

## **Sales Terms of GARREIS Warenpräsentation GmbH & Co. KG**

### **1. Effectiveness of the Terms**

The following sales terms are the underlying basis for any sale of our goods and services. The customer's general terms and conditions, specifically the customer's purchase terms, shall be void, unless otherwise and separately agreed in writing on a case to case basis. Within the framework of a long-term supply chain relationship, these Sales Terms shall apply even if they are not regularly mentioned in the context of supply chain deliveries. Counter-confirmations by the customer and reference to the customer's business or purchase terms are herewith expressly rejected. The customer's deviating purchase terms are not accepted unless their inclusion is confirmed by us in writing.

### **2. Quote and Conclusion of Contract**

Our quotes are subject to change. Delivery agreements and other agreements do not become valid until they have been confirmed by us in writing. Drawings, illustrations, measurements, weights, or other performance data are binding only if this has been expressly agreed in writing.

### **3. Orders**

- 3.1. All orders as well as their amendments and supplements are expressly require in written form. Orders are irrevocable once they have been placed. Oral agreements or confirmations made in person or over the telephone remain non-binding until confirmed by us in writing. Conditions defined by the buyer are binding only if they have been accepted by us in writing.
- 3.2. Unless otherwise agreed, the relevant German standards shall apply. Other than that, our goods are delivered in merchantable quality and design, taking production-related merchantable tolerances in regard to dimensions, weights, and quality grade into account. References to standards or other notes on standardisations represent no guarantee of quality unless we offered such a guarantee expressly and in writing. Public statements made by us, our assistants or possible manufacturers or their assistants, specifically in advertising material, regarding the quality of our goods, cannot be used by the customer to claim quality defects unless such statements have been made an integral part of a quality agreement between the contract parties.  
Colour definitions are approximations. Changes in hue may occur. These always depend on the base material used, the material used in general, the printing process used, and similar factors.
- 3.3. Partial delivery and partial performance by us are permissible unless this causes the customer unreasonable economic hardship.

- 3.4. Unless otherwise agreed in writing, we will deliver at our discretion either ex factory or ex warehouse, which factory or warehouse might be that of a third party. The risk will transfer to the customer no later than the handover to the carrier or any other shipping agent; this shall apply even if the goods are delivered by our own staff. In the absence of specific instruction by the customer, we will choose a suitable shipping agent at our discretion, otherwise Subsection 6.1 shall apply. The risk will transfer to the customer even if the goods are kept in storage on our premises at the customer's request.
- 3.5. Our obligation to perform and deliver is subject to the reservation that we ourselves are supplied correctly and in good time.
- 3.6. Unless otherwise agreed by the parties, statements regarding the time of delivery and the time of performance are approximate; the time of delivery and performance being approximations only, the customer may claim maturity of our deliveries and services one month after the expiration of the stated and possibly extended period at the earliest. In the case of an approximate delivery period, the customer shall accept the goods within a period of two weeks after being notified by us that the goods are ready to be handed over or shipped. Fixed dates shall be agreed upon in writing.
- 3.7. The delivery period begins with the dispatch of the order confirmation, though not prior to the submission of all documents, permits, releases, and prior to the clarification of all technical issues. This includes specifically the handing over of layout proposals and press proofing samples, press-ready and printable data; these must have been released by the customer.
- 3.8. The delivery period will be adequately extended whenever measures need to be undertaken in face of industrial action, specifically strike and legal lockout, and whenever other obstacles present themselves for which we are not responsible. This applies also whenever subcontractors are affected by such circumstances. We are not even responsible for the aforementioned circumstances if they occur at a time when performance is already delayed. The existence and elimination of such obstacles shall be communicated to the customer as swiftly as possible. If circumstances arise after the agreement was signed (e.g. due to mobilisation, official measures including those affecting foreign trade) that we could not have foreseen, and that impede – not just temporarily – the performance of the services that we owe, and that offset the equivalence between service and consideration not just temporarily to our disadvantage, we may demand an appropriate adjustment of the agreement. If it is impossible or for one party unreasonable to adjust the agreement, we have the right to cancel the agreement. Other than that, the legal provisions governing the exclusion of the obligation to perform, the right of the debtor to refuse service, the disturbance of the basis of a transaction, and the right to termination for important reasons remain unimpaired.
- 3.9. In the case of blanket orders, the customer shall call off the goods within a period of two weeks after being notified by us that the goods are ready to be handed over or shipped. If in the case of blanket orders, the customer calls off more than the ordered quantity we have the right to limit delivery to the ordered quantity or to invoice the additional quantity at the current price.

