

# General Terms and Conditions of Sale of Tbi Industries GmbH

## §1 Validity

- Our deliveries and services, including all supplementary services and quotations submitted („Services“) shall take place exclusively subject to these General Terms and Conditions of Sale („Terms and Conditions of Sale“). These Terms and Conditions of Sale shall be a component of all contracts and business relations („Relations“) between us and our customers („Customers“).
- Our Terms and Conditions of Sale shall apply exclusively. We shall not acknowledge any contradictory or divergent terms and conditions of the Customer, if we have not expressly agreed to their validity in writing. Our Terms and Conditions of Sale shall apply even if we perform services whilst aware of the terms and conditions of the Customer that are contradictory to or deviate from our Terms and Conditions of Sale, or if we do not contradict such terms and conditions.
- Our Terms and Conditions of Sale shall apply for all future Relations with the Customer, even without a separate agreement concerning their inclusion in each case.
- Our Terms and Conditions of Sale shall only apply in relation to entrepreneurs (§ 14 German Civil Code).

## §2 Quotation, conclusion of the contract, rights

- The Customer shall be bound by its offers to us for a period of two weeks from the receipt of its offer. This shall not apply if the Customer has expressly specified a different commitment period in its offer.
- Our quotations shall be non-binding until they are accepted by the Customer. Until then, they may be freely withdrawn by us without an indication of reasons. Even without being withdrawn separately, they shall lose their effectiveness after one month, calculated from the date of the quotation, in the absence of an acceptance or on-going negotiations.
- We shall retain all property rights and copyrights to drawings, illustrations, calculations, descriptions, models and tools, and to other documents or resources („Materials“).
- Before Materials or documents are passed on to third parties, the Customer requires our express approval in writing. The Materials and written documents must be returned to us immediately, at the expense of the Customer, if our quotation is withdrawn or loses its effectiveness (§ 1 Section 2) or, in the event of the conclusion of a contract, if the Materials or documents are not required anymore for the further execution of the contract. The above shall not apply to generally accessible sales documents and prospectuses that were not produced specifically for the Customer.
- All the Materials and documents that we have described as „confidential“ or whose confidential character arises from the circumstances („Documents“), especially technical Documents and Materials that are related to a product developed specifically for the Customer's enquiry, must be treated as confidential by the Customer. The transfer of such Materials and Documents to an end customer requires a separate written agreement. It shall subject its staff and all other persons who work for it to the above obligations. The objection of prior use by the Customer as a result of Materials or Documents handed over to him shall be excluded.

## §3 Prices and payment

- Our prices are quoted „ex works“, excluding packaging and VAT. These shall both be calculated separately. The same shall apply in international commerce for taxes, fees, duties etc. of the receiving country. These must be borne by the Customer. Deviations from the above require an express written agreement.
- The deduction of a discount requires an express written agreement. Payments by the Customer are due within 30 days of the receipt of the invoice without a deduction. On expiry of this term, the Customer shall be in default of payment, without a separate warning being necessary.
- The Customer shall only be entitled to offset if its counterclaims have been legally established or are undisputed or acknowledged by us. The same shall apply for the assertion of a right of retention, to which the Customer is only entitled to the extent that his counterclaim is based on the same contractual relationship.
- These conditions are subject to Incoterms 2020.

## §4 Risk, ancillary costs

- Our service shall be performed „ex works“. This is only applicable when something else has been expressly agreed in writing. The risk shall be transferred to the Customer when the goods are handed over to the forwarding agent, carrier or another company appointed to perform the shipment. If the Customer fails to accept the goods or if it fails to fulfil another duty of cooperation to which it is obliged, it shall be in default, with the consequence that the risk, including the risk of accidental loss or accidental deterioration, shall be transferred to it when it enters default.
- If the Customer sets guidelines for the packaging, we shall observe these. Otherwise, we shall select the best value packaging of which we are aware. The above shall apply accordingly to the mode of dispatch.
- If the Customer requests this from us in writing, we shall cover the shipment with a transport insurance policy at its expense, which shall cover theft, breakage, transport, fire and water damages, as well as other risks expressly named by the Customer.

## §5 Delivery period, calls

- If a delivery period is indicated by us, this shall begin with the specification of all technical, commercial and other issues to be settled. If a specific delivery date is stated by us, the above shall apply accordingly; the delivery date shall be postponed by the period that is necessary for the aforementioned specifications. A default in delivery shall not occur as a result of such an extension of the delivery period or such a postponement of the delivery date. Adherence to our delivery periods or the delivery date shall continue to require the punctual and proper performance of the necessary acts of cooperation of the Customer. If these are omitted, we may invoke the defence of the unfulfilled contract. In this case, and in the event that the Customer is in default of

acceptance, we are entitled to demand reimbursement of any additional expenditure and to assert further claims, for example because of the default. For the purpose of clarification, the transfer or risk shall remain as according to § 4 Section 1.

