

# General Conditions of Sale

## § 1 General - Area of Validity

Our conditions of sale shall exclusively apply; no terms of the customer that are contrary to or differ from our conditions of sale shall apply unless expressly agreed by us in writing. Our conditions of sale shall apply even if we unconditionally execute delivery to the customer although we were aware of contrary or differing conditions on the part of the customer.

All agreements made between us and the customer for the purpose of executing this contract shall be set out in writing in this contract.

Our conditions of sale shall apply only to entrepreneurs as per § 310 paragraph 1 of the German Civil Code (BGB).

## § 2 Quotations - Tender Documents

Our quotations are non-binding unless otherwise stated in our confirmation of order.

We retain ownership rights and copyrights to any images, drafts, calculations or other documents. This also applies to any written documents marked as “confidential”. The customer shall not make such documents available to third parties without our express written permission.

## § 3 Prices - Terms of Payment

Unless otherwise stated in our confirmation of order, our prices shall apply ex-works, excluding packaging, which will be charged separately.

The deduction of a cash discount requires special written agreement.

The customer shall not be entitled to off set any opposing claims unless such opposing claims are either declared to be meritorious by a final and unimpeachable judicial decision, or uncontested, or acknowledged as meritorious by us. The customer shall have the right to retain payments as long as the opposing claim is based on the same contractual relationship.

## § 4 Delivery Periods

The beginning of the delivery period given by us is dependent on the clarification of all technical issues.

Adherence to our delivery obligations furthermore requires the timely and proper adherence of the customer to any obligations upon him/her. The right to enter a plea of non-performance shall be retained.

Should the customer be in default of acceptance, or violate an obligation to cooperate, we shall be entitled to demand restitution of any resulting damages sustained by us, including any additional expenses. The right to further claims shall be reserved.

If the conditions stipulated in paragraph 3 apply, the risk of incidental loss or incidental deterioration of the object of purchase shall be transferred to the customer at that point in time at which the customer enters into default of acceptance or default of payment.

If a fixed date of delivery has been agreed upon in a sales contract (Fixgeschäft) in accordance with § 286 par. 2 No. 4 of the German Civil Code (BGB) or § 376 of the German Commercial Code (HGB), we are then bound by the delivery period as stated in the contract. We shall furthermore be liable, as prescribed by law, if a delay in a delivery period is attributable to us, which results in a viable claim for compensation by the customer, or the cancellation of the said contract by the customer.

We shall also be liable, as prescribed by law, if the delay in delivery is due to an intentional or grossly negligent breach of contract on our part; the same shall apply to any breach of contract through our representatives or agents. Should the delay in delivery not be due to an intentional breach of contract attributable to us, our liability shall be limited to the typically foreseeable damages.

We shall also be liable, as prescribed by law, for any delay in delivery due to a culpable breach of a significant contractual obligation, however in this case our liability for claims shall be limited to typical, foreseeable damages.

We shall furthermore be liable for default of delivery, at a flat default compensation rate of 0.5% of the delivery value for each full week of default, up to a maximum of no more than 5% of the delivery value.

Further entitlements and rights of the customer remain reserved.

## **§ 5 Liability for Defects**

Claims for defective products can only be made by the customer if the customer has fulfilled his/her obligation to inspect the delivery and notify us of any defects as per § 377 HGB.

In the case of a defective product we reserve the right of rectification by either removing or repairing the defect, or by delivering a replacement product. In the case of removal of the defect, we shall only be liable for costs incurred up to the purchase price of the original product. We shall not be liable for expenses incurred through removal of the product from the place of performance to another location.

Should our defect rectification fail, the customer shall have the right to withdraw from the contract or to reduce the purchase price.

We shall be liable, as prescribed by law, for any damage claims made by the customer for acts of misconduct or gross negligence attributable to us, our representatives or agents. Where no intended breach of contract is attributed to us, our liability shall be limited to the typical, foreseeable damages.

We shall be liable, as prescribed by law, for a culpable breach of a significant contractual obligation, however in this case our liability for claims shall be limited to typical, foreseeable damages.

None of the above limitations of liability shall apply to any claims in connection with any injury to life, limb, or health, nor to claims based on the "Produkthaftungsgesetz" (German Product Liability Act).

