

ORGANICA

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GENERAL TERMS AND CONDITIONS

§ 1 Validity

- (1) For the conclusion, fulfilment and clearing of contracts concluded with ORGANICA, exclusively the sales, delivery and payment terms hereinafter are valid instead of optional law. Upon placing an order, they are considered as accepted and therefore binding for both parties.
- (2) All deliveries, services and offers will be made by ORGANICA exclusively based on these general terms and conditions. These are an integral part of all contracts concluded by ORGANICA with their contractual partners (subsequently also referred to as "customer/s") on all deliveries and services offered by ORGANICA. They also apply to all future deliveries, services and offers made to the customer, even if they are not separately arranged for.
- (3) Terms and conditions of the customer or third parties do not apply, even if ORGANICA does not separately object to their validity in individual cases. Even if ORGANICA refers to correspondence containing terms and conditions of the customer or a third party, this does not constitute an approval of these business conditions.

§ 2 Offer and conclusion of contract

- (1) All offers by ORGANICA are subject to change and non-binding, unless they are expressly designated as binding or contain a certain term of acceptance. ORGANICA can accept orders within 14 days after their receipt.
- (2) The legal relation between ORGANICA and the customer shall be exclusively ruled by the (sales) contract concluded in writing, including these general terms and conditions. This contract contains all arrangements between the contractual parties regarding the subject of the contract. Oral undertakings by ORGANICA before the conclusion of the contract are not legally binding and oral arrangements of the contractual parties shall be substituted by the written contract unless they state expressly that they bindingly remain valid. Amendments and modifications of the concluded agreements, including these terms and conditions, shall be made in writing to become valid. Orders shall be placed in written form. For ensuring the written form, orders can also be placed via fax or email.
- (3) Certificates of analyses from ORGANICA underlying the delivery represent the results of our quality control. They do not signify a guarantee of aptitude of the product for a precise purpose. The certificate does not excuse the customer from the customary checking of purchases. Usual deviations that constitute results or technical enhancements due to legal provisions are permissible as far as they do not impact the contractually intended purpose.
- (4) ORGANICA reserves the proprietary or copyright of all offers and quotations as well as of all documents provided to the customer. Without the express consent of ORGANICA, the customer is not allowed to make those documents or their content available to third parties, to publish them or to use or distribute them directly or through third parties.

§ 3 Price and Payment

- (1) Prices apply to the scope of services and delivery indicated in the order confirmations.
- (2) Invoice amounts shall be paid without deductions within 30 days, unless otherwise agreed in written form. Relevant for the date of payment is the receipt at ORGANICA. Cheques only count as payment after their encashment. If the customer does not pay upon due date, the due amounts shall bear an interest of 6% p.a. from the due date. The assertion of additional interests and other damages in case of a delay remains unaffected thereby.
- (3) The offset with counterclaims by the customer or the retention of payments because of such claims is only permissible if the counterclaims are undisputed and effectively ascertained.
- (4) ORGANICA is authorized to carry out or render after owing deliveries or services only upon advance payment or deposit, if, after conclusion of the contract, conditions should emerge, which are capable of considerably diminishing the customer's credit standing and as a result of which the payments of outstanding money of ORGANICA from the

respective contractual relation by the customer are at risk (including those from other single orders for which the same framework contract applies).

§ 4 Deliveries and delivery period

- (1) Terms and dates announced by ORGANICA for deliveries and services can only be considered approximately unless a fixed term or date has been promised or agreed. In case shipments have been agreed on, terms and dates apply to the date of handover to the forwarder, carrier or any other third party commissioned with shipment.
- (2) ORGANICA can – without limiting their rights from delay of the customer – ask the customer for an extension of the periods for delivery and services or an adjournment of the dates for deliveries and services by the period during which the customer does not fulfil his contractual obligations towards ORGANICA.
- (3) ORGANICA will not be liable for the impossibility of delivery or for a delay of delivery as far as this is caused by force majeure or other events not foreseeable at the time of conclusion of the contract that ORGANICA is not responsible for (e.g. any business disruptions, difficulties in the supply of materials or energy, transport delays, strikes, legitimate lockout, labour shortage, difficulties with energy or raw materials in the acquaintance of official authorizations, regulatory measures or the failed, faulty or delayed supply by contractors). In case such events make delivery considerably difficult or even impossible for ORGANICA and the obstruction is not only of temporary duration, the seller is authorized to withdraw from the contract. In case of temporary obstructions, the periods for delivery and services shall be extended or the dates for deliveries and services shall be adjourned by the period of the hindrance plus a reasonable start-up period. If the customer cannot be expected to accept a delivery or service because of the delay, he can withdraw from the contract by immediate written declaration towards ORGANICA.
- (4) If ORGANICA should fall behind with a delivery or service or if the delivery or service should for whatever reason become impossible to them, ORGANICA's liability shall be limited to damages pursuant to § 7 of the present terms and conditions.