- Provided that the delivery dates indicated are not firmly agreed, we may deliver before their expiry after a corresponding announcement.
- If a total quantity is to be provided by us in individual part deliveries, and a division of the part deliveries has not been agreed, the Customer is obliged to request approximately equal monthly quantities. If this does not take place, after making a fruitless request to the Customer to specify the part deliveries, we are entitled to perform the division ourselves and deliver accordingly. If the Customer frequently does not request part deliveries or does not request them in good time, we are entitled, after advance warning, at our own discretion, to refuse to deliver the remaining part deliveries, withdrawing from the contract, or to deliver the remaining part deliveries together in one final delivery. Statutory claims for compensation to which we may also be entitled shall remain unaffected.

In the event of call orders according to the above paragraph, we are entitled to procure the material for the whole order and to produce the entire order quantity immediately. The Customer's desired amendments shall no longer be taken into consideration, unless the Customer takes on the associated costs by a written confirmation.

- For part deliveries from a total quantity, customary excess or short deliveries shall be permissible.
- We are liable, in accordance with the legal provisions, if a default in delivery is based on a deliberate or grossly negligent breach of contract for which we are responsible, whereby a fault of our representatives or vicarious agents must be assigned to us. If we are guilty of gross negligence, our liability for damages shall be limited to the foreseeable, typically occurring damages. In the event of a default in delivery caused only by slight negligence, we shall only be liable in the event of a breach of an essential contractual obligation. In this case too, liability for damages shall be limited to foreseeable, typically occurring damages.
- Aside from the provisions in the section above, we shall be liable, in the event of a default in delivery, after the expiry of an additional grace period of four weeks, for flat rate compensation for the default to the amount of 0.25% of the delivery value - for part deliveries, of the partial quantity in question - for every subsequent completed week of the default, however to a maximum of 5% of the specified values.
- We are not responsible for force majeure, strikes, lockouts or shortages of raw materials, in terms of the sections above. If these factors have a lasting effect, we shall be entitled to withdraw from the contract, without being liable for compensation.

## §6 Liability for defects

- Claims made by the Customer because of defects require that the latter has properly fulfilled his obligations for examination and notification of defects, in accordance with § 377 German Commercial Code. The costs of the examination shall always be borne by the Customer, even if defects are found as a result of this. A defect shall be deemed to be present if the quality of the goods delivered by us („Delivery Item“) deviates from the quality that was confirmed by us in writing or agreed in writing with the Customer. For clarification purposes, verbal confirmations by our staff shall not be sufficient. If there is no written confirmation or agreement, our delivery shall be deemed free of defects if it is suitable for the purpose provided for in the contract or if it is suitable for normal use and exhibits a quality that is usual for items of the same kind or which the Customer may expect.
- If a defect is present, we are obliged, at our own discretion, to provide a supplementary performance by removing the defect or to provide a new, defect-free item. In the event of the removal of the defect, we are obliged to bear all the expenditure necessary for removing the defect, especially transport, infrastructure, labour and material costs, provided that these are not increased by the fact that the item has been placed at a location other than the place of shipment. If the removal of defects is performed by the Customer or third parties not appointed directly by us, the aforementioned expenditure shall only be reimbursed after our advanced written approval. If a new defect-free item is provided, the original item must be returned to us on our request and in line with our instructions.
- If the supplementary performance fails twice, the Customer is entitled, at its own discretion, to demand withdrawal from the contract or a reduction of the price.
- We are liable, in accordance with the legal provisions, if the Customer asserts claims for damages that are based on wilful intent or gross negligence. A fault of our representatives or vicarious agents must be assigned to us. If we are not charged with any wilful intent, our liability for damages shall be limited to the foreseeable, typically occurring damages.
- We are liable, in accordance with the legislation, if we culpably breach an essential contractual obligation. In this case, our liability for damages shall be limited to the foreseeable, typically occurring damages. In the event of slight negligence, our liability for damages shall be limited to 1.5 times the order value.
- Liability because of culpable damage to life, the body or health shall remain unaffected. This shall also apply to binding liability, in accordance with the German Product Liability Act.
- Unless otherwise provided above, our liability is excluded.
- The limitation period for claims for defects shall amount to twelve months, calculated from the transfer of risk.

## §7 Property rights

- In accordance with the requirements of this § 7, we guarantee that the Delivery Item is free of industrial property rights or copyrights of third parties. The Customer shall inform us immediately in writing if claims are asserted against it due to a violation of such rights.
- In the event that the Delivery Item violates an industrial property right or a copyright of a third party, we shall modify or exchange the Delivery Item, at our own discretion and at our own expense,

in such a way that no more rights of third parties are violated, but the Delivery Item continues to fulfil the contractually agreed functions, or provide the Customer with the right of use by concluding a licence agreement. If we do not manage to do this within a reasonable period of time, the Customer shall be entitled to withdraw from the contract or to reduce the price accordingly. Any claims for compensation by the Customer shall be subject to the restrictions of § 8.

