



General Terms and Conditions of Sale and Delivery Technische Textilien Lörrach GmbH & Co. KG

Effective: August 2006

§ 1 Scope

The Terms and Conditions of Sale and Delivery stated below shall be exclusively applicable to all - including future - deliveries and performances (subsequently only referred to as "deliveries") provided nothing to the contrary has been agreed in writing. The general terms and conditions of the buyer shall only apply as far as we explicitly agree to them in writing.

§ 2 Offers and scope of delivery

Our offers shall be without engagement. Contracts shall only come into effect by our written order confirmation or delivery. Our employees are obliged to confirm in writing any verbal ancillary agreement or promise which exceeds the content of the written contract or which changes these General Terms and Conditions of Sale and Delivery to our disadvantage.

§ 3 Passage of risk and delivery periods

- I. In the absence of any special arrangement, the risk shall pass to the buyer as soon as we have handed the goods over to the transport company or, if the shipment is delayed without our fault, we have informed the buyer of the readiness for shipment, and this shall also be the case, if partial deliveries are effected or if we have assumed other performances, e.g. shipping costs or delivery and erection by our own transport persons. Upon the request of the buyer, the shipment will be insured by us for the account of the buyer against theft, breakage, transport, fire and water damage as well as other insurable risks.
- II. The delivery period shall start upon the date of the order confirmation, however, at the earliest after the clarification of all technical and commercial details of the performance of the contract and the receipt of a possibly agreed down-payment. The delivery period shall have been complied with if the goods have left our plant by the expiry date of the period or - if the shipment is delayed without our fault - the readiness for shipment has been advised. Requests for changes of the buyer accepted by us shall extend the delivery period until we have verified their feasibility and the time required for the implementation of the new specifications in production.
- III. The grace period set in case of a default in delivery shall be at least four weeks, for goods on stock at least one week. The grace period shall be deemed to be observed if we dispatch the goods within this grace period.
- IV. In case of a default in delivery due to ordinary negligence, our liability shall be limited to a lump sum compensation of 0.5 % for each completed week, maximum 5 % of the order value delivered late. This shall not affect the claim for damages instead of performance in accordance with § 11. The buyer shall inform us latest upon the conclusion of the contract of any contractual penalty applicable in relation to its customers.
- V. If the shipment is delayed for circumstances for which we are not responsible,



- we shall store the goods for the account of the buyer and charge - in case of storage at our plant - at least 0.5 % of the invoice value of the stored Delivery per month,
- we shall be entitled to withdraw from the contract after the stipulation of an appropriate grace period and its unsuccessful expiry and - if the buyer is responsible for the delay – to demand damages instead of performance.

§ 4 Packaging

Packaging shall be of a type customary in trade. If the buyer requests a different type of packaging than customary in trade, it shall be charged. We take back transport packaging at our place of business during usual business hours if and to the extent the buyer pays for the costs of the disposal. Packaging shall be returned clean, free of foreign matter and sorted according to types. Otherwise the buyer shall pay for additional costs incurred.

§ 5 Transport

If - in exceptional cases - we pay for the transport on basis of other written arrangements, the goods shall be delivered as ordinary cargo. If the buyer requests special carriage or express delivery, we shall charge the resulting additional costs separately to the buyer.

§ 6 Weights, dimensions and samples

- I. Differences in the agreed weight of the delivered goods of up to plus/minus 5 % shall be considered customary in trade and thus approved. They shall not entitle the buyer to lodge a complaint of defects. The weight to be charged shall be the weight under normal atmospheric conditions as stated under II. of this provision.
- II. The weight shall be determined after reaching the equilibrium from the dry side at a relative humidity of 65 % and a temperature of 20 degrees Celsius. Complaints of defects in relation to the weight of the goods shall only be justified if the difference exceeds the plus/minus 5 % stated under I. of this provision.
- III. Samples shall only be type samples. We do not warrant that the Deliveries correspond exactly to the samples.

§ 7 Prices

- I. Provided nothing to the contrary has been agreed, our prices shall be "ex works" plus the value added tax respectively applicable on the date of the invoice.
- II. Taxes or public charges as well as special costs shall be for the account of the buyer.
- III. In case of delivery periods of more than 4 weeks, we shall be entitled to increase or decrease the agreed prices respectively if considerable changes in material, energy, labour or raw material costs have occurred and we are not responsible for these changes.

§ 8 Issue of invoices and payment

- I. The invoice shall be issued upon the shipment of the goods.



- II. Payments shall be effected in accordance with the conditions agreed on and stated on the invoice. Provided nothing to the contrary has been agreed, payments shall be made within 30 days from the date of invoice without any deduction and charges to our appointed bank. Payments shall only be considered made to the extent we can dispose of them freely at our bank. We shall accept cheques and notes only on account of payment; the buyer shall pay for any bank charges. They shall be due immediately.
- III. In case of a delay in payment, interest on arrears amounting to 8 percent points above the respectively applicable base interest rate, but at least 10 %, shall become due.
- IV. If reasonable doubt concerning the liquidity of the buyer arises, e.g. due to slow payment, delay in payment, cheque protesting, we shall be entitled to demand securities or cash payment in contemporaneous performance. If the buyer does not comply with this request within a reasonable period of time, we shall be entitled to withdraw from the part of the delivery contract which has not been performed. The period of time shall not be required if the buyer is obviously not in a position to provide a security, e.g. if an application for the commencement of insolvency proceedings concerning the estate of the buyer has been lodged.
- V. Withhold payments or offsetting with counter claims shall only be permitted if the counter claims are uncontested or recognized by the final and absolute finding of a court.

