

## **General Terms of Sale of German companies in the TWE Group**

### **§ 1 General points, scope of application**

(1) The following General Terms of Sale ("GToS") apply to all business relationships with the following German companies in the TWE Group:

**1) TWE GmbH & Co. KG, Hollefeldstraße 46, 48282 Emsdetten, AG Steinfurt HRA 7200**

**2) TWE Vliesstoffwerke GmbH & Co. KG, Hollefeldstraße 46, 48282 Emsdetten, AG Steinfurt HRA 2902**

**3) TWE Dierdorf GmbH & Co. KG, Poststraße 29, 56269 Dierdorf, AG Montabaur HRA 12027**

**4) TWE Bocholt GmbH & Co. KG, Händelstraße 2, 46395 Bocholt, AG Coesfeld HRA 8459**

**5) TWE Creuzburg GmbH, Bahnhofstr. 78, 99831 Creuzburg/Werra, AG Jena HRB 406227**

**6) Isowood GmbH, Breitscheidstr. 156, D-07407 Rudolstadt, AG Jena HRB 206692**

**7) J. Dittrich & Söhne Vliesstoffwerk GmbH, Carl-Zeiss-Straße 9, D-66877 Ramstein-Miesenbach, AG Zweibrücken HRB 11220**

(referred to singly as a "group company" and together as the "TWE Group")

(2) For the purpose of clarity, it is remarked that the GToS always apply in the relationship solely to the group company as contractual party which concluded a contract in accordance with the regulations contained in § 2. None of the aforesaid group companies is authorised to represent or oblige another group company or the TWE Group as a whole, unless this is explicitly agreed in writing in an individual contract. If several of the TWE Group companies are party to a contract, each company is liable as a partial debtor and not as joint and several debtors. § 427 BGB is expressly excluded.

(3) These GToS apply to all business relationships with our customers (referred to below as "buyers"). The GToS apply only if the buyer is a merchant (§ 14 BGB), a legal entity under public law or a public law special trust.

(4) The GToS particularly apply to contracts concerning the sale and/or delivery of movable items (also referred to below as "goods"), regardless of whether we produce the goods ourselves or buy these in from suppliers (§§ 433, 651 BGB). The current version of our GToS also applies as a framework agreement to future contracts concerning the sale and/or delivery of movable items with the same buyer, without the need for us to refer to them again in each single case. Changes to our GToS will be notified to the buyer without undue delay.

(5) Our GToS apply exclusively. The buyer's business conditions which deviate, contract or supplement our GToS do not become a component of contract unless we have expressly agreed to their validity in written form. This requirement of approval applies in all cases, for example, even if we deliver to the buyer without reservation in the knowledge of its business conditions.

(6) Individual agreements made with the buyer in a stand-alone case (including auxiliary accords, supplements and changes) always have priority over these GToS. A writ-

ten contract or our confirmation in writing is decisive for the content of such agreements.

(7) Declarations and notices of legal significance that the buyer must submit to us after conclusion of contract (including but not limited to setting of deadlines, notification of defects, declaration of withdrawal or diminution) require the written form to be effective. Written form shall have the meaning of declaration in writing or in text form (e.g. by mail, e-mail, facsimile etc.). Any statutory form requirement or further proof in case of doubts about the identity of the other party shall remain unaffected.

(8) References to the applicability of statutory provisions are made for clarification purposes only. Statutory provisions therefore apply even without such clarification, insofar as these are not directly modified or expressly excluded in these GToS.

### **§ 2 Conclusion of contract**

(1) Our quotation submitted to the buyer is marked either as a "non-binding quotation" or as a "quotation". A quotation marked as a "non-binding quotation" is free of obligation. The same applies if we present catalogues, technical documentation (e.g. drawings, plans, calculations, reference to DIN standards), other product descriptions or documents – including in electronic form – to the buyer, to which we reserve the copyright and rights of ownership. If a quotation is not marked or is designated in some other way, it is regarded as a "quotation" in case of doubt.

(2) If a quotation is marked as a "quotation", it is regarded as a binding quotation in the sense of § 145 Sub-clause 1 BGB. Unless stated otherwise in the quotation, we remain bound by this quotation for 5 work days. The contract enters into force immediately upon receipt of an order or some other confirmation of the "quotation", or after an offer of contract is made by the buyer regarded as a "quotation" in accordance with § 2 (1) Clause 4 of the GToS, in any way at the latest upon the delivery of the goods.