## §8 Compensation

- Any further liability for compensation other than that provided for in §§ 5 to 7 shall be excluded. This exclusion shall also apply to claims for damages arising from culpa in contrahendo, due to other breach of obligations or due to tortious claims for compensation for property damage (§ 823 German Civil Code).
- Insofar as claims for compensation against us are excluded or limited, this shall also apply with respect to the personal liability for compensation of our staff, representatives and vicarious agents (contract to the benefit of third parties).

## §9 Retention of title

- We shall retain title to all goods delivered by us („Delivery Item“) until the receipt of all payments from the delivery contract. In the event of behaviour of the Customer contrary to the terms of the contract, especially in the event of a default in payment, we are entitled to reclaim the Delivery Item after the fruitless expiry of an appropriate grace period. A reclaim of the Delivery Item by us does not constitute a withdrawal from the contract, unless we have expressly declared this in writing. The seizure of the Delivery Item by us shall always constitute a withdrawal from the contract. After the return of the Delivery Item, we are authorised to resell it; the proceeds from the sale shall be offset against the liabilities of the Customer - less reasonable costs of sale.
- The Customer is required to keep the Delivery Item safe for us, and to treat it with care.
- In the event of seizures or other third party access to our Delivery Items, the Customer must inform us in writing without delay, so that we can lodge a complaint in accordance with § 771 German Code of Civil Procedure. Insofar as the third party is not in a position to reimburse to us the judicial and extrajudicial costs of a complaint in accordance with § 771 German Code of Civil Procedure, the Customer shall be liable for the loss incurred by us.
- The Customer is entitled to resell the Delivery Item in the ordinary course of business; it shall now assign to us all claims to the sum of the final invoice amount (including VAT) of our claim, which accrue from the resale against his purchasers or third parties, irrespective of whether the Delivery Item is resold without or after processing. The Customer shall be authorised to collect this claim even after the assignment. Our authority to collect the claim ourselves shall remain unaffected by this. We undertake, however, not to collect the claim, as long as the Customer fulfils its payment obligations arising from the proceeds collected, does not enter into payment default and, in particular, no application for the opening of insolvency proceedings is made or the suspension of payments does not take effect. However, if this is the case, we may demand that the Customer informs us immediately of the assigned claims and their debtors, furnishes all the information necessary for collection, hands over the associated documents and discloses the assignment to the debtor (third party) immediately, and informs us about it by a copy/accompanying letter.
- The processing or alteration of the Delivery Item by the Customer is always performed for us. If the Delivery Item is processed with other items that do not belong to us, we shall acquire joint ownership of the new item in the ratio of the value of the Delivery Item (final invoice value including VAT) to the other processed items at the time of processing. For the items created by the processing, the same conditions shall apply, in other respects, as for the item delivered subject to retention of title.
- If the Delivery Item is inseparably mixed with other items that do not belong to us, we shall acquire joint ownership of the new item, in the ratio of the value of the Delivery Item (final invoice value, including VAT) to the other mixed items at the time of mixing. If mixing takes place in such a way that the Customer's item is to be seen as the main item, it is deemed as agreed that the Customer shall transfer joint ownership to us proportionally. The Customer shall hold the sole ownership or joint ownership that has arisen for us.
- We undertake to release the securities to which we are entitled, on the request of the Customer, insofar as the realisable value of our securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released is at our discretion.

## §10 Special grace of redemption

- The customer is not entitled to return goods for credit, except in case of verified incorrect delivery. In case of exchange, return or credit requests, the cause of which is not attributed to us, processing shall only take place after our previous written confirmation. The general prerequisite for this is that the goods are in a resellable condition. Please contact us beforehand so that we can give you a return number. Only this way is rapid processing possible.
- The expected refund for voluntarily accepted goods is calculated from the resale price obtainable at the time of arrival, minus a processing and re-storage fee of 25 %, at least however 20 EUR net. Unsealed packaging units cannot be returned.
- Customised products or special orders can generally not be returned.

## §11 Redemption of packaging

- The Customer may return transport, sales and grouped packaging to us only at our company site Karben (Robert-Bosch-Straße 20, 61184 Karben, Deutschland). The Customer bears the transport costs.

## §12 Place of jurisdiction, applicable law

- The place of jurisdiction for disputes shall be our place of business, Karben. We are, however, entitled to sue the Customer at its general place of jurisdiction instead, as well as at the place to which we have delivered.
- The material law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on the International Sale of Goods.