

Standard Business Conditions

§ 1 General, Coverage

- (1) The present standard business conditions apply for all business relations with customers of Ceramic Polymer GmbH.
- (2) A consumer in terms of these business conditions is every natural person, who concludes a legal business for a purpose that can neither be assigned to his/her commercial nor his/her independent professional activity.
- (3) Entrepreneur in terms of these business conditions is a natural or legal person, or a non-incorporated firm that has legal capacity, who/which acts in the exercise of his/its commercial or independent professional activity upon conclusion of a legal transaction.
- (4) Customers in terms of these business conditions are the consumer as well as the entrepreneur.
- (5) Our business conditions do apply exclusively. Differing, opposing or supplemental business conditions on the customer's side become an integral part of the contract only then and in so far as we have expressly approved of their application. This approval has to be required in any case, e.g. also then, when we carry out delivery to the customer without reservation being fully aware of the customer's business conditions.
- (6) In particular cases individually made arrangements with the customer (incl. side agreements, supplements and amendments) have in any case preference before these business conditions. For the contents of such an agreement a written contract resp. our written confirmation is decisive.
- (7) Explanations and announcements relevant in law, which have to be given to us after conclusion of the contract (e.g. deadlines, notices of defect, withdrawals or diminutions etc.) need to be in writing to be effective.

§ 2 Conclusion of the contract

- (1) Our offers are subject to change. Technical revisions as well as modifications of the chemical composition of the goods remain reserved, if the nature of the contractual agreement is not affected by them.
- (2) When merchandise is ordered the customer obligingly declares to purchase the ordered merchandise.
- (3) We are entitled to accept the contractual offer enclosed in the order form within two weeks after its receipt. The acceptance can be declared either in writing or by delivering the merchandise to the customer.
- (4) The contract is concluded with reservations to correct delivery in due time by our suppliers. This is only the case, if non-delivery is not our fault, especially upon conclusion of a congruent hedging transaction with a supplier – i.e. if the products which have to be purchased by ourselves are subject to unaltered resale.
- (5) The customer will be immediately informed about the unavailability. The equivalent will be reimbursed.
- (6) Information about provisional delivery times is without obligation, unless a certain delivery time was exceptionally promised. In case of work and service performances we can vary in detail from agreed performances in so far, as the nature of the contractual agreement is not affected hereby, and the variation corresponds to the generally accepted rules of technology. Otherwise it can vary from the performance, if the performance is suited for the usual utilization which can be required in conformity with the contract, and shows a condition which is accepted at works of the same kind and which the customer can expect from that kind of the works.

§ 3 Disposal

The disposal of objects and goods delivered to us has to be compensated and will be charged to the customer.

§ 4 Reservation of proprietary rights

- (1) In case of contracts with consumers we reserve our right to the property of the goods until the purchase price is paid in full.
- (2) In case of contracts with entrepreneurs we reserve our right to the property of the goods until full payment of the entire claims from the concerned contractual relationship is made.
- (3) The customer is obliged to treat the goods carefully, if storage or inspection operations are necessary, the customer has to carry out these regularly and at his own expense.
- (4) The customer is obliged to inform us instantly about access to the goods of a third party, e.g. in case of distraint as well as the potential damage or loss of the goods. The customer also has to inform us instantly about a change of ownership of the goods as well as the transfer of the own location.
- (5) We are entitled to withdraw from the contract and to require the return of the goods, if the customer's behavior violates the contract, especially if he is in arrears with payment, or in case of a violation of an obligation after the preceding items (3) and (4) of this regulations. Accomplishments of the customer are reimbursed after deduction of any necessities. We are assured the unrestricted right of access to our property.
- (6) If the customer is an entrepreneur, he is entitled to resell the goods in a proper transaction. He assigns to us the invoice amounts of all accounts receivable already now, which he acquires by reselling to a third party. We accept the assignment. After the assignment the entrepreneur is entitled to withdraw the amount receivable. We reserve the right to withdraw the amount receivable ourselves, as soon as the entrepreneur does not meet his payment liability properly and gets into arrears with payment. The entrepreneur is allowed the right to demand release of the securities, if their feasible value exceeds the amount receivable - which has to be secured - by 20 %.
- (7) If objects which do not belong to us are processed, we acquire a co-ownership at the new object at a ratio to the value of the merchandise delivered to us to the other processed objects. The same does apply, if the merchandise is mixed with other objects and goods which do not belong to us.

§ 5 Price, payment and delay, set-off and retention

- (1) If not otherwise agreed in individual cases, our current prices at the time of the conclusion of the contract do apply, ex works/warehouse, plus legitimate VAT.
- (2) If service and work contracts are concluded, payment is due at acceptance by the customer, if no time schedule exists. We are also allowed to demand acceptance of subservices if these are concluded.
- (3) The customer is obliged to pay the purchase price within 30 days after receipt of the invoice, except of explicitly otherwise agreed terms of payment. After the expiration of this term the customer gets into arrears. Throughout the period he is in arrears the consumer has to add interests on the money debt in the amount of 5 % over the base rate. The entrepreneur has to add interests on the debt in the amount of 8 % over the base rate throughout the period he is in arrears. We reserve the right against the entrepreneur to prove a higher damage caused by delay and claim it.
- (4) The customer has a right of offsetting only then, if his counter claims are legally recognized or undisputed by us. The customer can practice a right to retention only, if his counter claim is based on the same contractual relationship.

