

# General Terms and Conditions of DOT GmbH, Rostock

The following General Terms and Conditions ("Terms and Conditions"), which the customer acknowledges in issuing an order or accepting the delivery and/or service, have exclusive application to all sales, deliveries and contract processing work of DOT GmbH ("DOT"). Conflicting, deviating and/or supplemental terms and conditions of the customer have no application, even if DOT does not expressly contradict them.

These Terms and Conditions also apply to all future transactions with the customer.

## 1. Contract conclusion

(1) The offers of DOT are strictly non-binding.

(2) A contract comes into existence only when we have confirmed the order in writing or have begun to process the order without separate confirmation. Agreements exclusively follow the content of the order confirmation, if existing, and these Terms and Conditions. Otherwise, to be effective, oral agreements or commitments must be confirmed in writing by DOT employees with representational authority.

(3) DOT reserves proprietary rights, copyrights and industrial property rights in all offer documents and in all other documents and information that are made available to the customer. They may not be made available to third parties. DOT reserves the right to assert a claim for damages in such a case.

(4) The customer must have prior written consent from DOT before assigning to third parties rights under a contract it has entered into. Section 354a of the German Commercial Code (Handelsgesetzbuch–HGB) remains unaffected hereby.

## 2. Customer's cooperation obligations; periods and deadlines

(1) In the case of contract processing work, the customer must promptly notify us if the customer becomes aware of circumstances that cause the customer to be concerned that there will be a delay in delivering the parts to be processed. In case delivery dates are not met, the parts to be processed fail to exhibit the promised qualities, the customer breaches warranties it has given or the parts to be processed have irremediable defects of title, DOT may rescind the agreement without prior notice and/or demand damages for nonperformance, defective performance or non-timely performance. Otherwise, the legal provisions apply.

(2) In the case of contract processing, deliveries by the customer must be made with specification of the required data and labeling. In case of noncompliance, DOT is entitled to refuse to accept the delivery. This also applies to deliveries made to a third party designated by DOT as the recipient.

(3) DOT may make partial deliveries for good cause if it is reasonable for the customer.

(4) The delivery period begins on the day the parts to be processed are received. Necessary clarification of technical details extend the delivery period as appropriate. Apart from that, delivery dates and delivery periods are only binding if they were agreed to be binding and the customer has punctually communicated or provided to DOT all information and documentation required to execute the services and made any stipulated advance payments as agreed. In the case of subsequently placed additional or supplemental orders, the delivery periods and delivery dates are extended or postponed accordingly.

Events such as force majeure, war, natural catastrophes or labor disputes which are unforeseeable, unavoidable, and/or lie outside DOT's sphere of influence and are not attributable to DOT release DOT, while they continue, from the obligation to render on-time delivery or service. Delivery and service periods or deadlines are extended or postponed by the duration of the disturbance; the customer shall be informed in an appropriate manner of the occurrence of the disturbance. If the end of the disturbance cannot be foreseen or it lasts longer than two months, either party is entitled to rescind the agreement in writing.

(5) In the case of deliverables which DOT does not itself produce, DOT's obligations are subject to correct and timely delivery from its suppliers.

(6) Unless otherwise agreed, deliveries are made ex works (EXW Incoterms 2010, Charles-Darwin-Ring, 18059 Rostock, Germany).

(7) In the event that the customer defaults in acceptance or breaches other cooperation obligations, DOT is entitled, without prejudice to its other rights, to store the deliverable appropriately at the risk and cost of the customer or to rescind the agreement in accordance with the legal provisions.

(8) If the deliveries from DOT are delayed, the customer is only entitled to rescission if the delay is attributable to DOT and a reasonable period for delivery set by the customer has elapsed without result.

### **3. Shipment, transportation risk, transportation insurance**

(1) Unless otherwise agreed, shipment shall occur through an appropriate shipment method in standard packaging.

(2) Risk passes to the customer, (i) in the case of a sale involving delivery to a place other than the place of performance, upon handover of the deliverable to

the carrier retained by DOT (or to DOT's own staff who have been charged with executing the shipment); (ii) in the case of collection by the customer, upon handover to the customer; and (iii) in the case of collection by third parties retained by the customer, upon handover to them. Should the customer default in acceptance, the risk passes to the customer upon establishment of the default in acceptance. If it has been agreed that the deliverable will be collected by the customer or by third parties that are retained by the customer and the handover is delayed for reasons attributable to the customer, risk passes to the customer on the day of notification that the deliverable is ready for shipment.

(3) Upon request by and at the cost of the customer, DOT shall insure the shipment against damage during transport.

#### **4. Prices, payment terms**

(1) Controlling for the price are the confirmed offers or the price lists of DOT GmbH. In the case of contract processing work, there may be a final setting of the price—if appropriate, not until after sampling. All prices are understood to be ex works, exclusive of packaging, shipping and the applicable statutory value-added tax. Shipping and packaging are charged in addition. Drafts or checks are accepted for processing only upon special agreement and free of cost and expense for DOT. The customer bears any public charges, such as customs duties, which arise in connection with importation of the deliverable.

