

General terms and conditions of Porta Gestelltechnik Koppe GmbH & Co. KG

§ 1 General points and area of application

1. Our general terms and conditions shall apply exclusively. We do not recognise terms and conditions of the customer that deviate from or conflict with our general terms and conditions, unless we have expressly agreed to their validity in writing. Apart from that, our general terms and conditions shall also apply if we carry out the delivery to the customer without reservation in the knowledge of conflicting or deviating terms and conditions of the customer. Our general terms and conditions are the basis for all current and future business relationships with our customers.

2. All agreements that we have made with the customer for the execution of a contract are set out in writing in the relevant contract. Apart from that, oral agreements are not affected.

3. Our general terms and conditions only apply to companies within the meaning of § 14 (1) BGB (Civil Code).

§ 2 Offer and order confirmation

1. Our offers are subject to change until acceptance by the customer. The sending of documents, in particular drawings, to the customer for technical coordination of the intended design does not yet constitute an offer. Offers by the customer are binding. We can accept the contract offer contained in an order within two weeks after receiving it. The acceptance takes place either in writing or by handing over the goods to the customer. The basis of the contractual execution is the construction drawing approved by both parties, a hand sample handed over to the customer, a sample frame or images of these objects. We reserve the right to make technical changes to the construction drawing to improve the customer's production process without consulting the customer, but we will notify him thereof.

2. The customer receives an order confirmation from us, in which the services to be provided are specified and the expected completion date is stated.

3. The conclusion of the contract is always subject to the correct and timely delivery by our supplier. This does not apply in the event that we are responsible for the non-delivery. We will inform immediately about the unavailability of the service. We will immediately reimburse any consideration already received.

§ 3 Prices and terms of payment

1. Unless otherwise agreed with the customer and nothing else is stated in our order confirmation, our prices shall apply "ex works" excluding packaging. The prices quoted are not binding for any subsequent orders.

2. Statutory value added tax is not included in our prices; it will be shown separately on the invoice at the statutory rate on the day of invoicing.

3. Discounts shall require a special written agreement. Discounts are granted on the net amount of the goods, provided that all invoices that have become due by the time the discount is paid have been paid simultaneously at the latest. Unless otherwise stated in the order confirmation, the final invoice price is due for payment without any deduction within 30 days of the invoice date. With regard to the consequences of delay in payment, the statutory regulations shall apply. The day on which the invoice amount is credited to our account is decisive for the timeliness of payment. The supplier is entitled to charge an interest fee of 5% from the first day on which the payment term is exceeded. The customer is obliged to pay interest and reminder fees in full in accordance with the supplier's schedule. The supplier is entitled to stop work on current orders of the customer from the first day of exceeding the payment term.

4. The customer is only entitled to set-off and retention rights if his counterclaims have been legally established are undisputed or have been recognised by us. In addition, the customer is only authorised to exercise a right of retention if his counterclaim is based on the same contractual relationship.

5. The prices quoted are based on the circumstances known to us at the time the contract was concluded. We therefore reserve the right to change our prices accordingly if, after conclusion of the contract, cost reductions or increases occur, in particular due to wage settlements, material price changes or otherwise unpredictably necessary, more complex

production processes that were not clearly recognisable on the basis of the documents attached to the order or if the customer requests changes at a later date or additions become necessary because the customer subsequently notifies us of circumstances, that he could have reported when the contract was concluded. Upon request, the customer will be provided with evidence of the resulting cost reductions or increases.

§ 4 Delivery time and delivery

1. The start of the completion date and the delivery time specified by us is subject to the clarification of all technical questions and thus the approval of our construction drawing, the handover sample, a sample frame or images of these objects by the customer. The compliance with our delivery commitment is further subject to the timely and proper fulfilment of all cooperation obligations agreed between us and the customer. The objection of a non fulfilled contract remains reserved. Apart from that, production dates and delivery times specified by us are non-binding. Unforeseen events that cause possible disturbances in the sequence of operation are not in our area of responsibility. If such events occur, the delivery is extended according to the delay. We will inform the customer of this in writing and/or by telephone.

2. If the customer is in default of acceptance or if he otherwise culpably breaches his obligations to cooperate, we are entitled to demand compensation for the damage we have incurred and will be incurring, including any additional expenses. All other claims shall remain unaffected. In such cases the risk of accidental loss or accidental deterioration of the ordered goods is transferred to the customer at the moment at which he is in default of acceptance or payment.

