

## **Terms and conditions of Company Worldtex Buchholz GmbH**

### **1. General / Scope**

1.1 Orders only apply with the involvement of our sales conditions; this shall apply exclusively. Opposing or deviating terms from our sales conditions by the buyer are not recognized, unless we have expressly agreed in writing. Our sales conditions also apply when we execute the delivery to the buyer without reservation, although we are aware of conflicting or deviating conditions of the purchaser in contrast to our sales conditions.

1.2 Our sales conditions also apply to all future transactions with the buyer.

1.3 All agreements between us and the buyer for the purpose of executing this contract are laid down in writing in this contract; contacting us via e-mail is sufficient. We execute the delivery to the buyer without reservation although we are aware of conflicting or deviating conditions of the purchaser in contrast to our sales conditions.

1.4 The above disposition within the framework of the placed order is only permitted by mutual agreement. Details shall be regulated in these implementing rules. The one-sided cancellation of orders by the buyer is not permitted.

### **2. Offer / Offer Documents / Copyright**

2.1 Our offers are always subject to change. If the buyer's order qualifies as an offer within the meaning of § 145 BGB, we can accept it within 4 weeks.

2.2 We reserve our copyright and property rights for illustrations, designs, samples, models, drawings, cost estimates, sales aids and other documents and matters. Our written consent is required before passing them onto third parties.

2.3 Specifications, samples, etc. and other product descriptions are approximate. They do not constitute any warranty, unless something else is agreed in writing.

### **3. Price / Payment**

3.1 Provided that the order confirmation does not state otherwise, our prices are ex-warehouse "Wettringen", excluding packaging plus shipping. These are shown separately in an asked invoice. We reserve the right to adjust our prices accordingly, if after the conclusion of the contract cost reductions or cost increases occur, in particular, due to wage settlements, currency / exchange rate fluctuations or changes in material prices. We will prove the reason for price adjusts to the purchaser upon request.

3.2 VAT is not included in our prices. It is in the legal rate on the date of invoicing and shown separately on the invoice.

**3.3 Provided that the order confirmation does not state otherwise, the purchase price is net payable to us within 10 days from the issue of the invoice with 4% discount, or within 30 days without any deductions.**

3.4 If the buyer defaults on payment, we are entitled to the rights according to § 288 BGB.

3.4.1 Bank drafts, insofar as they are taken for payment, are accepted only against reimbursement of the bank. Discount and collection charges are adopted. Bills and acceptances with a maturity of more than three months will not be accepted.

3.5 In addition, the buyer is entitled to exercise a right of retention only in this respect as his counterclaim is based on the same contractual relationship. Off rights to the buyer are only applicable if his counterclaims are legally determined, undisputed or acknowledged by us. In addition, the buyer is entitled to exercise a right of retention only if his counterclaim is based on the same contractual relationship.

3.6 We are entitled to make the entire bill due, if we become aware that the credit ratings of the purchaser are in question. This applies especially to dishonouring of cheques or payment settings.

#### **4. Delivery / fulfillment / acceptance of goods**

4.1.1 The beginning of the delivery period requires the clarification of all technical issues.

4.1.2

Unsorted partial shipments are permitted.

4.2 Compliance with our delivery obligation requires the timely and proper fulfillment of the obligations of the buyer in advance. The exception of the unfulfilled contract remains reserved.

4.3 If the buyer is in default of the acceptance of delivery or violates other obligations to cooperate, then we are entitled to make any justified legal claims, in particular, the damage incurred by us, including any additional expenditure. Further claims remain reserved to us.

4.4 If the conditions of paragraph 4.3 are present, the risk of accidental loss or accidental deterioration of the goods is transferred to the buyer at the time when the buyer is in default of acceptance of delivery or payment.

4.5 The stated delivery times are only approximate, unless a specific delivery time is agreed in writing as fixed dates.

4.6 Partial deliveries are allowed. Correct and punctual delivery remains a requirement.

4.7 Delivery and service delays due to superior force and due to events impeding our delivery or make it impossible (e.g. Strike, lockout, etc.), authorize us to postpone the delivery or performance by the duration of disability. Plus a reasonable set-up time. The same applies when the above obstacles have occurred at our suppliers or their subcontractors.

4.8 If we do not provide a due service or not as owed, the buyer may withdraw from the contract and be entitled to claim compensation instead of the service. Furthermore the buyer can claim to be reimbursed for his/her contract expenses. These rights can be claimed after a fruitless expiration of a grace period.

