

## **General Terms and Conditions of Business of DF-Lochbleche GmbH&Co.KG**

### **§ 1 Area of validity:**

All agreements between us and our customers as well as our offers are based on our Terms and Conditions of Business as set out below; they are deemed to have been accepted by the customer by way of the submission of a contractual offer (order placement) on the part of the customer or by way of the acceptance of our service provision by the customer in the absence of any explicit provisions in writing to the contrary. Any terms or conditions of our customers deviating from our own and not explicitly recognised by ourselves in writing are considered non-binding for us even if we do not explicitly reject them.

### **§ 2 Definitions:**

(1) Services as defined under our Terms and Conditions of Business are all deliveries supplied by us vis-a-vis our customers on the basis of a purchase contract or pursuant to § 651 Sect. 1 Sub-section 1 BGB - German Civil Code (work delivery) as well as work services and other services rendered by us (miscellaneous services based on work or service contracts) including services based on contracts including purchase-, work- or service-related contractual elements.

(2) Guarantee or warranty claims as defined under our Terms and Conditions of Business are all claims of our customers based on services deficiently rendered by us (§§ 433 ff., 633 ff. BGB- German Civil Code).

(3) Consumers as defined under our Terms and Conditions of Business are those persons and entrepreneurs mentioned under § 13 BGB (German Civil Code) and those persons or groups of persons mentioned under § 14 BGB (German Civil Code).

(4) Customers as defined under our Terms and Conditions of Business are all such business partners as enquire after our services or declare an interest in same to the extent that they are entrepreneurs (§ 14 BGB - German Civil Code).

### **§ 3 Conclusion of contract:**

A contract concerning the provision of a given service ordered by the customer concerned (object of contract) is deemed to come about as soon as we accept by word of mouth or in writing the contractual offer (order) submitted by the customer. The customer is bound by any contractual offer he or she submits in writing for a period of 10 days from receipt of same by us. Our acceptance of the offer occurs at the latest by way of our written confirmation of order or via the provision of the service ordered. The customer must reject our written confirmation of order in writing without delay if he or she is not in agreement with the content thereof.

### **§ 4 Prices and payment, collateral:**

(1) In the absence of any written agreement to the contrary, our prices apply for a delivery free factory; the place of fulfilment does not change as a result. The prices include no costs for despatch and packaging. Any costs incurred for additional services required by our customers (e.g. assembly) and insurance will be charged additionally.

(2) Should a service or partial service be rendered as agreed later than four months after the date of conclusion of contract and the price agreed was not explicitly designated as being fixed, the list prices applying at the time of service provision will then be charged.

(3) To the extent that we are obliged to render services in advance of payment, we are entitled even after conclusion of contract to make the provision of our services dependent on the customer providing appropriate collateral for the consideration he or she is due to provide even if the requirements to be met as per §321 BGB (German Civil Code) do not apply in the given case.

(4) In the absence of any special agreements, payment is to be remitted to our account without any deductions and free of any charges. Bills of exchange are only accepted given prior, written agreement to this effect; their acceptance as well as the acceptance of any cheques is only possible provided all collection and discount charges are covered.

(5) In the event that payment via instalments is agreed or payment of the purchase price is deferred, the total residual debt - irrespective of the maturity of any bills of exchange provided to us - is due for payment with immediate effect if the customer is 14 days in arrears on payment of an instalment either fully or in part, discontinues his or her payments or his or her assets are subject to insolvency proceedings.

(6) The customer can only offset undisputed or titled claims against our payment entitlements. A right of retention Status 12 / 2011 can only be asserted by such a customer if his or her counterclaim is based on the same contractual relationship.

#### § 5 Delivery deadlines despatch:

(1) The service provision dates and periods we indicate are only approximate insofar as they are not explicitly designated in writing as being fixed.

(2) Service provision periods commence three working days after the despatch of the written confirmation of order or without same as from the conclusion of contract. Moreover, the requirement for the commencement of the service provision periods is that we have received the documents to be obtained by the customer and that any such down payment and/or payment guarantee as may have been agreed has also been received by us.

(3) The customer can ask us in writing at the earliest four weeks after a service provision period not designated as being fixed or a service provision deadline not designated as being fixed has elapsed to render the given service within a reasonable period which must amount to at least 10 working days. If this deadline passes, then we are considered to be in default.

(4) A delivery deadline or delivery period is considered to have been met if prior to the given deadline or period elapsing the goods to be delivered have been handed over to a forwarding agent in the case of items for despatch, the customer has been notified in writing that the goods are ready for collection in the case of items for collection or if the goods have been received by the customer in all other cases.

