

**1. Scope/Offers**

- a) These General Terms and Conditions of Sale apply to all contracts, deliveries and other performance, also in the future. We shall not be bound by any terms of the Purchaser even if we have not explicitly objected to them again upon receipt by us.
- b) Our offers are subject to change without notice. Any agreements, in particular verbal collateral agreements and assurances have no binding effect until confirmed by us in writing.
- c) The documents belonging to the offer as well as illustrations, technical data, references to standards and information in advertisements are not warranties of quality, unless they are specifically designated as such in writing.
- d) The delivery item is permitted to deviate from offers, samples, trial deliveries and previous deliveries within the limits of the respectively applicable DIN standards or other relevant technical norms.

**2. Prices**

- a) Unless otherwise agreed, our prices are valid ex our premises excluding packing, plus the statutory value-added tax applicable on the date of delivery.
- b) If the goods are delivered in packaged form, we shall charge the packaging at cost price; within the scope of statutory regulations, we take back any packaging supplied by us if it is returned to us carriage paid by the Purchaser within a reasonable period.
- c) We charge the prices valid on the date of dispatch and, for call orders, the prices valid at the time of payment of the goods delivered, unless fixed prices have been expressly agreed. If the delivery is not made for the Purchaser's business, we remain bound to the prices agreed for four months after conclusion of contract.

**3. Payment and offsetting**

- a) Our invoices are due and payable immediately after receipt of the invoice net, unless otherwise agreed.
- b) Any counterclaims contested by us or not declared as valid by a court of law shall not entitle the Purchaser to retention or offsetting.
- c) Upon exceeding the time allowed for payment, after sending a reminder at the latest, we are entitled to charge interest at the respective bank rates for overdrafts, however at least 3% interest above the discount rate of the German Central Bank. We reserve the right to assert further default damage.
- d) If we subsequently gain knowledge of circumstances which cause a significant deterioration in the financial situation of the Purchaser and which endanger our claim to payment, we are entitled to call our claim due for payment irrespective of the term of credited bills of exchange. If the Purchaser falls into arrears with payments, we are entitled to take back the goods after granting a reasonable extension. We may also prohibit resale and further processing. Taking back the goods is not considered withdrawal from the contract. In each case, we may revoke the collection authorisation under No. 5 and demand advance payment or collateral for outstanding deliveries. The Purchaser can ward off all these legal consequences by effecting payment or furnishing collateral at the amount of our endangered payment claim.

**4. Delivery periods**

- a) Delivery periods and delivery dates are binding on us only if we have expressly confirmed these in writing. They have been observed if before the expiry of the delivery period or delivery date, the delivery item has left our premises or, in case of transfer orders, our supply plant or the readiness for dispatch has been notified.
- b) Delivery periods are extended as deemed reasonable within the scope of industrial disputes, in particular strike and lockout, as well as on occurrence of unforeseeable obstacles that are beyond our sphere of control, where such obstacles are proved to have substantial influence on the production or delivery of the item to be supplied. This also applies if the circumstances occur at sub-suppliers. We shall immediately notify the Purchaser of such circumstances. These provisions apply to delivery dates accordingly. If the performance of the contract becomes unreasonable for one of the parties to the contract, it may withdraw from the contract.
- c) In case we are in delay, the Purchaser may withdraw from the contract after the expiry of a reasonable additional period set by us if the goods cannot be dispatched by the expiry of the period. Claims for damages due to default and non-performance are based on No. 7 of these Terms and Conditions.
- d) Should the dispatch be delayed upon request by the Purchaser, he shall be charged the costs incurred for storage, beginning one month after notification of the readiness of dispatch.

**5. Retention of title**

- a) All goods delivered remain our property (reserved goods) until payment of all claims arising under the business connection, irrespective of the legal grounds, including claims arising in the future or contingent claims, e.g. arising from what are known as acceptor's bills of exchange.
- b) The processing of reserved goods is carried out on our behalf as a manufacturer within the meaning of Section 950 of the German Civil Code (BGB), without any obligation on our part. The processed goods are deemed to be reserved goods within the meaning of No. 5a). If the Purchaser processes, combines or mixes the reserved goods with any other goods, we are entitled to co-ownership of the new item at the ratio of the invoice value of the reserved goods to the invoice value of the other goods used. If our ownership lapses as a result of combining or mixing, the Purchaser hereby assigns to us now his property rights to the new product or item to the extent of the invoice value of the reserved goods and shall keep these safe for us free of charge. The rights of co-ownership arising according to this provision apply as reserved goods within the meaning of No. 5a).
- c) The Purchaser may only sell the reserved goods in the ordinary course of business on his normal business conditions and as long as he is not in delay, provided that the claims arising from the resale pass to us in accordance with Nos. 5d) and 5 f). He is not entitled to dispose of the reserved goods in any other manner.
- d) The Purchaser's claims based on the resale of the reserved goods are hereby assigned to us now. They serve as collateral to the same extent as the reserved goods. If the reserved goods are sold by the Purchaser in conjunction with other goods not sold by us, the claim based on the resale is assigned only at the resale value of the reserved goods sold in each case. When selling the goods to which we have rights of co-ownership according to No. 5b), the claim is deemed assigned at the amount of these shares of co-ownership.
- e) The Purchaser is authorised to collect receivables from the resale until we revoke this authorisation, which is admissible at any time. We shall only exercise our right of revocation in the cases named in No. 3d). Upon our demand, the Purchaser is obliged to immediately notify his buyers of the assignment to us, unless we do this ourselves, and to provide us with all the information and documents required for collection.
- f) The Purchaser must immediately notify us of any distraint or other impairment by third parties.
- g) If the value of existing collateral should exceed the total value of secured claims by more than 10 per cent, we are obliged to release collateral at our discretion upon demand by the Purchaser.