**§ 6
 Transfer of risk**

- (1) If the customer is an entrepreneur the risk of a coincidental loss and the coincidental failure of the sold merchandise is transferred to the customer at the time of delivery, if the purchased merchandise has to be dispatched at the time of delivery of the goods to the supplier, the carrier or any other person or institution determined to carry out the delivery.
- (2) If the customer is a consumer, the risk of a coincidental loss and the coincidental failure of the merchandise is transferred to the customer until the merchandise is handed over, also if the purchased merchandise was dispatched.
- (3) If the customer is in delay with his receipt, it has to be regarded as such.

**§ 7
 Warranty**

- (1) If the customer is an entrepreneur, we guarantee amendment or replacement for deficiencies of the goods firstly after their choice.
- (2) If the customer is a consumer, he firstly can choose, if further performance shall be made by amendment or replacement. However, we are entitled to deny the modality of further performance, if this is only possible on unreasonable expense and the other modality of further performance remains without substantial disadvantages for the consumer.
- (3) In case of work and service performances we can correct any deficiencies after our choice or manufacture a new work. We can deny further performance if it is only possible on unreasonable expense.
- (4) If further performance fails, the customer can basically demand reduction of costs or cancel the contract (withdrawal). If there is only an insignificant violation of the contract, especially only minor deficiencies, the customer has no right to withdraw.
- (5) Entrepreneurs must indicate obvious deficiencies within 5 working days from receipt of the goods in writing according to commercial custom. Otherwise the claim of this warranty is excluded. To meet the deadline, mailing in due time shall suffice. The entrepreneur carries full burden of proof for the entire eligibility requirements. Especially for the deficiency itself, for the point of time when the deficiency is ascertained and for the notice of defect given on time.
- (6) If the customer chooses withdrawal from the contract because of a deficiency in law or material defect after a failed further performance, he is not entitled to any claim for damages because of this deficiency. If the customer chooses compensation after a failed further performance, the goods remain at the customer's, if this is reasonable for him. The compensation is restricted to the difference between purchase price and value of the damaged merchandise. This does not apply, if we caused the violation of the contract fraudulently.
- (7) For entrepreneurs the limitation period for warranty claims represents one year from delivery of the goods or receipt of the performance. For consumers the limitation period for warranty claims represents one year from delivery of the goods or receipt of the performance. This does not apply, if it is a matter of § 438 par. 1 No 2 BGB (German Civil Code) or § 634a par. 1 No 2 BGB. Insofar the legal limitation period applies in each such a case. With used objects the limitation period represents one year from delivery of the goods.
- (8) If the customer is an entrepreneur, only the product description of the manufacturer as agreed is regarded as the composition of the merchandise. Public statements, promotions or advertising of the manufacturer do not present a contractual indication of the composition.
- (9) The customer does not obtain warranties on legal terms from Ceramic Polymer GmbH, which exceed the contractual agreed warranty. Producer warranties remain untouched hereby.

**§ 8
 Limitation of liability**

- (1) In case of negligent violation of our contractual due diligence our liability is restricted to the foreseeable, for this kind of contract typical, direct average damage depending on the kind of performance. This does also apply in case of negligent violation of our contractual due diligence of our legal representatives or vicarious agents. If we are accused of gross negligence, the limitation of liability does not apply. Furthermore the limitation of liability does not apply, if claims are asserted because of the lack of warranted features.
- (2) Towards entrepreneurs we are not to be held liable in case of a negligent violation of insignificant contractual obligations. This does not apply, if we are accused of intention or gross negligence. We regard obligations as insignificant, if they are not necessary for the supply of contractual performances in due time and free of defects.
- (3) The preceding limitations of liability do not affect customer's claims from the product liability. Furthermore the limitation of liabilities do not apply in case of bodily harm and damage caused to the health of the customer or the loss of his life, which are based on a negligent or intentional violation of obligations on our side, or on the side of our legal representatives or vicarious agents.
- (4) Claims for damages on the side of the customer because of a defect become time-barred after a year from delivery of the goods or receipt of the performance. This does not apply, if we are accused of gross negligence as well as of bodily harm, damage caused to the health of the customer or loss of his life.

**§ 9
 Final clause
 Applicable law, jurisdiction, data entry**

- (1) The legislation of the Federal Republic of Germany is imperative. The regulations of the UN Convention on Contracts for the International Sale of Goods are not to be administered.
- (2) If the customer is an entrepreneur, for all conflicts from a contractual relationship with the customer the domicile of Ceramic Polymer GmbH shall be the exclusive jurisdiction. The same applies, if the customer does not have a general jurisdiction in Germany or if his residence or habitual sojourn is not known at the time when legal action is taken.
- (3) If single regulations of the mutual contract with the customer including these Standard Business Conditions should be or become ineffective on the whole or in parts, the effectiveness of the other regulations remains untouched. The regulation which is ineffective on its whole or in parts shall be replaced by a regulation, the economical success of which comes as close as possible to the ineffective one.