

General Sales and Delivery Terms of the IWG Isolier Wendt GmbH

§ 1 General, Scope

(1) The present General Sales Conditions apply if our General Purchasing and Order Conditions do not apply for all business relations with our business partners and with our customers (hereinafter: "Buyers") for which we are acting as sellers and/or businessman. The General Sales Conditions only apply if the Buyer is a businessman (§ 14 BGB (= German Civil Code)), a legal person of public law or a legal entity under public law.

(2) The General Sales Conditions particularly apply for contracts of the production and/or delivery of mobile objects such as the performance of works production (hereinafter also: "Goods") irrespective of if we produce the goods ourselves or purchase them from suppliers (§§ 433, 651 BGB (= German Civil Code)). The General Sales Conditions apply in their corresponding version as framework agreement, also for the future contracts about the sale and/or the delivery of mobile objects with the same Buyer without the need to point this out again in each individual case; in this particular case, we would need to immediately inform the Buyer about any changes of our General Sales Conditions.

(3) Our General Sales Conditions apply exclusively. Deviating, contrary or complementary General Terms and Conditions of the Buyer would become a part of the contract only if and insofar as we have expressly agreed on their validity. This consent requirement applies in any case, for instance also if we execute the delivery to the Buyer despite of knowing his General Terms and Conditions.

(4) Individual agreements with the Buyer made with the supplier in a particular case (including side agreements, supplements and changes) shall in any case take priority over these General Sales Conditions. A written contract or our written confirmation would determine the content of such agreements.

(5) Legally relevant declarations and notifications, which are to be submitted towards us by the Buyer after ending the contract (e.g. setting of deadlines, notifications of defects, declaration of cancellation or reduction), require the written form in order to be valid.

(6) References to the validity of statutory regulations shall only have clarifying significance. Therefore, the statutory regulations shall also apply without such a clarification insofar as they are not directly changed or have been explicitly excluded in these General Sales Conditions.

§ 2 Contract

(1) Our offers are subject to change without notice and non-binding. This shall apply even if we have to supply the Buyers with catalogues, technical documentation (such as drawings, plans, calculations, references to DIN standards), other product descriptions or documents - including in electronic form - in which we reserve ownership and copyright.

(2) The order of the goods by the Buyer is valid as a binding offer of contract. Unless otherwise dated in the order,

we shall be entitled to accept this offer within twenty days after its receipt at our premises.

(3) The acceptance may be declared either in writing (e.g. with an order confirmation) or by delivery of the goods to the Buyer.

(4) An assignment of the claims of the Buyer against us requires our previous agreement in writing.

§ 3 Lead Time and Delay in Delivery

(1) The lead time is individually agreed or indicated by us in the quotation or when accepting the order.

(2) Insofar as we cannot comply with binding delivery lead times due to some reasons, for which we are not responsible (non-availability of the performance), we will immediately inform the Buyer about this and at the same time inform him about the estimated, new delivery deadline. If the performance is also not available within the new delivery deadline, we are entitled to withdraw completely or partially from the contract; any already rendered return services of the Buyer will be immediately reimbursed. Deemed as case of non-availability of the service within this meaning is in particular the late self-delivery by our components suppliers if we have concluded a congruent hedging transaction, for which neither we nor our supplier are responsible or for which we are not obliged to purchase in the individual case.

(3) The occurrence of our delay in the delivery has been determined according to the statutory regulations. In each case, however, a reminder is required from the Buyer.

(4) The rights of the Buyer according to § 8 of these General Sales Conditions and our statutory rights, in particular upon exclusion of the obligation to perform (e.g. performance and/or subsequent performance become(s) impossible or unreasonable) shall remain unaffected.

§ 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance

(1) The delivery will be carried out ex warehouse, where the place of performance is also located. At the request and costs of the Buyer, the goods shall be sent to another place of destination (contract of sale involving the carriage of goods). If nothing else had been agreed upon, we are entitled to determine ourselves the way of dispatch (in particular the carrier, dispatch route, packaging).

(2) The shipping guidelines of the International Chamber of Commerce (ICC) "INCOTERMS - International Commercial Terms" shall apply unless agreed otherwise in the following.

(3) The risk of accidental loss and the accidental deterioration of goods shall pass to the Buyer latest with the transfer of the goods. However, in the case of sale to the destination according to Customer's instructions the risk of accidental loss and accidental deterioration of the goods and the risk of delay passes to the customer at handover of the goods to the forwarder, carrier or other person or organisation carrying out the shipping. If an acceptance procedure has been agreed on this is authoritative for the passing of risks. The statutory provisions of the law on contracts for services shall apply analogously in other respects to an agreed acceptance. Default of acceptance by the Buyer shall be equivalent to delivery or acceptance.