**6. Performance of deliveries**

- a) The risk passes to the Purchaser for all transactions, also for prepaid and franco domicile deliveries, upon delivery of the goods to a forwarding agent or carrier, however upon leaving our warehouse or - in case of transfer orders - the supply plant at the latest.
- b) We are entitled to make part deliveries to a reasonable extent. In case of products made to order, excess or short deliveries not exceeding 10% of the agreed quantity are permitted.
- c) In case of call orders we are entitled to manufacture, or to arrange to have manufactured, the total order quantity at one time. Any modification requests cannot be taken into account after placing the order, unless this has been expressly agreed. If firm agreements were not made, call dates and call quantities can only be observed within the range of our delivery and manufacturing possibilities.
- d) The transport route and transport means are left to our discretion, unless otherwise agreed. Transport is carried out to the best of our judgement freight collect from our warehouse against payment of our expenses. The goods are not insured on the transport route.

**7. Liability for defects**

- a) The Purchaser must examine the goods immediately after receipt. Obvious defects must be notified in writing within one week after receipt of the goods, other defects immediately after their occurrence. Should a legitimate complaint about a defect be made immediately, we shall take back the defective goods and supply goods without defects in their place. Instead of this measure, we are entitled to repair the defect, taking reasonable account of the Purchaser's interests. If such repair or the replacement fails to remedy the defect, the Purchaser may demand the rescission of the contract or a reduction of the purchase price. We shall assume the expenses incurred for the repair or replacement within the scope of our general liability under 5c). Replaced parts become our property. We provide a warranty of 6 months for the goods sold by us or performance rendered.

- b) Where the Purchaser does not give us any opportunity of satisfying ourselves that there is a defect or in particular does not, upon request, place the rejected goods or samples thereof at our disposal, the Purchaser cannot claim any defects in the goods.
- c) Any further claims are excluded based on No. 5c). This applies particularly to claims to the compensation of damage that was not caused by the goods themselves (consequential harm caused by a defect). Our liability arising from the absence of warranted characteristics is likewise based on No. 5c).
- d) Deviations from samples or from earlier deliveries are avoided as far as technically feasible. We reserve the right to make modifications as far as reasonably acceptable for the Purchaser, particularly if they serve technical progress, and insofar as the delivery item is not significantly modified.
- e) Natural wear and tear or damage as a result of improper treatment, especially improper storage, not caused on our premises are not defects for which we are responsible.
- f) The Purchaser is not entitled to assert warranty claims for goods which were sold as subclassed or used material.
- g) Insofar as we consent to take back goods which are returned through no fault on our part, we shall charge 10% of the net value of the goods to cover our costs. Custom-built products and special purchases are not taken back as a basic principle.

#### **8. Guarantee claims**

It is generally only possible to assert guarantee claims if it is possible to furnish credible proof that goods were handled properly.

- a) We cannot accept a guarantee for bought-in parts (only after consulting the respective supplier).
- b) Oil burners, gas burners: The firm Weishaupt only accepts a guarantee for two years if the burner was put into operation by an authorised Weishaupt installation service.
- c) We grant two years guarantee from the date of the invoice for material, welding seams and function for new burner systems.
- d) We cannot accept any guarantee for used burner systems.

#### **9. General limitation of liability**

- a) For the breach of contractual or non-contractual duties, in particular based on impossibility, delay, negligence in contracting and tort, we accept liability, also for our managerial employees and other vicarious agents, only in case of wilful intent and gross negligence, restricted to damage which is typical for the contract and foreseeable upon conclusion of contract.
- b) This exclusion does not apply in case of a culpable breach of essential contractual duties if the attainment of the objective of the contract is endangered, in case of the absence of warranted characteristics and in cases of compulsory liability under the Product Liability Act.

#### **10. Copyrights**

- a) We reserve the right of ownership and copyright to cost estimates, drafts, drawings and other documents; they may only be made accessible to third parties with our consent. Drawings and other documents belonging to offers must be returned upon demand. Where we have supplied items in conformity with drawings, models, samples or other documentation handed over by the Purchaser, the latter shall assume responsibility for the proprietary rights of third parties not being infringed. Should third parties prohibit us in particular to manufacture and supply such items by referring to their property rights, we shall be entitled to cease any further activities in this respect without examining the legal situation and, if the Purchaser is at fault, to demand damages. The Purchaser also undertakes to immediately indemnify us against any and all claims asserted by third parties in this connection.

#### **11. Place of performance and jurisdiction**

- a) The place of performance for delivery and payment is our business establishment with its official business location in Eisligen, Germany. If admissible pursuant to Section 38 of the German Code of Civil Procedure (ZPO), the place of jurisdiction is the official business location of our business establishment in Eisligen. We can also bring action at the Purchaser's place of jurisdiction. The laws of the Federal Republic of Germany govern all legal relations between us and the Purchaser to the exclusion of the UN Sales Convention of 11 April 1980.
- b) We point out that we process customer data concerning the customer or third parties of which we gain knowledge in connection with the business relationship in accordance with the German Federal Data Protection Act (BDSG).