

# General Terms and Conditions of Trade and Delivery

## 1. Offers and conclusion of a contract

1.1 The following Terms and Conditions of Sale are an integral part of any contract and any commercial agreement made with the seller, wb compagnie gmbh. No terms and conditions other than those mentioned here, in particular not the buyer's terms and conditions of purchase, have any legal force, not even if these have not been expressly rejected in other form by the seller. The placing of an order or acceptance of the goods on the part of the buyer is deemed as acceptance of these terms, also for all future business agreements.

1.2 All offers made by the seller are subject to confirmation. The seller's written order confirmation is required for the conclusion of a contract, which is subject to these Terms and Conditions of Sale and Delivery.

1.3 Unless expressly agreed as binding in writing, the specifications made by the seller in the sales documentation or the offer serve the sole purpose of describing the article of sale and are only approximately applicable. Such specifications may include descriptions, drawings or illustrations etc. Design and colour specifications are subject to change without requiring prior notification.

1.4 Unless confirmed in writing by the seller, oral agreements or assurances have no legal force. 1.5 The seller reserves the right to increase or decrease the purchase order quantity, within reasonable limits, in order to adjust to the standard packing units of the buyer without this requiring prior notification.

## 2. Delivery

2.1 Delivery dates and delivery times are not binding until confirmed in writing by the seller nor until such time as all information and documentation required for the execution of the delivery have been duly passed on to or made available to the seller by the buyer and, for instance, any advance payments that have been agreed have been duly paid. Agreed delivery times begin with the date of the order confirmation. The delivery times are extended accordingly, in the case of additional or extended orders placed at a later date.

2.2 Any unforeseen occurrences such as force majeure, official directives, industrial conflicts or any other occurrences which lay outside of the seller's sphere of influence and for which he cannot be held responsible, release the seller from his obligation of punctual delivery or performance of duty for the duration of these occurrences. Agreed delivery times are extended for the duration of the disruption, the seller will be informed in an appropriate manner if such a disruption arises. Should the duration of the disruption not be foreseeable or should it last longer than three months, the party is entitled to withdraw from the contract.

2.3 Should the seller have a claim to damages against the buyer arising from the buyer's delay in acceptance of the delivery, then the seller is entitled to demand payment of a lump sum to the amount of 30% of the net sale price; the buyer retains the right to prove, in each and every individual case, that no damage has actually arisen or that such is considerably lower than the lump sum.

2.4 Should collection be agreed, the seller is entitled to arrange for storage at the buyer's expense and risk if the collection is not made by the agreed date.

2.5 Risk for the goods passes to the buyer on delivery to the postal service or the carrier, regardless of whether delivery has been agreed free of carriage charges or whether ownership of the goods has already passed to the buyer. Passing of risk occurs on delivery of the goods to the carrier, even in cases where shipment is executed by the seller's own employees.

2.6 Deliveries are not insured. The buyer is liable for the costs of any insurance that he himself may desire.

2.7 Part deliveries are permissible.

## 3. Purchase price

3.1 All deliveries are effected at the prices quoted in the latest price list valid on the day of the receipt of the order confirmation and exclusive of the appropriate VAT.

3.2 The seller's prices are understood as net prices, ex works for amounts up to € 250 and net prices, free domicile for amounts above € 250. For textiles the seller's prices "ex warehouse, net" are valid. For textile orders within the Federal Republic of Germany during the pre-order period, the prices are understood as net prices free domicile; for reorders net prices ex warehouse are valid for amounts up to € 150 and for amounts above € 150 the prices are net free domicile.

## 4. Payment

4.1 The seller's invoices are strictly net and due for payment within 8 days. Payments made by the buyer are not deemed as settled until such time as the seller has received them. For textiles the following different payment terms are valid: Payment within 10 days after date of invoice, 4% discount; within 30 days after date of invoice, 2,25% discount. Payment within 30 days after date of invoice, net. For special items, advertising material and other articles and services not included in the current price list the payment term immediately net is exclusively valid.

4.2 In the case of payments made by third parties, in particular within the framework of a del credere agreement, the goods are not deemed as paid for until payment itself has been duly received.

