

## General Terms and Conditions of Business of DOM Sicherheitstechnik GmbH & Co. KG

### **1. Scope of validity**

Sales and deliveries by DOM Sicherheitstechnik GmbH & Co. KG (hereinafter known as DOM) to the Customer (Business owner in accordance with Section 14 of the German Civil Code [BGB]) shall only be supplied in accordance with the following General Terms and Conditions of Supply and Payment (hereinafter known as T&Cs). Should the Customer have terms and conditions of business which differ or are more extensive than these T&Cs, they shall not apply, even if DOM does not explicitly raise an objection to them.

### **2. Conclusion of the contract**

- 2.1 Information provided by DOM in catalogues and leaflets shall be subject to change without notice and shall be regarded as an invitation to the Customer to accept an offer to enter into a contract. Subject to the provisions in Number 2.2 a contract shall only materialise with a written order confirmation by DOM and shall only be determined by the content of the order confirmation and these T&Cs. Verbal agreements or promises shall be subject to written confirmation by DOM to be valid. In so far as DOM does comply with the Customer's request to cancel a contract DOM shall charge the Customer a lump sum of 30% of the value of the goods as compensation for the lost profit as well as the expense of handling the sale, no less however than 60.00 € net. The Customer shall be allowed to furnish proof that DOM has not incurred any expense or lost profit or the expense or lost profit incurred is significantly less than 60.00 €.
- 2.2 Even if there is no written order confirmation a contract shall materialise no later than delivery, if the item supplied is individual keys (Spare keys) or the delivery is particularly urgent, and in the latter case the goods are received by the Customer within four – (Vmax) or nine (Eilprogramm) working days.
- 2.3 No returns shall be accepted as production is order-based. This shall not apply in so far as DOM is obliged by law to take back / convert goods.

### **3. Delivery periods and dates, Delay in taking delivery**

- 3.1 Delivery dates and delivery periods shall always be approximate and shall not result in transactions being fixed-date transactions. They shall only be binding if they have been confirmed in writing by DOM. In so far as the Customer fails to fulfil his duties or obligations to co-operate, in particular to provide information and documents necessary for the consignment to be delivered on time, or has not paid agreed downpayments as agreed, DOM shall be entitled to a right of retention regardless of an agreed delivery date. Agreed delivery periods shall begin on the date of the order confirmation. If additional orders and additions to orders are placed subsequently, the delivery periods shall be extended as appropriate.
- 3.2 Unforeseeable, unavoidable events and events beyond the control of DOM and events for which DOM is not responsible such as force majeure, war, natural catastrophes or labour disputes shall release DOM from its obligation to supply goods and services on time for the duration of the disruption. Agreed delivery periods shall be extended by the duration of the disruption. The Customer shall be notified of the beginning of the disruption in an appropriate manner. If the end of the disruption cannot be foreseen, or if it lasts for more than two months, both Parties shall be entitled to withdraw from the contract.
- 3.3 DOM cannot fall into default with the supply of items to be supplied not manufactured by DOM itself, if DOM's supplier fails to supply in spite of having entered into a congruent covering transaction beforehand and for reasons for which DOM is not responsible and DOM is therefore unable to provide the contractually agreed item to be supplied.
- 3.4 If DOM's consignments are delayed, the Customer shall only be entitled to withdraw from the contract if DOM is responsible for the delay and a reasonable additional period of time set by the Customer for delivery has elapsed unsuccessfully.
- 3.5 If the Customer is in default with taking delivery of a consignment, or if he breaches other obligations to co-operate, DOM shall, irrespective of its other rights, consequently be entitled to put the item to be supplied into reasonable storage at the Customer's risk and cost or to withdraw from the contract.
- 3.6 DOM may supply part deliveries if it has a substantiated reason for doing so.

### **4. Dispatch, Passing of risk, Insurance policies**

- 4.1 In so far that no provision has been stipulated by the Customer, the despatch shall be sent by a reasonable method of despatch in normal packing.

- 4.2 Risk shall pass over to the Customer when the item to be supplied is handed over to the haulier or to the Customer himself. If the hand-over or dispatch is delayed for reasons for which the Customer is responsible, risk shall pass over to the Customer on the day on which he is notified that the item to be supplied is ready for despatch.
- 4.3 Insurance policies shall only be taken out at the Customer's wish and expense.
- 4.4 The Customer shall bear the costs of proof – if wished by the Customer - that the items to be supplied have been delivered to a delivery address specified by the Customer.

