

## **I. General**

1. The following general terms and conditions („GTC“) are content of all agreements with D O G Deutsche Oelfabrik • Gesellschaft für chemische Erzeugnisse mbH & Co KG (hereinafter "DOG") concerning sales and services.
2. No other general terms and conditions shall become an element of the content of the contract even if not expressly contradicted by DOG.
3. These GTC shall apply even if DOG orders unconditionally and with knowledge of opposing or deviating conditions to these GTC.
4. These GTC as well as rates/ billing rates of DOG also apply to future transactions with the customer in update version congruent with the date of the conclusion of the agreement.
5. Legally relevant declarations and notifications are only valid in writing. The written form can be replaced by fax. Only in the context of daily business and existing business, the writing form can also be replaced by electronic form in accordance with § 126a BGB / German Civil Code, the text form according to § 126b BGB / German Civil Code.

## **II. Conclusion of Contract**

1. The offers of DOG are not binding and regarding price, quantity, delivery and possibility of delivery and are subject to change.
2. No contract is concluded without written confirmation of the DOG. The scope of the agreed services will be finally determined by written confirmation of the DOG, together with their written Appendix.
3. Collateral agreements and changes will take effect only upon written confirmation of DOG. This also applies to the waiver of this regulation.

## **III. Prices and Payment**

1. Delivery and calculation of the goods will only be effected on prices and conditions of DOG and as known before.
2. The price of the offer is valid only when ordering the full scope of the offered goods and services. Should DOG in the period between contract and delivery generally increase its prices so the customer is entitled within a period of two weeks after the announcement of the price increase to cancel the contract, unless the price increase is exclusively due to an increase in freight rates. The right of withdrawal does not apply for long-term supply contracts (long-term debt agreements) of DOG.
3. The prices of DOG are ex works exclusive loading and turnover tax in the respective statutory amount.
  - a. For delivery within the European Union, the customer has to prove its exemption from VAT to communicate his VAT (Value Added Tax) identification number in time before the delivery contract. In the event of the failure of timely and complete notification to DOG reserves the calculation of the applicable VAT.
  - b. For services outside the European Union DOG is entitled to recalculate the legal VAT, unless the customer sends DOG a proof of export within one month of the respective delivery.
4. The invoices of DOG have to be settled free of all charges.
5. The presentation of bills require the acceptance of DOG. Bills or checks are credited only with the reservation of correct encashment. The acceptance of foreign or own acceptances is reserved to DOG. Costs and discount charges of the customer bank shall be borne by the customer. DOG assumes no guarantee for presentation or protest. Protest of promissory notes of the customer or not immediate of protested foreign exchange authorized DOG to return all current changes. At the same time all claims of DOG are due. Post-dated checks are not accepted.
6. Payments shall be made without any deduction to the indicated in the invoice. For the timeliness of payments of deposit (value date of crediting the bank account of the DOG) is decisive. Checks are only as payment after redemption.

7. Unless otherwise agreed, the customer's payments are due upon receipt of the invoice. The customer shall be in default on payments 30 days after the payment is due.
8. If advance payment, installments and advance invoices are agreed, this shall not bear interest of DOG.
9. A claim for payment or settlement of an agreed bonus only applies if the customer has paid all overdue receivables to DOG.
10. The customer may only offset the existence and the amount for undisputed or legally established counterclaims or exercise a right of retention.
11. Payment terms only apply if these have been complied with previous deliveries; otherwise, an immediate payment of all invoices occurs.

#### **IV. Performance, Transfer of Risk, Acceptance**

1. In general, the fastest possible deliveries are desired, fixed delivery dates do not exist.
2. Should a fixed delivery date has been agreed, the customer has to set a reasonable time in the event of default.
3. The correct and timely delivery of the DOG itself is reserved.
4. DOG reserves the right to effect reasonable partial services and deliveries. Reasonableness is especially given if the part performance / -supply for the customer as part of the contractual intended purpose can be used, providing the remaining services / supplies are ensured and the customer does not incur any significant additional effort or additional costs (unless DOG agrees to assume these costs).
5. Deliveries are made EXW at production site, if not agreed different in writing. / The day of delivery shall be the day on which the goods leave the factory.
6. The risk for in-services is transferred over to the customer upon acceptance. The customer takes over the transport of the goods from the production site to the point of use, he has to bear the risk for the duration of transport.
7. The provisions on the transfer of risk shall also apply if part deliveries are made or other services of DOG are to provide.
8. If there is a delay or failure in the shipment or acceptance due to circumstances not caused by DOG, the danger from the day of notification of readiness for delivery or acceptance shall pass to the customer. DOG undertakes to take out insurance demanded by the customer at his expense.
9. The customer cannot refuse to accept the delivery in the event of insignificant defects and volume deviations, irrespective of his rights in IX.

