



Conditions of Sale of G+B pronova GmbH

1. General

1.1 Sale and delivery, along with any other such legal transactions as may occur, shall take place solely under the conditions described below. Said conditions take precedence over, and absolve the vendor of any obligation in respect of, whatever conditions of purchase may apply on the side of the purchaser. These conditions of purchase shall not be binding upon the vendor even in the case where no additional and express repudiation of same shall have been made at the time of the closing of the contract. The purchaser shall count as having recognized the conditions described below, if at no earlier point, then certainly at the point of his acceptance of the vendor's goods.

1.2 Previously-made offers of delivery shall remain binding during a period of 6 calendar weeks, after which period they shall be considered as offers subject to confirmation. It may be the case that patent errors in the text of an offer will be subject to correction before the actual acceptance, by the vendor, of an order.

1.3 The vendor reserves the right, in the case where his suppliers shall for their part introduce improvements or model alterations in the products or services they provide, to deviate also for his part from the stipulations of already-existing sales documentation, tenders and order confirmations.

2. Prices

Except where written agreement has been made to some other effect, the vendor's prices shall be understood to be strictly net, ex works. Packing and transport costs, as well as all other expenses and disbursements, as for example customs and excise duties, shall be borne by the purchaser. Except where some other agreement has been made, the prices and conditions applying shall be those in force on the day of the relevant delivery. All prices shall be understood to be exclusive of VAT.

3. Forms and Modes of Payment

3.1 The invoices of the vendor re delivery of goods are to be paid either within 8 days of the date on the invoice (in which case the payer shall be entitled to a 2% deduction) or within 30 days of same (in which case net). Invoiced assembly or installation services, however, are, given that they constitute simple services provided, to be paid for immediately and without deduction.

3.2 It shall be possible for the purchaser to enjoy a set-off on the claim of the vendor, or to exercise, in this regard, a right of retention, only in the case where the purchaser's counter-claim shall remain uncontested or shall be confirmed by way of a final decision by the courts

3.3 In the case where the invoices of the vendor shall remain unpaid beyond their due date, the vendor shall charge the purchaser, in addition, interest on arrears in the amount of 11 percentage points above the base interest rate of the European Central Bank. The vendor reserves the right to require payment for certain deliveries and services – as, for example, small-quantity deliveries, or repairs – immediately in cash, or by COD.

4. Reservation of Proprietary Rights

4.1 The vendor shall retain the ownership of the delivered good or goods up until the point at which all the vendor's legitimate claims vis-à-vis the purchaser (regardless of whether these apply at present or shall only come to apply in the future) shall have been met and fulfilled.

4.2 That purchaser who subjects the good or goods, once delivered, to processing shall not thereby acquire the right of exclusive ownership of the objects thus partially or entirely manufactured. The processing in question shall occur free of charge exclusively for the vendor, this latter and the purchaser being both agreed that, in the case where the reservation of proprietary rights shall for one reason or another be forfeited, the full ownership of the objects manufactured with the goods as delivered shall, together with the processing, pass over exclusively to the vendor, which latter shall accept this transfer of rights, the purchaser thereby remaining a non-remunerated depository. In the case of processing carried out by means of goods or commodities still in the ownership of third parties, the vendor shall acquire a co-ownership of the new objects thus coming into existence.

4.3 The reselling, according to ordinary trade practices, of the good or goods in question shall be permissible, except where such permission shall be actually revoked by the vendor and provided that the purchaser is not in arrears as regards the obligations which he owes to the vendor. Should, however, the right of ownership enjoyed by the vendor cease, as a result of sale or combination, to obtain, then the position formerly occupied by the good itself shall come to be occupied by the claim, thereby arising, vis-à-vis the party having purchased said good from the purchaser, said claim being, already at this point, ceded and transferred from purchaser to vendor.

