

PLANETROLL GMBH & CO. KG GENERAL TERMS AND CONDITIONS OF SALE (STATUS 08/2014)

I. General Information and Scope of Application

- (1) These General Terms and Conditions (GTC) shall apply to all business relationships with our contract partners; however only if said partners are entrepreneurs (§ 14 BGB), legal entities of public law or special legal-public entities.
- (2) These GTC shall apply in their respective most up-to-date versions also to any future contracts with the same contracting parties and we shall not be under any obligation to make reference to them in each individual case.
- (3) Our General Terms and Conditions of Sale shall apply exclusively; any contradicting provisions and stipulations deviating from our General Terms and Conditions of Sale shall not be accepted by us unless we have expressly consented to their applicability in writing. Our General Terms and Conditions of Sale shall also apply if we, being aware of conflicting provisions or requirements of our contract partner that deviate from our General Terms and Conditions of Sale execute the order to said partner without raising objections.
- (4) All individually made agreements with our contract partners on a case by case basis shall prevail over these GTC in any event.
- (5) For any legally relevant declarations and notifications to be made to us by the Buyer after the execution of the contract (e.g. setting of deadlines, notifications about deficiencies, declaration of rescission or reduction) to be rendered legally effective, same shall be made in writing.
- (6) All arrangements made between us and the contract partners with regard to the performance of this contract have been set forth in writing in this contract.

II. Quotations and Quotation Records

- (1) All of our quotations shall be subject to change and non-binding. This shall also apply if we have provided our contract partners with catalogs, technical documentation (e.g. drawings, plans, calculations, computations, references to DIN standards), other product descriptions or documentation – including those in electronic formats. We shall retain the copyrights and intellectual property rights to all of the aforementioned documents. The sharing of our aforementioned documents with any third parties shall be subject to our express prior written consent.
- (2) The placement of an order for goods by our contract partner shall represent a binding offer to enter into a contract. Unless otherwise stated in the purchase order, we shall have the right to accept this offer to enter into a contract within 2 weeks after its receipt by us. Said acceptance may either occur in writing (e.g. in the form of an order confirmation) or by delivery of the contract object to our contract partner.

III. Prices, Payment Terms, Setting Off and Withholding Rights

- (1) Unless otherwise stated in our order confirmation, the prices effective at the time the contract was executed shall apply ex works, excluding packaging, which shall be billed separately.
- (2) Our prices do not include value added tax; it shall be charged additionally in the amount required by law on the day the invoice is issued and shall appear in the invoice as a separate item.
- (3) The deduction of cash discounts shall be subject to a special written agreement.
- (4) Unless otherwise stipulated in the order confirmation, the net purchase price (not subject to any deductions) shall be due for payment within 14 days after the invoice date. For contracts with a delivery value of more than EUR 25,000.—we shall have the right to demand a deposit payment of 30% of the purchase price in advance. The deposit shall be due for payment within 14 days after a pertinent invoice has been issued.
- (5) Upon expiration of the above payment due date, our contract partner shall be in default of payment. The price shall be subject to the accrual of interest during the default period at the respective effective late payment interest rate. We reserve the right to claim additional damages resulting from the default. In transactions involving professional business partners, this shall be without prejudice to our right to claim the commercial default interest (§ 353 HGB).
- (6) Our contract partner shall be entitled to set off and/or withhold payments against our partner's claims only provided our partner's claim has been found legally final by a court of law or if the claim is undisputed.
- (7) In the event that it should become evident that our claim is at risk because of our contract partner's lack of ability to perform (e.g. based on an application filed for the initiation of insolvency proceedings), we shall have the right to rescind from the agreement in compliance with the statutory requirements on the refusal of services and, if applicable, after having set a pertinent remedial deadline (§ 321 BGB). If the contract pertains to the production of objects that cannot be substituted (custom manufacturing) we shall have the option to rescind immediately. This shall be without prejudice to the statutory provisions pertaining to situations in which the requirement of setting deadlines may be waived.

