

General terms and conditions for course of business with companies Comco Ikarus Gerätebau GmbH, Hohentengen

§ 1 Applicability, conclusion of contract, written form

- (1) Our general terms and conditions apply to business dealing with companies, legal entities under public law and public special estates. Our quotations, goods and services are based exclusively on these terms of business provided that no other agreement has been made. In the event of a close business relationship, they likewise apply to all future business, even if there is no specific agreement to the effect.
- (2) These conditions are deemed to have been accepted by the purchaser at the moment he places his order with his uncontradicted acceptance of the confirmation note or when he takes delivery of the merchandise or service.
- (3) All conflicting or varying statements by the purchaser referring to his own terms of business are hereby excluded. Our general terms and conditions are also valid if we deliver without reservation despite being aware of conflicting or varying terms of business of the purchaser.
- (4) Unless otherwise indicated, our quotations are non-binding and remain subject to amendment. A contract with the purchaser is not concluded until we confirm the written order from the purchaser or we deliver the merchandise or service. Our term of acceptance is 4 weeks after receipt of the order.
- (5) Warranted properties or lifetimes, property agreements or application statements concerning delivery items and any other additional agreements are only valid in the written form. Agreements and information concerning properties or use of delivery items contained in our quotations have priority over information contained in our brochures, drawings, descriptions, price lists and any other documents or samples.

§ 2 Prices

- (1) All prices should be understood to be in EURO, ex Hohentengen factory or another location named by us. They do not include cost of packaging, carriage, postage or custom duties, plus valued added tax at the current rate.
- (2) All prices are calculated on the basis of costs at the time of our quotation. Should costs increase between this time and the time of delivery, we shall be entitled to adjust prices accordingly provided that we have informed the purchaser in due time and before delivery of the goods.

§ 3 Conditions of payment, set-off and right of retention

- (1) Unless otherwise indicated, payment is due immediately and in full at the agreed point of payment. The purchaser automatically falls into arrears 30 days after expiration of payment date.
- (2) We shall be entitled, even if the purchaser states otherwise, to bill for payment starting with the oldest debt first. If additional costs and interest already apply, we shall be entitled to bill first for costs, then for interest and finally for the principal debt.
- (3) We reserve the right of advance payment in the case of first-time orders or orders from abroad.
- (4) If the purchaser falls into payment arrears or should circumstances arise that put into doubt the creditworthiness of the purchaser, we shall be entitled to demand immediate payment irrespective of the agreed payment dates. In this event we shall also be entitled to demand advance payment or collateral security for outstanding merchandise or services.
- (5) The purchaser shall only be entitled to bring counter-claims if such claims are grounded in law, uncontested and accepted by us.

§ 4 Delivery dates and default

- (1) Should the ordered items not be in stock, orders shall only be accepted subject to our receiving correct and punctual delivery.
- (2) Delivery dates are approximate. Delivery deadlines are counted from the date of confirmation of order but not before all details of the transaction have been clarified, including all aspects of the transaction that require a contribution from the purchaser, in particular advanced payments. The delivery date is the date on which the merchandise leaves the factory or, should shipment not be possible due to no fault of our own, the date on which the purchaser is notified of readiness for shipment.
- (3) We shall be entitled to delay delivery in accordance with the duration of the circumstances that make delivery difficult or impossible (strikes, force majeure, unforeseeable disruption of operations, action by government authorities affecting not only us but also our suppliers and sub-contractors). We shall not be held liable even if such circumstances occur during an existing delay. Should we be unable to fulfill our contract due to such circumstances, we shall be entitled to withdraw from the contract. In this event, the purchaser has no right to claim compensation.
- (4) Should we exceed the delivery deadline due to reasons for which we are responsible, the purchaser is entitled to set us in writing a new deadline of at least 3 weeks after the original delivery date. We fall into default of delivery should we allow this deadline also to pass without delivery. In this event, the purchaser shall be entitled to claim compensation calculated at 0.5 % for each full week of delay, but not exceeding 10% of the delivery value. Further claims are dealt with in paragraph 8.
- (5) Should the purchaser set us a reasonable deadline of at least 4 weeks once we are in default of delivery, he is entitled to withdraw from the contract after this period of grace has expired without result. The setting of a deadline may be dispensed with under statutory conditions. In the event of default, the purchaser is obliged to inform us on request within a reasonable period of time whether he insists on delivery.
- (6) We are entitled to deliver after the delivery deadline expires. If the purchaser is not able or willing to accept delivery at this date, we shall be entitled to have the merchandise stored at the expense and risk of the purchaser or to store the merchandise on our premises at normal freight-company rates and demand immediate payment for the entire shipment, including storage costs. The additional costs thereof shall be invoiced separately.