3. Our liability for delivery is based on the statutory provisions. However, if the default in delivery is not based on an intentional breach of contract for which we are responsible, our obligation to liability for damages is limited to the foreseeable, typically occurring damage. If we are liable in the event of a default in delivery due to a culpable breach of an essential contractual obligation, the liability for damages in this case is also limited to the foreseeable damage that typically occurs.

§ 5 Transfer of risk and packaging costs

1. Unless otherwise stipulated in the contract, delivery “ex works” is agreed.

2. We do not take back transport and all packaging in accordance with the packaging regulations, except for pallets. The customer is therefore obliged to dispose of the packaging at his own expense.

3. Transport insurance will only be taken out for delivery to the customer if requested. The customer will bear the costs incurred thereby.

§ 6 Liability for defects, compensation and limitations of liability

1. The construction drawing sent by us to the customer upon request, the handover sample, a sample frame or images of these objects to clarify the technical procedure in the event of a contract being concluded at a later date are non-binding. We do not accept any liability for damage incurred by the customer or third parties through the use of the construction drawing that has not yet been contractually agreed, unless otherwise required by mandatory statutory provisions.

2. Corrections of faults by the customer require that the customer properly complies with his obligation to inspect and notify according to § 377 of the German Commercial Code (HGB). In this respect, the customer is obliged to check the goods for correctness immediately upon receipt. The customer has to notify us in writing of obvious defects within a period of 7 days from receipt of the goods; otherwise, the assertion of warranty claims against us is excluded. The timely despatch of the notification of defects is sufficient here in order to safeguard the deadline. The customer fully bears the full burden of proof for all requirements for claims, for the time at which the defect was discovered and for the timeliness of the notification of defects.

3. If there is a defect in the goods, we are obliged, at our option, to provide supplementary performance in the form of a correction of faults or to deliver a new, defect-free item. In case of removal of defects, we are obliged to bear all expenses

necessary for the purpose of removal of defects, in particular transport, travel, labour and material costs, provided that these are not increased by the fact that the purchased item has been moved to a location other than the place of performance.

4. If the supplementary performance fails, the customer is now entitled to choose whether to withdraw from the contract or to demand a reduction in price. In the case of only minor defects, however, the customer has no right of withdrawal. The same applies if we are not responsible for the breach of duty resulting from a defect.

5. Our liability for defects is based on the statutory provisions insofar as the customer asserts claims for damages based on wilful intent or gross negligence, including wilful intent or gross negligence on the part of our representatives or vicarious agents. Unless we are not accused of intentional breach of contract, liability regarding compensation shall be limited to the predictable and typical damage.

6. We are liable in accordance with the statutory provisions if we culpably violate an essential contractual obligation; in this case, however, liability for damages is also limited to the foreseeable, typically occurring damage.

7. Insofar as the customer asserts a claim for compensation for the damage instead of the performance, even after the subsequent performance has failed, our liability is limited to compensation for the foreseeable, typically occurring damage.

8. Liability for culpable harm to life, limb or health remains unaffected by these regulations; this also applies to mandatory liability regulations according to the Product Liability Act.

9. Unless otherwise regulated above, liability for defects is excluded to the extent permitted by law. If a guarantee for the condition of the goods is assumed, further claims remain unaffected. However, we do not assume any guarantees in the legal sense towards the customer.

10. The limitation period for claims for defects is 12 months, starting with the transfer of risk. In the event of a delivery recourse, the limitation period according to § 478, 479 German Civil Code (BGB) remains unaffected.

11. Any further liability for damages than provided for in the above provisions is excluded regardless of the legal nature of the asserted claim. This applies in particular to claims for compensation due to negligence when concluding the contract, due to other breaches of duty or due to tortious claims for compensation for property damages in accordance with § 823 German Civil Code (BGB).

12. Insofar as the liability for damages towards us is excluded or limited in accordance with the above provisions, this also applies with regard to the personal liability for damages of our employees, workers, employees, representatives and vicarious agents.

§ 7 Reservation of ownership and other security

1. We reserve ownership of the delivered goods until all payments from current and future deliveries have been settled by the customer.

2. The customer is obliged to treat the ordered goods with care and in accordance with the contract. In particular, he is obliged to insure them adequately at the original value at his own expense against fire, water and theft damage.

3. In the event of seizures or other interventions by third parties, the customer has to notify us immediately in writing so that we can file a complaint according to § 771 Code of Civil Procedure (ZPO). If the third party is unable to reimburse us for the judicial and extrajudicial costs of such a complaint, the customer is liable for the loss incurred.

