

# GENERAL TERMS AND CONDITIONS OF BUSINESS

## Applicability of the terms and conditions

1. Our supplies and services shall be executed solely on the basis of these terms and conditions. Any terms and conditions of the partner at variance from these terms and conditions which we have not explicitly acknowledged shall not be valid.

## Quotation and contracting

2. Our quotations are subject to confirmation and non-binding. Purchase orders/listings shall only become binding when confirmed in writing by us. The same shall apply to any additions, amendments or side agreements.

3. The information, drawings, illustrations and specifications contained in catalogs, price lists or documentation accompanying quotations are industry-standard approximations, unless they are explicitly designated as binding in the order confirmation.

## Pricing

4. Unless otherwise specified, we shall keep to the prices listed in our quotations for a period of 30 days from the date of the quotation.

The decisive prices shall be those listed in the order confirmation, in euros, plus the statutory sales tax (VAT). Any supplies and services beyond that scope shall be charged separately.

5. The prices quoted are ex factory.

6. If labor, material or energy costs change materially, either party shall be entitled to claim an appropriate adjustment of the price taking into account the said factors.

## Delivery

7. The delivery lead time shall be agreed as only approximate. Even if a specific calendar delivery lead time has been agreed, this shall not yet represent a transaction for delivery by a fixed date under the terms of section 376, subsection 1 of the German Commercial Code (HGB). This additionally requires the agreement of the parties that – in the case of seasonal goods or promotional campaigns for example – the contract will be terminated by cancellation without further notice if the delivery deadline is not met, and – where we are at fault – a claim for compensation because of non-performance can be made. Furthermore, delivery dates or lead times which can be agreed as binding or non-binding shall be stipulated in writing.

8. We shall not be liable for delays in delivery or service performance as a result of force majeure or of events which materially impede delivery or make it impossible for us to deliver – including in particular labor disputes, civil unrest, government action, failure to deliver on the part of our suppliers, etc – even where binding lead times and deadlines have been agreed. They shall entitle us to postpone the delivery or service execution as appropriate by the duration of the impairment, plus an appropriate startup lead time, or to withdraw from the contract in whole or in part in relation to the as yet fulfilled portion, without the counterparty being entitled to derive claims for compensation therefrom.

If the aforesaid impairments are suffered by the counterparty, the same legal consequences shall also apply with regard to its acceptance obligations.

9. The parties shall be obligated to notify the respective counterparty of the start and ending of any such impairments of the aforesaid kind without delay.

10. Partial delivery and service execution shall be permissible, where standard commercial practice, and shall be charged separately. They shall exceptionally be impermissible if the counterparty has no interest in partial fulfillment of the contract.

11. If subsequent amendments to the contract by the counterparty influence the delivery lead time, the lead time may be extended by an appropriate period.

12. The risk shall be transferred to the customer at the latest on delivery of the ordered items, even where partial deliveries are made or the supplier has agreed to take on additional costs, such as the shipping costs or the costs of transportation and installation.

## Retention of title

13. We reserve the right of title to the delivered goods until all claims arising from the business relationship with the counterparty have been settled.

14. The counterparty shall be entitled to sell on the goods in the course of its normal business, provided it promptly fulfills its obligations arising from its business relationship with us. It must not, however, pledge the goods subject to retention or reassign them by way of security. It shall be obligated to secure our rights when reselling the goods subject to retention on a credit basis.

15. If the counterparty delays making payment, we shall be entitled – after setting an appropriate period of grace – to claim return of the goods subject to retention, even without withdrawing from the contract, at the expense of the counterparty.

16. The counterparty hereby assigns to us by way of security all claims and rights arising from the sale of goods to which we hold right of title. We hereby accept the assignment.

17. The counterparty shall notify us without delay of any foreclosure executed by third parties in relation to the goods subject to retention, the claims assigned to us or other securities, submitting to us the documentation necessary for intervention. This shall also apply to impairments of any other kind.

18. We shall release the securities assignable to us pursuant to the aforesaid provisions at the request of the counterparty insofar as the realizable value of the delivered goods subject to retention exceeds the secured claims by more than 20 percent.

## Material defects

19. We shall be liable for the defect-free manufacture of the goods we supply.

20. We shall not be held liable for material defects resulting from inappropriate or improper use, faulty assembly/installation or commissioning by the counterparty or third parties, normal wear and tear, incorrect or negligent handling, nor for the consequences of improper modifications or modifications made without our consent or commissioning procedures carried out by the counterparty or third parties. The same shall apply in relation to defects which reduce the value or usability of the goods to only an insignificant extent.

21. Unless otherwise agreed, the time limitation on claims in respect of material defects shall be based on the law.

22. The counterparty shall advise in writing of obvious defects immediately on receipt of the goods at their destination, and of hidden defects immediately on discovering the defect.

23. Provided a claim is justified and submitted within the allowable period, we shall – at our discretion – repair the goods reported as defective or deliver defect-free replacement.