4.3 Checks are only accepted by the seller in lieu of fulfilment and if free from any costs and expenses. The seller reserves the right to exclude certain methods of payment. The buyer is liable for any C.O.D. charges. The seller will charge for bills of exchange at the usual rate of bank discounting and collection charges.

4.4 The buyer may only offset his counterclaim if this is beyond dispute or has been proven to be legally valid. The buyer is only entitled to exercise his right of retention in as far as his counterclaim refers to the same contract, is beyond dispute and has been proven to be legally valid.

4.5 All demands for payment made by the seller are due for payment immediately; if payment in instalments has been agreed, all outstanding instalments become due immediately in full if the terms of payment are not fulfilled without any justifiable grounds being given or if the seller hears of a substantial deterioration in the financial standing of the buyer. In such cases the seller is also entitled to demand advance payment(s) or security before fulfilling any outstanding delivery quantities or performances. Should the buyer not have settled the advance payment(s) within a reasonable period of grace, the seller is entitled to withdraw from the contract either in part or in full. The seller is at liberty to assert any other rights that he may have.

4.6 Unless otherwise authorised by us in writing, our employees or representatives have no collecting rights.

## 5. Retention of title

5.1 We reserve the title to the goods until such time as all demands for payment arising from a current business relationship have been settled in full.

5.2 The buyer is obliged to treat the goods with care. Should maintenance work or inspections be necessary, the buyer is obliged to carry these out regularly and at his own cost.

5.3 The buyer is obliged to inform us without delay of any third party intervention, e.g. in the case of a levying of distraint or of any other damage or destruction of the goods. The buyer is obliged to inform us immediately of any change in ownership of the goods or change of his own residence.

5.4 In the case of any violation of the contract on the part of the buyer, in particular default in payment or violation of an obligation as set down in points 2 and 3 of this section, we are entitled to withdraw from the contract and demand the return of the goods.

5.5 The buyer is entitled to further utilize the goods in his usual course of business, however, he here and now cedes to us all demands he has on his customer or third party from the resale, up to the amount of the final invoice sum (including VAT) of our claim, irrespective of whether the goods have been resold in their original condition or after further processing. We herewith accept such statement of cession. The buyer remains authorised to collect this debt even after it has been ceded. This shall not affect our right to collect the debt ourselves. However, we under-take not to collect the debt provided that the buyer complies with his payment obligations from the revenues collected, is not in default with his payments and, in particular, does not have an application for the institution of bankruptcy or insolvency proceedings filed against him nor any amicable composition proceedings with the creditor for the clearing of debts (§ 305 Section 1 No. 1 InsO) and if there are no check or bill of exchange proceedings and payments are not discontinued. If, however, any of the aforementioned situations occurs, we may demand that the buyer notifies us of the ceded debts and the debtors, supplies all information necessary for us to collect the debts, hands over the

associated documentation and notifies the debtors (third parties) of the cession. The right of collection applies to the total outstanding balance claim. The buyer is not entitled to dispose of the goods in any other way, in particular not for levies of distraint or transfer by way of security.

5.6 We undertake to release the securities provided to us at the request of the buyer so far as the realisable value of our securities exceeds the claims to be secured by more than 20%. The realisable value, in as far as the buyer is not able to prove a lower realisable value of the goods that are subject to retention, is the purchase prices of the buyer or, in the case that the goods that are subject to retention have been processed, the production costs of the security collateral or co-ownership share. We shall be free to choose which securities shall be released.

5.7 The buyer shall be custodian of the goods that are subject to retention on behalf of the seller. He is obliged to insure them to the customary amount against fire, theft and damage by water. The buyer is obliged to treat the products subject to retention with care for the duration of the retention of title period. The buyer herewith cedes to the seller the claims for damages arising from damage of the above-mentioned types, that he has against insurance companies or other parties liable for damages. This cession to be of an amount equal to the invoice value of the goods. The seller accepts this statement of cession.

## 6. Processing of returns

In as far as the buyer has been granted the opportunity to return the goods or parts of the goods, these should be returned to us free domicile Furth im Wald.

