

GENERAL TERMS AND CONDITIONS

§ 1 Application

- (1) walter.bischoff... GmbH (hereinafter called „supplier“) is exclusively acting on the following general sales terms and delivery conditions (hereinafter called „GTC“). These terms of contract shall also apply to follow-up orders. Deviating general terms and/or conditions of the contracting party shall be expressly excluded. These GTC shall also apply when the goods have been delivered to the customer without reservation being aware of the deviating or conflicting conditions of the customer.
- (2) The GTC shall only apply if the buyer is a contractor (art. 14 BGB = German Civil Code), a corporate body under public law or a special property under public law.

§ 2 Offers

All offers of walter.bischoff... GmbH are non-binding and without obligation if they are not designated explicitly as binding nor contain a special term of acceptance. This shall also apply if the buyer receives catalogues or other product descriptions or documents – also in electronic form. Walter.bischoff...GmbH can accept orders within 21 days after receipt.

§ 3 Place of delivery, transport costs, packing

- (1) All deliveries shall be carried out, if not otherwise agreed, ex first warehouse in the Federal Republic of Germany based on the necessary self-supply. The transport costs including the insurance costs of the appropriate means of transport usually used by the supplier shall be borne by the customer.
The customer shall be entitled to choose another means of transport than provided by the supplier against absorption of additional costs.
- (2) The goods will be shipped in the most cost-effective packing necessary for the delivery.
- (3) All packings in the sense of the current regulation on packaging will not be taken back. The customer shall be obligated to arrange for the disposal of the packing and shall bear the arising costs by himself.

§ 4 Delivery

- (1) The terms and dates for deliveries and performances announced by the supplier shall apply only approximately, unless a fixed term or date has been promised or agreed in writing. As far as a shipment has been agreed the delivery times and dates refer to the time of the handing over to the forwarding agent, carrier or other third transporting party.
- (2) The correct and punctual self-supply is reserved. This shall also apply if neither walter.bischoff... GmbH nor its suppliers can be blamed or walter.bischoff... GmbH in particular cases is not obligated to supply.
The delivery commitment of walter.bischoff... GmbH shall be omitted without compensation if it is constantly prevented from fulfilling its obligation by state measures of the country of origin of the goods or by supranational organizations, wars or natural catastrophes.
- (3) A delivery time will extend in case of legal strike or lockout, if an independent supplier is concerned, also in case of such illegal industrial actions, by the period of the interruption based on this.
- (4) In case of later modifications of the contract which could influence the delivery time the delivery time will extend accordingly if no special agreements have been made.
- (5) If the customer does not fulfill in time his contractual obligation to co-operate the delivery time will extend accordingly.
- (6) The supplier shall be entitled to make part deliveries. The delivery of excess quantities up to 10 % of the stipulated quantity shall be admissible if it is reasonable for the customer in the particular case.

- (7) The deviation of colour and/or quality occurring in the production of small quantities and samples as against series productions will be accepted by the buyer as far as it is reasonable in the particular case.

§ 5 Prices, payment and delay

- (1) All prices are subject to VAT in the amount valid at the time of performance as well as the costs of the packing.
- (2) If not otherwise agreed the purchase price is due for payment within 30 days after the date of invoice. If receipt of the complete payment is within 10 days after the date of invoice the supplier will grant a discount of 2 %.
- (3) If the contract implies deliveries staggered over a period of time the purchase price will be due for payment with every partial payment invoice within 30 days according to art. 5 sec. 2.
- (4) In case of a delay of payment the customer undertakes to pay the relevant interest in the amount of 8 percent points above the prime rate according to art. 247 BGB. The supplier shall reserve the right of claiming a further damage for delay. The supplier shall be entitled to execute the right of retention also in case of delay of payment of the customer regarding previous deliveries.
- (5) The customer shall be entitled to set-off rights or right of retention only if his claim has been recognized finally or is undisputed. In case of defects of the delivery the opposing rights of the customer will be unaffected especially according to art. 6 sec. 3 clause 2 of this GTC.
- (6) If it becomes perceptible after the conclusion of the contract that the supplier's claim for payment is endangered by a lacking capacity of the customer the supplier can demand a security deposit of his own choice after an appropriate period of time matching payment with delivery. After an unsuccessful expiry of the time limit the supplier can withdraw from the contract.

