

# General Terms and Conditions of Business

of MULTIFILM Sonnen- und Blendschutz GmbH, Limbach-Oberfrohna

## 1. Preamble

- 1.1 These general terms and conditions apply generally, provided that they are not changed by the supplier and client mutually in writing.
- 1.2 Should one or more articles of the contract be invalid, all other articles shall remain unaffected.
- 1.3. These terms and conditions of sale also apply for future business with the customer, provided that it involves legal transactions of a similar type.

## 2. Completion of Contract

- 2.1 The contract is completed once the supplier has confirmed the order in writing.
- 2.2 If the offer is submitted with a term of acceptance, the contract shall become applicable, provided that acceptance occurs prior to the end of the term of acceptance. If the offer is not accepted by the deadline, the offer shall expire without substitution.
- 2.3 We will complete production according to the information provided by the customer on the order form. The customer is responsible for ensuring the accuracy of the provided information. We will not check the accuracy and completeness of the information provided by the customer. In this respect, we do not accept any liability for incomplete and / or incorrect information provided by the customer.
- 2.4 Production will commence immediately after successful order confirmation, thus all later changes may result in additional charges for the customer.

## 3. Plans, Documents and Price Lists

- 3.1 All information regarding weight, dimensions, price, performance, etc. in catalogues, brochures and factory illustrations are solely for illustration purposes. This information is only binding if it is explicitly referred to in the order confirmation.
- 3.2 Our written order confirmation determines the content, scope, type and date of delivery.
- 3.3 We reserve property rights and copyrights regarding all documents provided to the customer in connection with the placed order, such as calculations, drawings, etc. These documents, including any plans and technical document may not be made available to third parties, unless we explicitly provide the customer with written consent to do so. Without our consent the customer may neither use, copy or reproduce documents, nor give or disclose documents to third parties. If an offer submitted by us with a term of acceptance is not accepted in time, the aforementioned documents should be promptly returned to us.

## 4. Packaging

- 4.1 The prices stated in the catalogues and price lists are exclusive of packaging or the applicable statutory amount of VAT.
- 4.2 Binding price lists and special offers include the necessary packaging or protection, in order to prevent damage caused to the delivery object during normal transport conditions in transit to the place of delivery determined in the contract. Special packaging beyond the necessary, normal packaging will be charged additionally.

## 5. Transfer of Risk

- 5.1 Unless explicitly agreed otherwise in writing, all goods are sold ex works.
- 5.2 Transportation always occurs at the risk of the client, even if delivery to the door was agreed. Delivery to the door refers to the acceptance of net transportation costs - excluding transportation insurance - by the supplier. Transportation insurance is always charged to the client. At his/her own risk, the client can decline transportation insurance.

## 6. Delivery

- 6.1 The delivery period commences once the order confirmation has been dispatched, however not prior to clarification of all details of the execution of the order and not prior to receipt of an agreed pre-payment or provision of materials. The delivery period has been observed if the object has been dispatched or collected prior to expiration of the delivery period or notification of it being ready to be dispatched has been provided - if, through no fault of our own, dispatch does not occur.
- 6.2 Force majeure and other events through no fault of our own that may compromise trouble-free processing of the order - in particular delivery delays on the part of our suppliers, disruptions to traffic and business, labour disputes, scarcity of materials and energy - entitle us to completely or partially withdraw from the contract, or to postpone deliveries without this resulting in the customer being entitled to claim compensation. The customer may request clarification from us, whether we will withdraw from the contract or wish to fulfil the contract within a suitable period. If we do not provide clarification, the customer is entitled to withdraw from the contract. We are also not responsible for the aforementioned occurrences or circumstances if they arise during an existing default of delivery.
- 6.3 In the case of default of delivery for which we are responsible, a suitable grace period should be granted. Once this period has expired, the customer may in this respect demand compensation and /or withdraw from the contract if the goods have not been registered as dispatched or delivered by the expiration of the period. Right of withdrawal does not apply if we are not responsible for the default of delivery (the delivery period is exceeded).
- 6.4 If the customer suffers damages as a result of our default, he/she is entitled to demand compensation. For each full week of delay this shall amount to 0.5 %, however shall not exceed a total of 5 % of the value of the relevant part of the overall delivery that consequently cannot be used on time or cannot be used as per agreement. The customer is only entitled to claim damages instead of fulfilment of the contract if the cause is due to intent or gross negligence on our part. This does not apply in the case of a binding delivery date.
- 6.5 Delivery obligations and periods are suspended if the customer is in default with acceptance or other obligations - our rights remain unaffected with regard to the customer's default - or if he/she has exceeded the credit limit granted by us. In this case, the danger of the goods being destroyed randomly or being damaged randomly are transferred to the customer from the moment he/she enters into default.
- 6.6 The delivery period originally agreed shall be suspended if changes are made to the order with our written agreement.
- 6.7 Suitable part delivery and variation of the order quantity (+ / - 10 % maximum) are permitted, provided that this is appropriate with regard to the interests of the customer.

