

Standard Terms of Business of Glashütte Lamberts Waldsassen GmbH

1. Range of Application

The basis of all offers and contracts are exclusively these standard terms of business. Any diverging terms set forth by the customers are invalid unless they are expressly approved by us in writing. Our terms are valid even if we execute the delivery unreservedly with knowledge of the customer's conflicting or diverging conditions. Our standard terms of business are also valid for all future business with our customers.

2. Offers, Consultations, Public Announcements, Suitability of the Products

Our offers are subject to change without notice in accordance with our availability. Responsibility for consultations, e.g. for the processing, in accordance with these terms will only be assumed if such was given in writing. Samples and specimens are always without obligation. The details regarding characteristics described in our public announcements, e.g. advertisements, price lists, are pertinent to the nature only if they have become an element of the contract. It is the sole and only duty of the customer to find out and ascertain whether the respective product is suited and licensed for the intended purpose.

3. Delivery and Transfer of Risks

The delivery is always effected at the customer's own risk and expenses. Packaging costs and delivery charges as well as markups for small-volume purchases, if any, conform with the price lists valid at the time of conclusion of the contract. Respectively with the updated version thereof. All the performances are ex our Waldsassen stock. We determine the route and means of transport as well as the carrier or messenger service. The risk lies with the customer after the goods have been transferred to a carrier, at the latest when leaving our warehouse. Unless otherwise agreed, we procure insurance coverage for the goods against transport damage at the expense of the customer and assume the adjustment of damages with the carrier.

4. Deliveries

- a) Unless otherwise agreed in writing dates of delivery are of non-binding character. Partial deliveries are allowed and are invoiceable separately.
- b) Should we have failed to deliver, the customer can withdraw from the contract or claim damages instead of the performance after having granted us an extension of at least two weeks and the said extension has passed without results.
- c) Unexpected circumstances, such as strike, suspension of operations, stoppage, transport difficulties, blocking of the railway lines and roads and all events beyond our sphere of control, discharge us from the obligation to deliver the goods for the duration of the hindrance. If our firm itself should be supplied with goods the two parties are entitled to withdraw from the contract. The customer is to be notified by our firm forthwith of the unavailability and will be reimbursed for any such performances already effected.
- d) If the customer should default in acceptance we are entitled to claim for damages inflicted on us, inclusive of additional expenditure. In this case, the danger of an accidental loss or an accidental deterioration of the good will also pass to the customer at that point of time when the customer defaults in acceptance.

5. Prices and Terms of Payment

- a) Our prices valid on the day of delivery plus the statutory VAT at the respective rate are always the basis of the calculation unless otherwise agreed and noted.
- b) Payment of our invoices falls due within 30 days of the billing date at the latest with no discount. If payment is effected within 14 days from the date of invoice the customer is entitled to deduct 3% discount from the net amount invoiced. This applies only to customers having settled each and every previous invoice. The periods allowed for payment are considered agreed upon by contract. Cheques and bills are accepted only as an undertaking to pay.
- c) The customer falls into arrears if he fails to observe the period allowed for payment with no reminder required. In this case we are entitled to claim default interest from users to the amount of 5% above the base lending rate under § 247 Civil Code and, respectively, from entrepreneurs, default interest to the amount of 8% above the base lending rate as well as € 5,00 for each and every dunning letter.

d) We reserve the right to delivery against cash in advance, in particular, in the case of new customers.

e) If it should turn out upon signing the contract that the financial situation of the customer is not creditworthy or that he has become involved in pecuniary difficulties such as default in payment, protest of a cheque or a bill of exchange, we are entitled to fix a due date forthwith for each and every outstanding, also deferred claims, and insist on payment in cash or the furnishing of security. In such cases we return the bills of exchange discounted on account of payment. If advance payments or the furnishing of security should not be effected within the time limit we can withdraw from the contract upon notice in writing or refuse performance and bring forward claims due to non-fulfilment of contractual obligations.

f) The customer is entitled to counterclaim only after his rights have been established in court and considered uncontested or have been approved by us. He can exercise a right of retention only inasmuch as his counterclaim has proved to be uncontested. Any such right of retention can only be inferred from the same contractual relationship in which the assertion of our claim is rooted.