(4) If the Buyer is in default in acceptance, it would omit to carry out an act of co-operation or causes the delivery to be delayed for other reasons imputable to the Buyer, the agreed delivery date will automatically be deferred for that period of time of the delay. In addition, we are entitled to claim compensation for the damage resulting thereof including any additional expenditure (e. g. storage costs). For this we shall charge a flat rate compensation in the amount of 0.1% of the order sum per calendar day, beginning with the delivery period or - in the absence of a delivery period - with the announcement that the goods are ready for dispatch. The proof of higher damages and our statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) remain unaffected; the flat rate is, however, to be offset against further monetary claims. The Buyer reserves the right to prove that we did not suffer any damages at all or only substantially less damages than the aforementioned flat rate.

(5) We are entitled to make partial deliveries, unless non substantial interests of the Buyer contradict them.

§ 5 Prices and Terms of Payment

(1) As far as there has not been any other agreement for individual cases our prices valid at the time of the conclusion of the contract do apply in fact ex warehouse plus legal value added tax.

(2) We are entitled to adjust prices, if the time period between the conclusion of the contract and the agreed delivery date exceeds four months and if there is a justified interest in a price adaptation. Such a justified interest shows in particular if the prices for raw materials and/or material procurement have considerably increased. In this case, the lowest list price for the delivery applicable at the date of the delivery is deemed to have been agreed. We are obliged to immediately inform the Buyer about the reason and the amount of the required price adaptation. The Buyer is entitled to withdraw from the contract if the price increase amounts to more than 25%. Furthermore, the Buyer is entitled to withdraw from the contract, if he proves that a special interest of the supplier in the price adaptation is not given. The Buyer does not have the right to withdraw if the price increases.

(3) The Buyer pays for the cost of carriage ex stock and if requested by the Buyer, the cost of insurance if the goods will be shipped at the request of the Buyer (§ 4 para. 1). Any possible customs duties, fees, taxes and any other public levies shall likewise be borne by the Buyer. Transportation and all other packaging shall not be returned subject to requirements of the German Packaging Ordinance, they become the Buyer's property, and this excludes pallets.

(4) The purchase price is due and payable upon invoicing and delivery or acceptance of the goods or services. In case of contracts of a delivery value of more than EUR 30,000.00, we have the right to charge a deposit of 30% of the purchase price. The down payment is due and payable upon invoicing.

(5) Payments shall be regarded as having been received when the amounts involved become available to us, i.e. with the credit to our account and in the event of payment by cheque, once the cheque has been cashed and credited.

(6) 14 days after receipt of the invoice and in case of non-payment the Buyer is automatically in default, without the

necessity of a reminder. The purchase price shall be interest-bearing during the default at the applicable at the respectively applicable statutory default interest. We reserve the right to assert a further damage caused by delay. Our claim for the commercial maturity interest (§ 353 HGB (=German Commercial Code)) against merchants will remain unaffected. In the event that we cannot provide any clear evidence that the invoice has been received, the customer will come into default latest 30 days after delivery or acceptance of the goods or service.

(7) We are entitled to levy a flat rate cost compensation amounting to € 5.00 for each reminder from the second reminder on.

(8) The Buyer is only entitled to set-off rights and rights of retention if his claim is undisputed or has been finally adjudicated upon by the courts. In the event of defects of the delivery, the counterclaims of the Buyer, in particular according to § 7 para 6 phrase 2 of these General Sales Conditions remain unaffected.

(9) If, after the contract has been concluded, it becomes apparent that our claim to the purchase price has been endangered as a result of insufficient financial status (e.g. as a result of an application to open insolvency proceedings), we shall then be entitled to withdraw from the contract (§ 321 BGB (= German Civil Code) in keeping with the stipulations relating to refusal of performance - possibly after setting a time limit. In the case of contracts for the manufacture of specific items (making to specification) we are able to withdraw immediately; this shall not affect the legal provisions concerning the dispensability of fixing a time limit.

§ 6 Retention of Title

(1) We reserve the right to the property of the sold goods until the full payment of all of our current and future claims from the purchase contract and a current relationship (secured claims).

(2) The goods subject to reservation of title may neither be pledged to third parties, nor assigned as collateral before the full payment of the secured claims. The Buyer must inform us in writing immediately if and when third parties exercise rights over the goods.

