

### § 1 Offer and Conclusion of the Agreement

Our offers shall be non-binding and vary depending on various factors, insofar as they have not been expressly designated to the contrary. We may accept orders or mandates from the Customer within fourteen days after their receipt – expressly or through conclusive action.

### § 2 Offsetting and Right of Withdrawal in Case of Insolvency

1. The offsetting with counterclaims by the Customer or the retention of payments owing to such claims shall be permissible only insofar as the counterclaims are undisputed or have been legally upheld; in addition, in order to exercise a right of retention, the counterclaim must be based upon the same contractual relationship.

2. If, after the conclusion of the Agreement (e.g. owing to the filing of a petition for the opening of bankruptcy proceedings), it becomes recognisable that our payment claim has been put at risk as the result of the Customer's lack of solvency, then we shall be entitled, in accordance with the statutory provisions regarding the refusal to render contractual performance and – where applicable, after the setting of a notice period – to rescind the Agreement. In the case of Agreements regarding the manufacture of customised products (made-to-order production), we can immediately declare our rescission; the statutory provisions regarding the dispensability of the notice period requirement shall remain unaffected.

### § 3 Delivery, Delivery and Service Timeframe, Service Scope, Customer's Cooperation Obligations

1. Deadlines and timeframes for delivery and/or services shall be individually agreed and/or prescribed by us when accepting the order. Should this not be the case, the delivery timeframe shall be approx. 6 weeks after the conclusion of the Agreement. In any case, the beginning of the timeframe shall require the clarification of all technical issues by the Customer, the prompt receipt of all documents, permits and approvals to be provided by the Customer as well as the fulfilment of the agreed payment terms and conditions and other obligations by the Customer. In the case of an agreed sales shipment the point in time when the goods are handed over to the shipper, carrier or other third party commissioned with the transport is to be referred to within the deadline.

2. We shall be entitled to render partial deliveries and partial services if

- a) the partial delivery and/or partial service is usable for the Customer in accordance with the contractually designated purpose,
- b) the delivery of the remaining goods that have been ordered and/or the remaining service has been ensured and
- c) the Customer shall incur no substantial additional expenditures or additional costs (unless we declare that we are willing to assume these costs).

3. The occurrence of delivery and/or performance default shall be determined in accordance with the law. However, in any case, a warning letter issued by the Customer shall be required. If we enter into default with the rendering of a delivery or a service or it becomes impossible for us to render a delivery or a service – regardless of the reason – then our liability shall be limited to damage compensation in accordance with § 5 of these GTC.

4. We shall be entitled to issue subcontracting orders.

### § 4 Place of Performance, Transfer of Risk, Acceptance Default

1. Deliveries shall be made ex works. The place of performance for all obligations arising from the contractual relationship shall be our commercial residence unless something else has been stipulated.

2. The risk shall be transferred to the Customer by no later than the handover of the delivery goods to the Customer; in the case of a sales shipment, upon the handover of the goods to the shipper, carrier or other third party who has been designated to implement the shipment; in this regard, the point in time when the loading process is begun shall be decisive. This shall also then be valid if partial deliveries are made or we are responsible for rendering other services (e.g. shipping or installation). In the case of a delay in shipping or handover for which the Customer is responsible, the risk shall be transferred at the point in time when the goods are ready for shipping and we have notified the Customer of this.

3. If the Customer enters into acceptance and/or delivery acceptance default or the delivery is delayed owing to reasons for which the Customer is responsible, then we shall be entitled to demand the reimbursement of the warehousing costs incurred in the amount of 0.25 % of the invoiced amount of the delivery objects to be stored per lapsed week. Both parties reserve the right to assert and document higher or lower warehousing costs as well as more extensive legal claims.

### § 5 Warranty, Liability

1. If the purchased goods or the service rendered are defective, the Customer shall be entitled – at our discretion – to render subsequent performance by eliminating the defect or supply a new, flawless item. We shall be entitled to make the subsequent performance owed contingent on the proviso that the Customer has paid the fee owed. However, the Customer shall be entitled to withhold an appropriate portion of the fee based upon the proportional value of the defect. In the case of the rectification of the defect or the replacement delivery, we shall be obliged to assume all expenditures required for the purpose of subsequent performance – particularly transport, travel, labour and materials costs – insofar as they do not increase because the goods have been relocated to another location than the place of performance provided that a defect actually exists. Otherwise, we may demand compensation from the Customer for the costs (particularly inspection and transport costs) which we incur as the result of the unjustified demand to rectify defects unless the absence of defects was not recognisable to the Customer. The subsequent performance comprises neither the disassembly of the defective good nor the reinstallation, unless it is originally to be supplied by us according to the contract.

2. If the subsequent performance is unsuccessful and/or in the case of an appropriate subsequent performance notice period that is dispensable or has lapsed, the Customer's right to rescind the Agreement or demand a purchase price reduction shall remain unaffected.

3. We shall be liable in accordance with the statutory provisions insofar as the Customer asserts damage compensation claims which are based upon intent or gross negligence – including the intent or gross negligence of our representatives or vicarious agents. In the case of simple negligence, we shall be liable only

- a) for damages arising from physical injury, loss of life or damage to health,
- b) for damages arising from major violations of essential contractual obligations (i.e. obligations the fulfilment of which only then makes possible the proper fulfilment of the Agreement at all and upon the fulfilment of which the Customer regularly relies and may rely) whereby our liability shall be limited to the payment of compensation for foreseeable, typically occurring damages.