§ 5 Place of fulfilment, shipment, packaging, passing of risk, acceptance

- (1) Place of fulfilment for all obligations from the contractual relation shall be the domicile of ORGANICA, unless otherwise stipulated.
- (2) The way of shipment and packaging are subject to the dutiful discretion of ORGANICA.
- (3) The passing of risk shall be based on the agreement according to INCOTERMS (International Commercial Terms 2000).

§ 6 Warranty

- (1) The warranty period is 1 year from the date of delivery if the set storage conditions are observed, unless otherwise agreed because of limited shelf life.
- (2) The delivered goods shall be checked thoroughly immediately after handover to the customer or to the third party designated by them. The goods are considered approved if ORGANICA does not receive a letter of complaint because of apparent defects and other defects that were noticeable at the immediate, thorough examination within 7 working days after the handover of the delivery item or else within 7 working days after detection of the defect or the time the defect was noticeable to the customer at normal use of the delivery item without closer examination in the way determined by § 2, section 2, sentence 6. Products with limited shelf life are excepted therefrom. These shall be examined without delay and, in case of the existence of any defects, shall immediately be presented to ORGANICA. Upon request by ORGANICA, the objectionable delivery item shall be returned to ORGANICA carriage paid. In case of a legitimate claim, ORGANICA will refund the cost of the cheapest way of shipment. This does not apply if the costs increase because the delivery item is located at another place than the one of its intended purpose.
- (3) In case of defects of quality of the delivered goods, ORGANICA is at first obligated and authorized to remedy or replacement according to their choice, which shall be made within a reasonable period. In case of failure, that means the impossibility, unacceptability, refusal or unreasonable delay of remedy or replacement, the customer can withdraw from the contract or decrease the purchase price to a reasonable amount.
- (4) In case a defect is due to ORGANICA's fault, the customer can claim specific damages pursuant to the conditions determined in § 7.
- (5) During the duration of the lawsuit, the limitation of the respective warranty claims of the customer towards ORGANICA is inhibited.

- (6) The warranty does not apply if the customer modifies the delivery item or has it modified by a third party without the consent of ORGANICA and remedial actions are rendered impossible or unacceptably difficult through this. In any case, the customer shall carry the additional costs for remedial actions resulting from such modification.

§ 7 Liability for damages because of fault

(1) ORGANICA's liability for damages for whatever legal reason, especially because of impossibility, delay, defective or faulty delivery, breach of contract, breach of obligations in contract negotiations and tortious acts, is limited according to this § 7 as far as fault is concerned.

(2) ORGANICA is not liable

a) in case of simple carelessness of their bodies, legal representatives, employees or other auxiliary persons

b) in case of gross carelessness of their non-executive staff or other auxiliary persons

unless a breach of substantial obligations from the contract is concerned.

Substantial for the contract are the obligations concerning a timely delivery free of defects that shall allow the customer the contractual use of the delivery item or suit the purpose of protecting life and limb of the customer's staff or third parties or the customer's property from considerable damages.