(3) If the buyer places an order on the basis of a "non-binding quotation", the buyer's order for the goods is regarded as a binding offer of contract. Unless stated otherwise in the order, the TWE group company is entitled to accept this offer of contract within 7 working days from its receipt. Acceptance can be declared either in writing (e.g. by a confirmation of order) or by delivering the goods to the buyer.

### **§ 3 Delivery dates and default of delivery**

(1) Delivery dates are agreed individually or are stated by us upon acceptance of the order.

(2) If we are unable to keep to binding delivery dates for reasons beyond our control (non-availability of the service), we shall inform the buyer of this without delay and, at the same time, notify the prospective, new delivery date. If the service is still unavailable by the new delivery date, we are entitled to withdraw from the contract in full or in part. We shall refund any payment made by the buyer without undue delay. Non-availability of the service in this sense is particularly regarded as being the failure of our suppliers to deliver to us on time (providing we have concluded a congruent coverage transaction), if neither us nor our suppliers are culpable or if we are not obliged to procure in an individual case and in case of force majeure. Force majeure shall include but not be

limited to acts of war, risk of war, riots, political instability, terrorist attacks of greater extent, plague, epidemic, pandemic disease or natural disasters as well as governmental prohibitions (e.g. non-issuance of a required permit).

(3) Legal regulations determine whether we are in default of delivery. However, the buyer must issue a reminder to us in all cases. If we are in default of delivery, the buyer can demand flat rate recompense as default damages. This flat rate amounts to 0.5% of the net price (delivery value) for each complete calendar week of default, although to a maximum 5% of the delivery value of the goods supplied too late. We are entitled to demonstrate that the buyer incurred no losses at all or much lower losses than the foregoing flat rate recompense.

(4) The buyer's rights pursuant to § 8 of these GToS and our legal rights, particularly in case of an exclusion of the obligation of performance (e.g. due to impossibility or unreasonableness of the service and/or subsequent fulfilment), remain unaffected.

#### **§ 4 Delivery, transfer of risk, acceptance, default of acceptance**

(1) Unless a different regulation has been made in a specific contract in accordance with § 2, the goods are delivered EXW from the aforesaid address of the group company concerned (INCOTERMS 2010), which is also the place of fulfilment. At the request and expense of the buyer, we will ship the goods to another destination (sale by dispatch). Unless something different has been agreed, we are entitled to determine the mode of shipment (in particular the carrier, shipment route and packaging).

(2) The risk of the accidental deterioration or the accidental destruction of the goods is transferred to the buyer at the latest upon their handover. In case of sale by dispatch, however, the risk of the accidental deterioration or the accidental destruction of the goods and the risk of delay is transferred when the goods are delivered to the carrier, the freight forwarder or to the person or establishment otherwise chosen to execute the shipment. If acceptance has been agreed, this is decisive for the transfer of risk. For the rest, German legislation on labour and transportation contracts applies to any acceptance that has been agreed. Default of acceptance by the buyer is regarded as equivalent to delivery or acceptance.

(3) If the buyer is in default of acceptance, if they fail to cooperate or if our delivery is delayed for other reasons for which the buyer is responsible, we are entitled to demand recompense for the losses we incur as a result, including additional expenses (e.g. storage costs). We will charge flat rate recompense of 1 % of the delivery value per week, although to a maximum 5% of the delivery value. The flat rate recompense starts on the delivery date, or if the goods have not yet been delivered, upon notification of readiness to ship the goods.

We are entitled to demonstrate higher losses and our legal claims (in particular recompense for additional expenses, reasonable compensation and termination) remain unaffected. However, any flat rate recompense shall be offset against further-going monetary claims. The buyer is entitled to demonstrate that we incurred no losses at all or much lower losses than the foregoing flat rate recompense.

#### **§ 5 Prices and terms of payment**

(1) Unless something different has been agreed in a stand-alone case, our current prices prevailing at the date that the contract is concluded apply EXW (INCOTERMS 2010). They do not include value-added tax, which will be added at the prevailing rate.