#### **V. Force Majeure**

All events attributable to force majeure for example but not limited to: unforeseeable production, traffic or shipping disturbances, fire damage, floods, unforeseeable labor, energy, raw materials or auxiliary shortcomings, strikes, lockouts, official decrees or other obstacles which cause late delivery or failure of delivery shall release DOG from its contractual obligations for as long as such events last and for the scope of their effects.

Both parties are entitled to withdraw if the delivery is exceeded by more than eight weeks. In case of partial or complete loss of sources of DOG this is obliged to distribute the available quantities, taking into account its own requirements.

## **VI. Retention of ownership**

1. DOG retains title to all of their delivered goods until all claims of DOG against the customer, also those occurring conditionally and in the future have been settled (§§362 ff. BGB - German Civil Code). If the validity of retention of the ownership is subject to special conditions in the country of destination or special procedural requirements, the customer shall be responsible for their fulfillment.
2. The enforcement of reservation of proprietary rights, in particular by reclaiming of the goods, which is permissible in the case of delayed payment or endangering of our claim to property, is not considered withdrawal from the contract.
3. The customer must give DOG immediate notice of an attachment or any other impairment of its rights to title by third parties and confirm the right of DOG to title in writing to third parties as well as to DOG. Attachment or transfer of ownership as security on a debt of the goods delivered under reservation of ownership are prohibited to the customer.
4. The customer must insure the goods subject to reservation of proprietary rights sufficiently, in particular against fire and theft. Claims on the insurance in the case of damage to goods subject to reservation of ownership are already assigned to DOG to the extent of the value of the goods subject to reservation of proprietary rights. The customer must inform the insurance of the assignment of the claim.
5. In case of connection, mixing or blending with other goods not owned by DOG (§ 947, 948 BGB) DOG is entitled to co-ownership of the new object in relation to the value of the goods subject to reservation of ownership used for the manufactured object to the sum total of all invoice values of the other goods. Customer's acquisition of ownership of the goods subject to reservation of proprietary rights in accordance with § 950 BGB in case of treatment or processing of the goods subject to reservation of proprietary rights to create a new object is ruled out. Possible treatment or processing is carried out by the customer for DOG without any obligations arising for DOG. The processed or treated goods serve as security of DOG.  
The customer shall store using professional diligence for DOG and undertakes DOG to make the necessary information to exercise such rights and to provide insight into the extent DOG its documentation.
6. The claims of the customer from the resale of the reserved goods are hereby assigned with all ancillary rights to DOG, regardless of whether the reserved goods before or after processing, combining or mixing and whether they are resold to one or more purchasers. If the assigned claim against the garnishee in a current account has been received, so the agreed assignment also refers to the claims from the current account. The assigned claims serve to secure all rights and claims of the DOG according to VI. clause 1.
7. In the event that the reserved goods are sold by the customer with other goods not belonging to the DOG - either before or after connection, mixing, working or processing -, the assignment of the purchase price in accordance with VI. Clause 6, as agreed in the amount of the contract price of the goods plus 20%, which will be charged upon receipt of the amount with interest and costs, with the unused excess amount shall be refunded.
8. If the reserved goods used by the customer to fulfill a works or works supply contract, the receivable from the works or works supply contract to the same extent is assigned in advance to DOG, as mentioned under VI. clause 6 and 7.
9. The customer is entitled and authorized to resell or otherwise utilize the reserved goods only if it is assured that the resulting receivables are transferred to DOG under VI. clause 6 to 8. To dispose of the reserved goods, the customer is not entitled.
10. The customer is authorized to collect the receivables from the resale despite assignment. Customer's entitlement to collection of debts remains unaffected by the authorisation of DOG. DOG will not, however, redeem the claims themselves, as long as the customer complies correctly with his financial responsibilities. Upon demand of DOG the customer has to communicate the identity of the debtors of assigned claims, to provide the necessary information and documents and to advise the customer of the transfer.
11. The retention of title in accordance with the foregoing provisions shall expire if all above VI. Section. 1 listed requirements are met. Thus, ownership passes to the reserved goods to the customer and the assigned claims are owned by the customer.

12. If the value of all existing securities for DOG exceeds its demands about more than 20%, DOG is committed to the customer's request to release securities at the option of the DOG.

