

# General Terms of Trade of VOEN GmbH & Co. KG

## § 1 Applicability

(1) All supplies of goods, services, and offers from VOEN GmbH & Co. KG are made exclusively on the basis of these General Terms of Trade. They are an integral part of all contracts which VOEN GmbH & Co. KG concludes with its contract partners (in the following called "customer") regarding the goods or services it supplies. They also apply to all future supplies, services, or offers to the customer, even when they have not been agreed upon separately again.

(2) Terms of trade of the customer or any third parties do not apply, even if VOEN GmbH & Co. KG does not specifically reject them in each individual case.

(3) These General Terms of Trade apply exclusively to companies, legal entities under public law, or special funds under public law in the sense of § 310, paragraph 1 BGB (German Civil Code).

## § 2 Quotations and conclusion of contracts

(1) All quotations by VOEN GmbH & Co. KG are subject to confirmation and non-binding. VOEN GmbH & Co. KG can accept orders within fourteen days of receipt.

(2) VOEN GmbH & Co. KG accepts contracts offered by the customer by issuing a confirmation of order. The legal relationship between VOEN GmbH & Co. KG and the customer is governed exclusively by the confirmation of order and these General Terms of Trade. The confirmation of order gives a full account of the agreements between the parties to the contract relating to the subject of the contract. Any previous verbal agreements are replaced by the written confirmation of order unless it is expressly stated thereby that they continue to be bindingly valid. Any supplements or modifications to the agreements reached, including these Terms of Trade, must be made in written form in order to be valid. The requirement of written form is fulfilled in case of communication by fax, however telecommunication, especially by email, does not constitute written form.

## § 3 Prices and payment, offset and right of retention

(1) Prices are given in EURO ex works, plus shipping and packing, statutory VAT, and in case of export deliveries, customs duties, fees, and other public charges.

(2) Invoice amounts must be paid in full within thirty days after the invoice date and delivery or receipt of the goods without any deduction. After the due date, interest of 5% p.a. shall be charged on any unpaid amounts; this does not affect the enforcement of higher interest rates and further claims in the case of default.

(3) Offsetting with counterclaims of the customer, or retention of payments due to such claims is only permitted in as far as the counterclaims are undisputed, or have been legally confirmed.

## § 4 Delivery and delivery time, liability in case of impossibility or delay of delivery, partial deliveries, liability in case of default

(1) Deliveries are made ex works.

(2) Terms and dates for deliveries and services announced by VOEN GmbH & Co. KG always apply only approximately unless a fixed term or date has been promised or agreed upon. If shipment has been agreed, delivery terms and dates relate to the time of delivery to the shipping company, carrier, or any third party otherwise entrusted with the transport.

(3) VOEN GmbH & Co. KG is not liable for impossibility of delivery or delayed delivery in as far as these are due to force majeure or other events not foreseeable at the time of conclusion of the contract (e.g. operational problems that make it impossible or extremely difficult for VOEN GmbH & Co. KG to manufacture the contractual goods (in particular technical defects of means of production), transport delays, strikes, legally permitted lock-outs, shortage of energy or raw materials, difficulties in procuring necessary official permits, other official measures, or failed, incorrect, or delayed delivery by suppliers), for which VOEN GmbH & Co. KG is not responsible. In the case of non-availability of the goods or services due to such events, VOEN GmbH & Co. KG undertakes to inform the customer immediately of this non-availability. In as far as such events make it significantly difficult or impossible for VOEN GmbH & Co. KG to supply the goods or services and the hindrance is not only of a transient nature, VOEN GmbH & Co. KG is entitled to withdraw from the contract. If the hindrance is of a transient nature, the terms of supply of the goods or services are extended or postponed by the period of the hindrance plus a reasonable period of grace. All further legal rights of the customer remain unaffected.

(4) If the customer withdraws from the contract due to events according to § 4 (3), VOEN GmbH & Co. KG is entitled to the part of the payment that corresponds to the goods or services supplied by VOEN GmbH & Co. KG up to that point in time, or the outlays made by VOEN GmbH & Co. KG up to that time. Outlays saved, or alternative use of the ordered goods shall be offset against this payment.

(5) VOEN GmbH & Co. KG is entitled to make partial deliveries when

- The customer is able to use the partial delivery for the intended purpose stated in the contract
- Delivery of the remaining ordered goods is assured
- This does not result in any significant extra work or additional costs for the customer, unless VOEN GmbH & Co. KG declares that it is willing to pay these costs.

(6) If VOEN GmbH & Co. KG should default on a delivery of goods or services, or if it is not able for whatever reason to deliver goods or services, the liability of VOEN GmbH & Co. KG is limited to compensation for the damage in accordance with § 7 of these General Terms of Trade.

## § 5 Place of performance, shipping, packing, transfer of risk, approval

(1) The place of performance of the mutual supply and payment obligations is the seat of VOEN GmbH & Co. KG, Aichach 1, 88276 Berg, Germany, unless otherwise agreed.

(2) The type of shipment and packing is determined by VOEN GmbH & Co. KG, under the observation of due diligence. The shipment is only insured by VOEN GmbH & Co. KG against transport risks on the express wishes of the customer, and at the customer's expense.

(3) The transport risk is transferred to the customer at the latest on transfer of the goods to the shipping company, carrier, or other third party entrusted with shipment. The effective time for this transfer is the commencement of the loading operation. This also applies if partial deliveries are made, or VOEN GmbH & Co. KG has undertaken to provide other services (e.g. assembly/installation or shipping costs). If shipping or transfer is delayed due to a circumstance for which the customer is responsible, the risk is transferred to the customer from the day on which VOEN GmbH & Co. KG is ready to ship and has indicated this to the customer.