(2) In case of sale by dispatch (§ 4 Para. 1), the buyer bears the costs of transport ex stores and the costs of any transport insurance requested by the buyer. Any customs duties, fees, taxes or other public charges are borne by the buyer. We do not take back transport packaging or any other kind of packaging in accordance with the German Packaging Ordinance, it becomes the property of the buyer; exceptions are pallets.

(3) Unless a different target date for payment has been agreed, the purchase price is due and payable within 14 days from presentation of invoice and delivery or acceptance of the goods. We are entitled at any stage of the business relationship to make outstanding deliveries or provide outstanding services only in return for payment in advance. We will declare this change of payment conditions with the order confirmation at the latest. Discounts, rebates or other reductions may not be deducted unless a separate agreement has been made in writing.

(4) The buyer is in default once the aforesaid payment deadline expires. Interest is due on the purchase price during default at the rate of interest defined by law. We reserve the right to pursue further-going default damages. Our claim against merchants to regular interest payable on due date remains unaffected (§ 353 HGB).

(5) The buyer does not accrue rights of offsetting or retention unless its claim is undisputed or has been established by a court of law. If the delivery is defective, the buyer's counter rights remain unaffected, especially those under § 7 Para. 6 Clause 2 of these GToS.

(6) We are entitled to make outstanding deliveries or provide outstanding services only in return for payment in advance or furnishment of security, if we become aware of circumstances after the conclusion of contract which could significantly reduce the buyer's creditworthiness and which could jeopardise payment of our outstanding claims by the buyer from the respective contractual relationship (including from other single orders under the same framework contract). Furthermore, we are entitled to withdraw from contract in such cases. We can declare withdrawal immediately from contracts concerning the production of specific items (custom-made manufactures); legal regulations on the dispensability of setting a deadline remain unaffected.

#### **§ 6 Reservation of title**

(1) The sold goods remain our sole property until all our present and future claims from the purchase contract and from an on-going business relationship (secured claims) have been paid in full.

(2) The reserved goods may not be pledged to third parties or assigned as security until the secured claims have been paid in full. The buyer must notify us without delay in writing if third parties take action against the goods belonging to us.

(3) If the buyer acts in violation of contract, in particular if they fail to pay the due purchase price, we are entitled to withdraw from the contract in accordance with legal regulations and demand the return of the goods on the basis of the reservation of title and our withdrawal from

contract. If the buyer fails to pay the due purchase price, we can first pursue these rights after we have set a reasonable period of grace for the buyer to make the payment and this expires fruitlessly, or if setting such a period of grace can be dispensed with under statutory regulations.

(4) The buyer is authorised, until revocation as set forth under (c) below, to resell and/ or to remanufacture the reserved goods in its ordinary course of business. In the latter case, the following provisions apply in addition.

(a) The reservation of title extends to the full value of the manufactures created by remanufacturing, processing, mixing or combining our goods, whereby we are regarded as the manufacturer. If the rights of ownership remain with a third party after our goods have been processed, mixed or combined with third party goods, we acquire co-ownership in the ratio of the invoice value of the processed, mixed or combined goods. For the rest, the same applies to the manufactures created as to the goods delivered under reservation of title.

(b) The buyer even now assigns the claims it accrues against third parties from reselling the goods or the derived manufactures to us as security, either to their full value or to the ratio of our co-ownership as described in the preceding paragraph. We accept the assignment. The buyer's obligations stated in Para. 2 also apply with respect to the assigned claims.

(c) Apart from ourselves, the buyer is also authorised to collect the claims. We will not collect the claims as long as the buyer fulfils its obligations of payment towards us, is not in default of payment, an application to open insolvency proceedings has not been made and the buyer is not suffering from some other inability to pay. If this is not the case, however, we can demand that the buyer announces the assigned claims and their debtors to us, provides us with all the information required to collect the claims, hands over the associated documents and notifies the debtors (third parties) of the assignment. In addition to this we are entitled to revoke buyer's authorisation to resell and/ or to remanufacture the reserved goods in its ordinary course of business.

(d) If the obtainable value of the securities assigned to us exceeds our claims by more than 10%, then at the buyer's request, we shall release the securities of our sole choice.