Except in the case where this authorization shall be explicitly revoked by the vendor, the purchaser shall be authorized, provided only that he continue to meet his payment obligations vis-à-vis the vendor, to himself collect and take receipt of the financial claims which he shall have ceded and transferred, in principle, to the vendor; he shall not, however, enjoy right of disposal in other respects, over the monies so collected.

Should payment cease, should insolvency procedures begin or application be made therefor, should there be initiated an act of protest or should there be issued an order for distraint, then the right of the purchaser to resale and to processing of the goods, as well as his right to the collection of accounts receivable shall all cease to obtain. Any accounts receivable the rights to which shall already have already been ceded and which shall be paid at some point after the transpiring of any of the named events are to be collected and paid immediately into a special account. In the case where the party having purchased goods from the purchaser makes it a condition that the right to collect accounts receivable not be permitted to be reassigned, the purchaser shall be obliged to inform the vendor, immediately and without delay, about this. Except insofar as the purchaser shall be able, in such cases, to offer sufficient guarantees of some other sort for the security of the financial claims of the vendor, this latter shall have the right to forbid the resale of any goods provided by him to third parties who insist upon such conditions rendering impermissible the reassignment of the right to collect accounts receivable.

4.4 The purchaser shall be obliged to supply the vendor, whenever this latter shall request it, with information regarding the stock of goods in which title is retained and regarding the accounts receivable the right to which has been ceded. In the case of third parties' – in particular, of bailiffs' – taking measures to seize said goods in which title is retained or accounts receivable, the purchaser shall draw these parties' attention to the property and other rights in respect of same which are enjoyed by the vendor and shall also immediately inform this latter of these developments. Any costs, in particular those ensuing from the preservation of the rights of the vendor, and any losses or damages here shall be borne by the purchaser.

4.5 Any sort of mortgaging or pawning of the goods in which title is retained by the vendor, or any transfer of these latter to a third party by way of material security or deposit, is impermissible and shall result in the vendor's lodging claims for damages and compensation.

4.6 In the case of the purchaser's behaving in a manner contrary to the letter or spirit of the contract – and most particularly in the case of the purchaser's falling into arrears – the vendor shall have the right to openly inform the end-purchaser of the goods or services in question of the fact of the right to collection of accounts receivable's having been ceded, in the final analysis, to him, the vendor, and to proceed himself to effect such collection. He shall also have the right to regain, at the cost of the purchaser, possession of the goods in which title shall have been retained and to sell these goods himself to some other purchaser or purchasers.

The purchaser authorizes, already with the acceptance of these conditions, the vendor to enter his places of business and/or private residence with the purpose of so regaining possession of the goods in question. The vendor's retaking of possession of the goods in which title shall have

been retained and his collection of the accounts payable the rights to which shall have been conceded, however, shall not imply a withdrawal from the contract.

4.7 In the case where the value of the securities provided for the vendor exceeds, in total, this latter's financial claims by more than 20%, the vendor shall be obliged, should the purchaser request it, to consent to release.

5. Delivery

The deliveries are to be made with the greatest speed and frequency as shall be possible in view of the stocks held by the vendor and of the production capacities of the latter's delivery plants. Excluded are any claims to compensation for damages, as well as any right to withdrawal from the contract or right of reduction, on the grounds of delayed deliveries where the action or inaction on the part of the vendor which shall have given rise to such delays shall have been action or inaction amounting to no more than mere negligence.

6. Shipment

6.1 In the matter of the transport of goods, the onus shall lie on the purchaser – that is to say, transport shall occur on his account and at his own risk. In the case of damage occurring during transport by rail, there will need to be provided: a consignment note officially stamped by the railway authorities; a report on the circumstances of the damage and a declaration of the transfer of rights and responsibilities; a solemn affirmation regarding the transport damages noted.

In the case of damage occurring during transport by heavy goods vehicle:

Written confirmation on the consignment note by the purchaser or receiver of the goods of the type and extent of the transport damage noted, this to be countersigned by the haulage contractor.

