

1. Scope of application, General remarks

The Terms and Conditions of Business apply to all present and future business relationships. Our offers, deliveries and services are provided solely on the basis of these General Terms and Conditions of Business.

The client's purchasing conditions are hereby expressly set aside; we are not bound by these, even if we do not exclude their application in the individual case concerned. Terms and conditions of business which diverge from our terms and conditions of business and delivery will apply only where they have been expressly confirmed by us in **writing**. 'Consumers', for the purposes of the Terms and Conditions of Business, are natural persons with whom we enter into a business relationship, without a commercial or independent professional activity being attributable to them. 'Business purchasers', for the purposes of the Terms and Conditions of Business, are natural or legal persons or partnerships with legal capacity with whom we enter into a business relationship, which (or who) act in the exercise of a commercial or independent professional activity. 'Customers', for the purposes of the Terms and Conditions of Business, are both consumers and business purchasers.

2. Offer

Our offers are subject to confirmation and are non-binding. Transactions and agreements become binding only when confirmed by us in writing or by text transmission. The informations, drawings and designs, illustrations, technical data and descriptions of weights, measurements and performance received in brochures, catalogues, circulars, advertisements, price-lists and in the documentation associated with the offer are non-binding, insofar as the client can reasonably be expected to accept any deviations in relation to the goods or services supplied and the indications in the order confirmation have not been expressly designated as binding. We reserve the right to make alterations for the purpose of technical development, insofar as the client can reasonably be expected to accept these. We retain the ownership and copyright of the documentation provided. Drawings and designs, and in particular structural documentation must be returned when requested; reproductions of any kind, for the use of the client or of third parties, are forbidden.

3. Conclusion of contract

The processing of all orders issued to us is always based upon our written order confirmation, unless agreed otherwise in writing in the individual case. Supplementary agreements and amendments will be binding upon us only where they have been confirmed by us in writing. Our staff are not authorized to make oral supplementary agreements or to give oral assurances extending beyond the written contract. In view, among other factors, of the varying country-specific legal regulations, the intended use and the intended life of the tents, it is the client's own responsibility to clarify issues relating to building permits; in return for the separate payment of the costs involved, the supplier will provide the drawings and designs/statics/plans/certificates, insofar as these are available.

4. Prices

The overall price offered and finally agreed is based on current cost prices and is a fixed price ex delivery works up to the expiry of the fixed price guarantee specified in the order confirmation, or if this is not expressly guaranteed, for 4 months from the date of conclusion of the contract. After the fixed price guarantee has expired, we are entitled to adjust the overall price in line with changes in cost prices at the time of delivery. If delivery is delayed for reasons which are our responsibility, the expiry of the fixed price guarantee will be suspended for the duration of the delay. Non-commercial purchasers will be granted the right to withdraw from the contract if the price increase is considerably in excess of the rise in the general cost of living. If the client is a business purchaser, the prices indicated are net prices ex delivery works including loading and excluding packaging; VAT is not included. When the invoice is prepared, VAT will be charged in addition, at the level legally prescribed at the time. For the rest, VAT as legally prescribed is included in the price. Goods and services provided in addition to those which have been contractually agreed will be charged separately.

The costs of instructions for erecting the tent are not included in our prices; the client will be invoiced for these separately. Costs and fees incurred in redrafting instructions for erecting the tent and obtaining the necessary building permits, insofar as we are contractually responsible for obtaining them, are to be borne by the client.

5. Payment terms

Unless expressly agreed otherwise in writing, our goods are to be paid for

when collected by the client or before despatch, in full, in cash or by cheque confirmed by the bank. This does not affect the right to offset in accordance with the following provisions. If, by special agreement, we accept cheques or bank drafts, this is solely subject to clearance; any costs or interest associated with cheques or bank drafts will be borne by the client; the payment will not be deemed to have been made until the funds are cleared. We are entitled, despite instructions to the contrary by our contractual partner, to apply payments received in the first place to the contractual partner's older debts, and will advise the contractual partner immediately of the way in which the funds have been allocated. The funds will be allocated in accordance with § 367 Para. 1 of the Civil Code.

In the event of a delay in acceptance on the part of the client, after 15 days have elapsed from the date of notification that the goods are ready for despatch, or available for collection, the remainder of the payment will become due.

When the contract is concluded, the purchaser's creditworthiness is assumed. Significant deteriorations in the purchaser's financial circumstances, payment arrears and other justified doubts concerning the purchaser's solvency will justify our revoking agreed payment dates – including those for future deliveries; the amounts owed will then become due for immediate payment.

In the event of delay in payments we may, without prejudice to our option to claim loss or damages extending beyond the amounts overdue, and without prejudice to the purchaser's option to demonstrate to us that the amount of loss or damages is smaller, elect to demand interest in respect of delay in accordance with the legal provisions.