Any liability claims other than those given above shall be excluded.

The statutory limitation period for claims for defects shall be 12 months, beginning with the transfer of risk.

The statutory limitation period in the case of delivery recourse as per §§ 478, 479 BGB shall remain unaffected; it amounts to five years, beginning with the delivery of the defective object.

## **§ 6 General Liability**

Any liability other than for claims stated under §5 shall be excluded, without regard to the legal nature of the claim. This applies in particular to claims for liability arising at the time of entering into the contract, or other breaches of duty, or due to claims for offences under § 823 of the German Civil Code (BGB).

The limitation of liability as stipulated in paragraph 1 shall also apply in the case of a customer compensation demands for unfounded expenses in place of a claim for damages.

The provision of exclusions or limitations of our liability stipulated herein also apply with regards to the personal liability of our employees, our staff, our representatives and agents.

## **§ 7 Retention of Title**

The object of purchase shall remain our property until all payments arising from the sales contract have been settled. In the case of a culpable breach of contract by the customer, in particular if payment is defaulted, we reserve the right to recover the object of purchase. Recovery of the object of purchase by us constitutes a cancellation of the contract. After recovery of the object of purchase we reserve the right to resell or dispose of it as we wish; any subsequent revenue from this disposal - minus any applicable costs - shall be credited to the account of the customer.

The customer shall handle the object of purchase with due care; in particular, the customer shall insure the object of purchase for its replacement value against fire, water and theft. Any necessary periodic maintenance or inspections shall be performed by the customer in due time at his/her expense.

In the event of impoundment, seizure or other third party interventions, the customer must inform us in writing without delay so that we may file suit according to § 771 of the German Code of Civil Procedure (ZPO).

The customer is entitled to resell the object of purchase in the normal course of business; however, the customer must settle with us all claims to the amount of the respective invoice total (including sales tax) accruing to it from any such resale against his/her customers or against third parties, regardless of whether the object of purchase was sold prior or subsequent to being processed. Even subsequent to their assignment, the customer remains authorized to collect such claims. Our right to collect such claims ourselves shall remain unaffected. However, we agree not to collect such claims while the customer duly meets his/her payment obligations to us, does not default any payment, or particularly does not file for composition or insolvency or suspend payments. Should this however be the case, we reserve the right to demand that the customer make the assigned claims and their debtors known to us, inform us of all the details required for

collection of the respective claims, surrender the pertaining documents and discloses this assignment to the respective debtor (third party).

Any processing or transforming of the object of purchase by the customer shall always be deemed to be performed on our behalf. Should the object of purchase be processed jointly with other items not owned by us, then we shall acquire a joint ownership interest in any newly created item equivalent to the value of the respective object of purchase (invoice total, including sales tax) in proportion to the value of those other jointly processed items at the time of such processing. Furthermore, any item created through such processing shall be governed by the same provisions applicable to the object of purchase, the title to which has been retained.

Should the object of purchase be inseparably attached or merged with other items not owned by us, then we shall acquire a joint ownership interest in any newly created item equivalent to the value of the object of purchase (invoice total, including sales tax) in proportion to the value of those other attached or merged items at the time of such attachment or merging. Should such an attachment or merging be performed in such a way that the customer's item is to be treated as the principal item, then it shall be deemed agreed upon that the customer transfers joint ownership interest in that item to us on a proportionate basis. The customer shall keep custody on our behalf of any item thus created relating to which we hold ownership interest or joint ownership interest.

The customer shall also assign to us any claims to secure our claims against him/her which accrue against any third party through the merging of the object of purchase with a piece of real estate.

At the customer's request, we agree to release any respective collateral we are entitled to, to the extent that the value of such collateral exceeds the yet outstanding claims to be secured by more than 10%; we reserve the right of choice of collateral to be released.

## **§ 8 Place of Jurisdiction - Place of Fulfilment**

If the customer is a merchant, the place of jurisdiction shall be the court responsible for our principal office; we are however also authorized to take legal action at the location of the customer's principal office.

The applicable law shall be German law; the application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

Unless otherwise stated in the confirmation of order, our principal office shall be the place of fulfilment.