IV. Delivery Time and Late Delivery

- (1) The delivery time shall be agreed upon on a case by case basis or shall be stipulated by us in our acceptance of the order. If this should not be the case, the delivery time shall be about 6 weeks after the execution of the contract.
- (2) The start of the delivery time stipulated by us shall be subject to the clarification of all technical issues. Compliance with our delivery obligation shall also be contingent upon the timely and proper fulfillment of our contract partner's obligations. The right to raise the objection of non-fulfillment of contract shall be reserved.
- (3) In the event that we should be unable to meet binding delivery times for reasons we are not responsible for (non-availability of the service), we shall communicate this fact to our contract partner promptly and shall simultaneously provide information on the anticipated new delivery time. If the service should also not be available within the new delivery time quoted, we shall have the right to rescind from the entire or part of the contract and shall reimburse any payment made by our contract partner immediately. Situations of non-availability of a service as defined in the aforementioned sentences shall in particular be the tardy delivery of goods to us by our suppliers if we have entered into a congruent hedging transaction. This shall be without prejudice to our statutory rights to terminate and rescind as well as the statutory provisions on the performance of a contract in the event of exclusion of the performance obligation (e.g. impossibility or non-acceptability of the service and/or remedial fulfillment). This shall also be without prejudice to the rescission and termination rights of our contract partner.
- (4) The occurrence of our default of delivery shall be governed by the pertinent statutory provisions. In any event, a warning notice from our contract partner shall be required. In the event that we should be in default of delivery, the Buyer shall have the right to demand a lump sum reimbursement for the damages caused by the delay. The lump sum damage compensation shall be 0.5% of the net price (delivery value) for each completed calendar week and shall not exceed 5% of the delivery value of the goods delivered late. However, we shall be entitled to an opportunity to tender evidence that our contract partner did not sustain any damages or damages of a significantly lower amount than the above specified lump sum compensation amount.

V. Delivery, Transfer of Risks, Acceptance Inspection and Default on Acceptance

- (1) The start of the delivery time specified by us shall be subject to the clarification of all technical issues. Compliance with our delivery obligations shall also be contingent upon the timely and proper fulfillment of our contract partner's obligations. The right to raise the objection of non-fulfillment of contract shall be reserved.
- (2) The delivery shall be made ex works/warehouse, which shall also be the place of fulfillment. Upon request and at the expense of our contract partner, the goods shall be shipped to a different destination (shipping sale). Unless otherwise agreed upon, we shall have the right to choose the shipping mode (in particular the transportation company, shipping route, packaging).
- (3) The risk of accidental loss and accidental decline of the quality of the goods shall transfer to our contract partner at the latest upon hand-over of the goods to the latter. For shipping sales the transfer of accidental loss and accidental decline of the quality of the goods as well as the risk of delay shall, however, transfer to the Buyer as soon as the goods are handed over to the shipping agent, freight forwarder or any other person or entity designated to handle the transportation of the cargo. In the event that an acceptance inspection has been agreed upon, it shall determine the point in time the risk is transferred. Incidentally, an agreed upon acceptance inspection shall also be subject to the statutory provisions of the works contract law accordingly. In the event that our contract partner should be default of acceptance, this shall constitute a hand-over or acceptance.
- (4) In the event that our contract partner should be in default of acceptance, fail to perform an act of participation or if our delivery is delayed for other reasons our contract partner is responsible for, we shall have the right to demand reimbursement for the damages incurred plus additional expenses incurred (e.g. warehousing costs). We shall charge a lump sum compensation amount if EUR 25.00 per calendar day beginning with the delivery date – or – in the absence of a delivery date – as of the date our contract partner was notified of the fact that the goods were ready for shipment.
- (5) This shall be without prejudice to our tendering of proof that greater damages have been incurred and to our statutory entitlements (in particular reimbursement of additional expenses, reasonable compensation, termination); the lump sum shall, however, be set off against any further monetary claims. Our contract partner shall have the right to tender proof that we did not incur any damages or that our damages were significantly lower than the above cited lump sum amount.

VI. Installation and Set-Up Services

- (1) In the event that we perform installation or set-up services at the Buyer's end, our contract partner shall be required to implement all preparations at the set-up or installation location that will ensure that the work we are scheduled to perform can be completed without any obstacles. Our contract partner shall in particular be required to allow for free access to the installation and/or set-up location so that we can transport our devices to the site; the contract partner shall also be responsible for the provision of electrical connection (230/400V), pressurised air connections, adequate lighting and a forklift. In the event that our contract partner should be responsible for circumstances that prevent us from performing all or part of our planned installation and set-up services or that prevent us from completing same in a reasonable amount of

time, our contract partner shall be liable to us for any damages we incur, in particular for the reimbursement of the additional costs that result from the additional work/time spent, such as for additional travel to the site or time spent idly on the site or additional employee work hours incurred. The installation deadline shall be deemed complied with if the acceptance inspection or, if contractually agreed upon, the testing by the customer has been performed by the time the deadline for the installation has been reached. In the event of delays caused by force majeure, circumstances we are not responsible for or that our contract partner is responsible for, the installation time shall be extended by a reasonable period of time accordingly.

- (2) In the event that our contract partner should sustain verifiable damages because of a delay resulting from delayed installation or set-up work, the former shall have the right to demand reimbursement for the default. In the event of simply culpability at our end, a lump sum shall be paid by us, which shall total 0.5% for each full week of delay, not to exceed 5% of the value of the respective portion of the complete delivery that cannot be used in a timely or contract compliant manner because of the late installation.