(5) Should the goods to be delivered be despatched at the request of the customer, we are entitled but, without the customer's explicit instructions to this effect, not obliged to insure the items concerned against forwarding risks at the expense of the customer.

#### § 6 Partial deliveries, call orders:

(1) To the extent that not all goods are in stock, we are entitled to carry out partial deliveries.

(2) If the customer has ordered goods that are to be delivered as agreed in the form of partial deliveries to be determined by the customer (call orders), then each part of the delivery that has been requested is considered to be a delivery in its own right as defined under our Terms and Conditions of Business.

(3) In the case of call orders, the customer is obliged to request delivery of all the given goods within the call period agreed.

(4) In the case of default on payment on the part of the customer of at least € 1,000 and more than four weeks, we are entitled to deliver the goods as yet not requested with immediate effect; in such cases, the customer is in future obliged to pay in advance for the goods to be delivered.

#### § 7 Quantity discrepancies:

(1) Our customer is obliged to purchase the goods to be delivered by us or work service to be rendered by us within 14 days of receipt of notification of readiness or completion. The purchase cannot be re-used due to defects of an insignificant nature.

(2) Within a tolerance of 3 % of the overall order quantity, such deliveries as exceed or fall short of the given quantity for production-related reasons are admissible; the total price changes appropriately.

#### § 8 Reservation of proprietary rights:

(1) The goods delivered by us (goods subject to the reservation of proprietary rights) remain - insofar as they have not become a key component of another item - in our ownership until such time as the customer has paid the agreed price in full for the goods delivered. In the event that the customer is an entrepreneur, the goods subject to the reservation of proprietary rights remain in our ownership until such time as all claims against the customer arising from the business relationship as a whole between him/her and us have been cleared. This also applies in cases where such claims have been included by us and/or the customer in a current invoice and the balance has been worked out and acknowledged.

(2) As far as compulsory enforcement measures by third parties with regard to the goods subject to the reservation of proprietary rights or claims by third parties assigned in advance are concerned, the customer undertakes to notify us to this effect without delay while, at the same time, supplying us with the documents required for an appropriate intervention as well as the information needed for this.

(3) In the event of our (co-)property being at risk and/or in the case of the customer discontinuing payment, we are entitled to undertake the investigations required in order to determine the whereabouts of our property on the customer's premises or at the customer's building sites to which we have delivered the goods concerned. In the case of default on payment on the part of the customer or significant violations of his or her obligations with regard to the reservation of proprietary rights agreement, we are moreover entitled to immediately repossess the goods belonging to us or take appropriate measures to label and secure our property at the expense of the customer by way of collateral, thus securing our demands. We can also draw on the assistance of third parties to help us with the activities set out in this section.

(4) If we cancel the contract in accordance with § 323 BGB (German Civil Code), we are entitled to get the best-possible price for the goods subject to the reservation of proprietary rights via free sale. The customer is entitled to demand that an independent expert be appointed at his or her expense to determine the value of the goods subject to the reservation of proprietary rights; we are obliged to offset the value of the goods concerned as determined by the independent expert against our claims vis-a-vis the customer. In case of doubt, the independent expert is to be nominated by the chamber of commerce responsible for us.

(5) The customer is entitled to process the goods subject to the reservation of proprietary rights by way of standard business procedure, to connect or mix them with other items or sell them. The customer is obliged to draw any given third party's attention to this reservation of proprietary rights. Pledging or mortgaging of the goods subject to proprietary rights is not admissible. Standard business procedure is not the case in the sense of the above if the assignment of the customer's claim vis-a-vis the third party receiving ownership via the above-mentioned measure is excluded.

(6) By way of collateral, the customer already assigns to us today all his or her claims against third parties (third -party debtors) that he or she acquires via the sale, adaptation, processing or mixing of the goods subject to proprietary rights. We accept the assignment herewith. However, the customer remains entitled to collect the claims concerned as long as he or she complies with his or her obligations vis-a-vis us. We are able at any time to demand that the assigned claims should be collected via a special account and upon receipt passed on to us with immediate effect. On request, the customer is at any time obliged to notify us of the details of the assigned claims required for collection purposes (above all the claim amount as well as the names and addresses of the third-party debtors). If the goods subject to proprietary rights are sold on together with other goods, irrespective of whether without or subsequent to their processing, connecting, blending or mixing, the advance assignment as agreed above only applies with regard to a first-priority part-amount equating to the invoice value of those goods subject to proprietary rights that are sold on together with the other goods concerned.