§ 6 Warranty

- (1) The quality and condition of the supplied goods comply with the specification and description of the subject of the contract submitted by walter.bischoff... GmbH at the tender preparation or the order confirmation. The contracting parties agree that the goods are free from defects as far as they comply with the condition given in the specification. The delivery of smaller quantities up to 10 % of the stipulated quantity is not a defect.
- (2) If the supplied goods are defect the customer can firstly demand the rectification or replacement as subsequent performance. The time limit for the replacement must consider the period which the supplier needs to procure the goods from the same country of origin where the defect goods came from.
- (3) The necessary expenses for the test and subsequent performance, especially transport, road maintenance, labour and material costs (not: assembly and disassembly costs) have to be borne by the supplier if a defect really exists. If it proves, however, that the claim for rectification of the defect is not justified the supplier can demand reimbursement of the incurred costs from the buyer.
- (4) In urgent cases, e.g. if the plant safety is endangered or excessive damages have to be repelled the buyer shall be entitled to remove the defect by himself and to claim reimbursement from the supplier for the necessary expenses. The supplier should be informed immediately, possibly in advance, about such a self-remedy. The right of self-remedy does not exist if the supplier is entitled to refuse a relevant subsequent performance according to the legal regulations.
- (5) The supplier shall be entitled to grant the subsequent performance only if the buyer pays the due purchase price. The buyer shall, however, be entitled to retain a part of the purchase price which is adequate to the defect.
- (6) If the subsequent performance has failed or after the time fixed by the buyer for the subsequent performance has expired without success or is dispensable according to the legal regulations the customer can of his own choice withdraw from the contract, reduce the payment or demand damages as required by the legal regulations in compliance with the

regulations of art. 7 of this GTC. In case of an irrelevant defect a right of withdrawal does not exist.

- (7) The buyer shall be obligated to check the goods thoroughly on receipt of each delivery and before a possible processing and to inform the supplier about visible defects immediately within a time of 7 days at the most.
- (8) Not visible defects of the goods have to be notified to the supplier immediately after their discovery.
- (9) The assignment or the pledging of warranty claims without an assignment of goods to a third party is excluded.
- (10) The buyer shall be obligated to inform the supplier immediately to the full extent when his customer raises warranty claims towards him.
- (11) In case of goods sold as "second quality" or so-called "special items" the buyer shall not be entitled to warranty claims concerning the defects for which reason the goods have been sold as "second quality" or "special item".
- (12) In case of goods with the marking „zinc coated“ it is agreed that a rusting of the articles cannot be excluded, especially when they are exposed to mechanical abrasion and atmospheric influences so that this does not mean a defect.
- (13) In case of goods with the marking „nickel-free surface“ it is agreed that they can tarnish or oxidize, so that this does not mean a defect.

§ 7 Liability

- (1) The supplier shall not be liable for slightly negligent acting, including slightly negligent acting of his managers and all vicarious agents as far as such obligations are not concerned which are indispensable for the achievement of the purpose of the contract or in whose fulfillment the customer could trust.
- (2) The supplier shall generally be liable for atypical, unforeseeable and by the contracting party controllable defects as far as the contracting party cannot particularly trust in their prevention.
In particular, the supplier shall not be liable for damages arising by an incorrect use or an insufficient control of the plants of the customer for the processing of the contractual products.
- (3) All liability limitations shall also apply for the liability from faults at the conclusion of the contract, other breaches of duty or due to tort claims for replacement of material damage according to art. 823 BGB. Moreover, the supplier shall not be liable for consequential harm caused by damage for which a liability because of other breaches of duty is considered, unless the other contractual party could trust in a proper performance of duties due to a special trust or essential contractual obligations are concerned.
- (4) Damages from the injury of the life, the body or the health shall be excluded from the liability limitations if the supplier is responsible for the breach of duty.
- (5) The liability limitations resulting from art. 7 sec. 1-3 shall not apply when Walter.bischoff... GmbH has maliciously concealed a defect or taken over a guarantee for the quality of the goods. The same shall apply for claims of the customer according to the product liability act.

