

# General Terms and Conditions of Sale

## 1. General - Sphere of validity

- 1.1 Goods, services and offers from URSECO shall be made solely on the basis of these terms and conditions of business. This means that they shall also apply for all future business relationships, even if they have not been expressly agreed again. These terms and conditions shall be regarded as having been accepted no later than when the goods or service is received. We shall not accept terms and conditions of the customer which are contrary to, or deviate from, our terms and conditions of sale. We shall not accept them unless we have expressly agreed to their validity in writing.
- 1.2 All agreements made between us and the customer for the purpose of carrying out this contract have been set forth in writing in this contract. All amendments and supplements to this contract must be made in writing. Once again, any change with regard to this must be made in writing.
- 1.3 Incoterms shall apply in addition to these terms and conditions. In the event that there is a conflict between Incoterms and these terms and conditions, the version of Incoterms valid at that time shall prevail, provided that nothing has expressly agreed to the contrary in writing.
- 1.4 Our terms and conditions of sale shall only apply towards businesses within the meaning of § 310 Section 1 of the (German) Civil Code (BGB).

## 2. Offer - Offer documents

- 2.1 Our offers shall be non-binding and are to be understood as a request to deliver orders.
- 2.2 Verbal agreements, agreements on quality and / or guarantees when a contract is signed shall require our written confirmation to be valid. A quality, and delivery and performance dates shall only be regarded as being fixed in those cases in which we expressly designate such information as such in writing as a promise.
- 2.3 We shall reserve title and proprietary rights to diagrams, drawings, calculations and other documents. This shall also apply for written documents which are designated as being "confidential". The customer shall require our express written consent before passing them on to third parties.

## 3. Prices - Terms and conditions of payment

- 3.1 Provided that an order confirmation does not state anything to the contrary, our prices shall be regarded as being ex Works / ex Stores, excluding packing. Packing shall be invoiced separately. We shall reserve the right to amend our prices as appropriate if, having signed a contract, there is an increase or reduction in our prices, in particular as a result of collective bargaining agreements or changes in the prices of raw materials. Upon request, we shall provide evidence of these to the customer.
- 3.2 Statutory value added tax and any other statutory taxes there may be connected to a contract are to be paid in addition to the agreed sales price.
- 3.3 A separate agreement shall be required if a deduction is to be made for prompt payment.
- 3.4 The sales price plus taxes required by law shall be due for payment without deductions within 10 days from the date of invoice. The customer shall be in default with payment from the 11th day onwards.
- 3.5 We shall only accept drafts in payment and only in those cases in which this has been expressly agreed in writing. If payment is to be made by cheque or draft, all costs and expenses incurred as a result of paying by cheque or draft shall be for the account of the customer.
- 3.6 In the event of a default in payment and forbearance, we shall be entitled to demand interest as charged by our banks for loans, but no less than 10% above base rate. In these cases we shall also be entitled to demand cash in advance for outstanding goods and services, in addition to securities.
- 3.7 All accounts shall become payable immediately if the Orderer is in default with the payment of an invoice, stops making his payments, or an application is lodged to instigate insolvency or out-of-court proceedings on his assets, and moreover, if he is in breach of other fundamental contractual duties.
- 3.8 The customer shall only be entitled to offsetting rights if his counter-claims have been declared final and absolute in court, are uncontested or have been recognised by us. Besides which, he shall only be entitled to exercise a right of retention to the extent that his counter-claim is based on the same contractual relationship.
- 3.9 The assignment of rights or assignment of duties under a contract shall require the prior written consent of URSECO.

## 4. Delivery, Delivery period

- 4.1 All technical matters shall have to be clarified and the Orderer's dispatch instructions will have to be received before the stated delivery period can commence.
- 4.2 The Orderer shall notify URSECO of the place of delivery when the order is placed, but no later than 3 weeks prior to the planned delivery.
- 4.3 Compliance by URSECO's with its obligation to deliver shall assume that the customer fulfills his obligations properly and on time. URSECO shall reserve the right to object that the contract has not been fulfilled by the customer.
- 4.4 If the customer finds himself in default with taking delivery, or if he culpably breaches his other obligations to co-operate and if URSECO therefore asserts compensation claims for damages as a result, URSECO can consequently demand a lump sum compensation for damages amounting to 10% of the net order value. URSECO shall reserve the right to assert claims in excess of this. The Orderer shall reserve the right to prove that URSECO has sustained a lesser loss. In the event of a default in taking delivery, the risk of accidental loss or accidental deterioration of the goods to be purchased shall pass over to the Orderer at the point in time at which the Orderer is in default with taking delivery.
- 4.5 A contract shall be signed subject to the reservation that URSECO has itself been supplied on time and with the correct goods by its suppliers. This shall only apply for the case that URSECO is not to blame for non-delivery, in particular when it has concluded a congruent covering transaction with its suppliers.
- 4.6 URSECO shall not be to blame for delays in the supply of goods and services based on force majeure and as a result of events making it significantly more difficult or impossible to do so and not only for a temporary period - these include in particular strike, lock out, official instructions etc., even if they occur at a supplier of URSECO or their sub-suppliers, and even if fixed delivery dates and periods have been agreed. They shall entitle URSECO to postpone the goods / services by the duration of the hindrance or to withdraw from part or from all of the contract on account of the part of the contract not yet fulfilled.
- 4.7 If, once URSECO is already in default, the Orderer sets a reasonable subsequent period for performance, the Orderer shall consequently be entitled to withdraw from a contract after this subsequent period has elapsed unsuccessfully. The Orderer shall only be entitled to assert compensation claims for non-fulfilment if the default is the result of intent or gross negligence, unless a commercial transaction at a fixed date was agreed. Moreover, liability for compensation for damages shall be limited in accordance with No. 6.
- 4.8 Part deliveries which are reasonable for the Buyer are allowed.