- 3.10. If the customer fails to accept or call-off the goods in good time we have the right, irrespective of our claim for performance and other rights, to demand replacement of our added expenditures for the wasted offer and to store the goods at the customer's expense and risk.
- 3.11. The customer may demand changes in the construction and design of the delivery item only as far as these are reasonable. In this event, a consensual agreement shall be reached regarding the ramifications, specifically the increase and decrease in costs.
- 3.12. Samples will be produced and delivered at the customer's expense and risk.

#### **4. Payment Terms and Payment**

- 4.1. Definitive for the pricing is the current price on the day of delivery or performance, with the applicable value-added tax to be added, unless otherwise agreed. Prices are listed in Euro and include delivery ex factory (packaging not included). If a carriage-paid delivery of goods has been agreed, the carriage paid includes delivery to the recipient's point of delivery excluding freight charges. The recipient shall bear any additional expense for special packaging, a special packaging type, or a change of packaging as requested by the recipient.

Payment shall be made – unless otherwise agreed in writing – to GARREIS Warenpräsentation GmbH & Co.KG.

Payment shall principally be made free of postage and expenses to our designated account(s). For payment purposes, bank transfers or checks are accepted subject to prior agreement. Discount charges and interest will be charged to the buyer. With any type of payment, the payment date shall be the day on which we can dispose over the amount due. Incoming payments will be settled against outstanding debt at our discretion, normally starting with the oldest debt. Our amounts of payment are due within 20 days after invoice date, unless otherwise agreed.

No interest is paid on down-payments.

It is not permitted to make late payment because of possibly existing counterclaims, or to set these off. Even without a reminder, the sold-to party falls into arrears whenever the payment period is exceeded or payment has not been received in full. In the event of late payment we reserve the right to charge late interest in an amount equal to 8 percentage points above the official basic interest rate, provided we are not entitled to a higher interest on other legal grounds. We reserve the right to enforce additional damages as well as other statutory rights in case of late payment.

The first-time order of a new customer principally requires a down-payment of no less than 50%.

- 4.3. The customer is not permitted to set off any debt to us against counterclaims that are disputed by us or have not been legally asserted (for instance on the grounds of quality defects), nor is the customer permitted to enforce a possibly existing statutory right of retention or a right to refuse service. Enforcing a right of retention or right to refuse service is also ruled out insofar as the customer's counterclaims are not based on the same contract relationship.

- 4.4. Assignment of claims against us to a third party is ruled out; Section 354a, German Commercial Code, remains unaffected.
- 4.5. In the event that the customer fails to keep due dates, or if it becomes evident for some other reason after the conclusion of the agreement that our accounts receivable may be put at hazard because of the customer's inability to pay we assert the statutory rights, specifically the right to refuse service until the consideration has been received or until sufficient collateral has been provided, and the right to cancel the agreement.

## **5. Collateral**

We have the right to demand collateral of common type and scale to secure our accounts receivable even if these are conditional or limited.

## **6. Delivery, Requirement to Give Notice of Defect, Packaging**

- 6.1. Delivery is always made at the risk and, unless otherwise agreed, at the expense of the sold-to party. If the sold-to party requests a certain type of delivery or shipping, a certain carrier or shipping company, or issues other shipping and/or packaging instructions, the sold-to party shall bear the sole risk for these efforts, specifically including the risk of timely delivery of the goods. The details are governed by Section 3 of these Purchase Terms.
- 6.2. The recipient is obliged to inspect the goods immediately upon their arrival as to completeness and visible damages, and to notify us of losses or damages without culpable delay. If the loading or shipping of the goods is delayed for reasons for which the buyer is responsible we have the right, at our discretion, to store the goods at the buyer's expense and risk, to undertake any measure we deem appropriate to preserve the goods, and to invoice the goods as having been delivered.
- We shall strive to take the requests and interests of the sold-to party into account in regard to shipping mode and shipment; these must have been submitted in writing by the time the agreement is signed. Any additional costs – even if carriage-paid delivery has been agreed – will be at the expense of the sold-to party.
- 6.3. We shall cover the costs of standard packaging. Costs for any packaging other than the standard type or for additional packaging will be borne by the sold-to party.

