

## General Terms and Conditions of Sale

### 1. Sphere of validity

These General Terms and Conditions of Sale shall apply for all contracts unless an agreement has been made to the contrary in the contracts with registered businesses, legal entities under public law and public-law special funds. They shall constitute an integral part of the purchase contract. Terms and conditions of business of the Buyer to the contrary or deviating terms and conditions or other restrictions by the Buyer shall not be recognised unless SKWP has expressly agreed to them in writing in an individual case.

### 2. Order; Validity of general terms and conditions

All the terms and conditions in offers made by SKWP shall be subject to change without notice. Orders, verbal agreements and the Buyer's other terms and conditions of business shall only be binding upon SKWP if, and to the extent that, they are confirmed by SKWP.

The Buyer's orders placed with SKWP shall only be binding upon SKWP once they have been confirmed by SKWP.

### 3. Calculating weight

It shall be the outgoing weight (§ 7 Section 2) that shall be used for calculations. It shall be the actual delivered weight which shall determine the price scale to be applied.

### 4. Payment

- (1) SKWP shall raise a separate invoice for each account for its customers. SKWP shall reserve the right to present selected invoices in non-paper form.
- (2) Invoices raised by SKWP are payable in full within 30 days from the date of invoice, unless an agreement has been made to the contrary in the contracts. No further payment reminder shall be required. Payment shall only be regarded as having been paid once SKWP has the amount at its full disposal.
- (3) Drafts shall only be accepted as payment in exceptional cases by express consent. Discount and banking fees as well as taxes shall be for the Buyer's account. SKWP shall not furnish any warranty that they shall be presented on time and that they shall be protested and entered.
- (4) In the event of a delay in payment as well as in substantiated doubts as to the solvency of the Buyer, SKWP shall be entitled to demand payment in advance and to make all accounts based on the business relationship payable immediately. If the period of time allowed for payment has been exceeded, SKWP shall be entitled to invoice normal rates of interest as charged by banks, no less however than 8 % above the basic bank rate in accordance with § 288 and § 247 of the German Civil Code [BGB].

### 5. Offsetting, Right of retention

The Buyer shall only be allowed to offset against the demand by SKWP of a purchase price and to assert a right of retention provided that the underlying counter-claims have been expressly accepted in writing by SKWP or if the Buyer is in possession of an enforceable title.

### 6. Delivery, Acceptance

- (1) The obligation of SKWP to deliver shall be suspended for as long as the Buyer is in arrears with a payment which is due.
- (2) Delivery periods shall begin once the order confirmation has been sent out by SKWP. The delivery period shall be observed if the item to be delivered has left the works of SKWP or the Buyer has been notified that the item is ready for dispatch prior to the expiry of the delivery period.
- (3) The obligation to deliver goods and render a service shall not apply provided that SKWP is unable to do so as a result of force majeure. Transport difficulties, operational breakdowns, and delays in the supply of raw materials for which SKWP is not responsible shall also be regarded as cases of force majeure unless the law stipulates otherwise on a mandatory basis.
- (4) If a fixed delivery period is agreed and not observed due to a fault of SKWP, the Buyer shall be entitled, after a reasonable subsequent period of time for delivery has been unsuccessful, to withdraw from the contract. The Buyer shall not be entitled to assert any other claims.
- (5) The obligation of SKWP to deliver shall be regarded as having been fulfilled once the goods have been handed over to the carrier. The goods shall be transported at the costs and risk of the Buyer. It shall be the Buyer's responsibility to take out transit and other insurance policies. If consignments are delivered freight-free, SKWP shall only pay for the freight costs valid at the point in time at which the contract is entered into. Increases in the costs of freight until delivery shall be for the account of the Buyer.
- (6) The Buyer is obliged to take immediate delivery of the ordered products. If he fails to fulfil his obligation to take delivery of the products, SKWP shall be entitled, having granted a reasonable subsequent period of time for the Buyer to take delivery of the ordered products, to put the goods into store at the Buyer's cost and risk or to withdraw from the contract. The rights in accordance with § 373 of the German Commercial Code [HGB] shall not be affected as a result.
- (7) If, when a call-off is delivered the Buyer fails to take delivery of the call-off within the agreed period of time, Number 5 Section (6) Sentence 2 shall apply accordingly. If a period of time has not been specified, the Buyer shall have to take delivery of a call-off within one month from being called upon to do so by SKWP.

### 6. Packing

- (1) Loan packaging is to be returned at the Buyer's expense within no later than six weeks from the delivery date in a clean condition. If the period of time is exceeded, the Buyer shall be obliged to make good the loss we sustain as a result, without a prior written reminder being necessary.
- (2) The Buyer shall be liable for damage to or loss of the loan packaging until it is received at the SKWP works.