(3) In case of conduct of the Buyer, which is in breach of the contract, in particular with non-payment of the due purchase price, we are entitled to cancel the contract according to the statutory regulations and to request that the goods are handed over owing to the reservation of title. The claim for returning of the goods does not automatically mean cancellation of the agreement; we shall rather be entitled to claim return of the goods and to reserve the right of cancellation. If the Buyer does not pay the purchase price due, we may assert these rights only if we have first set the Buyer an appropriate time limit for payment without result or if setting a time limit may be dispensed with according to the provisions of the law.

(4) The Buyer is entitled to sell or process the goods under retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.

(A) Reservation of ownership shall also apply to the goods resulting from the processing, mixing or combining of our goods in their full amount, so that we are considered as the manufacturer. If third parties retain title to goods that are processed, mixed or combined with our goods to make a new product, then we can obtain a joint title to the new product in the relationship to the invoiced value of the goods processed, mixed or combined to make the new

product. Additionally, the same would apply for the resulting product as for the supplied goods which are subject to retention of title.

(B) The Buyer hereby now already assigns the claims against third parties, which are established from the resale of the goods or product in total or in the amount of our possible co-ownership share, to us as collateral according to the afore-mentioned paragraph. We accept the assignment. The obligations of the Buyer stated in Par. 2 shall also apply in view of the assigned claims.

(c) Beside us, the Buyer remains authorized to the collection of the claims. We undertake nothing to demand the claims as long as the Buyer fulfils their payment obligations to us, does not become in default of payment, no application is made for opening insolvency proceedings, and there is no other deficiency in the Buyer's performance capacity or solvency. However, if any such circumstances arise, we can demand the Buyer to inform us about the assigned claims and their debtors indicating all details needed for collection, handing to us the relative documentation and informing the debtors (third parties) about the assignment.

(d) If the realisable value of the securities due to the supplier exceed the supplier's total claims by more than 10%, we shall be obliged to release in our discretion securities on the request of the Buyer.

§ 7 Buyer's Warranty Claims

(1) The statutory regulations shall apply to the rights of the Buyer in case of defects of quality and title (including false and shortfall in delivery as well as improper assembly or faulty assembly instructions), insofar as not otherwise determined below. The special provisions on final delivery to a consumer (supplier recourse §§478,479 BGB (= German Civil Code)) shall remain unaffected at any time.

(2) Basis for our liability of defects is the first and foremost agreement entered into concerning the quality condition of the respective products. All product descriptions, which are subject matter of the individual contract, have been considered as an agreement on the quality of the goods and it does not make a difference here if the product descriptions originate from the Buyer, the manufacturer or from us. In the event of purchase orders which are based on dimensions, indications and sketches or drawings of the Buyer, the Buyer shall have the sole responsibility for the correctness of the indications made there. If these requirements have not been met, there shall be no warranty claims against us.

(3) In the absence of any agreed specification of the goods, the existence of defects therein shall be determined in accordance with statutory provisions (§§ 434 para. 1 p. 2 and 3 and 633 para. 2 BGB (=German Civil Code)). We shall not be held liable, however, for any public statements by the manufacturer or other third parties (e.g. advertising messages).

(4) The Buyer's claims for defects presume that it has satisfied its statutory obligations for inspection and reporting of complaints (§§ 377, 381 HGB (= German Commercial Code)). Any defect discovered during examination or later shall be notified to us without delay. Irrespective of this obligation for inspection and reporting of complaints the Buyer must immediately report obvious defects (including false or shortfall in delivery). If the Buyer fails to carry out the proper inspection and/or report of defects our liability for the defect which was not reported is excluded.

(5) If the delivered item is defective, we may elect first whether to make subsequent performance by removal of the defect (rectification of defects) or delivery of a defect-free item (replacement delivery). Our right to refuse the chosen rectification under the legal requirements will remain unaffected.

(6) We are entitled to make the owed subsequent performance dependent on the fact that the Buyer pays the due purchase price. The Buyer, however, would be entitled to retain a part of the purchase price which is reasonable in the ratio to the defect.

(7) The Buyer shall allow us the necessary time and opportunity for due subsequent performance and shall in particular hand over the goods concerned for inspection. In the event of a replacement delivery, the Buyer must return the defective goods. The subsequent performance neither includes the disassembly of the defective object nor the re-assembly if we were not initially obliged to assemble the product.