The purchaser/client may offset amounts only in respect of undisputed claims, or claims which have been established with legally valid effect, and only exercise a right to withhold payments in respect of claims based on the same contractual relationship.

6. Reservation of title

We retain the ownership of the goods delivered until all our claims arising from the business relationship with the client, and – where the client is a business purchaser – all further claims arising, on whatever legal grounds, have been paid in full. The inclusion of individual claims in a running account as well as balancing and the recognition of balances due do not affect the reservation of title. The client is entitled, at any time, subject to revocation, to resell the goods delivered by us, within the client's normal business operations. The client is not permitted to use the goods as collateral or cede them as security. The client must advise us immediately of any seizure of goods or any other occurrence prejudicial to our rights. As of now, the client assigns to us the claim arising from the resale of the goods delivered by us, together with all subsidiary rights and rights to modify or influence legal relationships. As of now, we accept this assignment. The client is entitled, and obliged, to collect the amounts owed under the claim assigned to us, as long as we have not revoked this authorization. The collection authorization will expire even without an express revocation, if and as soon as the client fails to discharge its obligations to us or becomes insolvent. On demand, the client is to advise us immediately, in writing, who the goods have been sold to and what claims are due to the client as a result of the sale. At the same time, the client must release to us the documentation required to assert the claims assigned to us (in particular offers, contracts and invoices). We are entitled to notify the client's purchasers of the client's assignment of the claim and to collect the amounts due.

In the event of a delay in payment in accordance with Clause 5, we are entitled, without prejudice, to our other rights, maintaining the contract in force – the latter only if the client is a business purchaser – to demand the release of the goods and collect them or to dismantle the tent structure supplied and repossess its parts, in each case at the client's expense. In this case, the client will no longer have any right of possession. In this event, the client undertakes, as of now, immediately to advise, on demand, the location where the goods are in use or stored, and not to move them thereafter. The client also concedes to us an unlimited right of access, pedestrian and vehicular, to the property concerned.

We are obliged to release the securities held by us, when so requested by the client, where the realizable value of our securities exceeds the claims to be secured by more than 20%; it is for us to select which securities are to be released.

7. Delivery and acceptance

The period specified for delivery begins with the despatch of the order confirmation. The specified delivery period will have been complied with if, by the time it expires, the goods to be delivered have left the works

or notification has been issued that they are ready for despatch. We are entitled to make partial deliveries, insofar as the client can reasonably be expected to accept these.

If, once notification has been issued that the goods are ready for despatch, and a reminder has been issued without result, the client is responsible for lack of timely performance as obligor, we are entitled, after setting a reasonable 14-day extension period for performance, to withdraw from the contract.

If despatch is delayed at the wish of the client, the client will be invoiced, beginning from the date on which notification was issued that the goods were ready for despatch, the costs of storage and placing in storage; these costs are to be paid before the goods are finally despatched. We are also entitled to claim payment for, or payment of the balance due for, the goods provided before they are despatched.

8. Passing of risk

If the purchaser is a business purchaser, the risk of accidental destruction or deterioration of the goods passes to the purchaser at the time of hand-over of the goods, of sale by despatch with the goods handed over to the forwarding agent or carrier or other person or institution designated to effect despatch. If the purchaser delays in accepting the goods, they will be deemed to have been handed over.

9. Guarantee and liability

(1) The supplier reserves the right for minor deviations, such as are usual within the sector or cannot be avoided for technical reasons, with regard to quality, dimensions, colour, weight, or deviations resulting from changes in design, to be permitted. In addition, the supplier will not be liable for loss or damage due to normal wear and tear, incorrect assembly, or modifications or repairs undertaken by the client or by third parties without our prior written consent. The guarantee does not extend to defects resulting from the action of the elements or natural forces, force majeure or inappropriate use or treatment.

(2) Business purchasers must advise us, in writing, of obvious defects within two weeks of receipt of the goods; otherwise no claim can be made under guarantee. If notification is sent within this period, it will be deemed to have been effected in due time. The business purchaser will be required to substantiate all claims, and in particular to provide evidence of the defect itself, of the time when the defect was identified and of notification having been sent in good time.

(3) Consumers must notify us, in writing, of obvious defects within two months of the time when it is observed that the condition of the goods contravenes the terms of the contract. Receipt of the notification by us determines compliance with the stipulated period. If the consumer omits to notify us, guarantee claims will expire two months after they defect is identified. This does not apply in the event of malice aforethought on the part of the vendor. The consumer will be required to provide evidence of the time when the defect was identified. If the consumer was induced to purchase the goods by inaccurate statements on the part of the manufacturer, the consumer will be required to produce evidence of the reasons for his decision to purchase. Where used goods are concerned, the consumer will be required to provide evidence of the defectiveness of the goods.