4.9 The buyer is obliged to connect the grace period under the above section 4.8 with the unique statement that he will refuse the delivery after a fruitless expiration of the grace period. He is also obliged to declare the rights he/she is willing to apply against us.

4.10 If the delivery has taken place in parts, the buyer can claim damages instead of just asking for the whole service if the interest in the entire performance requires that. A withdrawal of the entire contract is only possible in this case if the buyer can prove that he has no interest in the partial performance.

4.11 Our compensation liability is excluded in cases of ordinary negligence. The aforementioned limitation of liability does not apply if the delay is due to the fact that we violated material contractual obligation in these cases, our liability is limited to the typical, foreseeable damage. In the case of a willful infringement, we are liable according to legal provisions. Further compensation claims of the buyer are in all cases of delayed deliveries excluded, even after expiry of a period of grace given to us. This shall not apply in cases of intent, gross negligence and mandatory liability for personal injury; a change in the burden of proof to the detriment of the buyer is not associated with it.

## **5. Transfer of Risk / Packaging**

5.1 Provided that the order confirmation does not state otherwise, delivery is from headquarters "Wettringen". The risk shall pass to the buyer when the goods were handed over to the carrier. The choice of delivery person is at our discretion.

5.2 Transportation and all other packaging according to the German packaging regulations cannot be returned; except for Euro-pallets. The buyer is obliged to store and return packaging and reusable transport means such as pallets, etc. and return them to us in a proper condition.

5.3 We will insure the delivery if the customer wants it. In this case, the customer will bear the corresponding costs. Shipping is at risk of the buyer.

## **6. Warranty**

6.1 The warranty rights of the buyer requires that he/she has complied with his/her duties of inspections and complaints according to § 377 HGB.

6.2

The statutory right of recourse of the buyer against us only applies if the buyer has not taken out an agreement with its customers that goes beyond the statutory warranty claim.

6.3.1

If there is a justifiable defect in the purchased goods, we are always initially entitled to a subsequent performance within a reasonable period. We are entitled to choose between replacing the faulty goods or a correction of faults.

### 6.3.2

If the supplementary performance fails, the purchaser may, notwithstanding any claims for damages, withdraw or reduce the purchase price of the contract. Claims by the buyer because of the need for the purpose of supplementary performance, in particular transport, travel, labour and material costs are excluded if the expenses increase because the delivery object subsequently moved to another location. This does not apply if the transport corresponds to the intended use.

### 6.4.1

Warranty claims are excluded

- in cases of insignificant deviations from the agreed quality,
- In cases of only minor impairment of usefulness,
- In cases of commercial deviations,
- In cases of technically unavoidable deviation in quality, colour, width, weight, finish or design
- In cases of natural tear and wear and damage
- After the transfer of risk from faulty or negligent treatment
- In cases of excessive strain
- In cases of the use of unsuitable care products
- In cases of external influence and / or which are not assumed under the contract.

### 6.5

Claims for defects expire within 12 months; the period begins with the transfer of risk. The above provisions do not apply if the law according to §§ 439 section 1 no. 2 (Items for buildings), 479 para. 1 (right of recourse) and 634a (building defects) BGB allows longer periods.

### 6.6.1

Unless below indicates otherwise, further claims of the buyer - for whatever legal reasons - are excluded. Therefore we are not liable for damages which have not occurred to the delivery item itself; in particular we are not liable for lost profits or other financial damages of the buyer.

### 6.6.2

We are liable according to the legal regulations, if we culpably hurt an essential contractual obligation; in this case, however, liability for damages is limited to the foreseeable, typically occurring damage. Furthermore, the damages liability are excluded; as far as we are especially not liable which have not occurred to the delivery item itself.

### 6.6.3

Above exemption from liability drawings do not apply if the damage was caused by intent or gross negligence; they also do not apply in cases of physical and / or health damages.

Furthermore they do not apply if the buyer takes out a claim of damage liability based on the existence of a warranty on a product characteristic product feature. The exemption does apply if the purpose of the property warranty solely relates to the contractual conformity of the underlying delivery, but not at the visit of consequent damages. A change in the burden of proof to the detriment of the buyer is not connected with the above regulations.

6.7.

Legal claims of the buyer due to defects in title shall expire as warranty claims according to section 6.5. In case there are any claims against us by third parties due to infringement of industrial property rights, trademarks, utility patent/designs and/or copyrights, the buyer is obliged to indemnify us as the buyer is liable in his external relationship.

