

# Sales and Delivery Terms and Conditions

## I. General Scope

These Terms and Conditions shall govern all business relationships with our customers. They shall apply to all of our sales and delivery contracts for mobile goods (also referred to as "merchandise"), regardless of whether we manufacture such goods in-house or have third parties manufacture them on our behalf. These Terms and Conditions shall also apply to all future contracts concerning goods made with the same Customer.

Conflicting terms of the Customer shall become integral components of the Contract only if we have expressly consented to the applicability of the Customer's terms in writing.

## II. Execution of the Contract/Assignment of Customer's Rights and Obligations

1. The Customer shall be bound by the purchase order for a maximum of 4 weeks. The Contract shall be deemed to have been executed once the Supplier – hereinafter referred to as WG – acknowledges the acceptance of the order for the delivery object defined more specifically in the order in writing by the specified deadline or if the Supplier executes the delivery. However, WG shall undertake to notify the Customer immediately if the order will not be accepted.
2. Any assignment of rights and obligations of the Customer arising from the Contract shall be subject to WG's written consent.

## III. Prices/Payment Terms

1. The applicable prices are stipulated in the respective price lists in effect at the time and shall be deemed quoted ex works unless otherwise agreed upon. Shipping costs shall be charged separately and all shipments shall be carried out at Customer's risk.
2. Certification/notarization fees shall be charged separately as miscellaneous services.
3. The Customer shall have the option to offset any Customer claims against WG claims only if the counter claim of the Customer is undisputed or if a legally effective title is available; rights to withhold may be claimed by the Customer only if the claim is based on entitlements arising from the respective Contract.

## IV. Delivery and Delays in Delivery

1. Delivery deadlines and delivery times, which may be agreed upon as binding or non-binding, shall be specified in writing. Delivery times shall begin upon execution of the Contract.
2. The Customer shall have the option to prompt WG to deliver six weeks after a non-binding delivery deadline or delivery time has been exceeded. WG shall be in default of delivery as soon as the reminder notice has been received. In the event that the Customer should be entitled to reimbursement of the damages caused by this default, it shall be limited to a maximum of 5 % of the agreed upon price if the default was the result of minor negligence at WG's end. If the Customer intends to additionally rescind from the Contract and/or demand compensation for damages in lieu of performance, the Customer shall undertake to set a reasonable remedial period for delivery by WG upon expiration of the 6-week-period pursuant to Sentence 1. If the Customer should be entitled to compensation for damages in lieu of performance, the entitlement shall be limited to a maximum of 25 % of the agreed upon purchase price if the damages were caused by minor negligence at WG's end. If the Customer should be a legal entity under public law, a public law based special entity or an entrepreneur, who when entering into the Contract is acting in a commercial or independent professional capacity, any damage compensation shall be excluded in the event of minor negligence. If the delivery should become accidentally impossible for WG during the time of default, WG shall assume liability within the above agreed-upon liability limitations. WG shall not assume any liability if the damages would also have occurred had the delivery been made in a timely manner.
3. If a binding delivery deadline or a binding delivery time is exceeded, WG shall be in default as soon as the delivery deadline or delivery time is exceeded. Customer's rights shall be governed by Section IV 2 Sentences 3 through 8 of this Section.
4. Acts of force majeure at WG's or WG's suppliers' end resulting in operational interruptions that temporarily prevent WG or its suppliers from delivering the purchased goods by the agreed upon deadline or within the agreed upon delivery time for reasons they are not responsible for, shall result in the prolongation of the deadlines and times specified in Sections 1 through 3 of this Article by the duration of the operational interruptions caused by these circumstances. If such disturbances should lead to a delay of the services by more than four months, the Customer shall have the option to rescind from the Contract. This shall be without prejudice to any other rights to rescind.
5. WG reserves the right to implement manufacturer design or form changes, deviations in color as well as changes to the scope of delivery during the delivery time if these changes or deviation, taking into account WG's interests, are acceptable for the Customer. If WG or the manufacturer should use marks or numbers for the designation of the purchase order or the purchased goods, this alone shall not suffice to establish any rights.

## V. Title Retention

1. WG shall retain title to the subject matter of the Contract until the accounts receivable due for the delivery arising from the purchase order have been paid in full.
2. Prior to complete payment for the collateralized accounts receivable, the goods that are subject to title retention may neither be pledged nor assigned as collateral to any third parties. The Customer shall undertake to notify WG in writing if and to the extent third parties gain access to the title retention goods.
3. If the Customer should be a legal entity under public law, a public law based special entity or an entrepreneur, who when entering into the Contract is acting in a commercial or independent professional capacity, the title retention shall also remain in effect for all accounts receivable due to WG from the Customer from the current business relationship until all accounts receivable related to the purchase have been paid. Upon Customer's request, WG shall undertake to waive title retention once the Customer has met all payment obligations related to the purchase object in an uncontested manner and if reasonable collateral is available for the remaining accounts receivable from the current business relationship.
4. In the event that the Customer should be in default of payment, WG may rescind the purchase contract. If WG is also entitled to compensation for damages in lieu of performance and if WG seizes the purchase object, WG and the Customer agree that WG shall reimburse the sales value of the purchase object at the time of its return excluding any miscellaneous cost items, such as certification/notarization fees and shipping costs. At Customer's request, which may be made only promptly upon seizure of the purchase object, a publicly appointed and sworn expert assessor as designated by the Customer shall determine the common sales value. The Customer shall absorb all costs for the seizure and liquidation of the purchase object. In the absence of documentation, the liquidation costs shall total 5 %

of the common sales value. They shall be set higher or lower if WG can provide evidence of higher or the Customer can provide evidence of lower costs.