(4) Any necessary approval of the item purchased or service supplied is considered given when the delivery or service has been completed and VOEN GmbH & Co. KG has demanded approval from the customer with reference to the legal consequences from this clause § 5 (4), and when a period of 3 weeks has passed since this time, during which the

customer has not declared its approval for any other reason apart from a defect pointed out to the vendor that makes use of the goods supplied or installed impossible, or significantly impaired. If at the time of the demand for issue of the approval, the customer has already put the item purchased or the installation made into operation, the period of time stated in sentence 1 of this clause is reduced to 10 days.

## § 6 Customer claims due to defects

(1) The warranty period is one year after delivery or, where an approval is necessary, after the approval. This period does not apply where the law specifies longer periods, especially in cases where §§ 438, Subsection 1, No. 2 BGB (Buildings and Items for Buildings) and § 634a, Subsection 1, No. 2 BGB (Construction Defects) apply.

(2) The customer must inspect the items supplied immediately after delivery to the customer in order to ascertain any defects. The customer must inform VOEN GmbH & Co. KG in writing of any obvious defects immediately after the inspection, and of any concealed defects immediately after they have been discovered. Otherwise, § 377 HGB (German Commercial Code) applies. If this obligation to inspect and inform is not observed, VOEN GmbH & Co. KG shall not be liable for the defects in question.

(3) In the case of defects to items supplied, VOEN GmbH & Co. KG shall be obliged and entitled to initially repair or replace the items according to its choice, which it reaches within a reasonable time. If this is unsuccessful, i.e. impossibility, unreasonability, refusal, or unreasonable delay of the repair or replacement, the customer can withdraw from the contract, or reduce the purchase price by an appropriate amount. If a defect is the fault of VOEN GmbH & Co. KG, the customer can demand compensation under the conditions determined in § 7.

(4) Recommendations given by VOEN GmbH & Co. KG – irrespective of whether they are given verbally, in writing, or in the form of practical operating instructions – are based on the experience of VOEN GmbH & Co. KG, and can therefore only be considered as guidelines and not as assurances.

(5) If, in individual cases, used goods are supplied on agreement with the customer, no warranty is given.

## § 7 Limits of liability

(1) The liability of VOEN GmbH & Co. KG to pay compensation on whatever legal basis is, in as far as negligence is concerned, limited according to this clause § 7.

(2) VOEN GmbH & Co. KG is not liable in the case of ordinary negligence by its organs, legal representatives, employees, or other vicarious agents in as far as this does not constitute a violation of contractual obligations. Contractual obligations are in particular the obligation to perform on-time, defect-free delivery as well as advisory, protective, and safeguarding obligations that are designed to enable the customer to use the goods supplied in accordance with the contract. Additionally, contractual obligations are those that serve to protect life or limb of the customer's personnel or third parties, and to protect the customer's property from serious damage.

(3) In as far as VOEN GmbH & Co. KG is liable to pay compensation in accordance with § 7 (2) on its merits, this liability is restricted to damage that VOEN GmbH & Co. KG foresaw or should have foreseen on conclusion of the contract as the possible consequence of a violation of the contract. Furthermore, compensation is due for indirect damage and subsequent damage that are the result of defects of the item supplied only if such damage can typically be expected on use as intended of the item supplied.

(4) The limitations of this clause § 7 do not apply to the liability of VOEN GmbH & Co. KG for deliberate or gross negligence, for guaranteed features, for injuries to life, body, or health, for claims under product liability law, or for claims that were already in existence at the time of the application of these General Terms of Trade.

## § 8 Reservation of ownership

(1) The items supplied (goods subject to reservation of ownership) remain the property of VOEN GmbH & Co. KG until the fulfillment of all claims of VOEN GmbH & Co. KG against the customer that result from the business relationship.

(2) If third parties gain possession of the goods subject to reservation of ownership, in particular due to seizure or impoundment, the customer must immediately inform the third party of the ownership of VOEN GmbH & Co. KG, and inform VOEN GmbH & Co. KG of this. The customer bears all costs that must be incurred to avoid the seizure or to reprocure the goods subject to reservation of ownership, in as far as these costs cannot be reclaimed from the third party.

(3) In case of violation of obligations by the customer, in particular default of payment, VOEN GmbH & Co. KG is entitled to repossess the item sold after unsuccessful expiry of a reasonable period of time it sets the customer. The repossession of the item sold does not constitute a withdrawal from the contract unless VOEN GmbH & Co. KG expressly states as much. After written notice and a reasonable period of time, VOEN GmbH & Co. KG can dispose of the goods subject to reservation of ownership by selling them for the best possible return, and deducting this return from the sale price claimed from the customer.

## § 9 Place of jurisdiction and applicable law

(1) The place of jurisdiction for all disputes arising from the business relationship between VOEN GmbH & Co. KG and the customer is Ravensburg, Germany. However, VOEN GmbH & Co. KG reserves the right to lodge claims at the place of residence or seat of the customer. Ravensburg is the exclusive place of jurisdiction for claims against VOEN GmbH & Co. KG. This regulation does not affect any mandatory provisions of the law which require other exclusive places of jurisdiction. The above regulations also apply if the customer does not have its general place of jurisdiction in Germany (international authority).

(2) For the legal relations in connection with this contract, German material law applies excluding its conflict rules, and excluding the United Nations Treaty on Contracts for the International Sale of Goods (CISG).

## § 10 Final clause

In as far as the provisions of this contract or these General Terms of Trade are found to be incomplete, the gap shall be filled by legally effective regulations that comply with the economic goals of the contract and the purposes of these General Terms of Trade that the contracting parties would have agreed upon if they had been aware of the incompleteness.