4. The processing or transformation of the purchased goods by the customer is always carried out by us. If the goods are changed with objects, workers and means not belonging to us, we shall not assume any liability for the changed goods, but remain our property until the goods have been paid for.

5. If the customer is in default of payment or if payment is suspended, we are entitled to inform us on site at the customer's company whether and to what extent goods subject to retention of ownership are still available.

6. If it becomes apparent after the conclusion of the contract, that the customer is unable to meet his contractual obligations to us for payment due to insufficient performance, if the customer stops his payments or if insolvency proceedings are initiated against him, we are entitled to refuse the contractually agreed performance and to demand goods delivered by us under retention of ownership within the scope of the rights to which we are entitled in the event of insolvency. This also applies even if there is only the risk that the customer will not provide services to us due to the circumstances described (Objection of uncertainty, § 321 German Civil Code (BGB)).

§ 8 Secrecy and manufacturing tools

1. We reserve the right of ownership and copyrights to the production documents handed over to the customer (e.g. illustrations, drawings, calculations, models, samples). The production documents may only be used to process the request to submit an offer, the offer itself or the contract that has been concluded; without our consent they may not be made accessible to third parties. They are to be returned to us at our request. At the same time, the customer is obliged to hand over any duplicates of the documents produced by him at our request; the same applies to any papers developed from the documents. The customer is also obliged to keep our company and business secrets confidential, even beyond the duration of the contract. The duty of confidentiality does not relate to generally known circumstances.

2. The moulds, tools and similar items necessary for the execution of the order and manufactured by us or on our behalf are exclusively our property. The customer is not entitled to any claims from this, even if he has contributed to the costs of producing the moulds, tools and similar items. If no other written agreements have been made, we are entitled to destroy the corresponding moulds, tools and similar items no later than five years after the last customer order has been executed.

§ 9 Participation of the customer

1. If the customer provides parts, material or other substances for the execution of the order, the customer is responsible for their suitability. Unless otherwise agreed in writing, we do not carry out any incoming goods inspection or suitability test. If the parts, materials or other substances made available by the customer are ineffectual, unusable or unsuitable for the order, and this is not obvious to us, insofar the customer has no warranty or liability claims against us. In addition, the customer has to reimburse us for the damage caused by ineffectiveness, uselessness or unsuitability of the parts, materials or substances after being invoiced by us and also has to reimburse any additional expenses.

§ 10 Protective rights of third parties

1. The purchaser guarantees that the provision of parts, materials or other substances, in particular the provision of samples, does not infringe any third party rights. The customer is obliged to notify us if the goods to be delivered have their own or third-party property rights (e.g. patent, utility model, product description).

2. If claims are made against us by a third party for alleged infringement of industrial property rights, the customer is obliged to release us from these claims upon first written request. We are not entitled to make any agreements with the third party without the consent of the customer, in particular to reach a settlement. This customer's duty to indemnify shall apply to all expenses that we necessarily incur from or in connection with the claim by a third party.

3. The limitation period for such claims is ten years between the contracting parties, beginning with the conclusion of the respective contract.

§ 12 Credit checks

Insofar as it is necessary to safeguard our legitimate interests, we ask Creditreform Herford & Minden Dorff GmbH & Co. KG, Krellstrasse 68, 32584 Löhne for information to assess your general payment behaviour.

§ 13 Place of jurisdiction, place of performance, final provisions

1. The laws of the Federal Republic of Germany shall apply; the terms of the UN Sales Convention shall not apply.

2. If the customer is a merchant, legal entity under public law or special fund under public law, the exclusive place of jurisdiction for all disputes arising from this contract shall be our place of business. The same applies if the customer does not have a general place of jurisdiction in Germany or if the place of residence or usual place of residence is not known at the time the action is filed. However, we are always entitled to sue the customer at his place of residence.

3. Unless otherwise stated in the order confirmation, our place of business is the place of performance.

4. Should individual provisions of the contracts with the customer, including these general terms and conditions, be or become wholly or partially ineffective, this shall not affect the validity of the remaining provisions. The wholly or partially ineffective provision is to be replaced by a provision whose economic success comes as close as possible to that of the ineffective one.

§ 14 Partial ineffectiveness

The ineffectiveness of individual points of these provisions does not affect the effectiveness of the remaining ones. In place of the invalid provision the respective valid provision is inserted that comes closest to the invalid one.

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