evidence that no damage or only minor damage has been incurred. Our right to assert a claim for any actual greater damages shall remain unaffected.

Article 9 Structure of the Goods, Increased Performance and Deficient Output

1. Illustrations, drawings, dimensions and other structural details included in catalogues, price lists and other printed matter simply represent customary approximate values. Our samples and specimens are simply approximate illustrative items for quality, dimensions and other features. The details we provide regarding dimensions, features and intended purpose of our products only serve descriptive purposes and do not include any feature assurance.

2. In the case of a technical necessity, we reserve the right to supply the ordered goods with alterations to structure, dimensions and other features. We shall draw the attention of our clients to these alterations. In so far, our client shall not be entitled to any warranty claims if and in so far as the alterations do not bring about any considerable adverse effects on the usability of the products.

Article 10 Liability for Faults and Compensation for Damages

1. Claims by our client regarding item faults presuppose that he/she has duly fulfilled his/her obligations to examine and give notice of defects as prescribed in Articles 377 and 378 HGB (Commercial Code), whereby notice of defects must be given in writing.

Should the client fail to give notice of defects in an orderly and timely fashion, he/she can no longer assert claims regarding the circumstances to be notified, unless we have acted with intent to deceive.

2. The rights of our client with regard to item faults are governed by the legal regulations on the understanding that our client shall grant us a reasonable deadline of at least 4 weeks for subsequent fulfilment, whereby he/she shall reserve the right to grant us a reasonable final deadline of less than 4 weeks in any individual case, in so far as a minimum final deadline of 4 weeks for subsequent fulfilment is not reasonable for him/her.

Under no circumstances shall the deadline for subsequent fulfilment begin before the point in time when our client returned the faulty products to us, whereby we shall bear the costs for the return of shipment. Should only part of the goods we provided be faulty, the right of our contractual partner to demand cancellation of the contract or compensation for damages instead of performance shall be limited to the faulty part of the consignment, unless this limitation is impossible or unreasonable for our contractual partner.

Claims for damages by our contractual partner on account of consignment or performance faults shall be limited to the extent arising from the following sub-clause 3.

3. Our liability for damages arising from the violation of life, body, health or freedom of our contractual partner based on non-accidental breach of duty, shall neither be excluded nor limited.

We shall only be liable for other damages incurred by our contractual partner if they are based on an intentional or grossly negligent breach of duty on our part, by one of our legal representatives or by persons employed in performing an obligation for whom we are vicariously liable.

Should we only have caused the damage due to mild negligence, we shall only then be liable if this involves the violation of essential contractual obligations, namely limited to damage typical to the contract and that is reasonably foreseeable.

As for the rest, compensation claims for damage by our contractual partner on account of breach of duty, illicit action or other legal grounds shall be excluded.

The preceding limitations of liability shall not apply in cases of the absence of assured features, if and in so far as the assurance was intended to protect the partner from damages that were not caused to the supplied products themselves.

In so far as our liability is excluded or limited, this shall also apply to the personal liability of our salaried staff, employees, staff members and persons employed in performing an obligation for whom we are vicariously liable.

In any case the preceding exclusions of liability shall also apply to consequential damages.

However, the preceding exclusions of liability shall not apply to claims in accordance with the product liability law.

Article 11 Product Liability

Our contractual partner shall exempt us from all claims for compensation for damages asserted against us by third parties on account of the provisions regarding illicit actions, product liability or by virtue of any other provision regarding errors or faults on goods manufactured or supplied by us or our contractual partner respectively, in so far as such claims would also have been founded against our contractual partner or are simply no longer justified on account of the matter being statute-barred in the meantime. Under these circumstances our contractual partner shall also exempt us from the costs of the litigations brought against us on account of such claims.

In so far as the claims asserted against us are also founded or are only no longer founded on account of the matter being statute-barred in the meantime, we shall have a proportionate right of indemnity against our contractual partner, the extent and amount of which are governed by Article 254 BGB (German Civil Code).

Our rights of indemnity and claims to compensation for damages in accordance with Articles 437, 440, 478 BGB (German Civil Code) or arising from any other causes in law shall remain unaffected by the preceding provisions.

Article 12 Reservation of Title

1. Until all claims we have against our client, now or in the future, are fulfilled our client shall grant us the following securities that we shall release upon request according to our choice in so far as their nominal value lastingly exceeds our claims by more than 20%.

The supplied goods shall remain our property.

Should processing or transformation be carried out, this shall always take place for the manufacturer without the latter being placed under any obligation as a result of this. In the event that the delivered goods are processed with goods that do not belong to us, we shall acquire part ownership of the new item according to the ratio of the invoice value of the goods we delivered to the other goods used at the time of processing.

Should our goods be processed with other movable objects into a uniform item and if the other item is to be regarded as the main item, our client shall transfer proportionate part ownership to us in so far as this main item belongs to him/her.