## **§ 7 The buyer's claims in case of defects**

(1) Unless something to the contrary is regulated below, statutory regulations apply to the buyer's rights in case of material defects and legal deficits (including false delivery, under-deliveries, improper assembly or erroneous assembly instructions). The separate statutory regulations concerning end deliveries of goods to consumers (supplier's redress pursuant to §§ 478, 445a, 445b BGB) remain unaffected in all cases. Claims arising out of supplier's redress shall be explicitly excluded in case the defected goods were remanufactured, processed, mixed or combined with other goods by buyer or any other enterprise.

(2) Our liability for defects is basically regulated by the agreement made concerning the quality of the goods. An agreement concerning the quality of the goods is particularly regarded as being product descriptions designated as such (including those of manufacturers) presented to the buyer before it placed the order or which have been included in the contract in the same way as these GToS.

Statements of a group company with regard to the goods (including but not limited to weight, size, measures, user value, resilience, tolerance, and technical data) as well as our presentation of goods (including but not limited to drawings and images) are only to be regarded as rough estimations, insofar as it is not mandatory that an exact match is required for the use of the goods for the purpose intended by the relevant contract. In no case they shall be regarded as a guaranty or a representation towards buyer but only as a mere description or labelling of the goods. Deviations in the ordinary course of business which are customary, required by law or technical standards as well as replacement of parts by equivalent parts shall be regarded as permitted insofar as they do not influence the possibility of the contractually agreed use of the goods for the Buyer.

(3) If a certain quality has not been agreed, statutory regulations shall be called on to judge whether or not a defect is present (§ 434 Para. 1 Clauses 2 and 3 BGB). However, we do not accept any liability for public statements made by the manufacturer or other third parties (e.g. advertising messages).

(4) Buyers shall examine the goods without undue delay after their delivery by the delivering group company, as far as this is practicable in the ordinary course of business, and upon the discovery of any defect shall without undue delay give notice thereof to the delivering group company. Buyers failing to give such notice shall be deemed to have accepted the goods, unless the defect in question is one not discernible by such examination. Upon the subsequent appearance of a defect not discoverable by such examination, notice thereof must be given immediately upon its being discovered, otherwise the goods will be held to have been accepted notwithstanding such defect. Buyers' rights are sufficiently protected by the sending off of the notice at the proper time. If a group company intentionally conceals any defect he cannot rely upon the rules of this section.

(5) If the delivered item is defective, the buyer can demand subsequent fulfilment either as rectification of the defect (rework) or delivery of a faultless item (replacement delivery) at its discretion. If the buyer does not declare which of the two options it wishes to take, we can set it a period of grace for it to do so. If the buyer still fails to make a choice by the end of the deadline, this right of choice then passes to us.

(6) We are entitled to make any subsequent fulfilment owed conditional on the buyer paying the due purchase price. However, the buyer is entitled to retain a reasonable part of the purchase price in relationship to the defect.

(7) The buyer must allow us the time and opportunity required to perform any subsequent fulfilment owed and, in particular, hand over the goods under complaint for the purpose of inspection. In case of a replacement delivery, the buyer must return the defective item to us in accordance with legal regulations. If we were not originally obliged to assemble the goods, subsequent fulfilment does not include either the disassembly of the defective item nor its later reassembly.

(8) If the delivery item is defective, we bear the expenses required for the purpose of inspection and subsequent fulfilment, in particular, costs of transport, travel, work and materials and when appropriate costs of disassembly and reassembly which we bear or reimburse according to the relevant statutory regulations. However, if it tran-

spires that the buyer's request to rectify the defect is unjustified, we can demand that the buyer reimburses us for the resulting costs, unless the defect was indistinguishable for buyer.

(9) If subsequent fulfilment fails or if we let a reasonable period of grace set by the buyer for subsequent fulfilment expire fruitlessly or if such can be dispensed with under statutory regulations, the buyer can withdraw from the purchase contract or reduce the purchase price. However, the buyer does not accrue a right of withdrawal if the defect is only minor.

(10) The buyer's claims to damages or reimbursement of expenditure made in vain exist also in case of defects only in accordance with § 8 and are otherwise excluded.

### **§ 8 Other liability**

(1) Unless regulated otherwise in these GToS, including the following provisions, we are liable for a violation of contractual and extra-contractual obligations in accordance with the pertinent statutory regulations.