(4) If the purchaser is a business purchaser, we will, in the first instance, meet guarantee obligations in respect of the goods by remedying the defects or supplying replacement goods, at our choice. If the purchaser is a consumer, he will, in the first instance, be entitled to choose whether supplementary performance is to be effected by the remedying of defects or by the supply of replacement goods. We will however be entitled to refuse the form of supplementary performance chosen if it can only be effected at disproportionate cost and the other form of supplementary performance does not involve material disadvantage for the consumer.

(5) If the customer elects to withdraw from the contract owing to a defect of title or defect in the goods, where supplementary performance has not been successfully effected, the customer will have no additional claim for compensation in respect of the defect. If, after a failure to effect supplementary performance, the customer opts for compensation, the goods will remain with the customer, if the customer can reasonably be expected to accept this. The compensation will be limited to the difference between the purchase price and the value of the defective goods. This will not apply if we have caused the infringement of contract with malice aforethought.

(6) For business purchasers, the guarantee period is one year from the date of delivery of the goods. For consumers the period of limitation is two years from delivery of the goods. For used goods the period of limitation is one year from delivery of the goods; this does not apply if the customer has not advised us of the defect in due time (Clauses (2) and (3) of this provision).

(7) If the purchaser is a business customer, the agreed characteristics of the goods will, essentially, be deemed to be only those included in the

manufacturer's product description. Public statements, promotion or advertising by the manufacturer do not represent any additional contractual indication of the characteristics of the goods.

(8) If the customer receives defective instructions for erection, we will be obliged only to supply a set of instructions for erection, which are free of defects, and then only if the defect in the instructions for erection is such as to impede correct erection. The customer is not provided by us with guarantees in the legal sense. Manufacturer's guarantees are not affected by this provision.

(9) If we allow an additional four-week period which has been allowed us, in writing, to remedy defects or effect the supply of replacement goods in respect of a defect for which we are responsible, within the meaning of these terms of delivery, to elapse without our successfully taking the action required, the customer may, in principle and at the latter's choice, demand a reduction in price or the cancellation of the contract (withdrawal). This option will also exist if remedy or the supply of replacement goods is impossible or if we are unable to effect either. The remedying of defects by a third party is only permitted after we have twice attempted to remedy defects or supply replacement goods without success. The right of withdrawal is excluded if the defects present reduce the value or serviceability of the goods only to an insignificant degree. In this case the client may demand only an appropriate in the purchase price. If, however, the condition of the goods contravenes the terms of the contract to only a slight degree, and in particular if there are only minor defects, the customer will have no right of withdrawal.

(10) Claims by the client in respect of costs incurred for the purpose of supplementary performance, in particular transport, infrastructure, working and materials costs, are excluded insofar as the costs are increased because the goods supplied had been subsequently transported to a location other than the client's office, unless this change of location corresponded to the intended use of the goods.

(11) The client will have legal rights of recovery against us only if the client has not concluded any agreements with its own customer extending beyond the legal claims in respect of defects. The extent of the client's right of recovery against us will be governed by Clause (10) of this provision accordingly.

10. Compensation

If the contract concluded cannot be performed for reasons for which the client is responsible, we may claim compensation in accordance with § 325 of the Civil Code. In this case we will be entitled to demand compensation equivalent to 25% of the agreed gross price, unless the client demonstrates that the loss actually incurred is less.

11. Liability

Any further claims by the client, and in particular claims for compensation, including claims arising out of fault in contractual negotiations, positive infringement of contract and unlawful acts or arising out of any other legal grounds, are excluded unless we are guilty of malice aforethought or gross negligence. This also applies to the infringement of obligations on the part of our legal representatives or agents. This exclusion of liability does not apply to personal injury under the Product Liability Acts or to the absence of characteristics expressly assured, if the purpose of the assurance was precisely to secure the client against loss or damage other than damage to the articles delivered themselves or to the infringement of an essential contractual obligation.

12. Place of performance and jurisdiction; exclusion of EAG-/EKG

If the client is a business purchaser, the place of performance is our head office, unless specified otherwise in the order confirmation.

The place of jurisdiction for all disputes arising out of the contractual relationship is our registered office, if the client is a business purchaser or has or moves its general place of jurisdiction abroad. We are, however, also entitled to sue the client at the latter's general place of jurisdiction.

The law of the Federal Republic of Germany governs the legal relationship between supplier and client, exclusively. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

13. Invalidity clause

Should any provision of these terms and conditions of delivery or any provision of other agreements be or become invalid, the validity of all other provisions or agreements will not thereby be affected. Any missing provisions in the contract are to be made good as provided for in dispositive law, and in the event that this does not give rise to a solution which satisfies the legitimate interests of the parties, by additional interpretation of the contract.