## 7. Quality, Ascertaining weight

- (1) Percentage contents or mix ratios are only to be regarded as average figures, unless minimum figures have been guaranteed. Discrepancies within the scope of normal tolerances are reserved.
- (2) The ascertained weight which counts for both parties shown by calibrated weighing equipment, including the noting of the quantity and weight of individual packages (sacks or similar), shall be carried out by SKWP at the supplying factory or transshipment facility. Discrepancies in weight of up to 1 % (tolerance of the scale calibration) shall be allowed.

## 8. Warranty

- (1) The Buyer shall have to check by means of taking appropriate samples, whether the delivered goods are free of defects and suitable for the intended purpose. If he fails to carry out this test, SKWP shall be exempted from all liability.
- (2) Defects are to be notified to SKWP in writing straight away and within 14 days from the receipt of the goods at the destination stated by the Buyer, concealed defects are to be notified within no later than seven days from being discovered and within six months from delivery of the consignment to the place of dispatch at the latest.
- (3) The warranty obligation of SKWP shall be limited exclusively as SKWP chooses to the rectification of defects (as far as possible), the supply of a replacement part or a reduction in price. Compensation claims for damages on account of non-fulfilment shall be ruled out unless the method of rectifying a defect selected by SKWP has failed for once and for all. Warranty claims based on quality defects shall become time-barred once one year has expired from the receipt of the goods by the Buyer.

## 9. General limitation of liability

Compensation claims for damages against SKWP, regardless of whatever reason, shall be limited to intent and gross negligence and in terms of amount they shall be limited to the amount invoiced for the part of the respective consignment used. This shall apply in particular for damages not incurred by the delivered goods. These limitations shall not apply for damages arising from loss of life, personal injury or physical harm.

## 10. Retention of title, Transfer of ownership by way of security, Assignment by way of security

- (1) SKWP shall retain the title to the delivered goods until the purchase price has been paid for in full and all the Buyer's liabilities created from current and future business relationships with SKWP have been settled. The retention of title and the securities to which SKWP is entitled shall apply until we have been exempted in full from any possible liabilities into which we have entered in the interests of the Buyer (e.g. cheque-draft procedure).
- (2) The Buyer shall carry out any treatment or processing for us, without this creating any obligations for us. If the Buyer processes the goods subject to the retention of title together with other goods, we shall consequently be entitled to the co-ownership of the new product in proportion to the value of the goods subject to the retention of title to the other goods at the point in time of processing and treatment.
- (3) The Buyer assigns here and now to SKWP his proportion to ownership possibly created as a result of the combination, blending or mixing of the delivered goods with other goods. The Buyer shall keep in safe-keeping all the items in to which SKWP has title for SKWP with the due diligence of a prudent businessman.
- (4) The Buyer may only resell all the goods and manufactured products to which SKWP has title in the course of a proper commercial transaction in return for payment in full or subject to retention of title. Transfer of ownership by way of security, pledging, and disposal by other means is not allowed.
- (5) The Buyer shall assign here and now to SKWP the accounts to which he is entitled from the resale or from another legal reason concerning the goods subject to the retention of title, as a security for the amount of the value of the respective purchase price account  
As long as the Buyer fulfils his obligations towards SKWP, he shall be entitled to collect the account.
- (6) If the value of a security exceeds the accounts to be secured by more than 20 %, the Buyer shall be entitled to demand that such securities are released.
- (7) If it appears to SKWP that the materialisation of his claims are in jeopardy, the Buyer shall, at the request of SKWP notify SKWP straightaway of the stock of goods owned by SKWP as well as a list of buyers who have purchased goods subject to the retention of title and enable SKWP to take back the goods subject to the retention of title. The taking back of the goods by SKWP shall not constitute withdrawal from the purchase contract.

## 11. Trade marks

If products bearing a trade mark are supplied by SKWP and are subsequently decanted or otherwise further processed, the trade marks may consequently only be reused by the Buyer subject to separate written consent by SKWP.

## 12. Assignment

The Buyer may only assign claims accruing to him under this contract to third parties having secured the prior written consent of SKWP.

## 13. Validity

Should any provision in these General Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions or the contract as a result.

## 14. Place of fulfilment, Place of jurisdiction

- (1) The place of fulfilment for the delivery of a consignment shall be the location of the supply works. The place of fulfilment for payments shall be Lutherstadt Wittenberg. The place of jurisdiction shall be Lutherstadt Wittenberg or the Buyer's general place of jurisdiction, as SKWP chooses.
- (2) These General Terms and Conditions of Business shall be governed by German law. Provided that no provisions are stipulated to the contrary in these General Terms and Conditions of Business or by law, the regulations set up for the interpretation of commercial clauses (Incoterms 2000) by the International Chamber of Commerce in Paris as may from time to time be established shall apply as a supplement to these General Terms and Conditions of Business.