

## **General Terms and Conditions of Business**

### **§ 1 Scope of Application**

The following general terms and conditions of business shall apply exclusively to all transactions and agreements, even if their incorporation is not expressly and separately agreed, and shall prevail over any similar or conflicting terms and conditions of the customer.

### **§ 2 Completion of Contract**

- (1) Barring agreement to the contrary, a contract shall be entered into upon our written confirmation of order.
- (2) Our quoted prices are always conditional and exclusive of the respective applicable sales tax, and list prices are subject to change if the period between the contract completion and delivery exceeds 4 months.

### **§ 3 Delivery; Samples; Insurance**

- (1) Deliveries shall be effected at the expense and risk of the customer. Partial deliveries shall be permitted.
- (2) We shall retain proprietary rights to all samples, cost estimates, drawings, and similar information both tangible and intangible in nature, including information in electronic format. Disclosure of this information to third parties shall be prohibited.

Information and documents identified by the customer as confidential shall not be made accessible to third parties without authorization.

- (3) If shipment or acceptance is delayed or does not take place due to circumstances beyond our control, risk shall pass to the customer upon notification of readiness for shipment or acceptance.
- (4) Minor differences in colour as well as deliveries of higher and lower quantities up to 10% are no defects.
- (5) We shall be entitled to insure the delivery at the expense of the customer against theft and fire, water, or other damage.

## § 4 Warranty

### (1) Notice of Defects

- (a) Customers who are merchants must report defects immediately; otherwise, all warranty claims shall be excluded.
- (b) Customers who are non-mercantile enterprises must report obvious defects within three weeks of delivery and non-obvious defects within one year from delivery in writing; otherwise, all warranty claims shall be excluded.
- (c) For customers who are consumers the requirement under (b) shall apply mutatis mutandis.

### (2) Rights of the Customer

Insofar as the requirements of our warranty for defects are met, the customer shall be entitled to claims as follows:

- (a) For customers who are merchants or non-mercantile enterprises, our obligation shall be limited initially to supplementary performance free of charge. Should said supplementary performance ultimately be unsuccessful, the customer shall be entitled to withdraw from the agreement or to demand a reduction in the purchase price. This limitation of the right of cancellation shall apply only with respect to defects and not to other breaches of duty. The customer's claim for damages shall be excluded to the extent that our liability per § 6 of these terms and conditions has been effectively limited. The rights of the customer shall be further excluded insofar as these rights do not pertain to claims that have been acknowledged by us or that have become res judicata. With respect to significant third-party products, our liability shall be limited to the assignment of claims against the supplier of the third-party products provided that this leads to the indemnification of the customer. In other respects, the assertion of claims against us shall be dependent on the supplier being held legally liable prior thereto.
- (b) For customers who are consumers, we shall be liable in accordance with legal regulations. The customer's claim for damages shall be excluded to the extent that our liability per § 6 of these terms and conditions has been effectively limited.

### (3) Statute of Limitations

- a) For customers who are merchants or non-mercantile enterprises, the warranty rights shall expire one year after delivery. For customers who are consumers, the warranty rights shall expire two years after delivery for new articles, and one year after delivery for used items.
- b) The warranty rights on purchased used machines purchased shall expire 6 months after delivery for customers who are merchants or non-mercantile enterprises and for customers who are consumers.

## **§ 5 Arbitration**

Disputes between us and a customer who is a merchant or non-mercantile enterprise involving a reported defect shall be decided by binding arbitration excluding recourse to the courts. Should no agreement be reached as to the person of the arbitrator, both parties shall be entitled to request the Stuttgart Chamber of Industry and Commerce to appoint an arbitrator, whereby said appointment shall be binding for both parties.

## **§ 6 Liability**

- (1) In addition to intentional breach of duty, our liability to the customer shall extend to include the following:
  - (a) Gross negligence of our management
  - (b) Gross negligence of our servants or agents who are not management, limited to the typical and foreseeable damages
  - (c) Simple negligence with respect to the fulfillment of the primary obligations under this agreement, limited to typical and foreseeable damages.
- (2) In deviation from section (1), we shall be liable in accordance with legal regulations in cases where a breach of duty for which we are responsible leads to loss of life or bodily injury or to an impairment of health.

## **§ 7 Terms of Payment; Retention; Setoff; Insolvency of the Customer**

- (1) Payments by check shall be payable on the value date of the credit. The customer's right of offset shall be excluded except with respect to claims that have been acknowledged by us or have become res judicata. Furthermore, the right of retention shall be excluded for customers who are merchants or non-mercantile enterprises except claims that have been acknowledged by us or have become res judicata.
- (2) The petition to commence insolvency proceedings on the assets of the customer shall entitle us to withdraw from the agreement and to demand immediate return of any delivered articles that have not been paid in full.

## **§ 8 Collateral**

Should the customer be in default on a payment or should the financial situation of the customer have deteriorated substantially subsequent to contract completion, we shall be entitled to demand that the customer provide collateral in accordance with bank practices for the total amount of our claims within a fixed time limit. Should the customer fail to provide collateral within the specified period, the entire debt shall become due and payable.

## **§ 9 Damages for Non-Performance**

As compensation for non-performance we shall be entitled to claim 30% of the payment total without proof of loss unless the customer brings proof that no loss or a loss that is significantly less than the standard amount occurred. We shall be entitled to bring proof of greater actual loss was incurred.

## **§ 10 Reservation of Title**

- (1) We shall retain title to all delivered articles (goods under retention) until all of our claims against the customer have been paid in full. Should the total value of the goods under retention exceed the total amount of our claims by more than 20%, we shall be obligated to release excess collateral of our choosing.
- (2) The customer shall be authorized to sell the goods under retention in the ordinary course of business, whereby all claims arising from the resale shall be assigned to us prior thereto.
- (3) Should the customer be in default, the customer shall disclose to us the complete addresses of those to whom the goods under retention were sold. We shall then have the right to disclose the assignment.

## **§ 11 Applicable Law and Legal Jurisdiction**

- (1) These terms and conditions and any agreements entered into hereunder shall be subject to German law excluding the Uniform Law on the International Sale of Goods.
- (2) Stuttgart shall be the venue for all disputes arising from this agreement, provided that the customer is a merchant, a legal entity, person, or separate estate governed by public law, or is domiciled outside the Federal Republic of Germany at contract completion.

Should any provisions of an agreement entered into between us and the supplier be invalid, the remaining provisions of the agreement shall remain unaffected thereby. The invalid provision shall be replaced by another provision that accomplishes, to the extent legally possible, the intent and economic effect of the invalid provision.