## 7. Payment/Retention of Title

- 7.1 Payment shall be performed according to the following terms:
  - a) Value of goods not exceeding 5,000.00 EUR (net value) - within 30 days after delivery
  - b) Value of goods exceeding 5,000.00 EUR (net) up to and including 15,000.00 EUR (net) - 1/3 at the time of ordering, the remainder within 30 days after delivery
  - c) Value of goods exceeding 15,000.00 EUR (net) - 1/3 at the time of ordering, the remainder within 30 days of delivery. The supplier may request a letter of credit for the remaining 2/3, which should be provided to the supplier by dispatch of the goods.
  - d) Discounts  
The client can deduct discounts, if this was agreed at completion of the contract.

- 7.2 All goods shall remain the property of the supplier until paid in full. If federal state law does not permit retention of title but permits the supplier to reserve other rights to the delivery object, the supplier may exercise all rights of this kind. The customer shall contribute to measures that can protect the property right of the delivery or take the place of another right regarding the delivered goods.
- 7.3 If the customer is behind with payments, the supplier may postpone his/her obligations until payment, unless the default is due to the actions or neglect of the supplier.  
Apart from that, detention of payment or settlement with the disputed counter-claims of the supplier are not permitted.
- 7.4 After a period of 30 days the supplier may demand - via written notification - default interest of 8 % above the base rate from the customer from the due date (section 288, paragraph 2 BGB (German Civil Code)). If the customer does not pay the amount owed within three months, the supplier may withdraw from the contract and demand compensation for damages arising due to non-compliance.

