

General Terms and Conditions of Business

JÜRGEN ARMACK GMBH

§ 1 General – Scope of Application

- (1). The following conditions apply to all present and future deliveries and services, including any consultancy services, which we provide to our customers.
- (2). We will not accept any conditions by the customer which contradict or deviate from our General Terms and Conditions of Business, unless we have explicitly consented to these in writing. Our General Terms and Conditions of Business also apply if we perform the delivery to the customer without reservation, even if we are aware of contradictory Terms of Business of the customer.
- (3). All agreements between us and the customer, in particular additional agreements and amendments to contracts must be made in writing.
- (4). The customer may only assign claims against us to third parties with our previous explicit consent. The regulation of § 354a HGB [German Commercial Code] remains unprejudiced by this.
- (5). As per § 33 of the Federal Data Protection Act [Bundesdatenschutzgesetz] we hereby inform the customer that his data will be stored by us. The processing of this data will be performed in compliance with the Federal Data Protection Act.
- (6). If individual provisions of these General Terms and Conditions of Business are ineffective, this shall not influence the validity of the remaining provisions. In this case, the invalid provision shall be replaced by an existing provision which is usual for the industry. If no permissible provision which is usual for the industry exists, the corresponding statutory regulation shall apply.

§ 2 Offers

- (1). Our offers are subject to confirmation with regard to quantity, price and delivery time. Orders are only binding for us if and insofar as we have issued an order confirmation or have declared acceptance by delivery.

§ 3 Prices and Payment

- (1). Unless stated to the contrary in the order confirmation, our prices are ex works. Minimum order values, and values of orders delivered free of shipping and packaging costs can be obtained from our currently valid price list.
- (2). Our prices do not include VAT, which will be separately stated in the invoice at the statutory amount.
- (3). Invoices must be paid within 10 days of the date of the invoice, minus 2% discount, or within 30 days of the date of the invoice without discount. In case of arrears of payment, we are entitled to demand interest on arrears for the year to the amount of 8% above the base rate. If we are able to prove a greater damage due to arrears, we are also entitled to claim for this.
- (4). The customer is only entitled to settlement per contra and rights of retention if his counterclaims have been legally established, are undisputed, or have been accepted by us.

§ 4 Delivery

- (1). Delivery dates which we have confirmed are not binding, unless they have been explicitly stated as being binding.
- (2). Our obligation of delivery is conditional on the complete, correct and timely delivery of our raw materials and goods by our suppliers. This does not apply if we are responsible for the non-delivery or delay.
- (3). The observance of the delivery deadlines is conditional on the timely fulfilment of the contractual obligations of the customer. The delivery period commences after clarification of all details for the execution of the order and the receipt of all documents necessary for the execution of the order and other details to be provided by the customer as well as, insofar as agreed, the receipt of a corresponding down payment. The period of delivery is deemed to be complied with, if the goods leave our factory or the stated dispatch station at the agreed time, or the readiness for dispatch has been notified to the customer, but for due to circumstances beyond our control cannot be dispatched in time.
- (4). The period of delivery is extended accordingly on the occurrence of unforeseen obstructions, which are outside of our sphere of influence, insofar as such obstructions have a significant effect on the manufacture or delivery of the goods. This shall also apply if such circumstances occur with our suppliers. If we are in arrears with delivery, the customer must set us a reasonable period of grace. This must be at least two weeks.
- (5). Unless stated to the contrary in the order confirmation, delivery are ex works is agreed. On handover of the goods to the carrier, haulage contractor or other person, including the customer's staff performing the transportation, the risk of loss or deterioration is transferred to the customer. This also applies to carriage free deliveries. However, for carriage free deliveries, we accept liability, limited to the particular gross value of the goods for direct transportation damage, insofar as this transport damage has been caused by our own carriers. The customer must report any transport damage to us immediately, at the latest within one week of receipt of the goods, even if we are not responsible for the transportation. If the dispatch is delayed due to circumstances for which we are not responsible, the transfer of risk takes place with the notification of readiness for dispatch to the customer.
- (6). The customer is also obliged to accept partial deliveries to a reasonable extent. For on-call deliveries, the call within the agreed period constitutes an obligation in the sense of § 276, 380 ff BGB [German Civil Code].
- (7). We may refuse delivery if, after conclusion of the contract it becomes apparent that our claim for counterperformance is endangered due to the insolvency of the customer. Our right of refusal of performance does not apply if a security has been provided.

§ 5 Quality of Goods

- (1). Deviations, which are within the tolerances of the corresponding DIN do not constitute faults.
- (2). We reserve the right to exceed or fall below the stated delivery quantities by approx. 10%.
- (3). The customer is solely responsible for the observance of all statutory, official or trade association regulations for the use of our goods.

§ 6 Liability for Faults

- (1). Claims for faults by the customer are conditional on him having complied with his obligation for inspection and complaint as per § 377 HGB [German Commercial Code]. The notice of defect must be made in writing.
- (2). If there is a fault in the goods for which we are responsible, we are entitled, at our discretion, to subsequent performance by remedy of the fault or a replacement delivery.
- (3). If the subsequent performance which we have selected is unsuccessful, is unacceptable to the customer, or is refused or delayed by us, the customer may - without prejudice to any claims for compensation - withdraw from the contract or reduce the purchasing price.
- (4). If we are compulsorily liable in the context of entrepreneur's recourse, the regulations of §§ 478, 479 BGB have precedence.

- (5). If the customer is not entitled to a statutory or contractual right of return and in spite of this we have accepted a return of the goods in writing, a handling fee to the amount of 25% of the gross value of the goods will be levied by us.

