

## **General Terms and Conditions for Deliverables and Services by WSW Wälzlager Wolfgang Streich GmbH & Co., Bielefeld (deliverer/supplier) - not for consumers -**

### **I. General Provisions**

1. The orderer's General Terms and Conditions or Terms and Conditions for Purchase shall only apply to the extent as to express written consent was given by the deliverer or supplier; otherwise the laws of German shall apply.
2. The deliverer reserves – to an unlimited extent – his proprietary rights and copyrights for use as regards quotes, drawings and other confidential documents (hereinafter referred to as “documents”).
3. Partial deliveries shall be permissible if reasonable for the orderer.
4. All quotes and offers are without engagement and non-binding. To become contractually binding, the written order confirmation of the deliverer is required (letter/fax/e-mail). Oral supplementary agreements shall not be valid.
5. For **special designs**, the order scope may be exceeded or fall below approx. 10%.
6. In case of **order quantities below 100 pieces**, reject figures and/or material reductions for samples, analyses, rejects etc. of 15 to 20%, 10 to 15% if more than 100 pieces, shall be permissible depending on the complexity of manufacturing.
7. Written **call orders** entitle us to material disposition and manufacturing.
8. We reserve the right to send and invoice the goods for orders not made within a completion period of 12 months after such period has expired. This shall, in particular, apply in case of special designs (acceptance requirement).
9. Incurred **tool costs** will be charged on a pro rata basis and shall be payable immediately after payment. All tools will remain our property.
10. All **commission orders** will be executed with due diligence. If, during completion, it is found that the supplied pre-material is not suitable, the orderer shall bear all and any costs so far incurred

### **II. Prices and Terms of Payment**

1. All prices are ex-Bielefeld excluding packaging as well as the statutory value added tax respectively applicable.
2. All prices are subject to change and represent the respective daily rates. Invoicing is made on the basis of the prices and reductions applicable on the day of delivery and service excluding the value added tax in the respectively applicable amount.
3. All payments must be made the latest within 30 days after receipt of invoice without deductions to the deliverer's payments department.
4. If the deliverer is responsible for installing and assembling supplied items, the orderer shall – in addition to the agreed remuneration – bear all necessary additional costs such as travelling expenses, costs for tool and personal baggage transport as well as daily allowances.
5. 2% discount shall be granted upon cash payment within 10 days after the invoice date (subsequent shipments are excluded). The discount shall only apply to the net goods value. A settlement by means of bills of exchange shall not be deemed cash payment. If other receivables are overdue (first reminder), no discount shall be granted.
6. Payment by means of bills of exchange and cheques shall be made upon performance.
7. In case of late payment, interest may be charged even if deferment of payment was agreed.
8. The retention of payments as well as off-setting against counter claims not recognised by the deliverer or not legally finalised is excluded.
9. In case of non-permanent or non-running business relations, we shall deliver to the orderer on a cash-on-delivery basis with 2% discount.

### **III. Extended Retention of Title**

1. The items, which are object of deliveries (retained goods), shall remain the property of the deliverer until satisfaction of all claims against the orderer arising from the business relations. To the extent that the

value of the security interests, to which the deliverer is entitled, exceed the amount of all secured claims by more than 20%, the deliverer shall release an appropriate part of the security interest upon request by the orderer.

2. During the retention of title period, the orderer must not pledge or transfer by way of security, and must only re-sell the products to resellers in the normal course of business.

3. The orderer shall immediately notify the deliverer in case of pledging, confiscation or other orders or interventions by third parties.

4. In case the orderer fails to fulfil his obligations, in particular in case of delayed payment, the deliverer is entitled to withdraw; the order shall then surrender. The revocation and/or claiming of retention of title shall not require the withdrawal of the deliverer; these actions or a pledging of the retained goods by the deliverer shall not represent withdrawal from the agreement unless the deliverer expressly declared such.

#### **IV. Delivery Periods; Delay**

1. Any delivery periods may only be met if the documents, required approvals and releases, in particular, plans to be provided by the orderer are received in time, and if the agreed terms of payment and other obligations of the orderer are complied with. If such preconditions are not met in time, the delivery periods shall extend accordingly; such shall not apply if the deliverer has caused the delay.

2. If the deliverer is in default, the orderer may – if he can prove that he incurred damages due to this – claim indemnification for each completed week of default in the amount of 0.5% respectively or for a maximum amount of 5% of the price for the concerned part of the deliveries which could not be used, re-delivered or implemented in purposeful operation in time due to delay.

3. Upon such request by the deliverer, the orderer shall be obligated to decide within a reasonable period of time whether he wishes to withdraw from the agreement due to delivery delays and/or to claim indemnification instead of performance or to insist on delivery.

4. If shipment or delivery is – upon the orderer's request – delayed by more than one month after notification of shipment readiness, the orderer may be charged to pay a warehousing fee in the amount of 0.5% of the delivery goods' price for each month started, however, not more than 5% in total.