§ 9 Reservation of ownership

- I. We reserve ownership in the delivered goods until all payments and irrevocable credits for accepted cheques and bills of exchange from the business relations with the buyer have been received. If an open account relationship exists, the reservation of ownership shall concern the approved balance.
- II. The buyer shall be obliged to treat the goods with care; the buyer is particularly obliged to insure the same sufficiently at reinstatement value against loss, damage, fire, water damage and theft for its own account. The insurance policy as well as proof of paid premiums shall be presented to us upon request. The buyer assigns to us already at this point in time any claims from the insurance relationship.
- III. Processing of the conditional goods by the buyer shall always be on our behalf, without committing us. If the conditional goods are mixed or combined with other goods we shall acquire joint ownership in the new goods at the ratio of the invoice value of the conditional goods to the other materials.
- IV. The buyer shall be entitled to resell the conditional goods in the ordinary course of business; however, already at this point in time, the buyer assigns to us, in advance, the full amount of the receivables which arise against its customers or a third parties due to the resale or usage in accordance with § 9 III..
- V. The buyer shall be entitled to collect the receivables from the resale or usage as long as it meets its payment obligations from the collected proceeds, does not delay payments and, in particular, no application for the commencement of insolvency proceedings has been lodged and no stoppage of payments has occurred.
- VI. If the buyer does not comply with its payment obligations, we shall be entitled to repudiate the authority for resale and usage according to § 9 III. and to demand that the buyer informs us on the assigned receivables and their debtors, provides all details required for collection, hands over the pertaining documents and informs its debtors on the assignment of its debts. Taking the conditional goods back shall not



constitute a withdrawal from the contract. If we withdraw, we shall be entitled to utilisation at our discretion.

- VII. As long as the reservation of ownership exists, the buyer may effect transfers of property by way of security, pledges or assignments of receivables only with our written consent. We shall be immediately informed of any seizure of the conditional goods by a third party. The buyer shall bear the costs incurred for the defence of a seizure if they cannot be collected from the third party.
- VIII. If the value of the securities exceeds our receivables by more than 10 %, we shall release our securities to that extent at our discretion upon the buyer's request.

§ 10 Liability for defects

- I. Defects of the delivered goods shall be indicated to us in writing immediately, latest, however, 5 days after the receipt of goods, in case of hidden defects latest 3 days after their discovery. If these periods are exceeded, all claims and rights concerning the liability for defects shall lapse. The period of limitation shall be 12 months after delivery if we have not violated our obligations intentionally or in a grossly negligent manner or maliciously withheld the truth.
- II. Marginal, technically unavoidable deviations in quality, particularly in width, weight and finishing, customary in trade shall not constitute a defect.
- III. In case of justified complaints, we shall replace or rework the goods at our discretion. If the replacement also contains defects or if the rework is unsuccessful, refused or delayed in an unjustified manner, the buyer shall be entitled, after the unsuccessful expiry of a reasonable grace period, to demand a reduction of the price or – if defects are not insignificant – withdraw from the contract and demand damages instead of performance in accordance with § 11 I. The costs of subsequent performance which are incurred by the transfer of the purchased matter to another place than the business establishment of the customer after delivery shall not be assumed.
- IV. In case of a defect of a part which we purchased as a substantial part of the delivered goods, we shall be entitled to limit our liability, first of all, to the assignment of the warranty claims and rights which we have against the suppliers of the purchased part, unless the satisfaction from the assigned right fails or the assigned claim cannot be enforced for other reasons. In this case, the buyer shall be again entitled to the rights of § 10 III.
- V. The infringement on third party rights shall only constitute a defect if these industrial property rights exist in the Federal Republic of Germany.

§ 11 Liability

- I. Claims for damages – irrespective of their kind – against us shall be excluded if we, our legal representatives or vicarious agents have acted in ordinary negligence. This exclusion of liability shall neither be applicable to physical injury nor to the assumption of a guarantee nor if material contractual obligations have been violated in a manner endangering the performance of the purpose of the contract. However, if a guarantee is assumed, damages shall be limited to the extent of this guarantee or in case of the violation of material contractual obligations in ordinary negligence to the damage typical for the contract and predictable. Claims in accordance with the Product Liability Act shall not be affected.



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- II. With the exception of claims concerning the liability for defects, the Product Liability Act, or an injury of life, body or health, claims for damages shall cease one year after the customer has become aware of the damage and the obligation to effect compensation for it or should have become aware of this without gross negligence.

§ 12 Force majeure

- I. Unpredictable or unavoidable events for which we are not responsible (e.g. force majeure, transport disruptions, production stoppages, strikes, lockouts, operational disruptions, lack of materials, lack of energy and lack of labour, governmental measures, governmental provisions, measures of authorities and acts of confiscation, difficulties in material and energy procurement as well as difficulties in the procurement of permits, particularly import and export licences) shall extend the period of delivery for the duration of the interruption and its effects. This shall also be applicable if these impairments occur for our suppliers or during an already existing default in delivery.
- II. If the impairment is not only of a temporary nature, both parties shall be entitled to withdrawal from the affected contract. Claims for damages are excluded for the events mentioned in § 12 I.

§ 13 Place of performance, place of jurisdiction and applicable law

- I. Place of performance for either party concerning all obligations to be performed under a contract shall be our place of business.
- II. **Any disputes arising from a contract shall be referred to the court having jurisdiction at our place of business.** However, we shall also be entitled to bring an action at the place of business of the customer.
- III. German law shall be applicable. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 shall be excluded.