4. The aforementioned liability limitations shall not be valid if we have maliciously concealed a defect or provided a warranty for the quality of the goods as well as for the buyer's claims arising from the German Product Liability Act. Owing to a contractual violation which does not include a defect, the buyer may only withdraw from the Agreement or terminate it if we are responsible for the violation of duty. A free right of termination upon the Customer's part (particularly in accordance with §§ 650, 648 German Civil Code) shall be excluded. Otherwise, the statutory requirements and legal consequences shall be valid.

5. The aforementioned provisions shall also be valid if the Customer asserts a claim for the reimbursement of futile expenditures in lieu of damage compensation.

6. Insofar as our liability to pay damage compensation is excluded or limited, this shall also be valid with regards to the personal liability to pay damage compensation upon the part of our salaried personnel, contractors, workers, representatives and vicarious agents.

### § 6 Retention of Title/Expanded Lien

1. The retention of title agreed in the following shall serve to secure all of our respectively valid current and future payment claims against the Customer arising from the supply relationship existing between the contractual partners.

2. The goods supplied by us to the Customer shall remain our property until payment in full has been made for all secured payment claims. The goods as well as any goods replacing them in accordance with the following provisions and subject to the retention of title shall hereafter be referred to as "goods subject to retention of title".

3. The Customer shall safeguard the goods subject to retention of title for us upon a free-of-charge basis. He shall be obliged to handle the goods with due care and sufficiently insure them at his own expense against damages from fire, water and theft. The Customer must implement any required maintenance, cleaning and inspection work promptly and at his own expense.

4. If the goods subject to retention of title are processed by the Customer, then the processing shall be done on our behalf and for our account as the manufacturer and we shall directly acquire ownership or – if the processing of materials from multiple owners is done or the value of the processed goods is higher than the value of the goods subject to retention of title –

the co-ownership (fractional ownership) to the newly created goods shall be based upon the proportional value of the value of the goods subject to retention of title to the value of the newly created goods. In the case that we should acquire no ownership rights in this regard, the Customer shall already now assign his future ownership or – based upon the aforementioned proportional value – co-ownership to the newly created goods for security purposes to us.

5. If the goods subject to retention of title are inseparably mixed with other objects not belonging to us or they are combined to form a uniform object, then we shall acquire co-ownership to the new goods based upon the proportional value in accordance with Para. 4 Clause 1. If the combining and/ or the mixing is done in such a manner that the Customer's goods must be regarded as being the main goods, then it shall be agreed that the Customer shall assign to us proportional co-ownership. The Customer shall safeguard the sole ownership or co-ownership that has been created in this manner.

6. In the case of the resale of the goods subject to retention of title, the Customer shall herewith assign the resulting claim that has been created against the buyer to us for security purposes. In the case of our co-ownership of the goods subject to retention of title, the assignment shall be made upon a proportional basis based upon the co-ownership stake. The same shall be valid for any other payment claims which replace the goods subject to retention of title or are otherwise created with regards to the goods subject to retention of title, e.g. any insurance claims or claims arising from a tortious act in the case of loss or destruction. The Customer shall be revocably authorised to collect the assigned payment claim; however, our authorisation to collect the payment claim on our own shall remain unaffected. Nonetheless, we shall be obliged to refrain from so doing as long as the Customer fulfils his payment obligations from the collected proceeds, does not enter into payment default and particularly no petition has been filed for the opening of debt composition or bankruptcy proceedings or payments have been discontinued. If this is the case, we may demand that the Customer disclose to us the assigned payment claims and their debtors, provide all information required for their collection, issue the relevant documents to us in this regard and notify the debtors (third parties) of the assignment.

7. If third parties assert claims to the goods subject to retention of title – particularly by means of a seizure, the Customer shall promptly notify the respective third party of our ownership and also inform us in this regard in order to enable us to assert our ownership rights – particularly to file a lawsuit in accordance with § 771 German Code of Civil Procedure. Insofar as the third party is not able to reimburse us for the court or out-of-court costs incurred in this regard, the Customer shall be liable to us for this.

8. If, in the case that the Customer commits a contractual violation – particularly payment default, we withdraw from the Agreement (enforcement event), we shall be entitled to demand the return of the goods subject to retention of title as well as to revoke the collection authorisation in accordance with Para. 6.

## § 7 Final Provisions

1. If the Customer is an entrepreneur, a juridical person under public law or a special foundation under public law or he has no general legal venue in the Federal Republic of Germany, then the legal venue – including internationally – for all disputes arising from the contractual relationship shall, as we so choose, either be our commercial residence, i.e. 88436 Oberessendorf, or the Customer's commercial residence. However, for lawsuits against us, in these cases, our commercial residence shall nonetheless be the exclusive legal venue. Any mandatory statutory provisions regarding exclusive legal venues shall remain unaffected by this provision.

2. The relationships between the contractual parties shall be subject exclusively to the law of the Federal Republic of Germany subject to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

3. Insofar as the Agreement or these General Contractual Terms and Conditions are discovered to contain gaps or omissions, in order to eliminate these gaps or omissions, those legally-valid provisions shall be agreed which the contractual partners would have agreed based upon the commercial goals of the Agreement and the purpose of these GTC if they had been aware of the gap or omission. The validity of the remaining provisions shall not be affected.