



## **Conditions of Sale and Payment of Storck International GmbH**

The basis of all our offers, contracts, deliveries and other services in connection with sales and deliveries of movable property to be manufactured or produced are our following terms and conditions of business to the exclusion of differing conditions of the contracting party (hereinafter: Buyer).

Our terms and conditions of business in the version last made known to the Buyer also apply to any and all follow-up business.

Deviations from our terms and conditions of business - including this clause - will be effective only if they are agreed or confirmed by our legal representatives, general agents or Prokuristen [persons vested with general commercial power of representation] - in the case of collective representation by the required number of authorized representatives.

Written statements within the meaning of our terms and conditions of business will also be statements by telex or facsimile. For purposes of calculating the final date, the rules of interpretation under Sections 187 to 193 of the BGB [German Civil Code] will apply. Saturday is not deemed to be a working day.

### **I. Conditions of Sale**

1. Our offers are not binding. Orders will be considered accepted only if they have been acknowledged by us in writing or if delivery has been effected. Offers submitted to us will bind the Buyer for two weeks from receipt. We make a reservation as to ourselves obtaining supplies correctly and in due time.
2. Unless expressly termed "binding", dates of delivery are deemed approximate dates only. If they are exceeded by more than one week, the Buyer may fix a reasonable final deadline.
3. In the case of force majeure and other external circumstances which were unavertable even exerting a reasonably expected duty of care, such as labour dispute measures, operational disruption, disruption of energy supply and supply of primary materials and materials, transport disruption, official measures, all deadlines, including binding deadlines shall be extended to an adequate extent where we are prevented from fulfilling our obligation on time. Should supply become infeasible or unreasonable due to said circumstances we will be released from our delivery obligation in the case of infeasibility and in the case where supply is unreasonable, we will have the right to rescind the contract. Where the supply delay lasts longer than four weeks the purchaser will have the right to rescind the contract. Where the delivery period is extended or where we are released from our delivery obligation the purchaser will be unable to derive any damage compensation claims. Where we have already received consideration for performance or part-performance it shall be reimbursed to the Purchaser immediately. We may only invoke the above terms where we have immediately informed the purchaser of the circumstances preventing performance.
4. As prices our list prices are agreed which are applicable at the date of receipt of the order plus turnover tax at the statutory rate applicable on the date of invoicing. Unless a different arrangement has been made, prices are inclusive of customary packing ex our warehouse.
5. The place of performance for all deliveries is our warehouse (should the occasion arise our forwarding agent's warehouse). The risk shall pass to the Buyer as soon as the consignment has been delivered to the person handling shipment, when the goods have left our warehouse at the latest. If the goods are ready for shipment and if shipment or acceptance are delayed for reasons for which we are not responsible, then the risk shall pass to the Buyer upon receipt of the notice of readiness for shipment.
6. Delivery will be effected in customary packing at our option. We shall be entitled to request that packaging, in particular master cartons, be returned to us without compensation or to refuse to take them back. We determine the mode of shipment.
7. We shall be entitled to effect part performance unless there are important reasons on the part of the Buyer conflicting therewith. The Buyer shall be obliged to accept reasonable short deliveries.
8. Defects
  - (a) Only a minor decrease in value or suitability of the thing will not constitute a defect.
  - (b) The Buyer may not rely on public statements made by us or our servants if and to the extent that the Buyer cannot prove that the statements influenced its purchase decision or if the statement had already been corrected at the time the purchase decision was taken.
  - (c) Notice of defects of any kind shall be given by the Buyer in writing and without delay, however, in such a way at the latest that the notice of defects is received by us 10 working days after delivery of the goods. Later notices of defects will be taken into account only if despite careful examination the defect was incapable of being detected within that period. Apparent damage and weight differences shall be proved by the Buyer by means of a certificate issued by the carrier (forwarding agent, railway agent, etc.). In case of a justified, timely and duly given notice of defects we shall to the exclusion of all other claims of the Buyer initially be entitled to remedy the defect or to deliver a thing free from defects (subsequent performance). If subsequent performance fails, is rejected by us or is not acceptable to the Buyer, the Buyer may at its option demand reduction of the purchase price or may withdraw from the contract. Our liability for damages will be governed by I. clause 10 of these Conditions of Sale and Payment.



- (d) All claims based on a defect shall become statute-barred within one year from delivery of the thing. Liability for gross negligence as well as the liability according to the Product Liability Act and for damages due to injuries to life, body and health shall remain unaffected.
- (e) The rights of the Buyer under Sections 445a, 445b and 478 of the BGB shall remain unaffected.
- (f) The Buyer shall inform us about incoming notices of defects without delay in writing, but not later than within 10 working days after their receipt in order to maintain its rights under Sections 445a, 445b and 478 of the BGB.