## **5. Prices, Terms and Conditions of Payment**

- 5.1 If the Parties to the contract have not reached an agreement on a specific price, the Price shall consequently be determined by the DOM price list in force at the point in time at which the contract is signed.
- 5.2 All DOM prices are net prices ex works, that means that the rate of VAT in force at that time will have to be added, as well as the packing and despatch costs, which shall be charged separately. The Customer shall bear any public duties which may be incurred in connection with the import of the item to be supplied such as customs duty, for example.
- 5.3 DOM is entitled to raise invoices for part-deliveries within the meaning of Number 3.6.
- 5.4 Each DOM invoice shall be due for payment in full within 30 days from the date of invoice. If this period of time should expire and payment has not been made, the Customer shall be in default. The Customer's payments shall only be regarded as having been paid in those cases in which DOM can dispose of the sum.
- 5.5 If the Customer is in default with payment, DOM shall be entitled to demand default interest at the statutory amount. DOM shall in any case be entitled to a default lump sum amounting to the sum of 40 € (Section 288 Para. 5 of the German Civil Code [BGB]). The assertion of default damages over and above this amount shall not be affected.
- 5.6 Drafts and cheques shall only be accepted on account of performance by separate agreement and free of charges and costs for DOM.
- 5.7 The Customer shall only be entitled to offset if his counter claim is not contested or if it has been adjudicated.
- 5.8 The Customer shall only be entitled to assert a right of retention if his counter claim is based upon the same contract and is not contested or if it has been adjudicated.
- 5.9 If DOM perceives after the contract has been signed that there is a risk that the Customer will be unable to render his performance, DOM shall be entitled to only carry out outstanding deliveries against payment in advance or if he furnishes a security. If the advance payments or furnished securities have not been rendered even after a reasonable subsequent period of time has elapsed, DOM may consequently withdraw from part or all of individual contracts or from all the contracts concerned. DOM shall be at liberty to assert additional rights.

## **6. Reservation of title**

- 6.1 The supplied products shall remain the property of DOM until payment has been made in full for all DOM's accounts receivable under the business relationship with the Customer.
- 6.2 If there is a running account the reserved title shall also apply as a security for the outstanding balance claim to which DOM is entitled.
- 6.3 The Customer is only allowed to sell products subject to a reservation of title (reserved products) in a proper commercial transaction. The Customer is not entitled to pledge the reserved products, to assign them as a security or dispose otherwise so that DOM's title is jeopardised. The Customer shall assign here and now the account created by the resale to DOM. DOM accepts this assignment here and now. If the Customer sells the products subject to reservation of title after they have been combined with other goods or together with other goods, the assignment of title shall consequently only be agreed for the amount of that part which is the equivalent of price agreed between DOM and the Customer plus a safety margin of 10% of this price. The Customer shall be empowered on a revocable basis to collect the accounts assigned to DOM by acting in trust for DOM in his own name. DOM may revoke this authorisation as well as the entitlement to resell if the Customer is in default with important obligations such as, for example, payment to DOM. In the event of revocation DOM shall be entitled to collect the account itself.
- 6.4 If the reserved products are connected to other items, DOM shall consequently acquire co-ownership to the new thing in proportion to the value of the retained products to the other items at the point in time of attachment. If the attachment takes place in such a way so that the Customer's thing is to be regarded as the main thing, it shall consequently be regarded as agreed that the Customer transfers a proportion of the co-ownership to DOM. The co-ownership created in such a way shall be kept in safekeeping by the Customer for DOM.