## **7. Documents**

All documents referring to products supplied by us, including drafts, remain our property and require separate approval to be used for any purpose other than the one contractually agreed. They shall be returned at our request.

Designs must not be passed on to any third party. They remain our intellectual property. In the event of unauthorised disclosure we reserve the right to file for damages in a flat amount of 2,000.00 EUR. Whenever we are in a position to substantiate a higher damage, we shall bill it to customer.

## **8. Retention of Title**

- 8.1. We retain title to the goods (hereinafter "Retained Goods") until all our accounts receivable have been settled, including future accounts receivable arising from the business relations with the customer.
- 8.2. The customer has the right to resell the Retained Goods or new item in the ordinary course of business, subject to the retention of title. The customer is obliged to ensure that the accounts receivable from such reselling transactions can be transferred to us under the above regulations. Any other disposal is prohibited.
- 8.3. The customer's accounts receivable from reselling the Retained Goods are assigned to us even at this point. We hereby accept the assignment. They serve as our collateral to the same extent as the Retained Goods themselves. If the customer sells the Retained Goods together with other goods that were delivered by other parties, then the assignment of the account receivable extends only to the pro-rata amount of invoice that represents the Retained Goods resold.
- 8.4. If the customer includes accounts receivables from Retained Goods resold in a mercantile current account relationship that he maintains with his sold-to party, then the customer assigns the account balance or final balance to us in an amount equal to the total accounts receivable that represent the resold Retained Goods included in the current account relationship.
- 8.5. The customer is authorised to collect the accounts receivable assigned to us that arise from the resale of the Retained Goods or new item. The buyer is not permitted to assign the account receivable arising from the resale to a third party, not even within the framework of a genuine factoring agreement.
- 8.6. We have the right to revoke the authorisation to resell the Retained Goods or the new item pursuant to Section 8.2, above, as well as the authorisation to collect the accounts receivable assigned to us pursuant to Section 8.5, above, if the buyer delays or defaults on his payments, and in the event that an application for insolvency procedures is filed or in any other event that impairs the buyer's credit- and trustworthiness. If said authorisation to resell or to collect is revoked, the buyer is obliged to notify the recipients of said goods immediately of the assignment of the accounts receivable and to hand over to us all information and documents necessary to collect these debts. In this case, the buyer is moreover obliged to hand over to us or to assign to us any collateral he is entitled to for the accounts receivable from his recipients.
- 8.7. The customer is obliged to notify us immediately of any levy of execution or any other legal or actual hazard for the Retained Goods or for the other collateral that exists for our benefit.
- 8.8. The customer agrees to take out sufficient insurance for the Retained Goods to cover damages caused by fire, water and theft at their original value. The customer assigns to us his claims arising from the insurance policies even at this point.

- 8.9. In the event that the customer makes late payment or commits some other major breach of contract, as well as in the event that the agreement is cancelled, the customer agrees even at this point that we may retrieve or have retrieved the Retained Goods located on the customer's premises. The retrieval of goods is not to be interpreted as a cancellation of the agreement unless we expressly state the fact. At any time, the customer shall admit our representative for the purpose of executing this measure and generally inspecting the Retained Goods or new item.
- 8.10. Assuming a prior order to that effect, we have the right to liquidate the retrieved Retained Goods, provided that we credit the liquidation proceeds – minus reasonable liquidation costs – against the customer's liabilities.
- 8.11. In the event that mandatory foreign statutes render the retention of title or the assignment of debts ineffective or unenforceable it is agreed that sufficient collateral to cover the retention of title or the assignment of debt shall be provided. If this requires the customer's cooperation, the customer shall undertake every measure necessary to provide and maintain said collateral.