(2) If the stipulated delivery date is more than four months after contract conclusion and if, after contract conclusion, DOT incurs unforeseeable cost increases with respect to the deliverable that are not attributable to DOT, DOT is entitled, in its reasonable discretion, to pass on the increased costs through a corresponding pro rata increase of the stipulated price.

(3) In the context of continuing obligations that have been entered into with the customer, such as long-term supply contracts in particular, DOT is entitled to reasonably increase its prices as of January 1 of each calendar year if it has incurred cost increases with respect to the deliverable in the preceding calendar year. DOT shall inform the customer in writing about the planned price increase no later than eight weeks before it takes effect.

(4) DOT is entitled to submit partial invoices for partial deliveries in terms of section 2 (3).

(5) If the parties have not made different arrangements in the individual case, each invoice from DOT is payable, without deduction, within thirty days of receipt of the invoice; default occurs if this period elapses without payment. Payments by the customer are not considered to have been made until DOT is able to dispose of the amount.

(6) If it is apparent to DOT that there is a risk that the customer lacks the ability to perform, DOT is entitled to effect still outstanding deliveries only against prepayment or upon provision of security. If the prepayments have not been made or the security has not been provided after the lapse of a reasonable grace period,

DOT may rescind individual or all affected contracts, entirely or partially in each case. DOT remains free to assert further rights.

## **5. Default in payment**

(1) In case of default in payment, DOT is entitled to demand default interest in the legal amount. The claiming of additional loss for default remains unaffected.

(2) The customer is entitled to make an offset only if the customer's counterclaim is undisputed, ready for decision or legally established. The customer is only authorized to assert a right of retention if the customer's counterclaim is founded on the same contract as the claim by DOT and is undisputed, ready for decision or legally established.

## **6. Retention of title**

(1) The deliverables remain the property of DOT until complete payment of all receivables of DOT that arise from the business relationship with the customer. In the case of a current account, the retained ownership is treated as security for the balance due DOT.

(2) The customer is permitted to sell the products that are subject to retention of title ("Retained Products") only in the ordinary course of business. The customer is not authorized to pledge the Retained Products, to assign them as collateral or to make other dispositions that jeopardize the title of DOT. The customer forthwith assigns to DOT the amount receivable from the resale; DOT forthwith accepts such assignment. If the customer sells the Retained Products together with other goods, the assignment of the amount receivable is agreed to be only the part that equals the price agreed to between DOT and the customer, plus a security margin of 10% of such price. The customer is revocably entitled to collect, in its own name as fiduciary for DOT, accounts receivable that have been assigned to DOT. DOT may revoke such empowerment as well as the authorization for resale if the customer is in default of material obligations, such as payment toward DOT; in the event of revocation, DOT is entitled to collect the amount receivable by itself.

(3) The customer shall furnish to DOT at all times all desired information about the Retained Products or about claims which have been assigned to DOT hereunder. The customer shall immediately notify DOT of third party seizures of or claims against Retained Products and deliver the necessary documents. The customer will at the same time point out the retention of title by DOT to the third parties. The customer shall bear the cost of defending such seizures and claims.

(4) The customer is obligated to treat the Retained Products carefully for the duration of the retention of title.

(5) If the realizable value of the collateral exceeds the entirety of the receivables to be secured by DOT by more than 10%, the customer is entitled to demand that it be released to that extent.

(6) If the customer comes into default with material obligations, such as payment to DOT, and DOT rescinds the agreement, DOT may reclaim the Retained Products without prejudice to other rights and exploit them otherwise for the purpose of satisfying claims against the customer that are due. In such case, the customer shall grant DOT or the agents of DOT immediate access to the Retained Products and surrender them.

(7) In the case of deliveries to other legal systems in which the above retention-of-title provision does not have the same securing effect as in Germany, the customer shall do everything needed to promptly create security interests for DOT. The customer shall cooperate with all measures, such as registration, publication, etc., which are necessary and beneficial for the effectiveness and enforceability of such security interests.

(8) If DOT coats the customer's articles by way of contract processing, DOT shall have a contractor's lien pursuant to § 647 of the German Civil Code (Bürgerliches Gesetzbuch–BGB) until the agreed fee has been fully paid.

## **7. Notice of defects**

(1) The customer's rights regarding defects in the deliverable require the customer to examine the deliverable upon delivery and immediately notify DOT of defects in writing, but not later than ten days after delivery; latent defects must be reported to DOT in writing immediately upon their discovery.

(2) For each notice of defects, DOT has the right to inspect and examine the deliverable complained of. The customer shall grant DOT the necessary time and opportunity for this. DOT may also demand that the customer return the deliverable complained of to DOT at its own cost. If a notice of defects by the customer proves to be unfounded and if the customer recognized this or negligently failed to recognize this before submitting the notice of defects, the customer is obligated to reimburse DOT for all damages incurred in this regard, such as travel and shipping costs.

## **8. Warranty**

(1) The deliverable shall have the agreed quality upon the passage of risk, which shall be assessed exclusively according to the specific stipulations on the properties, features and performance characteristics of the deliverable that have been agreed to between the parties in writing.