(8) The expenses necessary in connection with examination and subsequent performance, in particular as regards transport, travel, labour and materials, (not: disassembly and assembly costs), shall be to our account, if a defect does indeed exist. However, should a Buyer demand for repair be proven unjustified, then we can demand the incurred costs be reimbursed by the Buyer.

(9) In urgent cases, e.g. if operating safety is jeopardised or to avert disproportionate damage, the Buyer shall be entitled to remedy the defect himself and demand reimbursement by us of the objectively necessary expenses incurred. We must be informed about these activities as soon as possible, if possible prior to the repair. There is no right to carry out rectification, if we are entitled to refuse the supplementary performance according to statutory provisions.

(10) If the subsequent performance has failed or a reasonable deadline, which is to be set by the Buyer for the subsequent performance has expired unsuccessfully, or it is dispensable according to the statutory regulations the Buyer can cancel the purchase contract or reduce the purchase price. This right of withdrawal does not exist with an insignificant defect.

(11) Claims of the Buyer for damages or reimbursement of fruitless expenses shall only exist according to § 8 and are incidentally excluded.

§ 8 Other Liability

(1) Insofar as not otherwise derived from these General Sales Conditions including the following provisions, we shall be liable according to the relevant statutory regulations in case of a breach of contractual or non-contractual duties.

(2) We shall be liable for damages - no matter for what legal grounds - in case of wilful intent and gross negligence. In cases of ordinary negligence, we shall be liable only

a) for damages resulting from the violation of life, the body or health,

b) for the damages due to the breach of an essential contractual duty (obligation, the satisfaction of which only enables the proper execution of the contract at all and with which the contractual partner relies and may as a rule rely on its compliance); in this case our liability is however limited to the reimbursement of the foreseeable, typically incurring damages.

(3) The liability restrictions, which can be derived from para. 2, shall not apply insofar as we have maliciously failed to disclose a defect or have assumed a guarantee for the condition of the goods. The same shall apply for claims of the Buyer according to the Product Liability Act.

(4) Cancellation shall be permissible due to a violation of duty, which does not consist in a defect, only if we may be held responsible for the violation of duty. A free right of termination of the Buyer (in particular according to §§ 651, 649 BGB (= German Civil Code) is excluded. Otherwise, the statutory requirements and legal consequences shall apply.

§ 9 Limitation

(1) By derogation from § 438 para. 1 No 3 and § 634a para. 1 No 1 BGB (= German Civil Code), § 13 para. 4 VOB/B (= German Construction Tendering and Contract Regulations) the general limitation period for claims for defects as to quality, work and title is one year after delivery. Insofar as an acceptance has been agreed the statute-of limitations shall begin with the acceptance.

(2) In case the delivered good is a building or a good typically used in the construction of a building (building material), which defectiveness subsequently caused the defect of a building itself, the limitation period comes to 4 years after delivery according to the statutory provision (§§ 438 para. 1 No 2, 634a para. 1 No 2 BGB (=German Civil Code)). Statutory special regulations for in rem claims to return of third parties (§ 438 para. 1 No 1 BGB (=German Civil Code), wilful deceit of the vendor (§ 438 para. 3 BGB (= German Civil Code) and for claims of recourse against the supplier in final supply to a consumer (§ 479 BGB (= German Civil Code) shall also be unaffected.

(3) The above limitation periods applicable under the law governing the sale of goods and contracts for work and services also apply for to contractual and non-contractual damages claims by the Buyer, that are based on a defect of the goods, except if the use of the standard legal limitation period (§§ 195, 199 BGB (= German Civil Code) results in a shorter limitation period in individual cases. The periods of limitation under the Product Liability Act shall remain unaffected. Apart from that the statutory limitation periods according to § 8 apply exclusively for damage claims of the Buyer.

§ 10 Data Protection

The Buyer agrees that his data are saved according to § 33 BDSG.

§ 11 Choice of Law and Place of Jurisdiction

These General Sales Conditions and all legal relationships between us and the Buyer shall be governed exclusively by the German law to the exclusion of international harmonized law and the UN Convention on the International Sale of Goods. Prerequisites and effects of the reservation of title according to § 6 shall be subject to the law of the respective location of the subject matter insofar as according to the choice of law, which has been agreed upon, would be inadmissible or invalid for the benefit of German law.

(2) If the Buyer is a businessman within the meaning of the German Commercial Code, a legal entity under public law

or a public law fund, the exclusive venue, including international matters, for all disputes arising from the contractual relationship shall be our registered office in Berlin. However, we shall also be entitled to bring actions in the general place of jurisdiction of the Buyer.