- 6.5 The Customer shall pass over to DOM all information about the reserved products or claims which have been assigned hereafter to DOM as requested at any time. The Customer must inform DOM of third party seizures of or claims for the reserved products immediately by handing over the necessary documents. At the same time the Customer shall inform the third part of DOM' s reservation of title. The costs of mounting a defence against such seizures and claims shall be borne by the Customer.
- 6.6 The Customer shall be obliged to handle the reserved products with care for the duration of the reservation of title.
- 6.7 If the marketable value of the securities exceeds the total value of the DOM accounts to be secured by more than 10%, the Customer shall consequently be entitled to demand that such excess securities are released.
- 6.8 If the Customer falls into arrears with important obligations such as, for example, making payments to DOM and if DOM withdraws from the contract, DOM may, irrespective of its other rights, demand the return of the reserved goods and sell accounts payable against the Customer elsewhere for the purpose of satisfying its claims. In this case the Customer shall grant DOM or the party authorised by DOM immediate access to the reserved products and hand them over.
- 6.9 For consignments delivered in other jurisdictions in which the above reservation of title ruling does not have the same effect as a security as in Germany, the Customer shall do everything he can to furnish DOM with corresponding security rights straight away. The Customer shall participate in all measures such as, for example, registration, publication etc. which are necessary for and conducive to the validity and enforceability of such security rights.
- 6.10 At the request of DOM, the Customer shall be obliged to insure the reserved products with an appropriate level of cover, to furnish DOM with the corresponding proof of insurance cover and assign the claims under the insurance policy to DOM.

## **7. Condition, the Customer's rights in the event of defects, Duty to inspect**

- 7.1 Information in catalogues, price lists and other information handed over the Customer by DOM as well as information describing the product are not, in any circumstances, to be understood as guarantees of a specific quality of the supplied item. It is absolutely essential that such guarantees of quality must be agreed in writing.
- 7.2 DOM shall only guarantee that the product has a specific quality in those cases in which a specific agreement has been made between the Parties in writing on the quality, features and performance characteristics of the supplied item (Quality agreement).
- 7.3 Every delivery is to be checked straight away by the Customer for defects. Warranty claims made on account of manifest defects shall not be recognised if such a defect has not been notified in writing by the Customer within two weeks of hand-over. DOM must be notified of concealed defects in writing straight away after discovery. If this is not done, claims also in respect of this defect shall not be recognised (Section 377 German Commercial Code [HGB]).
- 7.4 Following each notification of a defect DOM shall be entitled to inspect and check the supplied item about which a complaint has been made. The Customer shall grant DOM to time and opportunity required for this. DOM may also demand that the Customer sends back the supplied item about which a complaint has been made to DOM at the expense of DOM. The cheapest option of doing so is to be selected. If a defect notified by the Customer turns out to be unjustified, and if the Customer was able to see this prior to making a complaint, he shall be obliged to pay DOM compensation for all the expenses DOM incur as a result, e.g. travelling expenses or despatch costs.
- 7.5 DOM shall rectify defects free of charge for the Customer or supply a fault-free replacement (collectively known as a cure) as it chooses.
- 7.6 The Customer shall allow DOM a reasonable period of time and opportunity as necessary to render a cure. Only in urgent cases in which operational safety is jeopardised or to avert disproportionately large damage or if DOM is in default with rectifying the defect shall the Customer be entitled, after notifying DOM straight away, to rectify the defect himself or to allow it to be rectified by a third party and to demand that the costs necessary for this be reimbursed by DOM.
- 7.7 Parts replaced by DOM are to be returned to DOM upon request.
- 7.8 The Customer shall not have any rights if defects result for reasons for which the Customer is to blame, e.g. as a result of improper or unsuitable use, in particular also in the event of non-compliance with operating instructions, incorrect start-up, an incorrect combination of parts not intended for start-up, incorrect operation (E.g. excessive loads) or incorrect installation by the Customer, unsuitable accessories, unsuitable replacement parts, if keys manufactured illegally are used, unsuitable repair work or as a result of wear and tear, provided that DOM is not responsible for the defect. Batteries are parts liable to wear and tear. DOM guarantees operational capability when risk is passed over and freedom from defects, but not however, a specific durability or service life.

- 7.9 The costs incurred for the purposes of rendering a cure, that is transport costs, travelling expenses, labour, and materials shall be borne by DOM.
- 7.10 If the cure is unsuccessful, if it is unreasonable to expect the Customer to accept it, or if DOM has refused to carry out a cure in accordance with Section 439 Para 3 of the German Civil Code [BGB], the Customer may consequently as he chooses withdraw from the contract in accordance with the statutory regulations or reduce the purchase price and / or demand compensation for damages in accordance with Number 8 or the reimbursement of his expenses.
- 7.11 The period of limitation for the Customer's rights on account of defects shall be twelve months from the delivery of the supplied item to the Customer. The statutory periods of limitation shall apply for compensation claims for damages for other reasons than defects in the supplied item as well as with regard to the Buyer's rights for defects maliciously concealed or intentionally caused. The period of limitation provisions in Section 479 of the German Civil Code [BGB] shall not be affected by the foregoing.