6. Changes of Order, Revocations

- a) If we consent to a customer's change of order or a cancellation prior to delivery, he is bound to pay us 10% of the net price out of the amount invoiced for the products in question, however, to a minimum amount of € 25,00 in settlement of the costs incurred. This is not applicable when the customer produces evidence that the loss we suffered was of a smaller extent or that no damage whatsoever was caused. We reserve the right to claim compensation for any such damage exceeding the said smaller extent of the loss.
- b) The acceptance of return deliveries requires a written agreement previously reached, the presentation of the delivery order and the original packing. In the case of returns we reimburse 90% of the amount invoiced. The costs of the return transport and the risk have to be borne respectively assumed by the customer.
- c) Products customized, used or damaged by customers are barred on principle from being returned.
- d) In case of warranty claims the customer's rights remain unaffected by these provisions.

7. Reservation of Ownership

- a) Towards users we reserve title to the goods delivered pending payment of the pertinent invoice in full. Towards entrepreneurs we reserve title to the goods delivered pending payment in full (purchase price, interest etc.), resulting from the business relationship with the purchaser; in case of a running account the retained ownership is deemed as security of our balance claim.
- b) If the purchaser should not act in accordance with the contract, in particular, when defaulting in payment, we are entitled to repossess the object of sale and bring it into our possession. To achieve that purpose we are authorized to enter the purchaser's plant facilities. This does not constitute a withdrawal from the contract. Upon return of the object of sale we have the right to the utilization thereof. The proceeds have to be balanced against the customer's liabilities minus reasonable realization costs.
- c) The customer is bound to take requisite care of the object of sale, store it properly and – at his own expense – effect insurance with adequate coverage against damage caused by fire, water and theft at replacement value. If executions should be levied or other activities of a third party take place the customer shall inform us forthwith in writing so that we can bring legal action under § 771 Code of Civil Procedure. Insofar as the said third party is not in a position to refund the expenses of the legal action incurred in and out of court, the customer is held liable for the loss sustained.
- d) The customer is entitled to reuse the goods in the ordinary course of business. At this early stage he cedes all those claims (inclusive of VAT) arising from the resale respectively further processing against his buyers or third parties and, to be more precise, irrespective of the fact whether the object of sale has been reused without processing or after processing. Even after cessation the customer is still authorized to collect the said claim. The entitlement of our firm to collect the claim remains unaffected by the said settlement. However, we undertake not to collect the claim as long as the customer meets his financial obligations, no

cheque or bill protest has been submitted and no petition filed for the commencement of insolvency proceedings or the implementation of a conciliation procedure out of court with the creditors regarding the clearing of the debt. However, if that is the case we can demand that our firm should be notified by the customer of the ceded claim, the full particulars required for the collection, the surrendered pertinent documents and the cessation having been made known to the creditors (third parties). The authorization to collect refers to the entire balance claim.

e) The processing or reshaping of the object of sale through the customer is always carried out for us. If the object of sale is processed together with other items not belonging to us or is combined in some way inseparably with them we become co-owner in the new item whose value is determined in proportion to that of the other items at the time of processing or combining. In addition, the same applies to the item coming into existence by means of processing as to the object of sale delivered with reservations. If the said combination is implemented in such a way that the customer's object is deemed to be the substance of the case it is considered as agreed upon that the customer transfers the proportionate co-ownership share to our firm. The customer is bound to hold the respective property in safe custody for us without remuneration.

f) The customer also cedes to our firm any such claims against the third party accruing from the combination of the object of sale with property against a third party. This includes the right to grant a mortgage with priority above others. If the buyer should build into his own landed property any such reserved good as an essential component thereof he is bound to cede, already at this early stage, any claims resulting from the sale of the said landed property or real property rights to the value of the reserved good together with all subsidiary rights and the priority of ranking. These cessions are accepted by us.

g) We undertake to release the securities our firm is entitled to at the customer's request insofar as the marketable value of our securities exceeds the claims to be secured by more than 10%. We are bound to choose the securities to be released.