Any necessary surrender on our part for the acquisition of the property or joint property shall now be replaced by the agreement reached here to the effect that, similar to a borrower, our client shall keep the item in safe custody for us or, in so far as he/she does not possess the item himself/herself, shall now reimburse us for the surrender by assignment of the claim for possession against the possessor.

Those items to which we have a property or joint property entitlement according to the preceding provisions are hereinafter referred to as reserved goods.

2. The client is entitled to dispose of the reserved goods in the orderly course of business as well as to combine the items with other items. The client shall now assign to us claims arising from the sale, connection or any other causes in law with regard to the reserved goods, in whole or in part at the ratio at which we are entitled to co-ownership of the sold or processed item. Following inclusion of such claims in current invoices this assignment shall also include all balance claims. The assignment shall have priority over all others.

We authorise the client to collect the assigned claims whilst reserving the power of revocation. The client shall immediately transfer the collected amounts to us in so far and as soon as our claims become due. The client shall record the collected amounts separately in so far as our claims are not yet due.

Our authority to collect the claim ourselves shall remain unaffected. However, we commit ourselves not to collect the claim as long as our client fulfils his/her payment obligations from the collected proceeds, is not in default of payment and in particular as long as an application for the commencement of insolvency or composition proceedings has not been made or payment stopped. However, should this be the case, our client is obligated to notify us of the assigned claims and the debtors, to pass over to us the associated documents and to provide us with all necessary details for collection as well as to notify the third-party debtors of the assignment. We are also entitled to notify the debtor of the assignment.

The rights of our client to reassign, process, mix or install the reserved goods and the authorisation to collect the assigned claim, even without our revocation, shall expire following cessation of payment, application for or commencement of insolvency proceedings and judicial or extrajudicial composition proceedings.

3. The client shall inform us immediately of the seizure by third parties of the reserved goods and the assigned claims. The client shall bear any costs involved for intervention or defence.

4. The client is obligated to handle the reserved goods with care and, in particular, to provide at his expense adequate insurance protection to cover the original value in cases of fire, water and theft.

5. Following behaviour by the client contrary to the contract – in particular default in payment – we are entitled to take back the reserved goods at the client's expense or to demand assignment of the client's claims for possession against third parties. The taking back and levy of execution upon the reserved goods on our part does not constitute withdrawal from the contract unless we have expressly declared this in writing.

6. Should the validity of our reservation of title be lost following deliveries abroad or for any other reasons or should we for any reason lose ownership of the reserved goods, the client shall be obligated to immediately provide us with security for the reserved goods or another form of security for our claims, this security being valid in accordance with the law applicable to the principal place of business of the person ordering and being as close as possible to the reservation of title according to German law.

Article 13 Ownership of Documents, Maintenance of Secrecy

1. Illustrations, drawings, calculations, samples and models shall remain our property. Our client commits himself/herself not to make these items accessible to third parties in any form without our express approval. Our client undertakes to pay us a contractual penalty amounting to € 5,000.00 in each individual case for every case of non-accidental infringement of the aforementioned obligations. Our right to demand compensation for actual damages over and above the contractual penalty shall remain unaffected.

2. The contractual partners reciprocally undertake to treat all non-evident commercial and technical details made known to them during the cooperation in the same manner as their own trade secrets and to maintain absolute secrecy regarding these (details) towards third parties. The contractual partners undertake to pay a contractual penalty amounting to € 5,000.00 in each individual case for every case of non-accidental infringement of the aforementioned obligations. The right to demand compensation for actual damages over and above the contractual penalty shall remain unaffected.

Article 14 Copyrights

1. If the goods are to be manufactured according to drawings, samples or other details provided by the contractual partner, the contractual partner shall take the responsibility for ensuring that any rights of third parties, in particular patents, utility patents, other copyrights and proprietary rights are not infringed. The person ordering shall indemnify us against claims by third parties arising from the infringement of any such rights. Furthermore, our contractual partner shall take on all costs that we incur due to third parties asserting claims on account of the infringement of such rights and against which we defend ourselves.

2. Should results, solutions or techniques arise in the course of our development work that are patentable in any form, we shall be the sole holder of the ownership, proprietary rights and rights of use and employment and we shall reserve the right to personally effect the appropriate copyright filing applications in our name.

Article 15 Assignment

The client is only entitled to assign claims of any kind directed against us if he/she has our written consent.

Article 16 Place of Performance, Jurisdictional Venue, Applicable Law

1. Velbert shall be the place of performance and exclusive jurisdictional venue for deliveries, services and payments, including summary actions based on a cheque and (dishonoured) bill of exchange, as well as all disputes arising between the parties. We shall, however, have the right to also bring action against our clients at another competent jurisdictional venue in accordance with Articles 12 ff. ZPO (Code of Civil Procedure).

2. The relations between the contractual parties are regulated exclusively in accordance with the law valid in the Federal Republic of Germany excluding the international right of purchase, in particular the UN right of purchase and other international agreements on the standardisation of the right of purchase.