7. Delay in Acceptance

7.1 In the case where the purchaser shall fail to accept delivery of the goods ordered on the date of delivery as confirmed by the vendor, this latter shall have the right, without further announcement of this intent and without giving the purchaser notice of default, to warehouse the goods in question at the cost and on the account of the purchaser (said costs to include all additional costs connected therewith).

7.2 In the case where the purchaser shall be in default or delay as regards acceptance of goods and the ordered goods are entirely warehoused, these latter shall be invoiced to the purchaser; 90 % of the sum of said invoice shall be due for payment immediately.

7.3 In the case where the purchaser shall, by mutual agreement with the vendor, finally decide not to accept the ordered goods, the purchaser shall be charged, over and above the costs as stipulated in item 7.1 above, a further 20 % of the gross sum of the invoice as a lump-sum compensation for loss and damage. The onus shall lie on the purchaser to prove to the vendor that some lesser degree of loss or damage actually here applies

8. Guarantee and Liability

8.1 In the case where the object delivered is faulty or lacking in certain qualities which the purchaser was assured it would possess, or in the case where, due to manufacturing or material faults, it becomes defective during the period of guarantee, the vendor shall, as he sees fit, either provide a replacement of set the defects right. Several such settings-right shall be permissible. Moreover, the vendor shall not be liable for action or inaction amounting to no more than mere negligence

8.2 The period of guarantee shall run, except in the case of the sales of brand new goods to private customers ("consumers" in the meaning of § 13 of the German Civil Code) for 12 months, and shall begin from the date of the delivery. For the setting-right of defects, the defective goods should be delivered by the purchaser back to the vendor, usually to the place of business of this latter. In the case of such settings-right being carried out on the premises of the purchaser, the vendor shall invoice this latter for the journey involved therein.

8.3 The purchaser must, upon the delivery's arriving, immediately inspect this latter with a view to any transport damage that might obtain and, should there prove to be such, must immediately inform the vendor of any loss or damage by means of a constituent report of the haulage contractor or a solemn affirmation which shall have been signed by two witnesses and by the customer himself. Moreover, any obvious faults or defects must be communicated to the vendor in writing immediately, and at the very latest within three days of the date of delivery. The defective objects are to be kept and maintained in the condition in which they were in the moment in which they were discovered to be defective, so that they may be inspected by the vendor. Should the purchaser fail to fulfil any of the duties and obligations just listed, this shall mean that there shall no longer be any question of any claim vis-à-vis the vendor with respect to the guarantee applying to the goods.

8.4 The stipulations outlined above shall not apply to used or second-hand goods, the delivery of which shall be in every case excluded from any and every sort of guarantee. This, however, shall not apply to sales to private customers.

With these latter, separate agreements, different in each individual case, are to be arrived at.

8.5 Excluded are all other claims to compensation for loss or damage, except insofar as the damage concerned shall have arisen as a result of deliberate and wilful action or of gross negligence on the part of the vendor or of his accomplices.

This exclusion shall not apply in the case of damage to life, limb or good health.

9. Venue For The Settlement of Disputes and Place of Fulfilment

9.1 The place of fulfilment for the deliveries of the vendor is the specific place of dispatch applying in each case

9.2 The place of fulfilment for payments is the head office of the vendor as this shall apply at any specific time (presently: Bergisch Gladbach)

9.3 It is agreed that the venue for the settlement of disputes for both parties shall be the magistrate's or district court situated, in each case, closest to the vendor's place of dispatch.

9.4 In the event of deliveries outside the Federal Republic of Germany, German law shall apply in addition to the terms and conditions agreed herein.

10. Further Agreements

10.1 All agreements between vendor and purchaser must be made in writing. No commercial agent or travelling salesman shall have the right to make agreements or to accept payments without the written consent thereto of the vendor. No verbal agreements have been reached. Should any individual provision of these conditions of sale be or become void, the validity of the remaining provisions shall remain unaffected.

10.2 As regards leased equipment, our separate leasing and rental conditions shall apply.