#### 9. Reservation of title

- (a) Until payment in full of all - also future - accounts receivable to which we shall be entitled under the business relation with the Buyer, we reserve title to the goods delivered. The surrender of cheques, bills of exchange or other documents merely giving rise to an obligation to pay shall not constitute payment within the meaning of the preceding sentence. The Buyer shall store the goods subject to reservation for us free of charge exercising the diligence of a prudent businessman; their pledging or transfer of ownership in them by way of security shall be inadmissible.
- (b) The Buyer shall be entitled to sell the goods subject to reservation in the ordinary course of business as long as the Buyer duly meets its contractual obligations and in particular complies with the following conditions. The Buyer shall assign to us for security already hereunder the accounts receivable accruing from a resale or other legal reason (e.g. insurance, tortious act) to their full extent. We authorize the Buyer until further notice to assert the claims assigned to us and to collect itself the accounts receivable assigned to us for our account in the Buyer's name. Amounts collected shall forthwith be used to pay the debts due and payable to us. The authority to collect shall become extinct even without revocation if the Buyer stops payments or a petition for insolvency proceedings is filed.
- (c) The Buyer undertakes to inform us immediately if third parties seize the goods subject to reservation or attach assigned accounts receivable; costs and damages shall be for the Buyer's account. The Buyer undertakes further to inform us without delay if its financial situation may jeopardize the proper discharge of existing or future obligations. Any further assignment without our consent of the accounts receivable assigned to us shall be excluded unless it is a matter of assignment by way of non-recourse factoring, which is indicated to us.
- (d) We will release the aforesaid security at our option upon request as far as its value persistently exceeds the accounts receivable to be secured by more than 10 per cent.
- (e) Contract breaching conduct of the Buyer - particularly failure to meet the payment obligation despite a reminder - shall entitle us to immediately revoke the authority to collect and to take back the goods subject to reservation. The debtors of assigned accounts receivable and all particulars and records necessary for collection shall be made known or surrendered to us without delay. The exercise of rights under the reservation of title as well as any attachment shall not constitute withdrawal from the contract; the Buyer undertakes to give us access to the goods subject to reservation on demand without delay.

#### 10. Claims for damages

- (a) Claims for damages by the Buyer, for whatever legal reason, are excluded unless they are based on (1) intent or gross negligence, (2) culpable violation of material contractual obligations (contractual obligations, the violation of which put the achievement of the purpose of the contract at risk or the fulfilment of which would in general ensure the proper completion of the contract and on the compliance of which the contractual partner may rely on consistently), (3) acceptance of a guarantee of quality for the thing.
- (b) As far as we shall be liable under lit. a (1) or lit. a (2) for breaches of contract or culpa in contrahendo and any tortious acts simultaneously connected therewith, our liability shall be limited to the damage foreseeable at the time of conclusion of the contract; this shall not apply in the event of intent or gross negligence of legal representatives or executive employees.
- (c) As far as we breach a material contractual obligation (lit. a (2)) due to ordinary negligence, our liability to pay damages shall be limited to the total policy value under our product liability insurance.
- (d) The acceptance of a guarantee shall presuppose an appropriate express agreement. Exact descriptions of the object of purchase and its use alone shall not constitute a guarantee. Liability resulting from the acceptance of a guarantee (lit. a (3)) shall extend to include only such damage as the guarantee is designed to protect the Buyer from.
- (e) Claims of the Buyer for damages not attributable to a defect shall become statute-barred in 18 months. Liability for gross negligence shall remain unaffected. The beginning of the period of limitation shall be determined under Section 199 subsections 1 and 3 of the BGB.
- (f) Liability under the Product Liability Act and for damage caused by culpable injury to life, limb and health shall not be affected by the foregoing provisions.



## **II. Conditions of Payment**

1. The place of performance for all payments shall be our principal place of business.
2. The date of invoice will be the date of shipment. There will be no postdating or stating of the value date.
3. Unless otherwise agreed on the invoice, the following conditions of payment shall apply: within fourteen days after the date of invoice less 2 per cent discount, within 30 days after receipt of invoice net. A discount may be deducted only if all payment obligations resulting from previous deliveries have been discharged.
4. If the Buyer defaults on payment, we shall be entitled to claim interest at the rate specified in Section 288 subsection 2 of the BGB. All other rights are reserved. The costs incurred - also the expenses of a reminder - shall be for the Buyer's account.
5. If the Buyer culpably fails to discharge its payment obligations in time, particularly without any important reason fails to honour a cheque or bill of exchange or stops payments or if other circumstances become known which call the Buyer's creditworthiness into question, all payment obligations resulting from the entire business relation shall become due immediately; this shall also apply if we have accepted cheques or bills of exchange. In addition, we may withdraw from delivery transactions not yet carried out or may refuse to fulfil duties to deliver entered into until such time as the debts due have been settled and for outstanding deliveries at our option advance payment has been effected or security furnished.
6. Payments shall be effected exclusively to us direct. As far as payments are effected to persons acting in our name, such payments shall have a discharging effect only if such persons produce a written power of attorney executed by us or a receipt made out by us.
7. The Buyer may claim set-off, retention or reduction in respect of those of our claims, which do not entail reciprocity of performance and counter-performance, only if the counter-claims have become res judicata or are undisputed. The same shall apply to defences based on warranty for defects under Section 438 subsection 4 sentence 2, subsection 5 of the BGB.

## **III. General Provisions**

1. For the purpose of handling orders and sales statistics, the Buyer's data are subject to data processing.
2. These terms and conditions of business and all legal relations between us and the Buyer shall be governed exclusively by the law of the Federal Republic of Germany applicable as between national residents. The United Nations Convention on International Sale of Goods (CISG) is excluded.
3. As far as the Buyer is a merchant within the meaning of the Commercial Code, our principal place of business shall be the exclusive venue for all disputes directly or indirectly resulting from the contractual relationship, also concerning the formation and the validity of a contractual relationship.
4. Should any provision of these conditions or parts of any provisions be ineffective for any reason, the remaining provisions shall continue to apply. The ineffective provisions or any part thereof shall be replaced by a provision which comes as close as possible to the desired result from a legal and an economic point of view.

February 2023