§ 5 Default of acceptance

Should the purchaser delay acceptance, we shall be entitled to a penalty for default of 0.25 % of delivery value for each full week of default, but in total not exceeding 10 % of delivery value. It is left to the purchaser to show that a smaller cost has been incurred and to us to show that a higher cost has been incurred. Should the purchaser refuse to accept the merchandise within a suitable extension period of at least 4 weeks, or should he explicitly declare his intention not to accept the merchandise, we shall be entitled to withdraw from the contract and to claim compensation instead of fulfillment of contract.

§ 6 Transfer of risk

- (1) The risk is transferred to the purchaser in the event of default of acceptance or at the time the merchandise is dispatched even if carriage-free delivery has been agreed or we use our own means of conveyance. The purchaser is in default of acceptance once we have notified him of readiness for shipment and an acceptance deadline set by us has expired.
- (2) Transport insurance shall only be effected on the explicit request in writing by the purchaser and at his expense.

§ 7 Purchaser's rights regarding defects

- (1) Changes in an article of sale which result from normal or excessive wear, incorrect or negligent handling through the purchaser or a third party, incorrect assembly or operation, incorrect or insufficient maintenance, unauthorised repairs, alterations or other interference, the use of spare parts not made or approved by us or adverse weather conditions or other external influences do not constitute defects inasmuch as we are not responsible for these circumstances. Insignificant deviations from guaranteed qualities and customary quality

tolerances do not constitute defects. Should materials from a third-party be used, our liability is limited to their selection.

- (2) Reference to technical standards does not constitute a guarantee of quality.
- (3) The purchaser must give notice in writing of obvious defects immediately but at the latest within 7 days of delivery of the merchandise. Defects occurring at a later date must also be reported immediately but at the latest within 7 days of discovery. These time periods must be strictly complied with. All complaints must be made in writing with a detailed description of each alleged defect.
- (4) We are entitled to choose the type of subsequent fulfilment (remedy or replacement) under consideration of the concerns of the purchaser and the type of defect.
- (5) Claims for compensation resulting from defects are dealt with in paragraph 8.
- (6) The purchaser's rights regarding defects expire one year after delivery of the item concerned insofar as we cannot be held liable for wilfulness and longer deadlines are not legally stipulated. This limitation period is valid for all claims, including claims for replacement of parts which have been damaged as a result of the initial defects.
- (7) The purchaser is not entitled to compensation of costs arising from subsequent fulfilment, in particularly transport, infrastructure, labour and material costs, insofar as the higher costs are due to subsequent delivery to a location other than the place of business of the purchaser, unless this complies with normal conditions of use.
- (8) Paragraphs 478, 479 BGB (German Civil Code) remain unaffected by the above conditions.