§ 8 Reservation of title

- (1) The supplier reserves the right of property of the goods delivered until all claims have been paid completely. The reservation of title shall also apply in a possible current account relationship and with regard to the balance claim. The supplier shall be obligated to approve the securities on demand of the customer if the practicable value of the security exceeds the claim to be secured by more than 10 %. The supplier can choose the securities to be approved.
- (2) The customer shall be entitled to sell or process the reserved goods in a proper course of business, a pledge or a security assignment is not allowed. This authorization does not apply

if they are resold to customers who have excluded the assignment of the claims for payment or restricted with regard to the part of performance of the supplier.

- (3) By now, the customer assigns his claim from the resale of the reserved goods or claims from another legal ground (e.g. art. 950 BGB) to the supplier. The supplier accepts this assignment. Irrespective of the assignment and the right of collection of the supplier the buyer shall be entitled to collect the claim as far as he fulfills his obligations towards the supplier and does not get into delay of payment, a petition for insolvency is not filed, he does not become insolvent or it is not perceptible after the conclusion of the contract that the claim of the supplier for payment is endangered due to a lack of efficiency of the customer. The customer has to give the supplier the necessary details for the collection of the assigned claims on demand and to inform his customer about the assignment. The assignment of the claim of the purchase price which the buyer has towards his customers to a third party is excluded up to the amount of the claim of the supplier. The supplier shall be entitled to demand the delivery of the unpaid goods immediately after the delay of payment.
- (4) The processing or transformation of the delivery item by the customer shall always be carried out by the supplier as manufacturer. If the delivery item is processed with other items not belonging to the supplier the supplier will acquire the co-ownership of the new item whose merchandise value corresponds to the rate of the merchandise value of other suppliers. If a mixing or processing is made in such a way that the item of the buyer and the one of the buyer's customer has to be seen as the main thing it is agreed that the buyer shall transfer a proportional co-ownership of the new item to the supplier. The buyer or the buyer's customer shall keep the property for the supplier.
- (5) Sections 1-3 shall apply accordingly for the items newly manufactured by processing, mixing or transformation.
- (6) When cohesively to the payment of the purchase price by the buyer a liability by bill of exchange of the supplier is constituted the reservation of title and the claim from deliveries of goods based on this shall not lapse prior to collection of the bill by the customer as drawee.

§ 9 Statute of limitations

- (1) Deviating from art. 438 sec. 1 No. 3 BGB the general statute of limitations for claims from defects and defects of title of new items shall be one year from delivery. As far as an approval has been agreed the statute of limitations will begin with the approval. A guarantee is not granted for used items.
- (2) Legal special regulations for claims for restitution in rem of a third party (art. 438 sec. 1 No. 1 BGB), for the case of fraud by the seller (art. 438, sec. 3 BGB) and for claims in the supplier's regress at the final delivery to a consumer (art. 479 BGB) shall remain unaffected.
- (3) The above statute of limitations of the purchase right shall also apply to contractual and non-contractual claims for damages of the buyer which are based on a defect of the goods unless the use of the regular legal statute of limitations (art. 195 and 199 BGB) would lead to a shorter statute of limitations in the particular case. The statutes of limitations of the product liability law remain unaffected in either case. Apart from that the legal statutes of limitations shall apply exclusively for claims of damages of the buyer according to art. 7 sec. 4 and 5.

§ 10 Guarantee – property rights

In the way of the independent guarantee the customer shall have the exclusive right of ownership for the case that walter.bischoff... GmbH manufactures on the basis of the designs and specifications of the customer. If property rights for patents, copyrights and trademarks are raised against walter.bischoff... GmbH by a third party the customer will have to indemnify walter.bischoff... GmbH from all costs and claims referring to this.

§ 11 Choice of law, jurisdiction

- (1) The contract is subject to the law of the Federal Republic of Germany. The application of the United Nations convention on contracts for the international sale of goods (CISG) is excluded.
- (2) It is agreed that the place of performance for all liabilities from this contract is the registered office of the supplier. The place of jurisdiction for all disputes resulting from this contract is the court responsible for the registered office of walter.bischoff... GmbH and at the supplier's choice also the one of the buyer.

- (3) All agreements of the parties concerning the contract including the amendment of this clause must be made in writing.

§ 12 Data processing

The customer notes that walter.bischoff... GmbH stores data from the contract according to art. 25 BDSG (= German Federal Data Protection Act) for the purpose of data processing and reserves the right to transmit the data to a third party (e.g. suppliers, insurance agencies, security providers, carriers) as far as is necessary for the fulfillment of the contract.