- (3) As far as ORGANICA is liable for damages on their merits pursuant to § 7 section 2, this liability is limited to damages that ORGANICA anticipated as a possible result of a breach of contract or should have foreseen in practice of the usual care under consideration of the conditions that were known to them or that they should have known. In addition, indirect or secondary damages that result from defects of the delivery item are only eligible for compensation if such damages can typically be expected at the use for the intended purpose of the delivery item.
- (4) In case of liability for simple carelessness, ORGANICA's liability to pay damages for material or personal damages is limited to an amount of € 5 mio. per claim, even in case of a breach of substantial obligations from the contract.
- (5) The liability exclusions and limitations above apply to the same extent in favour of the bodies, legal representatives, employees and other auxiliary persons of ORGANICA.
- (6) If ORGANICA engages in consulting activities and these advices or consultations are not part of their owed and contractually agreed scope of services, this is done free of charge and excluding any liabilities.
- (7) The limitations of § 7 do not apply to ORGANICA's liability for intentional behaviour, guaranteed characteristics of state, harm of life, body or health or pursuant to the product liability law.

§ 8 Retention of title

- (1) The retention of title agreed below provides for the assurance of all existing current and future claims of ORGANICA towards the customer/buyer from the supply relation between the contractual parties (including balance receivables from a current account relation limited to this supply relation).
- (2) The goods delivered to the customer/buyer by ORGANICA remain the property of ORGANICA until the complete payment of all secured claims. The goods, as well as the goods that take their place falling under the reservation of ownership according to this clause will subsequently be referred to as conditional goods.
- (3) The customer/buyer stores the conditional goods for ORGANICA free of charge.
- (4) The customer/buyer is authorized to process and sell the conditional goods until the occurrence of the case of utilization. It is not allowed to pledge or transfer the goods by way of security.
- (5) If the conditional goods are processed by the customer/buyer, it is agreed that the processing shall take place in the name and on account of ORGANICA and ORGANICA directly acquires the ownership or joint ownership – if the processing is carried out with materials from different owners or the value of the processed item is higher than the value of the conditional goods - of the newly created item in the proportion of the value of the conditional goods to the value of the newly created item. In case no such acquisition of ownership by ORGANICA should take place, the buyer already at this point shall transfer as a precaution his future ownership or joint ownership – in the proportion mentioned above – of the newly created item to ORGANICA. If the conditional goods are combined with other items to a joint item or intermixed inseparably and if one of the other items is to be considered as main item, ORGANICA shall proportionately transfer, as far as the main item belongs to them, joint ownership of the joint item to the buyer in the proportion indicated in sentence 1.

- (6) In case of a sale of conditional goods, the buyer already at this point as a precaution cedes the claim resulting from this towards the acquiring party to ORGANICA – in case of joint ownership of ORGANICA of the conditional goods proportionate according to the proportion of joint ownership. The same applies to other claims that take the place of the conditional goods or arise otherwise with regard to the conditional goods, as for example insurance claims or claims from tortious acts, in case of loss or destruction. ORGANICA authorizes the buyer revocably to collect receivables ceded to ORGANICA in their own name for invoices by ORGANICA. ORGANICA is only allowed to revoke this collection authorization in the case of utilization.
- (7) If third parties access the conditional goods, especially by means of execution, the buyer will advise them of the ownership of ORGANICA without delay and notify ORGANICA thereof to allow them the enforcement of their ownership rights. Unless the third party is able to refund to ORGANICA the legal and out-of-court expenses resulting in this regard, the buyer shall be liable for these.
- (8) If ORGANICA withdraws from the contract because of behaviour contrary to contract by the buyer – especially delay of payment – (utilization complaint), they are entitled to demand the return of the conditional goods.

§ 9 Final Provisions

- (1) Place of jurisdiction for all eventual disputes from the business relation between ORGANICA and the customer/buyer shall by our choice be Bitterfeld-Wolfen. Exclusive jurisdiction for lawsuits against ORGANICA shall be Bitterfeld-Wolfen. Binding legal provisions regarding exclusive jurisdictions remain unaffected by this regulation.
- (2) The relations between ORGANICA and the customer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on contracts with international sale of goods of 11/04/1980 (CISG) is not applicable.
- (3) If the contract or these general terms and conditions contain any provision gaps, to cover those gaps the legally applicable regulations apply as agreed, which the contractual partners would have agreed according to the economic targets of the contract and the purpose of these general terms and conditions if they had known the provision gaps.
- (4) The validity of contracts concluded under implication of these terms and conditions remains unaffected.

Release: 24 March 2010