## **8. Guarantee**

- 8.1 Precondition for any warranty claim of the customer is the customer's full compliance with all requirements regarding inspection and objection established by section 377 HGB (German Commercial Code).
- 8.2 Claims for defects shall be time-barred after 12 months of delivery of the goods to the customer. In the case of claims to damages due to intent and gross negligence, as well as injury to life, limb or health, due to intended or negligent breach of duty of the user, the statutory period of limitation applies. (Note: the purchase of used goods can be completely excluded from the warranty period with the exception of claims of damages as mentioned in sentence 2. If longer periods are imperatively prescribed by law in accordance with section 438, paragraph 1, no. 2 BGB (German Civil Code - buildings and objects for buildings), section 479, paragraph 1 BGB (German Civil Code - recourse claims), and section 364a, paragraph 1 BGB (German Civil Code - construction defects) - these periods apply. Prior to eventual return of goods, our approval should be obtained.
- 8.3 Should, despite great diligence, delivered goods display a fault that was present at the time of transfer of risk, subject to timely notice of defects, we will - at our discretion - repair or deliver replacement goods. Opportunity shall be given for alternative performance within a suitable period. Recourse claims shall remain unaffected by the aforementioned regulation, without limitation.
- 8.4 In the case of failure to comply, the customer may - without prejudice to eventual claims for damages - withdraw from the contract or reduce remuneration.
- 8.5. Claims for defects shall not qualify in the case of insignificant deviation from the agreed condition, insignificant impairment of utility, natural wear and tear; as well as in the case of damages that occur after transfer of risk due to incorrect or negligent treatment, excessive stress, unsuitable supplies, insufficient construction work, unsuitable ground or due to special external influences that are not presupposed by the contract. If improper installation, repairs or modifications are carried out by the customer or third parties, likewise, claims for defects shall not apply for these or any consequences arising from these.
- 8.6 The customer's claims with regard to the purposes of supplementary performance of necessary expenditures - in particular, costs for transportation, distances, work and materials - are excluded, if these expenditures are increased due to the retrospective delivery of goods by us to another location than the establishment of the customer, unless the delivery conforms to his/her intended use.
- 8.7 The customer's recourse claims against us only qualify if and when the customer and his/her buyer have not made any agreements exceeding legally necessary claims for defects. Furthermore, paragraph 6 correspondingly applies for the scope of the customer's recourse claims against the supplier.
- 8.8 Eventual claims by the customer do not qualify with regard to faults due to material delivered by the customer or a construction specified by him/her.
- 8.9 Eventual claims by the customer do not qualify with regard to material and / or production faults by subcontracted suppliers, for which we are not responsible or that are identifiable during production and their possible occurrence are known to the customer, due to his/her knowledge of the product to be produced. In particular, this applies for the stress on implemented hanging materials.

## **9. Liability**

- 9.1 Claims against us exceeding those mentioned in point 8 of this general terms and conditions of business, irrespective of the legal basis, are excluded - unless regulated otherwise below - in particular, in the case of a claim for compensation that do not occur on the goods directly and / or qualify (for example, loss of profit, consequential losses, other pecuniary loss). This disclaimer shall not apply in the case of intent or gross negligence, a binding guarantee or a breach of fundamental contract obligations, as well as in the case of damage to life, limb or health. In the case of negligence, but not gross negligence, liability shall be limited to compensation for typically foreseeable damages.
- 9.2 The disclaimer and limitation of our liability for damages, as regulated here, apply correspondingly without fail for our punitive damages due to breach of duties from legal transactions or obligations similar to legal transactions and impermissible treatment. Liability under the Act on Product Liability (ProdHaftG) and resulting from impediment or culpable impossibility of performance shall remain unaffected. This disclaimer shall not apply in the case of intent or gross negligence, a binding guarantee or a breach of fundamental contract obligations, as well as in the case of damage to life, limb or health.
- 9.3 If our liability for damages is excluded or limited, likewise, this applies for personal liability of our executives, employees and vicarious agents.

## **10. Miscellaneous**

- 10.1 Our delivery obligations shall expire without substitution, as far as and if the export of the ordered goods are legally prohibited on the grounds of national or international laws.
- 10.2 All legal matters of the parties shall be governed by the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 10.3 If any of the provisions of these terms and conditions of business are or become invalid, all other provisions hereof shall remain unaffected. The invalid provisions should be economically interpreted in a way that economically accomplishes the purpose and intent of the invalid provision. The same shall apply if a shortcoming in the contract requiring amendment becomes apparent during implementation of this contract. The parties shall immediately replace the invalid provision with a valid provision or remedy the shortcoming in the contract.
- 10.4 Place of fulfilment and place of jurisdiction for both contractual parties is Limbach-Oberfrohna, whereby we reserve the right to put forward claims against the customer in his/her place of general jurisdiction.
- 10.5 Please note that the personal information of the customer will be saved within the scope of this contract.
- 10.6 All declarations submitted regarding this contract must be made in writing. The same applies to changes to this clause.

## **11. Place of Fulfilment/ Applicable Law**

- 11.1 Place of fulfilment is D-09212 Limbach-Oberfrohna
- 11.2 This contract shall be governed by the laws of the Federal Republic of Germany.

## **12. Court of Jurisdiction**

- 12.1 Chemnitz is the court of jurisdiction.

Applicable from 01/2016