8. Warranty

a) We have to be notified forthwith in writing of apparent defects. The customer is bound to have packaging damages confirmed in writing by the freight carrier when accepting the goods. Other defects must be made known to us forthwith in writing after they have been identified. In case of a commercial transaction under § 377 German Commercial Code, defects occurring at a later date shall be claimed six working days at the latest after discovery. This is always applicable also when subsequent and compensation deliveries have been effected.

b) If the customer identifies a defect he is authorized to process, fit in, sell etc. the object only after we have carried out a conservation of evidence or reached a settlement by mutual agreement.

c) It was agreed upon that the fair average quality of our production at the time of delivery is considered as the nature of the sold goods. The fair average quality depends on our product specifications which have been made available for most of our standard products on the Internet under www.lamberts.de of which, by the way, the customer will be informed on enquiry. Our products specifications as well as a reference to the DIN standards do not constitute guarantees in the sense of § 443 Civil Code unless such have expressly been agreed upon in writing. The same applies to further characteristic features or purposes of contract. Deviations from the size of the glasses are always left to our reservation due to their manual production and do not constitute a deviation from our contractual obligation.

d) Any such claims arising from a defect against entrepreneurs become stale in twelve months; the same applies for claims against users in 24 months unless it concerns claims referring to a building or it is a matter of claims under a right of recourse within a chain of suppliers for the purpose of § 479 Civil Code.

e) It is left to the customer's discretion – provided he is a user – to choose between the remedy of defects or the delivery of an object of sale free from defects. In case he is an entrepreneur we are entitled to exercise the right of option. If the subsequent performance should fail the customer is authorized to reduce the purchase price or to withdraw from the contract at his choice unless a construction output is the subject matter of the liability for defects. The customer's right to compensation for damage remains unaffected.

9. Joint Liability

a) We undertake liability for ordinary negligence – irrespective of whatever legal reasons there may be – only in case of a breach of essential contractual obligations.

b) The liability for compensation in damages is always limited to foreseeable typical damage.

c) Any such limitation of liability contained in this standard terms of business shall not apply to damage resulting from injuries to human life and the body or health. In addition, it shall not apply to acts of wilfulness or gross negligence, the assumption of a guarantee, fraudulent concealment and unless a firm bargain has been agreed upon.

d) The exclusion and limitation of our said liability shall also apply to our employees, agents and vicarious agents etc.

e) Compensation claims for the liability under the imperative provisions of the Product Liability Act remain unaffected.

f) Any further claims asserted by the customer – irrespective of whatever legal reasons there may be – shall be excluded unless otherwise specified in our standard terms of business.

10. Federal Data Protection Act

We store and process customer data in accordance with the provisions of the Federal Data Protection Act. It can be assumed that our customers are desirous of being informed of our offers at regular intervals. Failing that a pertinent notification in writing would be appreciated.

11. Supplementary Stipulations, Place of Performance, Venue, Safeguarding Clause

a) Only German Law shall be applicable to our contract. The Agreement of the United Nations on Contracts concerning the International Purchase of Goods, which as such may from time to time be amended, is excluded.

b) The place of performance for delivery and payment is Waldsassen.

c) Tirschenreuth shall be the venue for all parties involved, also if actions on a bill of exchange and summary actions based on a cheque are concerned, provided it is the competent place of jurisdiction for such litigation.

d) If any such provisions of our standard terms of business should be ineffective or become ineffective the validity of the remaining provisions shall not be affected. An ineffective provision will be replaced by another which comes nearest to the economic meaning of the ineffective provision and is effective for its part.