(2) We are liable for damages – regardless of whatever the legal reason – in case of malice aforethought and gross negligence. In case of simple negligence, we are, subject to an applicable lower statutory standard of liability (e.g. Standard of care in ones own affairs), only liable for the following:

- a) Fatalities, physical injuries and harm to health;
- b) Damages arising from not insignificant violation of a cardinal contractual duty (an obligation, the fulfilment of which enables the contract to be executed in a proper manner in the first place and on whose fulfilment the opposite party could usually depend and expect); in this case, however, our liability is limited to recompensing the losses typically foreseeable under such contracts.

(3) The limitations on liability described in Para. 2 do not apply if we have maliciously concealed a defect or have extended a guarantee for the quality of the goods. The same applies to the buyer's claims under the German Product Liability Act (*Produkthaftungsgesetz*).

(4) The buyer cannot withdraw from or terminate the contract due to an infringement of duty, which does not involve a defect, unless we are culpable of an infringement of duty. A free right of termination on the part of the buyer (in particular under §§ 651, 649 BGB) is excluded. For the rest, the statutory prerequisites and legal consequences apply.

### **§ 9 Expiry by limitation of time**

(1) In deviation to § 438 Para. 1 No 3 BGB, claims arising from material defects and legal deficits expire by limitation of time one year after delivery. If acceptance has been agreed, the limitation period starts to run upon issue of acceptance. This shall not apply in case of damage claims arising out of fatalities, physical injuries and harm to health or from Seller's intentional or gross negligent behavior or damage claims under German Product Liability Act (*Produkthaftungsgesetz*). In such cases limitation of time shall be governed by the applicable statutory provisions.

(2) If, however, the goods are structural elements or are commonly used in construction works and they have caused the defectiveness (construction material), the limitation period is 5 years from the date of delivery in

accordance with legal regulations (§ 438 Para. 1 No. 2 BGB). The following also remain unaffected: the separate statutory regulations concerning third party claims in rem (§ 438 Para. 1 No. 1 BGB), malice aforethought on the part of the seller (§ 438 Para. 3 BGB) and claims to supplier's redress (§§ 444, 445b BGB).

(3) The foregoing limitations of time under the German Commercial Code also apply to the buyer's contractual and extra-contractual claims to damages based on a defect in the goods, unless application of the regular period of limitation under law (§§ 195, 199 BGB) would lead to a shorter limitation period in a stand-alone case. The limitation periods set by legislation apply to the buyer's claims for damages as per German Product Liability Act (*Produkthaftungsgesetz*) and per § 8 Para 2 Sentence 1 and Sentence 2 a).

### **§ 10 Secrecy**

(1) The buyer is obliged to keep secret the conditions of the order and all information and documents provided for this purpose and in the course of the business relationship (with the exception of information accessible to the general public) for a period of 3 years after conclusion of contract and to use such solely for the purpose of executing the contract.

(2) Our prior approval in writing is required before the buyer may make reference to or advertise the business relationship with us in its promotional material, brochures, websites etc.

### **§ 11 Choice of law and place of jurisdiction**

(1) These GToS and all the legal relationships between us and the buyer shall be governed by German Law excluding provisions on private international law and the United Nations Convention on Contracts for the International Sale of Goods (CISG). The prerequisites for and the consequences of the reservation of title as per § 6 are subject to the law prevailing at the place where the item is kept, insofar as the choice of German law is inadmissible or unworkable at this place.

(2) If the buyer is or is regarded as a merchant (*Kaufmann*) under the German Commercial Code, a legal entity under public law or a public law special trust, the sole place of jurisdiction for any disputes arising directly or indirectly from the contractual relationship (including international disputes) is the headquarters of the group company with which the contract was concluded, unless a different place of jurisdiction is mandatory under applicable law. We are nevertheless entitled to seek legal recourse at the buyer's general place of jurisdiction.

### **§ 11a Information regarding online dispute resolution / German *Verbraucherstreitbeilegungsgesetz* (VSBG)**

(1) The EU Commission has established an internet platform for the online resolution of disputes (ODR Platform). The ODR Platform is the contact point for the out-of-court resolution of disputes relating to contractual obligations which arise from online purchasing agreements. The ODR platform can be accessed via the following link: <http://ec.europa.eu/consumers/odr>

(2) The Group Companies will not participate in a dispute resolution procedure before a consumer arbitration board as defined by the German *Verbraucherstreitbeilegungsgesetz* (VSBG) and they are under no obligation to do so.