

# Standard Terms and Conditions of Deliveries and Services

## (Terms and Conditions of Sale) of Weldstone GmbH

### § 1 Validity of the Terms and Conditions

- 1.1 All of our deliveries, (ancillary) services and offers take place exclusively on the basis of these Standard Terms and Conditions of Deliveries and Services (hereinafter referred to as "Terms and Conditions"). The Terms and Conditions are integral part of all agreements that we conclude with our contractual partners (hereinafter referred to as "Customers").
- 1.2 Even without a separate agreement on inclusion, the Terms and Conditions are valid for all future deliveries and services on our part.
- 1.3 The Customer's standard terms and conditions do not apply, even if we do not object their validity in individual cases. Neither does reference to a letter that contains the Customer's or a third party's standard terms and conditions, or refers to such, constitute an agreement with the validity of the aforementioned standard terms and conditions. They also do not become a contractual element through conclusive actions, such as the provisions of service/performance by us.

### § 2 Offer and conclusion of the agreement

- 2.1 As far as our offers are marked expressly as being subject to change, we are still entitled to revoke these immediately after receipt of acceptance by the Customer.
- 2.2 The Customer does not acquire any copyright to any offers or cost estimates submitted by us, nor to any drawings, illustrations, calculations, descriptions, models, tools and other documents and material resources made available to him. This also applies to those materials and documents mentioned that are expressly labelled "confidential" or whose confidential character result from the circumstances. The passing on of the abovementioned materials and documents to third parties requires in any case our written consent. The Customer must ensure the aforementioned confidentiality by appropriate agreements with his employees or any other persons who work with knowledge and consent in his area of responsibilities. The abovementioned materials and documents must be returned immediately at Customer's expenses, if an agreement is not signed or if they are no longer required for the further contractual implementation.

### § 3 Prices

- 3.1 Unless otherwise stated in the order confirmation, our prices are valid "Ex works", excluding packaging which will be invoiced separately.
- 3.2 Statutory value-added tax is not included in our prices. It is shown separately in the invoice in the amount statutory prescribed on the day of invoicing. In case of foreign transactions, the value-added tax does not apply; however, the recipient shall pay the taxes and fees incurred for the transfer into the recipient's country, in particular customs duties and the additional statutory taxes or charges incurred in the recipient's country itself.
- 3.3 The deduction of a discount for cash requires a separate agreement. Customer's standard terms and conditions, which provide for the deduction of a cash discount, shall not apply.

### § 4 Implementation of the deliveries and services, delivery and service times

- 4.1 Unless otherwise agreed, the delivery takes place "Ex Works".
- 4.2 Furthermore, the observance of our delivery and service obligations presupposes the Customer's punctual and proper performance of the counter-obligation. We are fully entitled to assert the defense of the unperformed agreement.
- 4.3 If the person ordering is in default of acceptance or infringes any other duties to cooperate, we are entitled to demand replacement of any loss incurred by us in this respect, including any additional expenditure. Further claims remain unaffected.
- 4.4 The risk of accidental destruction and accidental deterioration of the object to be delivered passes to the Customer at that point in time when he is in default of acceptance.
- 4.5 If it has been agreed with the Customer that our delivery or service does not have to take place at a fixed time, but within a certain time period, we are also entitled to deliver or produce our performance before the commencement of that period. If a fixed date has been agreed with the Customer, we are entitled to premature delivery or production of the performance, after having given the Customer reasonable notice of this premature delivery or production of the performance. This does not apply if the delivery can only take place on the agreed date for reasons which are visible for us.
- 4.6 Unless otherwise agreed, the Customer, in case of agreements that entitle him to request partial deliveries from a total quantity of goods, is obligated to give us punctual requests and assortment plans for approximate identical monthly quantities. If the Customer does not request delivery punctually or does not plan in good time, we are entitled to take over the planning ourselves and to deliver the goods after passing of a reasonable extension of time without success.
- 4.7 If the Customer fails to request delivery at all or in good time or fails to plan at all or in good time we are entitled to rescind from the entire agreement after a prior written warning. Any statutory damage claims to which we are legally entitled shall in any case remain unaffected.
- 4.8 With regard to call orders according to § 4, section 4.6 of the Terms and Conditions, we are entitled, unless otherwise agreed, to procure the material for the entire order and to manufacture the entire quantity ordered immediately. Requests for changes from the Customer cannot be taken into consideration after the order has been placed.
- 4.9 Commercially customary long or short deliveries are permissible.