§ 8 General limitations on liability

- (1) We are liable for all claims from the purchaser for compensation and reimbursement of expenditure, irrespective of the legal ground from which they arise, only in the event of:
 - culpable injury to life, body or health,
 - defects which we have fraudulently concealed or the absence of which we have guaranteed,
 - defective items delivered, insofar as we are liable for personal injury and property damage according to the product liability law or
 - intent or gross negligence on our part.
- (2) In the event of a negligent breach of a cardinal contract obligation on our part, we are liable for simple negligence insofar as contract fulfilment is endangered by this breach. In the case of defects, such a danger only exists for significant defects. In the event of a breach of a cardinal contract obligation, our liability is limited to foreseeable damages typical to the contract if there is no wilful misconduct or gross negligence or the damages result from injury to life, body or health.
- (3) The limitations on liability shall be applicable in their entirety to our employees, representatives and agents.

§ 9 Reservation of proprietary rights

- (1) We reserve all our proprietary rights for all our products until the purchaser has settled all claims arising from the business relationship, including subsequent contracts such as follow-up contracts, repeat orders or orders for spare parts.
- (2) The purchaser is obliged, particularly in the case of deliveries abroad, to make all necessary declarations, to file all necessary applications and to undertake all necessary measures to ensure the safety of our property.
- (3) The purchaser may use and put to use the delivered merchandise in the course of his ordinary business activities. He is obliged to keep the goods in a fair condition and in accordance with the regulations of the country in which the goods are located. The purchaser must undertake all necessary maintenance and inspection work at his own expense and in due time. In the event of damage or loss of the merchandise, the purchaser transfers herewith all claims against insurance companies, hauliers or the injuring party to us.

The purchaser may only sell our reserved goods if he is not in arrears with his payment obligations, if the sale takes place within the course of ordinary business and if the transfer of the purchaser's claim receivable from the resale is allowed without limitation.

In the case of a resale, the purchaser herewith transfers to us in full as a precaution all claims and rights which arise from the resale. In the course of his ordinary business activities the purchaser is entitled and obliged to collect transferred claims if he is not in arrears with his payment obligations to us. Our authority to collect these claims remains unaffected. We shall not collect such claims as long as the purchaser meets his payment obligations.

Upon our request the purchaser is obliged to inform the debtor of the transfer and to hand over to us all appropriate documents as well as all information necessary to assert the debt.

Should the purchaser collect claims transferred to us or turn such claims into account in another manner without authorisation, we shall be entitled in full to the sum collected or proceeds received.
- (4) The purchaser may neither pledge our reserved goods nor assign them in security without our explicit written consent. He is obliged to inform us immediately in writing about a seizure of the goods by a third party and about any restriction to our rights on the goods.
- (5) In the event of a breach of contract by the purchaser, especially a delay in payment or if insolvency proceedings have been initiated against the purchaser or if application has been made for such proceedings, we shall be entitled but not obliged to take back the delivered goods. Taking back the goods does not constitute a withdrawal from the contract unless we have explicitly declared our withdrawal in writing.

Should the purchaser not comply with our request to return the goods, he shall be liable to pay compensation for use for every month or fraction of a month amounting to 5 % of the price of the goods, plus value added tax at the current rate. We reserve the right to claim further damages.
- (6) If the securities to which we are entitled under these terms and conditions exceed our claims to be secured by more than 20 %, we oblige to release any excess securities on demand.

§ 10 Final provisions

- (1) Place of fulfilment for all transactions resulting from the contract is Hohentengen.
- (2) Place of jurisdiction for all disputes is Hohentengen. We shall also be entitled to take legal action against the purchaser at his general place of jurisdiction.
- (3) The entire commercial and legal relationship between foreign purchasers and us is governed by German law. The UN Conventions on the International Sale of Goods (CISG) dated 11th April 1980 shall not be applicable.
- (4) Any aspect of these terms and conditions that is unworkable shall have no effect on the validity of any other provisions. The unworkable condition is to be replaced with an alternative designed to fulfil the originally agreed commercial purposes and intent of the parties concerned.
- (5) The data required to process business transactions are stored in a database in accordance with articles 27 ff. BDSchG (German federal law on data protection).