VII. Title Retention

- (1) We shall retain title to the goods sold until all of our current and future receivables arising from the contract and an ongoing business relationship (collateralised receivables) have been paid.
- (2) Prior to having been completely paid for, the collateralised goods or objects subject to title retention may neither be pledged to third parties for attachment nor assigned as collateral. Our contract partner shall be required to notify us immediately and in writing if and to the extent that third parties are pursuing access to goods we have title to.
- (3) In the event of contract breaching conduct of our contract partner, in particular in the event of failure to pay the prices due, we shall have the right to rescind from the contract in compliance with applicable laws and to demand the surrender of the goods based on the title retention arrangements and our rescission. In the event that our contract should fail to pay the prices due, we shall be permitted to enforce these rights only if we have previously set our contract partner a reasonable remedial time period to make the payment to no avail or if the setting of such a remedial deadline is not required by law.
- (4) Our contract partner shall be authorised to resell the goods subject to title retention within the scope of regular business transactions and/or to process the goods. In this case the following provisions shall additionally apply.
 - (a) The title retention shall also encompass the goods resulting from the processing, blending or combination of our goods at their respective full value, whereby we shall be considered the manufacturer. In the event that the processing, blending or combination with third party goods should result in their retention of their ownership rights, we shall acquire co-ownership to said goods at the ratio of the invoice values of the processed, blended or combined goods. Incidentally, the created goods shall be subject to the same conditions as goods delivered subject to title retention.
 - (b) Our contract partner herewith assigns to us all of or the value of the receivables in the amount of our potential co-ownership pursuant to the above section accrued from the resale of the goods or of the product as collateral. We herewith accept this assignment. The obligations of our contract partner set forth in Section 2 shall also apply in reference to the assigned receivables.
 - (c) Both, we and our contract partner shall be authorised to collect said receivables. We shall undertake not to collect said receivables as long as our contract partner meets pertinent payment obligations to us, does not default on payment, does not apply for the initiation of insolvency proceedings and as long as no other performance defect on our contract partner's end arises. However, if any of the aforementioned problems should arise, we may demand that our contract partner discloses to us the assigned receivables and the debtors, provides us with all of the information provided to collect them, releases to us all related documentation and notifies the debtors (third parties) of the assignment.
 - (d) In the event that the attainable value of the collateral should exceed our receivables by more than 10%, we shall release collateral of our choice to the contract partner upon request.

VIII. Liability for Deficiencies

- (1) Our contract partner's rights with regard to material or legal deficiencies (including deliveries of wrong goods or insufficient quantities as well as improper installation or deficient installation instructions) shall be governed by the statutory provisions unless otherwise stipulated in the following sections.
- (2) The first and foremost basis for our liability shall be the agreement made with regards to the properties of the goods. Agreements pertaining to the properties of the goods shall be product descriptions (including those of the manufacturer) that are designated as such, which shall be provided to our contract partner prior to the placement of the order or that have been integrated into the contract in the same manner as these GTC.
- (3) In the event that no agreement as to the properties of the goods has been made, the determination whether a deficiency does exist or not shall be made based on the statutory provisions. However, we shall not assume any liability for publicly made statements of the manufacturer or any third parties (e.g. advertising statements).
- (4) The deficiency entitlements of our contract partner shall be contingent upon the former having met the statutory examination and claim submission obligations (§§ 377, 381 HGB). In the event that the inspection should reveal a deficiency or if one should be discovered later, the contract partner shall be required to notify us in writing immediately. A notification shall be deemed to have filed immediately if it occurs within two weeks, whereby the timely sending of the notification shall suffice to