### § 5 Delays in delivery

- 5.1 Interruption of operations caused by force majeure, strikes for which we are not responsible or lock-outs or a lack of operating and/or raw materials entitle us to rescind from the not yet fulfilled agreement, if the abovementioned circumstances make delivery or performance not only temporarily impossible and in addition if not discernible when concluding the agreement.
- 5.2 If we are in delay with a delivery or service or if a delivery or service becomes impossible for us, the Customer's claims for damages are restricted in accordance with § 9 of the Terms and Conditions.

### § 6 Place of performance, shipment, packaging, passing of the risk

- 6.1 The place of performance for all obligations from the contractual relationship with the Customer is Buseck/Alten-Buseck, Germany.
- 6.2 Unless otherwise agreed, we will select the most economical packaging known to us and the most economical type of shipment known to us.
- 6.3 Unless otherwise agreed, the risk passes to the Customer at the latest with the handover of the delivered objects to the shipping contractor, carrier or other company appointed with the implementation of the shipment. § 4, section 4.4 remains unaffected.
- 6.4 The shipment will only be insured by us against theft, breakage, damage during transport, fire and water damage or any other insurable risks at the express written request of the Customer and at his expense.
- 6.5 We will only take back packaging in our storehouses (return depots). The Customer pays the costs of transporting the packaging to the respective return depot. If a packaging different from the standard packaging (special packaging) is used at the Customer's request, the Customer is obliged to recycle or dispose of such at his own expense.

### § 7 Claims in case of defects

- 7.1 The objects delivered by us must be carefully examined without undue delay after delivery to the Customer or to the third party appointed by him. They are considered as approved, if a defect, that could have been discovered by a careful examination, is not reported in writing within three days after receipt of the goods; the date of sending the objection to us shall be decisive. If the defect was not noticeable by a careful examination, the obligation to report the defect without undue delay in writing shall apply from the time of discovery.
- 7.2 If a delivery or service defect exists, for which we are responsible, we are obliged, at our option, to remedy the defect or deliver a replacement. To the extent that remedy of defects is not possible or that remedy is refused or delayed by us, the Customer has the right to reduce his own service or to rescind from the agreement. In case of remedying the defect, we are obliged to pay all costs required to remedy the defect, in particular travel and transport, labour and material costs, unless these are increased by the fact that the purchased object was taken to a different location than the original place of shipment. This does not apply if transporting the delivered object to another location corresponds to its agreed use. If we select subsequent performance in the form of replacement, the delivered objects with defects shall be returned to us carriage paid, whereby the Customer is obliged to select the most economical type of shipment.
- 7.3 The limitation period for claims based on defects amounts to one year and begins with the time of delivery to the Customer or to a third party appointed by the Customer.
- 7.4 The delivery of used objects takes place excluding any warranty.

### § 8 Purchase of consumer goods

§ 7, section 7.3 does not apply if the newly manufactured objects delivered by us are sold to consumers, also within the context of a chain of suppliers (§§ 474 et seqq. German Civil Code).

### § 9 Compensatory damages

- 9.1 We are only liable – irrespective of the legal ground - for the willful and gross negligent conduct of our organs and vicarious agents as well as – irrespective of the degree of fault - for damages from injury to life, body or health.
- 9.2 We are also responsible for slight negligence by our organs and vicarious agents in the event of a delay in performance or infringement of any other cardinal duty. In such a case our liability is restricted to damages which could reasonably be expected by us when concluding the agreement.
- 9.3 All limitations of liability shall also apply in the event that the infringement of contractual duties simultaneously represents tortious action.