## **7. Total liability**

7.1

Any further liability for damages beyond that of section 6 is excluded, regardless of the legal nature of the asserted claim. Including infringement of obligations.

7.2

The exclusion of liability pursuant to the above section. 7.1 does not apply to claims in accordance with the Product Liability Act and in cases of damage to life, limb or health.

7.3

Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, staff, representatives and agents.

## **8. Reservation of Ownership**

8.1.1

The delivered goods remain our property until full payment of all claims from the current business relationship between us and the buyer. The transfer of individual claims into a current account and the recognition of balance shall not affect the retention of title. Payment is only valid as such if the seller has received the total value. If the buyer is in breach of contract, especially in payment areas, we are entitled to take back the purchased goods.

8.1.2

Taking back the goods by us does not constitute withdrawal from the contract unless we have expressly stated this in writing. The seizure of the purchased goods by us always constitutes a withdrawal from the purchase agreement.

8.1.3

We are entitled to dispose of the goods to their utilisation. The proceeds are to be credited on the buyer's liabilities less reasonable costs.

8.2.

The buyer is obliged to treat the goods with care; in particular he/she is obliged to insure the goods sufficiently at his own expense against fire, water damage and theft and to insure the replacement value.

8.3.

If third parties seize the goods or take other interventions the buyer must inform us immediately in writing, so that we can prosecute according to § 771 ZPO. If the third party is not able to replace the extra individual/judicial costs of a lawsuit according to § 771 ZPO, the buyer is liable for the loss incurred.

#### 8.4

The buyer is entitled to sell the reserved goods in the ordinary course of business.

He assigns to us already now all claims amounting to the final invoice amount (including VAT) of our claim to him from the resale, regardless of whether the goods have been further processed or not.

The assignment shall also refer to the acknowledged balance and in the event of insolvency of the customer to the then existing "Causal balance".

The buyer remains authorised to collect these claims even of the assignment. Our authority to collect the claim ourselves shall remain unaffected.

However, we commit ourselves not to collect the claims, as long as:

- The buyer continues to fulfil his/her payment obligations from the collected proceeds,
- The buyer is not late in payments,
- The buyer has not applied for opening of insolvency proceedings,
- Payments are not suspended.

If this is the case, we may demand that the buyer notifies us of the assigned claims and their debtors provide all the necessary information, hand over the relevant documents and inform the debtors (third parties) of the assignment.

#### 8.5

The processing or transformation of the goods by the buyer is always made for us. If the purchased goods are processed with other items not belonging to us, we shall acquire joint ownership of the new item in proportion to the value of the purchased item (final invoice amount, including VAT) to the other processed objects at the time of processing. Incidentally, this applies to the item created by processing as much as for the goods delivered under reservation of ownership.

#### 8.6

If the goods are inseparably mixed with other items not belonging to us, we shall acquire joint ownership of the new item proportional to the value of the goods (final invoice amount, including VAT) to the other mixed objects at the time of mixing. If the mixing is such that the purchaser's item is to be regarded as the main item, it is agreed that the purchaser transfers proportional joint ownership to us. The purchaser shall keep the sole ownership or co-ownership for us.

#### 8.7

We pledge to release the securities given to us, on request of the buyer, if the value of the securities exceeds 10% of the realisable value of the bills outstanding.

## **9. Applied Law / Place of Jurisdiction / Others**

9.1 If the buyer is a businessperson, legal person of public law or public law special assets, our place of business "Wettringen" is the place of jurisdiction. However, we are entitled to sue the buyer before his residence court.

9.2

Provided that the order confirmation does not state otherwise, our registered office "Wettringen" is the place of delivery.

9.3

For these terms and conditions and the legal relations between us and the buyer the law of the Federal Republic of Germany applies. The application of the CISG (United Nations Convention of 11.04.1980 on contracts for the International Sale of Goods BGBL 1989II588, Ber. 1990 II, 1699.) is excluded. **This English version of the terms and conditions (AGB) is a translation. The contract, though, is based on the German original version.**

9.4

Business-related data of the buyer will be stored in the necessary framework. A necessity is given, if we assign the claim against the purchaser as part of factoring. We will use the data only within the commercial relationship. We will not pass on the data to third parties, unless the disclosure would be inevitable and permitted by law according to the data protection regulations.