

General Conditions of Sale and Delivery

Version: 03/2018

§ 1 General

- (1) We base our contracts, without exception, on the following conditions. On placing an order, the customer shall acknowledge our conditions.
- (2) We herewith contradict any opposing conditions. They shall only apply if this is agreed in writing. The customer's conditions shall not even become a component of the contract if we fail to contradict them once again and supply the delivery/service owed by contract unconditionally.
- (3) Our conditions of business shall also apply to all future transactions with the customer.

§ 2 Conclusion of the Contract, Subject Matter of the Contract

- (1) A contract will only materialise when we confirm the order in writing or on delivery of the agreed services. However, we are obliged to notify you without delay in writing of any possible refusal of the order.
- (2) Our quotations shall be made without engagement. We shall be bound to our quotation for a maximum of one month.
- (3) All agreements must be recorded in writing. There shall be no verbal ancillary agreements. The written form shall also apply to ancillary agreements, warranties and subsequent amendments including rescission of the contract.

§ 3 Prices and Payments

- (1) Prices are quoted as the value of goods or services without discounts and other rebates plus loading, packaging, freight and possible insurance policies only to be concluded on the basis of special agreements and plus the sales tax applicable at the time.
- (2) Consideration is due for payment in full on receipt of the invoice. Payment must take place free Salach without any deductions.
- (3) Default shall occur ten calendar days after receipt of the invoice. Default interest will be charged at 8 % p.a. above the current base rate published in the Federal Gazette on legal transactions in which consumers are not involved and at 5 % p.a. above the current rate base published in the Federal Gazette on other legal transactions. In addition to the legal provisions, we are entitled to set a higher default interest charge if we can demonstrate a higher charge unless the customer can demonstrate that no default interest loss was incurred at all or it was considerably lower.
- (4) Orders to pay, cheques and bills of exchange will only be accepted on account of performance and all discount and collection charges will be billed to the customer.
- (5) The customer may only offset our claims with undisputed, acknowledged counterclaims or those that have been established by a court of law.
- (6) Likewise, a right of retention may only be exercised in the case of undisputed, acknowledged counterclaims or those that have been established by a court of law and only if it is based on the same contractual relationship.

§ 4 Delivery and Delay in Delivery

- (1) Commencement of the delivery period set by us presupposes that all technical questions have been clarified. Compliance with our delivery obligation presupposes that the customer has fulfilled his obligations on time and properly.
- (2) Delivery is subject to our being supplied with the correct articles on time.
- (3) Delivery dates or delivery periods, which may be agreed on a binding or non-binding basis, must be started in writing. Delivery periods shall begin - notwithstanding the regulation in clause 1 - when the contract is concluded. If changes to the contract are agreed retrospectively, a new delivery date or delivery period may have to be agreed at the same time.
- (4) The delivery period shall be complied with if the article to be delivered has left our premises or the notification of readiness for despatch has been sent out before it expires.
- (5) The customer may ask us in writing to deliver within an appropriate period of six weeks after missing a non-binding delivery date or a non-binding delivery period. We shall only be delayed one this reminder has been issued. This shall not be the case if the additional period mentioned above is disproportionately long. An additional period of proportionate length shall apply then.

- (6) If our delay is based on minor negligence, we shall not be liable for compensation for damages unless the damages are to life, limb and health or a breach of material contractual duties.
- (7) In the case of a culpable breach of material contractual duties, we shall restrict our liability from delay in the case of minor negligence to typically foreseeable damages.
- (8) Force majeure, riots, strikes, lockouts and major disruptions to business for which we are not responsible shall amend the dates and periods specified in clauses 1 and 2 by the duration of the disruptions to the business caused by these circumstances and an appropriate start-up period.

§ 5 Transfer of Risks, Delivery, Inspection, Obligation to Report Defects

- (1) Irrespective of any possible obligations regarding assembly, risk will be transferred to the customer on delivery to the person responsible for shipping but no later than the point at which the shipment leaves our premises. If the merchandise is ready for shipment, the risk will be transferred to the customer one week after receipt of notification that the merchandise is ready for shipment unless we have assumed shipment of the merchandise. If the shipment or acceptance is delayed as a consequence of circumstances for which the customer is responsible, the risk will be transferred at the point notification of readiness for shipment is dispatched. In all cases we shall only be obliged to take out insurance cover if instructed to do so in writing by the customer, to the extent he specifies and at his expense.
- (2) The customer shall be obliged to inspect the merchandise for defects on receipt - even if it is being sold on and - to report possible defects in writing without delay but within a maximum of 10 working days. If the customer omits to notify us of any defects, the merchandise will be regarded as approved unless it is a defect that was not discernible on inspection.
- (3) If requested, the customer shall be obliged to cooperation in preparing a record of acceptance and a record of the operational tests.

§ 6 Warranty

- (1) In the case of material defects and defects of title that are not only inconsiderable, we shall be entitled to fulfil our obligations as follows in addition to the provisions of the law.

We shall be entitled to repair any defects twice. If it emerges from the type of article or defect or other circumstances, that the repair has not yet failed and this is to be expected of the customer, we shall be entitled to make further repairs.

- (2) If the repair failed, the customer shall be entitled to choose between reducing payment and withdrawing from the contract and to assert its right for compensation in accordance with the provisions of the law.
- (3) The limitation period shall amount to 12 months.
- (4) The limitation period shall also amount to 12 month when used articles are sold.