## 5. Packaging costs - Export restrictions

- 5.1 With the exception of Euro pallets, transport and all other packaging in accordance with the (German) packaging regulations shall not be taken back, unless an agreement has been made to the contrary in a contract. The Orderer shall be obliged to ensure that the packaging is disposed of properly at his own expense.
- 5.2 In so far as the goods are subject to export restrictions, the Orderer shall be obliged to obtain the necessary approvals if he sells on the goods. The Bundesamt für gewerbliche Wirtschaft, 65760 Eschborn shall issue information and approvals in accordance with German law.

## 6. Liability for defects

- 6.1 The warranty rights of the Orderer assume that the Orderer has fulfilled the duties of inspection and notification of defects incumbent upon him properly in accordance with § 377 et seq. of the (German) Commercial Code (HGB) and has submitted a written complaint to the freight forwarder in the event of damage which may have occurred in transit and recorded proof of such damage. In so far as the Orderer acquired claims against the freight forwarder prior to the passing of risk, he shall assign these claims to URSECO provided that the freight forwarder was liable for the transit risk on the basis of agreements to that effect. The Orderer shall have to notify other defects, (these also include the lack of an agreed quality) as well as the receipt of the goods in writing with a detailed description of the defects. Defects which are not identifiable in the course of a proper inspection shall have to be notified in writing within one week of discovery. If the above named periods of notification are not observed, no claims for defects shall be allowed.

- 6.2 In so far as there is a defect in the object to be purchased, a defect for which URSECO is to blame, URSECO shall, at its choice, be entitled to rectify the defect or to supply a replacement. In the event that it rectifies the defect, URSECO shall be obliged to bear all the expenses necessary for the purposes of rectifying the defect, in particular transport costs, travelling expenses, labour and materials, provided that these have not been increased as a result of the object to be purchased having been relocated to a location other than the place of fulfilment.

- 6.3 If URSECO is not prepared or in a position to rectify the defect or to supply a replacement, in particular these are delayed over and above reasonable periods for reasons for which URSECO is to blame, or if the rectification of the defect / replacement supplied goes wrong, the Orderer shall consequently be entitled at his choice, to demand cancellation or a corresponding reduction in the purchase price.

- 6.4 URSECO shall be liable in accordance with the law (of Germany), in so far as the customer asserts compensation claims for damages based on intent or gross negligence, including the intent and gross negligence of our representatives or assistants. Provided that URSECO is not accused of any intentional breach of contract, its liability for compensation for damages shall be limited to the foreseeable damage typically occurring for this type of contract.

- 6.5 URSECO shall be liable in accordance with the law (of Germany) in so far as it is in breach of a fundamental breach of contract; in this case however, liability shall be limited to foreseeable damage typically occurring for this type of contract.

- 6.6 Liability for culpable loss of life, physical injury or poor health shall remain unaffected; this shall also apply for compulsory liability in accordance with the (German) Product Liability Act.

- 6.7 In so far as nothing is regulated to the contrary above, liability shall be excluded.

- 6.8 Claims by the Buyer shall become time-barred 12 months after the passing of risk. In the event that URSECO is entitled to a right of recourse against its supplier, the period of limitation shall remain unaffected; it shall be five years counting from the delivery of the defective object.

## 7. Overall liability

- 7.1 Liability in excess of that provided for in No 6 shall be ruled out regardless of the legal nature of the asserted claim. This shall apply in particular to compensation claims for damages arising from faults existing when the contract was signed, on account of other breaches of duty or on account of claims based on tort for compensation for property damage in accordance with § 823 BGB.
- 7.2 This shall also apply if the customer demands the reimbursement of expenditure spent in vain instead of making a compensation claim for damages instead of performance.

## 8. Securing retention of title

- 8.1 URSECO shall reserve the title to the purchased object until all its claims based on the business relationship have been paid, including claims arising in the future or conditional claims. In the event that the conduct of the Orderer is in breach of contract, in particular default in payment, URSECO shall be entitled to take back the purchased object. The taking back of the purchased object by URSECO shall not constitute a withdrawal from the contract unless URSECO expressly stated this in writing. The levy of execution on the purchased goods by URSECO shall always constitute a withdrawal from the contract. URSECO shall be entitled to sell the purchased object after taking it back. The proceeds from the sale -- minus reasonable costs for arranging the sale -- are to be offset against the Orderer's liabilities to URSECO.