## **9. Secrecy**

The business partners agree to treat all commercial and technical details that are not common knowledge and that are disclosed to them in line with the business liaison as trade secret. Order-specific data, drafts, models, samples, and similar objects must not be handed over or made accessible to any third party. The reproduction of such objects is permitted only within the confines of the operative requirements and copyright provisions.

## **10. Notification of Defect, Claims from Defects in Quality or Title, Customer Specifications, Consultancy**

- 10.1. The customer is obliged to notify us in writing of patent defects without delay but in no case later than two weeks after delivery of the goods, of invisible defects without delay upon their discovery but in no case later than two weeks following their discovery. The deadlines are preclusive periods. Definitive for the timeliness of the notification of defects is the time by which they are received by us.
- 10.2. Possible claims by the customer because of a defect shall be limited to the right to supplementary service. At our discretion, the supplementary performance shall take the form of a remediation of the defect or delivery of flawless goods. In the case of supplementary performance, we are entitled to at least two attempts to remedy the defect. If the supplementary performance fails, the customer shall have the choice of either cancelling the purchase contract or to reduce the price of purchase.
- 10.3. To the extent that we are obliged to pay damages because of a defect subject to statutory provisions – for whatever legal reason including possible damage claims from a positive breach of contract, culpa in contrahendo, and unlawful acts – this obligation to pay damages shall be limited to the provisions of Subsection 10.6, below.

- 10.4. Possible claims of recourse against the customer pursuant to Section 478, German Civil Code, remain unaffected. To the extent that we are obliged to pay damages pursuant to statutory provisions, within the confines of such recourse, this obligation to pay damages shall be limited to the provisions of Subsection 10.6, below.
- 10.5. Customer claims on the grounds of defects have a limitation period of one year, beginning with the delivery of the goods. This does not apply in the case of (1) premeditation or (2) malicious non-disclosure of a defect. The aforesaid one-year period of limitation fails to apply to damage claims because of defects even if the damage was caused by grave negligence of our legal representative or senior employee or involves personal injuries or if we are liable because of tort. The legal provisions governing the limitation of possible claims of recourse pursuant to Section 479, German Civil Code, as well as those governing the periods of limitation and exclusion under the German Product Liability Act remain unaffected.
- 10.6 In the case of down-graded or second rate goods (display copies) all warranty claims for defects that the customer was aware of when signing the agreement are ruled out. We are moreover not liable for defects that the customer was unaware of due to grave negligence at the time the agreement was signed unless we failed to disclose the defects maliciously or unless we offered a relevant warranty for the quality of the goods. As far as deliveries to customers are concerned, we shall be liable for quality defects in the form of substitute delivery, cancellation (repudiation), or reduction pursuant to applicable laws. In the case of claims raised in the context of the delivery of defective goods, we shall be liable for damages, remediation of defect, compensation for the expenditures required for the purpose of supplementary service, and compensation for wasted expenditures only to the extent that this has been expressly agreed with the customer.
- 10.7. Pursuant to the legal provisions and the general terms of sale and delivery, we shall be liable for defects caused by the customer's instructions or specifications only if we have agreed in writing vis-à-vis the customer to bear the risk for the occurrence of defects due to instructions or specifications. The customer has the responsibility vis-à-vis us to ensure that the instructions and specification will not bring about a defect of the manufactured or delivered goods, unless we have assumed in writing the aforementioned risk regarding the occurrence of defects.
- 10.8. The customer is himself responsible for testing the suitability of the goods for the intended purpose. Any development we may deliver to the customer, as well as any advice and recommendation we may make, remain non-binding; these must be diligently tested by the customer, possibly by calling on third-party experts.
- 10.9. We reserve the right to change quality and design in order to meet our delivery obligation, provided that doing so will not, or just slightly, impact the delivery obligation.
- 10.10. If a certain quality of the delivery item in terms of design, material or other quality is no longer available on the market or only at unreasonably high costs, then we shall be released from our delivery obligation. In this event, the customer is not entitled to compensation. We shall try – without being legally obliged to do so – to procure an adequate substitute product.