(7) Any adaptation or processing of the goods subject to proprietary rights is carried out by the given customer for us without any obligations for us arising from this. In the case of the processing, connecting, blending or mixing of the goods subject to proprietary rights with such other goods as do not belong to us, we are entitled to a co-ownership share of the new item thus created in proportion of the value of the goods subject to proprietary rights to the value of the other goods at the point in time of their processing, connecting, blending or mixing. In the event that the customer acquires sole ownership of the new item, then the customer and ourselves agree that the customer grants us co-ownership of the new item in proportion of the value of the goods subject to proprietary rights that have been processed, connected, blended and/or mixed to the value of the other goods and agrees to store the property concerned safely on our behalf at no cost to us.

(8) To the extent that the value of the collateral to which we are entitled as set out in our Terms and Conditions of Business exceeds the claims against the customer to which we are also entitled by more than 20 %, we are then obliged to appropriately release collateral of our choice if the customer so wishes.

§ 9 Liability for payment of damages:

(1) In the case of any slightly negligent violation of our contractual obligations, our liability is in all cases restricted to immediate damages of an average amount that were foreseeable for a prudent businessman or woman at the time of contract conclusion and typical of the contract concerned in accordance with the nature of the goods or other services concerned (limitation of liability). Any obligation to pay compensation for indirect consequential damage untypical of the contract concerned is excluded in this case. This also applies to the slightly negligent violation of contractual obligations on the part of our legal representatives or agents.

(2) In the case of the slightly negligent violation of an unessential contractual obligation on the part of ourselves, our legal representatives or our agents, our liability above and beyond that set out in Section 1 is excluded in full (exclusion of liability).

(3) Claims for compensation in respect of the type Status 12 / 2011 described above become statute-barred one year after the goods concerned have been delivered. Delivery is deemed to have been made if the customer defaults on acceptance of the goods or the risks as set out in § 447 BGB (German Civil Code) (despatch of goods purchased) are transferred to the customer.

(4) The above-mentioned limitations of liability do not affect product liability claims or claims related to damage to a person's life, body or health.

§ 10 Force majeure: Force majeure, labour disputes, civil unrest, regulatory measures, non-receipt of deliveries from our suppliers and other unforeseeable, unavoidable and serious events exempt us as well as customers (contractual partners) from service provision obligations to the extent of their effect and for the duration of the disruption. This also applies if the events concerned occur at a point in time at which the given contractual partner is in default of contract unless he or she has caused the default concerned in a deliberate or grossly negligent manner. The contractual partners are within reason obliged to provide each other with the necessary information without delay and to adapt their obligations to suit the changed circumstances to the best of their ability.

§ 11 Nature of product:

(1) It is deemed to have been agreed with the customer that the nature of the goods equates to our relevant product description or that of the manufacturer concerned. Any additional public statements, promotion or advertising on the part of the given manufacturer do not constitute a contractual indication of the nature of the product. This also applies to any statements, promotion or advertising on our part.

(2) Guarantees are only deemed to have been assumed if their assumption occurs in writing, if we use the term "guarantee" with regard to agreements concerning the nature of the given product or if it is clear beyond doubt from the context that such a guarantee is to be assumed.

(3) The data we include in catalogues, brochures, etc. are approximate values standard for the given sector unless they are explicitly designated by us as being binding.

(4) In the case of data we provide relevant to the nature of the given product, the standards set out in DIN 24041 ff. including the tolerances stipulated there in apply.

(5) Complaints concerning surface grease and/or light, surface rust can only be raised if the absence of same was agreed explicitly in writing.

(6) If work is to be carried out or materials, semi-finished products or tool devices or other parts are to be provided by the customer, we are not obliged to test the parts made available to us. The obligation to test their suitability for the given contractual purpose is the customer's responsibility. The customer recognises the usual level of waste as having been agreed. In any case, waste of up to 5 % of the total quantity of material is admissible and in line with the contract. In the event that a defect in a part or in materials supplied causes a part manufactured by us to be defective or unusable, the customer is nevertheless obliged to pay the agreed contract wage. Should we or third parties suffer damage due to the unsuitability of such a part or such material supplied, the customer is responsible for payment and for exempting us from any compensation claims third parties may assert.

#### § 12 Customer's obligation to notify defects:

(1) The customer is obliged to notify us in writing of any obvious defects the goods delivered may have within a period of one week from receipt of the service concerned or to have them recorded by us. After this period, the right to assert any warranty claims lapses unless we are deemed to have acted fraudulently or have assumed a guarantee. Once a defect has been identified, we must be given the opportunity of remedying same without delay. It is up to the customer to prove that obvious defects existed at the time of risk transfer and that they were notified by him or her in good time or recorded by us.

(2) The provisions set out under § 377 HGB (German Commercial Code) remain unaffected by this.