(2) Statements in catalogs, price lists and other informational material that DOT supplies to the customer, as well as statements describing the product, are in no

manner to be understood as warranties of a special quality of the deliverable; such warranties of quality or durability must be expressly agreed to in writing.

(3) DOT shall eliminate defects by, at its own election, correcting them without cost to the customer or by delivering a flawless article without cost (together: "cure").

The customer shall grant DOT the necessary reasonable time and opportunity to effect the cure.

(4) Parts replaced by DOT are to be given back to DOT at its request.

(5) The customer's rights concerning defects are expressly excluded in the following cases: (i) in the case of natural wear and tear or (ii) if the deliverables are damaged for reasons which are attributable to the customer, especially due to inappropriate use or improper handling (e.g. excessive load).

(6) If the cure fails, is unacceptable to the customer or if DOT has refused to cure pursuant to § 439 (3) BGB, the customer may, at its election, rescind the agreement in accordance with legal provisions or reduce the purchase price and/or demand damages pursuant to section 9 or reimbursement of its expenses that have been incurred in vain.

(7) The limitation period on the customer's rights for defects is twelve months, beginning with the delivery of the deliverable to the customer. The limitation of actions provisions of § 479 BGB remain unaffected. Statutory limitation periods control for the customer's damages claims that arise for other reasons than defects in the deliverable as well as with regard to fraudulently concealed or intentionally caused defects.

(8) DOT does not insure the value of incoming goods and any lost profits from products provided by the customer. The customer is obligated to insure itself in a reasonable amount against damage to the products it provides and against the risks of transportation and storage. If requested in writing, the customer shall provide proof of insurance coverage within two weeks of receipt of the request. DOT assumes no liability for inadequate insurance coverage for the customer-supplied products; its liability for damage to the customer-supplied products according to general principles (for this see sections 8 and 9) remains unaffected by this.

## **9. Limitation of liability, damages**

(1) DOT's liability follows the provisions of the Product Liability Act or any other compulsory statutory liability provisions.

(2) In addition, DOT has unlimited liability for damage which is caused intentionally or through gross negligence by DOT or its legal representatives or agents, but only in accordance with the statutory provisions.

(3) In the case of ordinary negligence, DOT is liable for the breach of material contractual duties, the amount of which is limited to typically foreseeable losses

at contract conclusion. In the case of ordinary negligence, DOT is not liable for the breach of nonmaterial contractual duties. Material contractual duties are rights and duties, the pursuance of which makes it possible to perform the agreement in the first place and upon whose observance the customer regularly relies or may rely, which follow from the nature of the underlying contract and which the contract must grant in accordance with its content and purpose.

(4) The limitations of liability in this section 9 do not apply to: (i) damages arising from injury to life, limb or health which are based on an intentional or negligent breach of duty by DOT or an intentional or negligent breach of duty by the legal representatives or agents of DOT, and (ii) if and to the extent to which DOT has provided a guarantee.

(5) The customer is obligated to undertake reasonable measures to prevent and mitigate loss.

(6) The limitations of liability in this section 9 apply to all damages claims that arise for any legal reason whatsoever and particularly to liability for tort.

## **10. Product liability**

Should the customer sell the deliverable, regardless whether unmodified or modified, whether after processing, reshaping, combining, mingling or mixing with other goods, it shall, between the parties, indemnify DOT from product liability claims of third parties if and to the extent to which it is responsible for the defect or error that triggered the liability, also between the parties.

## **11. Security declaration**

DOT is an authorized economic operator (AEO). Suppliers of DOT guarantee that goods which are produced, stored, transported for, delivered to or accepted by DOT are produced, stored, processed or handled and loaded at secure production sites and at secure transshipment sites and that these goods are protected from unauthorized access during production, storage, processing or handling, loading and transporting. The suppliers further guarantee that the personnel employed for the production, storage, processing or handling, loading, transporting and acceptance of such goods are reliable and that business associates who contract as suppliers are informed that they must likewise adopt measures to secure the aforementioned supply chain.

## **12. Minimum wage clause**

By confirmation of order, all contractors of DOT, which are subject to German law, and if applicable, also their subcontractors in the same area of application, acknowledge payment of the statutory minimum wage.

### **13. Severability clause**

Should a provision of these Terms and Conditions be or become invalid, the remaining provisions of these Terms and Conditions shall remain unaffected by this. A provision that is or has become invalid shall be replaced by a provision that comes closest to the economic and legal spirit of the provision that is or has become invalid.

### **14. Final provisions**

(1) Amendments and supplements to the agreement and/or these Terms and Conditions, as well as side agreements, must be in written form. This also applies to a modification of this requirement of a written form.

(2) Unless otherwise agreed, the place of performance for the deliveries and services is Rostock.

(3) The legal provisions of the Federal Republic of Germany apply. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

(4) The exclusive judicial venue for all disputes arising from or in connection with the contractual relationship of the parties is Rostock. However, DOT is entitled to bring an action against the customer at any other legal judicial venue.

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