## **8. Liability and Compensation for damages**

- 8.1 Subject to the arrangement in Number 8.2, the statutory liability of DOM to pay compensation for damages shall be limited as follows:
- (i) The liability of DOM shall be limited in terms of amount to the typically foreseeable damages when the contract is signed for breaches attributable to ordinary negligence of cardinal duties under this contract;
  - (ii) DOM shall not be liable for breaches of minor duties under this contract attributable to ordinary negligence.
- 8.2 The above-named limitation of liability shall not apply in cases in which statutory liability is compulsory (in particular under the German Product Liability Act) as well as when a manufacturer's guarantee is furnished or physical injury is caused through the culpability of DOM.
- 8.3 The Customer is obliged to take suitable measures to prevent and reduce damage.
- 8.4 DOM cannot be held liable for damages only arising as a result of use not in compliance with instructions or as a result of incorrect assembly.

## **9. Product liability**

If the Customer sells the item supplied without modifying it after combining it with other goods, he shall consequently exempt DOM from third party product liability claims in an internal arrangement with DOM in so far as he is responsible for the liability giving rise to the defect.

## **10. Industrial Property Rights**

- 10.1 DOM shall be entitled to the sole copyright to the sale documents (in particular diagrams, drawings, statements of weights and measures) software documentation and specimens as well as copies made thereof (known collectively as documents). The documents must not be made accessible for third parties and are to be returned to DOM straight away upon request. DOM shall be the owner of the intellectual property for all products sold by DOM. Models, copies, etc. are, without exception forbidden and action will be taken both under civil law and criminal law against breaches.
- 10.2 If the Customer specifies in specific instructions, information, documents, drafts or drawings how DOM is to manufacture the products are to be supplied, the Customer shall consequently furnish a warranty that third party rights such as patents, utility patents and other property rights and copyrights shall not be breached by DOM. The Customer shall exempt DOM from all third party claims which the third party may assert against DOM on account of such a breach.

## **11. Lump sum compensation for damages**

If the contract is not fulfilled by the Customer, DOM shall be entitled to demand a lump sum amounting to 10% of the price to be paid by the Customer in a given instance without having to submit proof. The Customer shall however be allowed to prove that DOM has not suffered any loss or a substantially lower loss. DOM shall reserve the right to assert a claim for a higher loss in a given instance by submitting proof to that effect or in compliance with statutory regulations governing damages.

## **12. General Provisions**

- 12.1 The Customer may only assign the rights and demands created by this contract to third parties after DOM has granted its written consent.
- 12.2 If a provision of the contract and / or these terms and conditions of supply are partially or completely invalid, the validity of the remaining provisions shall not be affected by this as a result.
- 12.3 The exclusive place of jurisdiction for all disputes arising from the contract with registered businesses is Brühl near Cologne. DOM is however entitled to take legal action against the Customer at any other statutory place of jurisdiction.

12.4 The law of the Federal Republic of Germany shall apply subject to the exclusion of the United Nations Convention on Contracts for the Sale of Goods (CISG).

Status as at 03/2016

## Supplementary General Terms of Business for Production to order and Customer Services rendered by DOM Sicherheitstechnik GmbH & Co. KG

### **1. Scope of validity**

Work performance (E.g. galvanising the Customer's products or the production of individual locks) for the Customer (businessman within the meaning of Section 14 of the German Civil Code [BGB]) shall be carried out solely in accordance with the following additional T&Cs for Production to order (Supplementary T&Cs), which the Customer recognises by placing the contract or by taking delivery of the work. They shall apply in addition to the General Terms and Conditions of Delivery and Payment named above (Delivery T&Cs). Provided that these supplementary T&Cs do not have specific provisions, the regulations of the delivery T&Cs shall apply accordingly.