§ 7 Limitation of Claims for Damages

- (1). Claims for damages against us or our employees, regardless of the legal argument, are excluded insofar as we are not liable due to wilful action, gross negligence accepted warranty or essential contractual obligations. Such claims are limited to foreseeable damages which are typical for the contract. A change to the burden of proof to the detriment of the customer is not associated with this regulation.
- (2). Claims for damages against us or our employees, regardless of the legal argument, are subject to the statute of limitations at the latest after one year, insofar as we are not liable due to wilful action. The special regulations for claims for faults in § 6 No. (4) and No. (5) remain unaffected.
- (3). Insofar as we have mandatory liability for material damage or personal injury due to a fault of the product according to the Product Liability Act [Produkthaftungsgesetz], the regulations of the Product Liability Act have precedence. The aforementioned provisions apply to an internal regulation as per § 5 Paragraph 2 of the Product Liability Act.

§ 8 Reservation of Title

- (1). The delivered goods remain our property until the complete payment of the purchase price and all other claims by us against the customer.
- (2). If the goods subject to reservation of title are processed or reworked by the customer, the processing or reworking is performed on our behalf as a manufacturer in the sense of § 950 BGB.
- (3). If our goods subject to reservation of title are mixed with the customer's own goods or goods with reservation of title by third parties, or are further processed together with such goods, we acquire co-ownership of the new goods or the mixed quantity in relation of the value of our goods subject to reservation of title to the other goods at the time of processing. We do not make any claim to the increase in value brought about by the combination, mixing or processing.
- (4). The goods which are our property as per § 8 No. (2) or our shared property as per § 8 No. (3) secure our claims in the same manner as the goods subject to reservation of title which were originally delivered by us. We are entitled to revoke the authorisation of the customer for the processing of our goods subject to reservation of title if the customer becomes in arrears with payments to us.
- (5). The customer hereby assigns his claims and all auxiliary rights from the resale of our goods subject to reservation of title and the goods which are our property as per § 8 No. (2), or our shared property as per § 8 No. (3) as security for all claims to which we are entitled against the customer at the time of resale. However, in the case of resale of goods, which are our shared property as per § 8 No. (3) only that portion of the claim is deemed to be assigned which corresponds to the value of our portion of the shared property.
- (6). The customer is authorised to assign claims from resale in the context of genuine factoring, insofar as this assignment is previously notified to us and the accounts receivable at least amount to the value of our goods subject to reservation of title, which are our property as per § 8 No. (2), or our shared property as per § 8 No. (3), from whose sale the particular claim results. The debts and other claims against the factor from the sale of the claims which have been assigned to us as security are hereby assigned to us by the customer. They serve, as do the aforesaid, for securing our claims. We hereby accept the aforementioned assignment.
- (7). If the realisable value of the claims assigned to us as security exceeds our claims against the customer by more than 10%, on demand by the customer we shall be obliged to release the securities in excess of this.
- (8). The customer is entitled to call in the debts assigned to us. This authorisation becomes void if the customer becomes in arrears with payment. In this case we are authorised in the name of the customer to inform his purchaser of the assignment. The customer shall be obliged to provide us with the necessary information for the enforcement of our rights against his purchaser, in particular to name the purchaser and to hand over the necessary certificates and documents.
- (9). The customer is only entitled to resell our goods subject to reservation of title and our property as per § 8 No. (2), or our shared property as per § 8 No. (3), in the context of his usual business activity and only on condition that the claim for the purchase price from the resale is transferred to us as per § 8 No. (5). This authorisation becomes void if the customer becomes in arrears with payment. The customer is not entitled to other means of disposal of the goods subject to reservation of title and the goods which are our property as per § 8 No. (2), in particular for a mortgaging or assignment of security.
- (10). The customer is obliged to sufficiently insure our goods subject to reservation of title and our property as per § 8 No. (2), or our shared property as per § 8 No. (3), against loss and damage due to fire, theft, water and similar risks and to provide evidence of such insurance on demand. The customer hereby assigns his claims for compensation to which he is entitled from insurance companies or other compensation obligations - if necessary proportionally - to us. Any impairment to or our shared property as per § 8 No. (3) must be notified to us, as must be any seizure by third parties.
- (11). If the authorisation for resale becomes void, on demand the customer is obliged to provide us with information regarding the stocks of our goods subject to reservation of title and the goods in our possession as per § 8 No. (2), and in our co-ownership as per § 8 No. (3), and to hand over the goods subject to reservation of title on demand. § 449 Paragraph 2 BGB is insofar complied with. For the enforcement of our right of handover, we are also entitled, after previous notice and the setting of a period of grace, to enter the customer's premises and to remove the goods subject to reservation of title.
- (12). Furthermore, we are entitled to dispose of the goods subject to reservation of title which are handed over for the satisfaction of our claims as soon as we either withdraw from the contract of the conditions for the enforcement of compensation in lieu of performance have occurred. The enforcement of the reservation of title, in particular the return or mortgaging or disposal of the items are only deemed to be a withdrawal from the contract if we explicitly declare this in writing.

§ 9 Place of Jurisdiction, Applicable Law

- (1). Insofar as the customer is a business person, a legal personage under civil law, or a special asset under public law, our headquarters is the place of jurisdiction; however, we are also entitled to litigate against the customer at his place of residence.
- (2). For the entire legal relationship with the customer, German law applies exclusively, to the exclusion of the UN treaty for contracts for the international sale of goods (CISG).