- In the event that the Orderer or one of his creditors files for the instigation of insolvency proceedings, the parties shall agree here and now that the contract is to be dissolved and reversed.

- 8.2 The Orderer shall be obliged to treat the purchased object with care and to store the goods subject to the retention of title separately. In particular he shall be obliged to take out adequate insurance cover for them against damage from fire, water, and theft to provide new replacements. In so far as servicing and inspection work is necessary, the Orderer shall have to carry these out in good time and at his own expense.

- 8.3 In the event of a levy of execution or other interference by third parties, the Orderer shall have to notify URSECO in writing without delay so that it can take legal action in accordance with § 771 of the (German) Code of Civil Procedure (ZPO). In so far as the third party is unable to reimburse URSECO for the court and out-of-court costs of taking legal action in accordance with § 771 ZPO, the Orderer shall be liable to URSECO for the shortfall occurring.

- 8.4 The Orderer is entitled to sell on the purchased object in the proper course of business. However, he shall assign to URSECO here and now all accounts amounting to the final invoice sum (including VAT) of URSECO's account, accruing to him from the resale to his buyers or third parties, and to be more precise, irrespective of whether the purchased object has been resold without, or after having been, processed / mixed. The Orderer shall also be authorised to collect the proceeds of this resale. The authorisation of URSECO to collect the proceeds on account itself shall not be affected by this. URSECO shall however undertake not to collect the account for as long as the Orderer fulfils his payment obligations from the collected proceeds, does not fall into arrears with his payments and in particular an application has not been made for the instigation of insolvency proceedings or out-of-court composition proceedings, or the Orderer does not stop making his payments. If this is the case however, URSECO can demand that the Orderer informs URSECO of assigned accounts and the identity of the debtors owing them, hands over all the information required for collection together with the appropriate documents and notifies the debtors (Third parties) of the assignment.

- 8.5 If the purchased goods are processed or transformed by the Orderer, this shall always be effected for URSECO. If the purchased goods are processed together with other objects not belonging to URSECO, URSECO shall consequently acquire co-ownership to the new thing in proportion to the value of the objects purchased from URSECO to the other mixed objects at the point in time at which they were combined. Moreover, the same shall apply for the thing created by processing as for the object purchased and supplied subject to the retention of title. The processing and treatment of the goods subject to the retention of title shall be for URSECO as manufacturer within the meaning of § 930 BGB without placing URSECO under any obligation.

- 8.6 If the purchased object is combined with other objects not belonging to URSECO so that they cannot be separated, URSECO shall consequently acquire co-ownership to the new thing in proportion to the value of the thing purchased from URSECO to the other combined objects at the point in time at which they are combined. If they are combined in such a way so that the Orderer's thing shall consequently be regarded as the main thing, it shall be regarded as agreed that the Orderer shall assign to us a proportional co-ownership. The Orderer shall keep the sole ownership or co-ownership created in such a way for URSECO in safe-keeping. Number 8.5 Sentences 3 and 4 shall apply accordingly.

- 8.7 If the Orderer sells the goods after they have been processed and / or mixed in accordance with 8.5 and / or 8.6, the Orderer shall assign to URSECO here and now in accordance with No 8.4 that part of his account against his Buyers or third parties equal to the value of the goods supplied by URSECO in proportion to the value of the other objects processed and / or mixed.

- 8.8 If the Orderer sells the goods once they have been processed and / or mixed in accordance with No 8.5 and / or 8.6, the Orderer shall assign to URSECO here and now in accordance with No 8.4 the part of the accounts against his buyers or third parties equal to the value of the goods delivered by URSECO in proportion to the value of the other processed and / or mixed objects.

- 8.9 The Orderer shall also assign to URSECO its own accounts against third parties accruing as a result of the purchased object being installed in and attached to a property, up to the value of and as security for URSECO's own accounts.

- 8.9 Upon request by the Orderer, URSECO shall undertake to release the securities to which it is entitled to the extent that the realisable value of its securities exceeds the accounts to be secured by more than 30%. The selection of the securities to be released shall be incumbent upon URSECO.

## 9. Place of jurisdiction, Applicable law

- 9.1 The place of jurisdiction for all disputes arising from, and in connection with, the contractual relationship shall be Duisburg. URSECO shall however be entitled to take legal action against the customer at the courts having general jurisdiction where the customer has his principal place of business.

- 9.2 All legal relationships between the parties shall be governed by German law alone.

- 9.3 Provided that the order confirmation of URSECO shows nothing to the contrary, URSECO's principal place of business shall be the place of fulfilment.

## 10. Partial validity clause

- 10.1 Should individual provisions be or become invalid, the remaining provisions shall nevertheless continue to be valid.
- 10.2 Invalid provisions are to be replaced by those valid provisions which come as close as possible in economic terms to the invalid provisions and which are legal.