### **2. Bearing of risk, Acceptance of work**

- 2.1 The Customer shall bear the risk of accidental loss from acceptance onwards.
- 2.2 The Customer shall be obliged to accept work manufactured in accordance with the contract as soon as DOM has informed him that the work has been manufactured.
- 2.3 The Customer cannot refuse acceptance on account of minor defects.
- 2.4 If the Customer does not accept the work within a reasonable period of time he has been set to do so by DOM, although he is obliged to do so, this shall be regarded as the equivalent of acceptance.

### **3. Prices, Terms and Conditions of Payment**

- 3.1 If the Parties have not reached agreement on a specific price, and if at the point in time at which the contract is concluded the valid price list does not have any price for the work to be carried out, the normal remuneration is to be regarded as having been agreed.
- 3.2 Moreover, Numbers 5.2 to 5.9 of the delivery T&Cs are to be applied accordingly.

### **4. The Customer's rights in the event of defects**

- 4.1 DOM shall manufacture the work properly in accordance with state-of-the-art technology.
- 4.2 Acceptance without reservation of work precludes all the Customer's rights and claims for defects identified at acceptance. Rights cannot be asserted for defects which could not be identified at acceptance if DOM is not notified in writing by the Customer of the defect straight away after the defect is identified.
- 4.3 DOM shall rectify defects free of charge for the Customer as it chooses either by rectifying the defect or rendering the work performance owed again (known collectively as cure).
- 4.4 If the cure is unsuccessful, if it is unreasonable to expect the Customer to tolerate it or if DOM has refused to carry it out in accordance with Section 635 Para 3 of the German Civil Code [BGB], the Customer shall consequently have the choice of withdrawing from the contract, reduce the purchase price or demand compensation for damages (in accordance with Number 8 of the terms and conditions of supply), or demand compensation for his expenses.
- 4.5 The Customer shall not be entitled to any rights on account of the work having defects if these defects are caused by the Customer or third parties and DOM is not responsible for the defect. This shall in particular be the case for defects arising as a result of a defect in the material supplied by the Customer or as a result of an instruction passed out by the Customer.
- 4.6 The period of limitation for the Customer's rights if the work has defects shall be one year from the point in time from acceptance.

### **5. Lien**

DOM shall be entitled to a contractual lien for the work performance on account of the account created by the contract to the items in its possession as a result of the contract. The lien shall also exist on account of accounts created by earlier work, deliveries and other services provided that they are connected with the thing to which the work performance is rendered.

### **6. Customer services**

Provided that DOM also takes on assembly work for a business (Section 14 German Civil Code [BGB]) in addition to selling it goods, the following provisions shall also apply:

- 6.1 If the assembly work is agreed at a point in time at which the inspection and notification period in Number 7 of the T&Cs, the Buyer shall have to check beforehand whether manifest defects in the assembly could arise or if incorrect parts have been supplied. DOM is to be notified of such contrary reasons by the end of the day prior to the commencement of the agreed assembly work at the latest, so

that a remedy can be found prior to the arrival of the fitters. If the Buyer fails to notify DOM on time, he shall have to bear the travelling costs of the fitters spent in vain including lost profit.

- 6.2 The Buyer shall have to keep the purchased things available at the erection site for the fitters.
- 6.3 The Buyer shall have to ensure that the fitters can start work on the agreed date, and in particular that all the preliminary work necessary has been completed.
- 6.4 Deadlines shall only be binding by express prior agreement. The Buyer shall have to confirm to DOM in writing by no later than 5 working days prior to the agreed date that the assembly work can be carried out on the agreed date. In the event that no confirmation is forthcoming, DOM shall be entitled to reschedule the fitters to work elsewhere.
- 6.5 The Buyer shall have to inform the fitters of any special safety regulations there may be in force on site, such as, for example, with regard to welding, prohibition of smoking, safety clothing etc. If the Buyer fails to fulfil this obligation, and if damages are incurred as a result, he shall have to exempt DOM from any obligation to pay compensation.
- 6.6 A power supply must be provided on site for tools etc. and possibly lighting. The costs of this shall be borne by the Buyer.
- 6.7 The Buyer shall have to accept the work after completion. If the Buyer does not accept the assembly work within a reasonable period of time specified by DOM, although he is obliged to do so, this shall be the equivalent of acceptance.
- 6.8 The Buyer's warranty claims from the assembly work shall become time-barred one year after acceptance. The period of limitation in Section 634 a Para 1 No 2 of the German Civil Code [BGB] shall not be affected by this.

Status as at 03/2016