

## **Standard Business Terms**

### **1. General terms**

These supply and payment terms constitute an integral part of all contracts with our customers. Any of our customer's purchasing terms to the contrary are void even if we fail to contradict them explicitly. Where the customer uses standard business terms to the contrary, the latter are hereby contradicted.

### **2. Conclusion of the contract**

Our bids are always without obligation and subject to change unless otherwise agreed. All contracts only come about upon receipt of written order confirmation, at the latest when delivery is made. We reserve the right to deviate from illustrations and descriptions as well as to correct mistakes and misprints.

### **3. Prices**

Prices indicated are net prices unless they are explicitly identified as gross prices. They are understood to be unfree and exclusive of freight. We are entitled to raise prices by up to 5% even after conclusion of the contract if the basis of our calculation changes accordingly due to price increases with our suppliers, freight forwarders, customs fees, taxes, foreign exchange fluctuations or other costs. Where the basis of our calculations changes by more than 5% to our disadvantage subsequent to conclusion of the contract we are entitled to cancel the latter. The same also applies if the order cannot be executed by our own suppliers or cannot be executed on time or if the goods delivered or produced by the subsupplier are flawed. In that case we will promptly inform the customer of the obstacle to delivery and reimburse any down payments eventually made.

### **4. Delivery**

The delivery deadlines we give are always free of obligation and dependent upon the subsupplier's delivery situation. If the originally designated delivery deadline is exceeded by more than eight weeks then the buyer is entitled to set a second deadline for us; if we fail to execute delivery by the second deadline then the buyer is entitled to cancel the contract.

Deliveries with flaws or partial deliveries from successive contracts (contracts for multiple delivery of goods) do not entitle the customer to cancel the successive order. In such cases damage compensation claims are precluded for both parties.

The risk of accidental loss and accidental deterioration of the goods passes to the customer at the moment of the goods' submission to shipping in the country of manufacture (sea transport, submission to the shipping company). The seller hereby assigns any eventual damage compensation claims on the company commissioned with shipping of the goods or on the shipping insurer to the customer. Any eventual shipping damage must be reported to us promptly, at the latest within three days, in order to maintain such assigned claims. We will in such cases promptly identify the shipping company or the insurer to the customer.

Unless otherwise agreed, we determine the nature of packing. Generally we do not deliver on pallets, and unloading of the container must be done by the customer.

### **5. Payment**

The contract amount is due payable on the date of delivery to the customer. If the customer fails to pay within a deadline of ten days of delivery on the seller's account then we are entitled to charge overdue payment interest in the amount of 12% above the applicable discount rate of the European Central Bank.

The invoice amount is to be transferred without deduction for costs, and cheques will only be accepted as conditional payment. Bills (drafts) are not accepted as means of payment.

### **6. Returns**

Returns of flawless shipments are not accepted by us for credit unless the return occurs with our prior agreement. In case of agreed returns of flawless deliveries we will charge 20% of the net value of the goods as cost contribution to our processing of the return. Return must be made free of charge and in perfect condition. Special orders are always precluded from the possibility of being returned. Changes in orders and cancellations must always be in writing.

### **7. Complaints about flaws**

a) Recognisable flaws must be promptly complained of upon delivery, hidden flaws must be promptly complained of upon being discovered, in both cases in writing and with precise indication of the grounds for complaint. The assertion of any flaw whatsoever is precluded at the end of ten days from receipt of the goods (preclusive time limit). For justified and timely complaints the customer's warranty claims are limited to a claim to subsequent improvement. Only if subsequent improvement fails is the customer entitled to reduce payment or, at its option, to cancel the contract.

b) Damage compensation claims of whatever kind, including any for purportedly late delivery, are precluded unless the damage has been caused by malicious intent or through gross negligence.

### **8. Retained ownership title**

a) All deliveries are made exclusively with retained ownership title. Up until payment of all seller receivables stemming from the business relationship with the customer (including the clearing of any cheques submitted) title to the delivered goods remains with the seller; with ongoing invoicing the retained title is held to be collateral on our claim to the balance.

b) The buyer's acquisition of title to the retained-title goods pursuant to Sec 950 Civil Code in case of processing of the retained-title goods into a new object is precluded. Any eventual processing by the buyer does not change ownership title. In case of processing by the customer of other goods not belonging to us, we are entitled to co-ownership of the new object in the ratio of the value of the retained-title goods in relation to the other goods processed at the time of processing. The same is applicable to the new object created from processing as to the retained-title goods; the latter are also to be considered retained-title goods within the meaning of these Terms.

c) The buyer is entitled to onward sale of the retained-title goods if and to the extent that such sale occurs in regular commercial intercourse. The seller is at all times entitled to prohibit onward sale in which case the buyer is obligated to surrender the goods to the seller unless it pays the contract amount or the balance amount to the seller.

d) The buyer's receivable claims from onward sale of the retained title goods are hereby assigned to us and, more precisely, regardless of whether the retained-title goods have been processed or not and regardless of whether they were sold onward to one or more users. In the event that the retained-title goods are sold by the buyer together with other goods not belonging to us, regardless of whether processed or not, the receivable claim is deemed to be assigned to us in the ratio of the value of our ownership or co-ownership title to the retained-title goods to the remaining goods or ownership titles of others to the newly created objects obtaining at the time of sale. The buyer is authorised to collect on the claims from onward sale despite such assignment. Our entitlement to collect remains unaffected by the buyer's authorisation to collect. However, we will refrain from collecting on the claim as long as the buyer complies properly with its payment obligations. Upon our request the buyer must identify the party liable to pay for the assigned claims and to inform said party of such assignment to us.

e) The retained ownership title is conditional in the sense that upon full payment of all of our receivable claims stemming from the business relationship title to the retained-title goods passes to the buyer without further formalities and the buyer is then entitled to the receivable claims assigned.

f) If the value of the security deposited with us exceeds our receivable claims by more than 20% then we are, upon request by the buyer, obligated to repay the same.

g) Should the buyer be in arrears with payments then we are entitled to demand return of the retained-title goods. Such a demand is not deemed to be cancellation of the contract. In the case of late payment we are moreover entitled to demand return of other retained-title goods stemming from other contracts provided that the retained-title goods for which the buyer is in arrears are no longer in the latter's possession. Any such demand will likewise remain without impact on the processing of existing contracts.

### **9. Product liability**

In relation to the customer any product liability claims stemming from import of goods into the jurisdictional range of the European Community is precluded. The seller nonetheless hereby assigns any of its eventual product liability or damage compensation claims on the subsupplier.

The customer must obligate itself to exempt the seller from any eventual product liability claims if the customer should seek to assert such claims directly in relation to the seller.

### **10. Infringement of intellectual property rights**

The customer is exclusively responsible for ensuring that the goods sold to it are unencumbered by any third-party intellectual property rights. It is therefore the customer's responsibility to convince itself that the goods sold to it do not infringe any trademark rights, patents or utility designs or violate any competition law regulations.

Where third parties assert damage compensation claims on the seller due to infringement of such intellectual property rights then the customer must obligate itself to exempt the seller from such claims.

### **11. Miscellaneous terms**

a) The Parties hereby agree, for the validity of this contract and its execution, the exclusive jurisdiction of the laws of the Federal Republic of Germany.

b) Venue of performance and the proper forum for jurisdiction of all disputes under this contract is the city of Paderborn.

c) Should a portion of the contractual agreement reached with the customer including these Terms be or become void, then the validity of the remaining agreements will not be affected thereby. The void portion of the agreement is to be reinterpreted in such a way or replaced with such a provision that its purpose is achieved in an admissible way.