#### § 13 Execution of warranty:

(1) In the event that a defect becomes apparent after risk transfer, the customer is to notify us of the given defect and give us the opportunity of inspecting it within an appropriate period of time giving due consideration to the customer's interests too. If the defective items are modified without our inspection thereof and prior to such a period elapsing, above all if the defect is rectified by a third party without our consent, Status 12 / 2011 any warranty claim entitlements lapse.

(2) If the given service we render is defective, then the customer initially has only a right to rectification. Instead of rectification, we are entitled to provide a replacement free of charge.

(3) In the event that the customer has set us a deadline for rectification of the defect, which may not be less than 15 working days, and the deadline elapses without rectification, he or she must reply to our written request after the deadline has elapsed and declare whether he or she wishes to cancel the contract or continues to demand compliance therewith within a period of two weeks. If compliance with the contract is demanded after the deadline has passed, then the right to claim fulfilment lapses insofar as we have drawn the customer's attention to this sequence of events in writing in our request.

(4) Cancellation and compensation instead of full service provision are only admissible if our violation of contractual obligations is not inconsiderable or if it is unreasonable to expect the customer to retain the service after giving due consideration to the interests of both parties.

#### § 14 Statute-barring - with the exception of claims for compensation -:

(1) Such claims to warranty of the customer - with the exception of compensation claims - as are subject to statute-barring become statute-barred - to the extent that we have not acted fraudulently - within 12 months of the item concerned having been delivered. Delivery is deemed to have been made if the customer defaults on acceptance of the goods or the risks as set out in § 447 BGB (German Civil Code) (despatch of goods purchased) are transferred to the customer. The provisions set out under § 9 Sect. 3 (statute-barring of compensation claims) remain unaffected by this.

(2) In the case of retrospective fulfilment of contract, the period of limitation is not extended but instead complies with the provisions set out in Sect. 1 above in such cases too; the period commences with the delivery of the original item and/or the fulfilment of the substitute service as per Sect. 1 Sub-sect. 2.

§ 15 Entrepreneur's right of recourse: If the item supplied to the entrepreneur was ultimately sold to a consumer by the former or a different company to which the item was passed on, the entrepreneur retains his or her right of recourse against us as set out under § 478 BGB (German Civil Code). The above-mentioned warranty limitations and liability limitations as set out under § 478 BGB (German Civil Code) only apply therefore to the extent that they concern the entrepreneur's claims to compensation. The provisions set out under § 377 HGB (German Commercial Code) remain unaffected by this.

§ 16 Place of fulfilment: The place of fulfilment for all obligations arising from this contractual relationship is the location of our registered office, namely Dillingen/Saar, Germany.

§ 17 Place of jurisdiction, choice of jurisdiction:

(1) For all disputes arising from this agreement, even if the effectiveness of the agreement itself is subject to dispute, our general place of jurisdiction Dillingen/Saar, Germany is deemed to have been agreed as a further place of jurisdiction as another option for the plaintiff concerned in addition to the general place of jurisdiction of the respondent, in cases where both parties are traders. In the event that both parties are not traders, then the above agreement on the place of jurisdiction still applies if the party against whom charges are being pressed moves his or her domicile or usual place of residence outside the jurisdiction of the given code of civil procedure after the conclusion of the agreement or if his or her domicile or usual place of residence is unknown at the time that charges are pressed, with the proviso that the plaintiff's general domestic place of jurisdiction is agreed as a further place of jurisdiction. In the event that both parties are not traders and one of the parties has no general domestic place of jurisdiction at the time of conclusion of this agreement, then the local court of the party with a general domestic place of jurisdiction is responsible for any charges filed. To this extent, the traders as defined under this provision are considered equivalent to legal entities under public law or special funds under public law. The above agreements do not apply in the case of dispute if an exclusive place of jurisdiction is indicated or if the dispute concerns a claim other than a proprietary one, with regard to which the district courts have to decide in the case of dispute irrespective of the value of the matter subject to the dispute concerned. Status 12 / 2011

(2) The contractual relationship is subject to the law of the Federal Republic of Germany with the exception of the Uniform Law on the International Sale of Goods.

§ 18 Validity clause:

(1) Amendments to this agreement must be made in writing (telefax, telex or telegram too) or in electronic form notwithstanding any other formal requirements. Moreover, an agreement via which this formal requirement is annulled either generally or in individual cases must also meet this formal requirement. Finally, all such declarations as are made in connection with this agreement or its implementation must also comply with this formal requirement in the absence of explicit provisions to the contrary above or of other relevant agreements.

(2) In the event that one or more provisions of this agreement are or become invalid in full or in part, the validity of the remaining provisions remains unaffected by this. In such cases, the parties involved are obliged to agree to replace the invalid provision with a new one that comes closest to the economic purpose of the invalid one and is legally valid.