## 7. Warranty, duty of inspection

7.1 Warranty claims of the buyer are conditional upon the buyer duly inspecting the goods upon delivery and notifying the seller of any defects without delay. We grant a warranty for the defective goods whereby we first have the choice of whether to repair them or to supply new, defect-free items.

7.2 Should the attempt to remedy the defective goods fail, the buyer is entitled at his discretion to demand a reduction of the purchase price (abatement) or to cancel the contract (rescission of the contract). However, if the items only deviate from the contractual requirements to a minor extent, in particular in the event of minor defects, the buyer shall have no right of rescission.

7.3 Unless the buyer notifies us in writing of any obviously visible defects within a period of 2 weeks of the receipt of the goods, the claim is excluded from the warranty. Timely dispatch is sufficient to protect the warranty claim. The full burden of proof lies with the buyer for all preconditions of the claim, in particular for the defect itself, for the time it is detected and for the timely notification of the defect. § 377 HGB remains unaffected.

7.4 Should the buyer choose to withdraw from the contract due to a defect of title or quality after an unsuccessful attempt to remedy the defect, he has no additional right to claim damages for the defect. Should the buyer choose compensation for damages after an unsuccessful attempt to remedy the defect, the goods shall remain with the buyer if this can be reasonably expected of him. The compensation for damages is limited to the difference between the purchase price and the value of the defective item. This is not the case if our breach of the contract was caused through intentional wrongdoing on our part.

7.5 The period of limitation for rights arising from defects is one year after delivery of the goods for defects that do not concern a building or work that is constituted in the submission of planning and supervisory services for such a building. This is not the case if the buyer did not notify us of the defect in due time (point 3 of this section).

7.6 On principle the manufacturer's description of the goods alone is valid as the agreed condition of the goods. Public statements, praise or advertising on the part of the manufacturer do not comprise any additional contractual specifications as to the condition of the goods.

7.7 Should the buyer receive defective assembly instructions, we are only liable for delivering defect-free assembly instructions and then only in as far as the defect in the assembly instructions impeded the correct assembly.

7.8 Damage caused by normal wear and tear, improper use and inadequate or incorrect care is excluded from the warranty.

7.9 The buyer receives from us no guarantees in a legal sense. This does not apply to manufacturer warranties.

7.10 The period of limitations for claims under warranty for the delivery item is 12 months.

7.11 Unless otherwise provided for under point 8, all further claims are excluded.

## 8. Liability and compensation for damages

8.1 In the case of breach of contract due to slight negligence, our liability is limited to the typical contractual, proximate and average damages predictable for such a specific kind of product. This is also the case for slightly negligent breaches of duty on the part of our representatives or vicarious agents. We are not liable for slightly negligent breaches of immaterial contractual obligations.

8.2 The above-mentioned limitations of liability do not apply to claims of the buyer pertaining to product liability. Moreover, the limitations of liability do not apply in the case of bodily injury or damage to health or loss of the buyer's life that are assignable to us.

8.3 The customer's claims to damages arising from a defect become time-barred one year after the delivery of the goods. This does not apply if we are guilty of gross negligence nor in the case of bodily injury or damage to health or loss of the buyer's life that are assignable to us.

8.4 The order is liable for taking the appropriate measures to prevent and minimise damage.

## 9. Final clauses

9.1 This agreement shall be governed by German law. The UN regulations on the Sale of Goods are excluded.

9.2 Our business location shall be the exclusive place of jurisdiction for any disputes arising from this agreement. The same applies should the buyer have no general place of jurisdiction in Germany or his address or usual place of residence are not known at the time action is filed. We are however also entitled to sue the buyer in the courts at his domicile.

9.3 Should any provision of this agreement with the buyer, including these General Terms and Conditions of Trade, be or become invalid in part or in full, this shall in no way affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a provision that comes as close as possible to the intended economic result.

9.4 Consignments of goods, complaints and repairs are to be sent exclusively to:

wb compagnie GmbH  
Dr.-Georg-Schaefer-Str. 30  
D – 93437 Furth im Wald  
Dated: February 2007