5. The Customer shall not be permitted to make any dispositions as to the purchase object nor shall Customer be allowed to grant third parties any contractual utilization rights as long as title retention is in effect.
6. However, the Customer shall have the right to sell and/or process the title retention goods as part of Customer's proper business operations. The following shall apply in this case:
  - a. The title retention provision shall also apply to the processing, blending or combination of the title retention goods at its full value, whereby WG shall be considered the manufacturer. If a title retention right is maintained along with third party goods, WG shall acquire a co-ownership title based on the value ratio of the invoiced values of the processed, blended or combined goods.
  - b. The Customer herewith assigns as collateral to WG any accounts receivable generated from the resale of the goods or the product in full or in the amount of the respective co-ownership share. WG herewith accepts this assignment.
  - c. In addition to WG, the Customer shall retain the right to collect the accounts receivable for such goods. As long as the Customer meets Customer's payment obligations, WG shall not collect the accounts receivable. However, if the Customer should be in default of payment, if bankruptcy proceedings should be initiated against the Customer or if any other deficiencies should arise as far as Customer's ability to perform is concerned, WG shall be authorized to collect these payments. The Customer shall undertake to provide WG with the required information. The Customer shall disclose to WG the accounts receivables as well as the debtors and shall provide all information required to execute the collection measures.
7. The Customer shall have the right to demand the release of collateral from WG as soon as the purpose for the collateral is partially or wholly null and void.

## VI. Material Deficiencies

1. Entitlements of the Customer arising from material and legal deficiencies (including erroneous or short deliveries as well as deficient installation instructions) shall be subject to the statute of limitations prescribed by law. In deviation from this provision, sales to a legal entity under public law, a public law based special entity or an entrepreneur, who when entering into the Contract is acting in a commercial or independent professional capacity, shall be subject to a statute of limitations of 6 months as of the delivery of the purchase object. This shall be without prejudice to any further entitlements in the event of malicious failure to reveal deficiencies or if a warranty for the condition of the goods has been assumed.
2. However, entitlements arising from deficiencies shall be contingent upon the Customer having met the statutory inspection and claim submission obligations (§ 377, 381 HGB = German Commercial Code).
3. No liability shall be assumed for damages that are the result of improper or unsuitable use, incompatible operating resources or inadequate treatment or insufficient maintenance, incompatible fuels or replacement materials, deficient installation work, chemical, electrical or electrical-mechanical impact. Improper modifications or repair work shall also result in the exclusion of liability for deficiencies.
4. The following shall apply to the handling of deficiency elimination claims:
  - a. The Customer shall contact WG exclusively to settle entitlements to deficiency elimination.
  - b. WG shall acquire title to any replaced components.
  - c. The Customer shall be able to file warranty claims for installed components only until the statute of limitations for the delivered object has expired.
5. Change of ownership of the purchased object shall be without prejudice to the entitlement to damage elimination claims.

## VII. Liability

1. Unless the following provisions indicate otherwise, WG shall assume liability in compliance with the statutory provisions in the event of breaches of duty.
2. In the event that based on these statutory provisions and the stipulations of these Terms and Conditions, WG should be required to compensate any damages caused by minor neglect, WG shall assume limited liability. Liability shall exist only in the event that cardinal contractual obligations have been breached and liability shall be limited to the typical damages that were foreseeable at the time the Contract was executed. This limitation shall not apply in the event of the cause of loss of life, personal injury or health damages. If damages are covered by an insurance policy obtained by the Customer for the related incident (exception: summary insurance), WG shall assume liability only for any related disadvantages incurred by the Customer, e.g. increased insurance premiums or interest disadvantages until the damages have been settled by the insurance company. No liability shall be assumed damages caused by a defect of the purchase object due to minor neglect.
3. The above shall not apply to WG's liability in the event of malicious failure to disclose the deficiency and in the event that a warranty was assumed. This shall be without prejudice to the statutory product liability vis-à-vis the end Customer.
4. Article IV shall govern all liability matters related to delivery default.
5. The personal liability of the statutory representatives, agents and workforce members of the supplier for damages caused by their minor negligence shall be excluded.

## VIII. Governing Law, Place of Jurisdiction, Severance Clause

1. The legal relationship between the Parties and any potentially involved third parties shall be governed by the laws of the Federal Republic of Germany.
2. The sole place of jurisdiction for any and all current and future entitlements arising from business relationships with professional commercial agents, including bank draft and check receivables shall be the domicile of WG.
3. The same place of jurisdiction shall be deemed agreed upon if the Customer does not have a general place of jurisdiction in Germany, relocates his/her place of residency or common domicile to a venue outside of Germany or if his/her place of residence or common domicile is not known at the time a lawsuit is filed. Incidentally, if the Supplier should have claims against the Customer, the latter's place of residence shall be the place of jurisdiction.
4. In the event that one or several provisions of these Sales and Delivery Terms and Conditions should be ineffective or unenforceable, the remaining provisions shall remain in effect. In lieu of the ineffective or unenforceable provision(s), the provision(s) shall apply that meets the business objective of the ineffective or unenforceable provision(s) as closely as possible. This shall also apply in the event that omissions should arise in the provisions.

Wasser-Geräte GmbH, Status: March 2016