## **11. Limitation of Liability, Storage**

- 11.1. We shall be liable pursuant to applicable laws for damages caused by grave negligence of our legal representative or senior employees, as well as for personal injuries.
- 11.2. In cases of premeditation or grave negligence of ordinary agents, as well as in cases where slight negligence has led to the violation of essential contract obligations that are indispensable for the fulfilment of the object of the agreement and whose strict adherence the customer must assume, we shall be liable pursuant to applicable laws if limited to such damages that were foreseeable for us in regard to type and scale at the time the agreement was signed. In the event that damage caused by a delay in our delivery and performance was foreseeable we shall be liable for an amount equal to 5% of the pro-rate amount of invoice that represents the part of the delivery or service that is affected by the delay. We have the right to substantiate a lesser damage.
- 11.3. In the event described in Subsection 11.2, above, our liability shall be limited to a maximum of three times the value of the affected shipment or in case of sheer property damages to a maximum of twice the value of the affected shipment, but in any case to a maximum of 2,000.00 EUR per claim and 5,000.00 EUR per calendar year.
- 11.4. Other than that, the customer's claims to compensation for direct or indirect damages – regardless on what legal grounds, including possible compensation claims arising from a breach of pre-contractual obligations, and from tort – are ruled out. A possible statutory liability because the delivery item is lacking a quality we guaranteed, because of malicious non-disclosure of the defect, or pursuant to the German Product Liability Act, remains unaffected.
- 11.5. Customer damage claims because of defects are subject to the limitation period defined in Subsection 10.5, above. Other customer damage claims have a limitation period of one year, beginning with the time at which the customer became aware of the circumstances on which the claim is based and of the person who suffered the damage or would inevitably have suffered even without grave negligence, but in no case later than two years after the event that triggered the damage. The foregoing sentence does not apply to cases of premeditation, malicious intent, grave negligence on the part of our legal representatives or senior employees, to personal injuries nor to cases of tort and to liability pursuant to the German Product Liability Act.
- 11.6. The aforementioned limitations of liability apply also to possible damage claims the customer may raise against our legal representatives, senior employees or other agents. They apply also to goods that have been manufactured by third parties and that the customer stores on our premises.
- 11.7. We will keep goods that have been ordered from us in storage on behalf of the customer and against remuneration. The amount of remuneration for the storage is subject to separate agreement. Goods stored on our premises are insured against damages through our current content insurance policy. Upon request, we will hand the latter over to the customer. We will not be liable over and above the amount insured under this policy. If the damage covered by the insurance taken out fails to materialise, we too shall be indemnified from any liability whatsoever. Other than that, the limitations of liability defined in Section 11, above, shall apply.

11.8. The same applies to objects that the customer hires from us and that are kept in storage on our premises for the time of the hire.

## **12. Industrial Property Rights**

12.1. The buyer is solely liable for the rightful usage of drafts, sketches, models, etc. submitted to us. The customer hereby indemnifies us within the internal relationship from any third-party claim arising out of the violation of any industrial property rights. We are not obliged to review the aforesaid documents in regard to existing third-party industrial property rights.

12.2. We reserve the full rights of ownership and copyright on any draft, image, cost estimate, and other document that may be enclosed with our quote. These documents must not be made available to any third party or be used without our consent, and must be returned upon our request.

## **13. Place of Performance, Place of Jurisdiction, Applicable Law**

13.1. Unless otherwise agreed, the place of performance for our deliveries shall be the factory or the warehouse where the goods are staged for pickup or shipping; which factory or warehouse can also be a third-party factory or warehouse. Place of performance of payment is Geisenheim unless otherwise agreed in writing.

13.2. Provided the customer is a merchant, a legal entity under public law or a trust fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Geisenheim. We have the right to call upon any legally competent court instead of the place of jurisdiction agreed above.

13.3. This Agreement is subject to the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980.

## **14. General Terms**

14.1. The ineffectiveness of any one provision of these Sales Terms does not impair the effectiveness of the remaining provisions.

14.2. We will save and process the data of customers or involved third parties in electronic form to the extent necessary for the proper transaction of the contractual relationship. Within the framework of this processing purpose, the aforementioned data may be communicated to member companies of our group.