### § 10 Retention of title

- 10.1 We retain title in the delivered object until all payments from the delivery agreement have been received. In the event of a breach of contract by the Customer, in particular in case of default of payment, we are entitled to take back the delivered object after passing of a reasonable extension of time without success. Taking back the delivered object does not imply a rescission from the agreement, unless expressly declared by us in writing. The garnishment of the delivered object by us invariably represents a rescission from the agreement. After taking back the delivered object, we are entitled to exploit it; the exploitation proceeds will be deducted from the Customer's liabilities - minus reasonable exploitation costs.
- 10.2 The Customer is obliged to keep the delivered objects in safe custody for us and to treat them with care.
- 10.3 In the event of garnishment or any other third-party encroachments on our delivered objects, the Customer must notify us immediately in writing so that we can take legal action according to § 771 Civil Procedure Rules (ZPO). If the third party is not in a position to refund us the legal and out-of-court costs of a lawsuit according to § 771 ZPO, the Customer is liable for the loss incurred to us.
- 10.4 The Customer is entitled to re-sell the delivered object in the normal course of business; however, he hereby assigns to us all claims amounting to the final invoice amount (including value-added tax) of our claims arising against his customers or third parties from the re-sale, regardless of whether the delivered object is re-sold with or without processing. The Customer shall remain entitled to collect this claim after the assignment. Our entitlement to collect the claim ourselves shall remain unaffected. However, we agree not to collect the claim as long as the Customer fulfils his payment obligations from the collected revenue, is not in default with his payment obligations, and in particular no application for commencement of insolvency proceedings has been filed and no suspension of payments exists. However, if this is the case, we can demand that the Customer informs us immediately of the assigned claims and their debtor(s), gives us all details necessary for their collection, hands over the relevant documentation and notifies immediately the debtor (third party) of the assignment and informs us thereof by means of a copy/accompanying letter.
- 10.5 The processing or transformation of the delivered objects by the Customer will always be carried out for us. If the delivered object is processed with other objects that do not belong to us, we acquire co-title of the new object in the ratio of the value of the delivered object (final invoice amount including value-added tax) to the other processed objects at the time of processing. The same provisions apply for the object created by the aforesaid processing as for the object delivered with reservations.
- 10.6 If the delivered object is inseparably mixed with other objects that do not belong to us, we acquire co-title of the new object in the ratio of the value of the delivered object (final invoice amount including value-added tax) to the other mixed objects at the time of mixing. If the mixing takes place in a way in which the Customer's object is to be regarded as the main object, it will be agreed that the Customer will transfer proportionate co-ownership to us. The Customer will safeguard the created sole ownership or co-ownership for us.
- 10.7 At the Customer's request, we undertake to release the securities to which we are entitled insofar as the realizable value of our securities exceeds the secured claims by more than 10 %; we are entitled to select the securities to be released.

### § 11 Terms of payment

- 11.1 Unless otherwise agreed, our invoice amounts are payable within 30 days without any deduction. On expiration of this time period, the Customer is in default of payment without the requirement of a reminder by us.
- 11.2 The Customer may not exercise any right of set-off unless his counterclaim is undisputed or has been established as final and absolute. The same applies to the assertion of a right of retention.

### § 12 Written form and final provisions

- 12.1 Any provisions deviating from the Terms and Conditions require an explicit written agreement.
- 12.2 Provided that the Customer is not a consumer the legal venue for any disputes from the business relationship between us and the Customer is Gießen, Germany. However, we are also entitled to take legal action against the Customer at his standard legal venue as well as at the location to which the delivered object was sent at the Customer's request.
- 12.3 All legal relationships in connection with entering in, performing under or termination of this agreement shall be governed and construed in all respects in accordance with the laws of the Federal Republic of Germany with the exclusion of the Convention on Contracts for the International Sale of Goods (CISG). This also applies if the legal relationships is based on tort or on any other legal basis.