#### **VII. Liability**

1. DOG is liable - also in case of damages due to breach of duty during contract negotiations - regardless of their legal basis, (in particular, for damages that have not occurred on the delivery item itself) only if:
  - Intent or gross negligence,
  - Culpable breach of contract,
  - Gross negligence of bodies or executives,
  - Culpable injury to life, limb, health,
  - Defects which DOG has fraudulently concealed,
  - Breach of condition and / or durability, unless the Individual cases individually regulated differently.
2. In case of violation of essential contractual obligations DOG is also liable for gross negligence of subordinates and for simple negligence of bodies or executives. In case of slight negligence, liability is limited to contract-typical, reasonably foreseeable damage.
3. Compensation for purely pecuniary damage is limited by the general principles of good faith, as in case of disproportion between the amount of the order and amount of loss.
4. Any further liability - for any legal reason whatsoever - in particular also for damages that have not occurred to the goods / in the delivery itself, is excluded.
5. DOG is not liable for the consequences of defects for which - according to IX. -claims of the customer are excluded.

#### **VIII. Complaints**

1. Complaints will only be considered if they are, however, raised immediately in writing not later than 14 days after receiving the goods under dispatching documents, samples, packing slips and details of the invoice number, invoice date, and the present on the packages signings.
2. Hidden defects must be notified to DOG written and immediately upon discovery, but not later than five months after receipt of the goods, the period of limitation shall remain unaffected. The burden of proving that there is a hidden defect shall rest with the client.
3. Rejected goods may only be returned with explicit consent of DOG.

#### **IX. Rights of the customer in case of defects**

1. DOG accepts no liability for defects arising from natural wear and tear or from damage due to inexpert handling / warehousing, DOG unknown harmful environmental conditions, chemical, electrochemical or electrical influences or if the defect becomes manifest when the goods are used in a way, other than that especially agreed in writing.
2. The warranty claims of the customer are limited to the right of subsequent performance. The customer shall grant DOG the necessary time and opportunity for subsequent performance. If the subsequent performance by DOG fails, the customer may reduce the purchase price or withdraw from the contract at his discretion. Claims for damages remain VII. unaffected.  
Only in urgent cases of danger to operational safety or to prevent disproportionately greater damage, in which DOG shall be informed immediately, the customer has the right to remedy the defect itself or by a third party and to demand reimbursement of the necessary expenses of DOG.
3. In the event of rectification DOG bear all expenses necessary for the remedy of defects, in particular transport, travel, labor and material costs, provided these are not increased by the fact that the goods were shipped to a place which is not the place of performance.

4. In cases in which the customer shares accountability for causing the defect, in particular in the event of breach of the obligation to prevent and reduce loss or damage, DOG reserves the right to assert a corresponding damage compensation claim.
5. If a reasonable deadline set for DOG for subsequent performance due to a defect ineffectively elapses, the customer -taking into account the statutory exceptions –has the right to withdraw from the contract. If the defect is only of a minor nature, the customer shall only be entitled to reduce the contract price. Otherwise the right to reduce the contract price shall be excluded.
6. All other warranty claims (in particular claims for damage not caused to the delivered goods themselves) shall be determined exclusively in accordance VII.

#### **X. Limitation**

1. Warranty claims of the customer expire after 12 months from transfer of risk.
2. With the exception of X. clause 3. all other claims by the customer - for whatever legal reasons - expire in 12 months from transfer of risk.
3. For the injury to life, limb or health the statutory limitations apply. Same applies for grossly negligent conduct of organs or executives, or intentional or fraudulent conduct, culpable violation of essential contractual obligations or guarantees by DOG and claims under the Product Liability Act.

#### **XI. Properties of Goods, Technical support, Use and Processing**

1. The application, use and processing of the purchased goods are the sole responsibility of the customer. A technical advice of the DOG in speech and writing and by tests or otherwise applies without warranty and does not release the customer from testing the products as to their suitability for the intended processes and purposes.
2. The nature and quality of the goods supplied shall be exclusively as specified in the product descriptions and specifications issued by DOG.

#### **XII. Brand names / Print**

It is illegal to use product names of DOG, especially its brands, without the prior consent of DOG. This also applies to print works and advertising material.

#### **XIII. Performance and Jurisdiction, Invalidity of Individual Clauses**

1. The place of performance and jurisdiction for both parties for all claims from business relations, in particular the supplies of DOG, in Hamburg. This place of jurisdiction also applies to disputes about the origins and effectiveness of the contractual relationship.
2. DOG is also entitled to assert its claims at the general jurisdiction of the customer claims.
3. Should individual clauses of these terms and conditions be wholly or partially invalid, this does not affect the effectiveness of the remaining clauses or remaining parts of such clauses. Any invalid arrangement the parties have to replace by a regulation that meets the economic purpose of the invalid provision and is effective.
4. Telephone or oral agreements require written confirmation to become legally effective.
5. In case of differences between the German and English version of the GTC or in other cases of doubt, the German version applies.