§ 7 Exclusion of Compensation, Limitation of Liability

- (1) If our obligation to pay compensation is based on only slightly negligent breach of material contractual duties, we shall limit our liability to pay compensation and that of our legal representatives or vicarious agents to the foreseeable damage that are typical of the contract.
- (2) If our obligation to pay compensation is based on only slightly negligent breach of immaterial contractual duties, we shall exclude our liability to pay compensation and that of our legal representatives or our vicarious agents.
- (3) In all cases of liability to pay compensation based on negligent violation of our duties, irrespective of the legal basis, our liability to pay compensation will be limited to the losses foreseeable for us.
- (4) Alternatively, we shall exclude our liability to pay compensation and that of our legal representatives or vicarious agents, if we are responsible for a slightly negligent breach of a contractual duty, the type and consequence of which does not jeopardise the purpose of the contract.
- (5) If we are subject to claims to payment of compensation resulting from producer liability in accordance with Art. 823 of the German Civil Code (BGB) (claim based on tort) on account of breaching an immaterial contractual duty, we shall limit our liability above and beyond the above provisions to the compensation paid by our third party liability insurer. The sum insured shall be typical for the loss/contract/article. If the insurance does not pay out or does not pay out in full, our liability shall remain unaffected but limited to the amount of the sum insured. If the sum insured is not typical for the loss/contract/article, we shall limit our liability in these cases to the amount that is typical for the loss/contract/article.

- (6) The above provisions in clauses 1-5 shall not apply if damage to life, limb and health and/or claims under the German Product Liability Act is/are involved.

§ 8 Retention of Title

- (1) We shall retain title to the article to be delivered in all cases until all payments owed under the underlying delivery contract are received.
- (2) We shall also retain the title to the articles delivered until fulfilment of all claims resulting from the business relationship, including those arising in future. The customer shall be obliged in all cases to keep the delivered articles safe free of charge with the diligence of a prudent businessman.
- (3) Pledging or transferring the merchandise that is subject to retention of title as security is inadmissible in all cases. We must be notified without delay of any seizures and attachment or other dispositions by third parties and given the documents needed to contest this.
- (4) The customer is also entitled to process and resell the delivered articles as part of a proper business as long as he is not in default. He shall assign the claims accruing to him from the sale or from any other legal reasons against his purchaser in the amount of the invoice value of the merchandise delivered subject to retention of title on conclusion of the purchase agreement with us.
- (5) The right to sell and the authorization to collect assigned claims shall lapse on suspension of payments, application for or opening of insolvency proceedings and in the event of a cheque or bill of exchange being protested. In these cases, the customer is obliged to render account of the merchandise subject to retention of title and the cession of claims voluntarily without delay.
- (6) The retention of title shall also remain in force if individual claims are included in a current invoice and the balance is struck and acknowledged unless the balance is settled.
- (7) If the value of collateral provided exceeds our claims by more than 20 %, we shall be obliged, at the request of the customer, to reassign collateral of our choice, according to our discretion, to the extent that the collateral threshold is exceeded.
- (8) We shall be entitled to take back our merchandise subject to retention of title following warning after the cases regulated in accordance with clause 5 and if the customer is in arrears with a substantial portion of his payment obligations. As with seizure by us, this does not count as withdrawal from the contract. The customer shall be obliged to hand over the merchandise. There will be no right of retention.
- (9) Amounts, which the customer collects from assigned claims, are to be managed separately until transferred to us to exclude settlement and/or offsetting with overdrawn bank accounts.
- (10) The processing or alteration of the delivered article by the customer is always undertaken for us. If it is processed with other articles that do not belong to us, we acquire joint title of the new article in proportion of the value of the delivered article to the other processes articles at the time of processing. Incidentally, the same applies to the article that is created through processing as for the article delivered conditionally.
- (11) If the delivered article is mixed indivisibly with other articles that do not belong to us, we shall acquire joint title to the new article in proportion to the value of the delivered article to the other mixed articles at the time of mixing. If the mixing takes place in such a way that the customer's article is to be viewed as the principal article, it is deemed to be agreed that the customer shall assign pro rata joint title to us. The customer shall keep the sole or joint title created in this way safe for us.
- (12) If the customer combines the delivered article with properties, he shall also assign his claim to which he is entitled as payment for the combination in the amount that equals the price of the delivered article invoiced by the contractor without this requiring further particular statements.

§ 9 Tools

If the construction or acquisition of one and/or several tools is required for the production of the merchandise supplied by us, the tool costs specified by us and charged to the purchaser will be regarded as pro rata costs with the consequence that we shall retain title to tools in all cases. We presuppose a minimum amortisation period of two years and shall be entitled to demand the uncovered tool costs as additional payment for a shorter term.

§ 10 Choice of Law, Place of Jurisdiction

- (1) All contracts are based on the law of the Federal Republic of Germany and on the exclusion of the United Nations Convention of Contracts for the International Sale of Goods (CISG).
- (2) Salach is the place of performance for all mutual claims arising under the contractual relationship.
- (3) Our registered office is the sole place of jurisdiction for all claims under the business relationship including litigation involving cheques and bills of exchange if the customer is a business man, legal entity incorporated under public law or special fund under public law. We are, however, entitled to take action against the customer at his general place of jurisdiction.
- (4) Should one of the provisions of the contract and/or general conditions of sale and delivery be or become ineffective or should these contain a gap, the effectiveness of the other provisions will not be affected by this.

These General Conditions of Sale and Delivery can be downloaded from:

<http://www.springfix.de/de/downloads/allgemeines>