- comply with the deadline. The examination and claim submission obligations notwithstanding, our contract partner shall be required to file claims for obvious deficiencies (including incorrect or insufficient deliveries) within two weeks after the delivery and in writing, whereby the deadline shall once again be deemed complied with if it has been sent in a timely manner. In the event that our contract partner should fail to conduct a proper inspection or file a proper claim of deficiency, our liability for the non-reported deficiency shall be excluded.
- (5) If the delivered object should be deficient, our contract partner may initially demand a remedial fulfillment option of our contract partner's choice consisting of either the elimination of the deficiency (remedial improvement) or delivery of an object that is deficiency free (replacement). If our contract partner should fail to choose one of these two rights, we shall have the option to set a reasonable response deadline. If our contract partner should fail to make a selection during the time period granted, the right to choose one of the options shall transfer to us upon expiration of said deadline.
 - (6) We shall have the right to make the owed remedial fulfillment contingent upon our contract partner paying the price due. However, our contract partner shall have the right to withhold a reasonable portion of the purchase price based on the severity of the deficiency.
 - (7) Our contract partner shall be required to allot us the required time and opportunity for the owed remedial fulfillment and in particular to hand over to us the goods that are targeted by the claim for examination purposes. In the event that we should send a replacement delivery, our contract partner shall be required to return the deficient object to us in compliance with pertinent statutory requirements.
 - (8) The costs that will have to be incurred for the purpose of testing and remedial action, in particular transportation, errand travel, labour and material costs shall be absorbed by us if an actual deficiency does exist. However, if it should be determined that the deficiency elimination demand of our contract partner was unjustified, we shall have the right to demand from our contract partner reimbursement of the costs we have incurred as a result.
 - (9) In urgent cases, for instance if the operational safety is at risk or in order to prevent disproportionate damages, our contract partner shall have the right to eliminate the damages directly and to demand that we reimburse any objectively required expenditures. Our contract partner shall undertake to notify us of any such self-elimination immediately, if at all possible prior to its performance. A right to self remedy shall not apply if we would have the right to refuse the performance of respective remedial action based on pertinent statutory provisions.
 - (10) In the event that the remedial fulfillment should fail or a reasonable deadline to be set by our contract partner has expired to no avail or if such a remedial deadline is not required as a matter of law, our contract partner shall have the option to rescind from the contract or to reduce the price. However, a right to rescind shall not exist in the event that the deficiency should be minor.
 - (11) Entitlements to damage compensation or reimbursement of costs incurred in vain of our contract partner shall only exist subject to the stipulations of Section VIII. and shall otherwise be excluded.

IX. Other Liability

- (1) Unless otherwise required by these GTC including the following provisions, we shall assume liability in compliance with pertinent statutory requirements in the event of breach of contractual and non-contractual obligations.
- (2) Regardless of the legal grounds we shall assume liability for damage compensation in the event of acts of intent and gross neglect. In the event of simple neglect we shall assume liability only
 - a) for damages arising from the loss of life, personal injury or health damages,
 - b) for damages arising from the breach of a cardinal contractual duty (an obligation upon which the proper performance of the contract hinges and upon compliance with which the contract partner relies and may rely at all times); in this case our liability shall however be limited to the foreseeable, typically incurred damages.
- (3) The liability restrictions arising from Section 2 shall not apply if we have failed to disclose a deficiency for malicious reasons or if we have assumed a warranty for the condition of the goods. The same shall apply to claims of our contract partner based on the product liability act.
- (4) Our contract partner shall have the right to rescind from the contract or to terminate same because of a breach of duty, which is not inherent in a deficiency only if we are responsible for the breach of duty. Liberal termination rights of our contract partner (in particular pursuant to §§ 651, 649 BGB) shall be excluded. Incidentally, the statutory requirements and legal consequences shall apply.

X. Statute of Limitations

- (1) The general statute of limitations for claims arising from material and legal deficiencies shall be 1 year after delivery, which represents a deviation from the statutory provision. In the event that an acceptance inspection is part of the agreement, the statute of limitation shall begin as of the acceptance date.
- (2) However, if the product is a building structure or an object, which according to its usual purpose was used for a building structure and has caused the former's deficiency (building material), the statute of limitations shall be 5 years after delivery. This shall also be without prejudice to special statutory provisions for in rem third party surrender entitlements, in the event of malicious dealings of the seller and for entitlements resulting from supplier subrogation if the ultimate party the goods were delivered to is a consumer.

- (3) The above statute of limitation periods shall also apply to contractual and non-contractual entitlements to damage compensation of our contract partner based on a deficiency in the product, unless the application for the regular statutory statute of limitation (§§ 195, 199 BGB) would in exceptional cases shorten the duration of the statute of limitations. In any event, this shall be without prejudice to the statute of limitation periods set forth in the product liability act. Incidentally, damage compensation entitlements of the Buyer pursuant to Article VIII. shall be exclusively governed by the statutory statute of limitation periods.

XI. Governing Law and Place of Jurisdiction

- (1) These GTC and all legal relationships between our company and our contract partner shall be governed by the laws of the Federal Republic of Germany subject to the exclusion of all international and supranational (contract-related) legislations, in particular the UN Convention on the International Sale of Goods. The prerequisites and effects of the title retention arrangements on the other hand shall be governed by the law at the pertinent location of the object provided that the choice of governing law in favour of German law would be prohibited or ineffective.
- (2) In the event that the Buyer should be a commercial professional as interpreted by the German Trade Law, or a legal entity of public law or a public law based special entity, the sole place of jurisdiction, including on the international level, for any litigation arising directly or indirectly from the contractual relationship shall be our business domicile 89597 Munderkingen, Germany. However, we shall also have the right to file suit against the Buyer at the latter's general place of jurisdiction.