#### **V. Packaging, Shipment and Acceptance**

1. The packaging (also boxes) shall be invoiced based on the respective cost factors and cannot be returned.

2. We reserve the right to choose the type of shipment.

3. If shipment is performed using pallets and freight boxes or factory containers and castor boxes, the buyer and/or recipient shall be required to return the empty containers as quick as possible and free of costs. All shipments are performed for account and at risk of the orderer.

#### **VI. Defects in Quality**

For defects in quality, the deliverer shall be liable as follows

1. All such parts or services shall be re-delivered or re-rendered at the deliverer's option.

2. Claims for defects in quality shall become statute-barred after 12 months. Such shall not apply if longer periods are required by law.

3. The orderer shall immediately reprimand defects in quality to the deliverer in writing.

4. Initially, the deliverer shall be given the opportunity to subsequently perform within a reasonable period of time.

5. In case of unsuccessful subsequent performance, the orderer – without prejudice to possible claims for damages – may withdraw from the agreement or reduce remuneration.

6. Claims for defects shall not arise in case of negligible deviations from the agreed composition, in case of negligible detriment of usability, in case of natural wear or damages caused due to incorrect or negligent treatment, undue stress or use of unsuitable operating resources. If the orderer or a third party performs improper modifications or maintenance works, no claims for defects shall arise for such or their consequences.

7. Claims of the orderer as regards expenses incurred for the purpose of subsequent performance, in particular, transport, toll, work and material costs shall be excluded if such expenses increase because the item of delivery was moved to another place of fulfilment than the orderer's seat unless such moving complies with its purposeful use.

8. Consultation, recommendations, contractual additional services, such as maintenance instructions or works on the item delivered, shall be made to the best of knowledge and with due diligence as well as on

a state-of-the-art basis. Descriptions, tips, recommendations as well as catalogue and list information shall not be deemed a representation of properties.

## **VII. Industry Property Rights and Copyrights**

If not agreed otherwise, the deliverer shall be obligated to deliver only in the country of the delivery place free from all third party industrial property rights and copyrights (hereinafter referred to as "property rights"). If a third party asserts a claim against the orderer due to violation of property rights of deliveries performed by the deliverer and used as contractually agreed, the deliverer shall be liable to the orderer as follows:

a) The deliverer will, at his option and cost, obtain a right of use for the concerned delivered items and change such so that the property right is longer violated, or replace such b) The deliverer's requirement to indemnify is defined in clause IX.

c) The above obligations of the deliverer shall only apply if the orderer immediately notifies the deliverer in writing of the claims asserted by a third party if he does not confirm violation and if the deliverer reserves all actions of defence and settlement negotiations. If the orderer ceases to use the delivered items for reason of mitigation of damages or other good reason, he shall be obligated to inform the third party that the ceasing to use does not represent recognition of the property rights violation.

## **VIII. Impossibility; Adjustment of Agreement**

1. If delivery is impossible, the orderer shall be entitled to claim indemnification unless the deliverer has not caused such impossibility. However, the orderer's claim for indemnification shall be limited to 10% of the value of such part of the delivery which cannot be implemented in purposeful operation due to impossibility. Such limitation shall not apply to any mandatory liability in case of intent gross negligence or for injury to life, limb and health; this shall not cause any change in the burden of proof to the orderer's detriment. The right of the orderer to withdraw from the agreement shall remain unaffected.

2. If unpredictable events materially change the economic meaning or the contents of the delivery or have material effect on the deliverer's operations, the agreement shall be adjusted reasonably in good faith. If such cannot be economically justified, the deliverer shall have the right to withdraw from the agreement. If he intends to so exercise his right of withdrawal he shall immediately notify the orderer based on the knowledge as regards the scope of the event, also if extension of the delivery times was initially agreed with the orderer.

## **IX. Other Claims for Indemnification**

1. Other claims for indemnification and reimbursement for expenses on the orderer's part (hereinafter referred to as "claims for damages" for whatever legal reason shall be excluded.

2. Such shall not apply in case of mandatory liability, e. g. according to the product liability law in case of intent, gross negligence, for injury to life, limb or health. The above provisions shall not cause any change in the burden of proof to the orderer's detriment.

## **X. Place of Jurisdiction and Applicable Law**

1. The sole place of jurisdiction for all disputes directly or indirectly arising from the agreement shall be the seat of the deliverer (Bielefeld) if the orderer is a merchant.

2. German law shall apply to all legal relations in connection with this agreement excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) and without reference to other jurisdictions.

3. If the orderer is entitled to claim for damages, such shall become statute-barred upon expiry of the statute of limitations for defects in quality as from the time the orderer gains knowledge of the event.

## **XI. Binding Effect of the Agreement**

The agreement shall remain binding even if individual provisions in its other parts become legally ineffective and if the continuance of the agreement would cause unreasonable hardship for a party. The agreement clauses shall be adjusted so that the economic intent can be practically achieved.