24. If we fail to meet these obligations, or fail to do so in accordance with the contract within an appropriate period of time, the counterparty may set us a final deadline in writing by which we must meet our obligations. On passing of the said deadline without success, the counterparty may claim a reduction in the price, withdraw from the contract, or carry out the necessary repair itself, or arrange for it to be carried out by a third party, at our expense and risk. When the repair has been completed successfully by the counterparty or a third party, all claims of the counterparty shall be settled by reimbursement of the appropriate costs which it has incurred. Reimbursement of costs shall be excluded where the cost is increased because the goods were transferred to a different location subsequent to our delivery, unless the said transfer was in keeping with the intended use of the goods.

24a. We shall supply replacement parts for goods, at the respectively applicable prices, for a period of five years from delivery of the said goods.

## Payment terms

25. Unless otherwise agreed, after delivery of the goods all invoices shall become due for payment without deduction within 30 days of the invoice date. If payment is made within 10 days of the invoice date, a 2 % discount shall be allowed, provided the counterparty has not delayed payment of other outstanding claims.

26. Where we have indisputably delivered partially defective goods, the counterparty shall nevertheless be obligated to pay for the defect-free portion of the delivery, unless the counterparty has no interest in partial delivery. Furthermore, the counterparty may only set off claims against legally enforceable or undisputed counterclaims.

27. If payment deadlines are missed, we shall be entitled to charge late-payment interest at the rate at which our bank charges us for current account overdraft facilities, though at least at a rate of 5 percentage points above the prevailing base interest rate.

28. In the event of delayed payment, we may – following written notification to the counterparty – cease fulfillment of our contractual obligations until receipt of payment.

29. Bills of exchange and checks shall only be accepted by agreement, and only by way of fulfillment and subject to the proviso that they are discountable. Discount fees shall be charged from the day the invoiced amount is due. No assurance is given as to the correct presentation of the bill or with regard to the allowance of bill protest.

30. If the counterparty utilizes a central settlement organization, invoices shall only be considered settled when payment is credited to our account.

31. If it becomes apparent after signing of the contract that our claim is at risk as a result of the counterparty's inability to pay, we may refuse to execute the supplies or services in question and set the counterparty an appropriate period of time within which it must make payment on each delivery or must provide security. If the counterparty refuses such an arrangement, or if the said period elapses without payment being made, we may withdraw from the contract and claim compensation for non-performance.

## Selling aids

32. Selling and presentational aids provided to the counterparty free of charge shall remain our property, and may be claimed back at any time. While the counterparty is using the said selling and presentational aids, all associated risk shall be transferred to the counterparty. The counterparty undertakes to use the selling and presentational aids only in conjunction with our goods, and to replace them if they are lost or damaged by its fault.

## Other claims

33. Unless otherwise stipulated below, any other and further-reaching claims of the counterparty against us shall be excluded. This shall apply in particular with regard to claims for compensation arising from delay, from impossibility of performance, from culpable violation of collateral contractual obligations, from culpability on signing the contract, and from unlawful acts. We shall therefore not be held liable for any loss or damage not caused by the delivered goods themselves. We shall especially not be held liable for loss of profit or any other impairment of the counterparty's assets.

34. The above limitations of liability shall not apply where we have caused the loss by intent or as a result of gross negligence, or if we infringe against essential contract obligations. Where we have infringed against an essential contract obligation, we shall be liable only for the reasonably foreseeable loss typical of such contracts.

35. The limitation of liability shall further not apply where liability for personal injury or damage to privately used property is stipulated by German product liability law in the event of defects in the delivered goods. It shall further not apply in the case of injury to life, limb or health in the event of lack of warranted characteristics, if – and to the extent that – the purpose of said warranty was to safeguard the counterparty against loss not caused by the delivered goods themselves.

36. Regress claims of the counterparty against us shall exist only insofar as the counterparty has not entered into an agreement with its customer which extends beyond the statutory claims in respect of defects. The scope of the regress claims shall further be subject to section 24, last sentence.

37. To the extent that our liability is excluded or limited, this shall also apply to the personal liability of our legal representatives and agents in performance.

## Confidentiality

38. Unless explicitly agreed otherwise in writing, the information underlying this contractual relationship shall not be classed as confidential.

## Applicable law, jurisdiction, partial invalidity, and transferability of contract rights

39. The law of the Federal Republic of Germany shall apply to these terms and conditions and to all legally based relations between the contracting parties. Application of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (also known as the CISG, or Vienna Convention) shall be excluded.

40. Where the counterparty is a merchant, a legal entity under public law or a special fund under public law, jurisdiction in respect of all legal disputes – including in relation to bills of exchange and/or check processing – shall lie with the courts at our registered place of business. We shall also be entitled to file suit at the counterparty's registered place of business.

41. If any provision of these terms and conditions – or of any other agreements made – proves to be, or becomes, ineffective, the effectiveness of the contract shall not otherwise be affected. In such a case, the contracting parties shall be obligated to replace the ineffective provision with one which comes as close as possible to it in terms of its commercial intent.

42. The parties' respective contract rights may only be transferred by mutual consent.