

**GENERAL TERMS AND CONDITIONS OF SALE OF  
COOLIKE Regnery GmbH, Lilienthalstraße 2-4, 64625 Bensheim**

**§ 1**

**General - Scope of Application**

- (1) The present Terms and Conditions of COOLIKE will apply exclusively; any conflicting or differing terms and conditions of business of the Purchaser will not be acknowledged by COOLIKE unless COOLIKE has explicitly assented to the application thereof. The present Terms and Conditions of Sale of COOLIKE will also apply if COOLIKE unconditionally carries out delivery to the Purchaser in full awareness of the said conflicting or differing terms or conditions of business of the Purchaser.
- (2) All arrangements contracted between COOLIKE and the Purchaser for performance under the present Contract have been set down in written form in said Contract.
- (3) The Terms and Conditions of Sale of COOLIKE will only apply in respect to entrepreneurs as defined in Section 14 BGB [German Civil Code].

**§ 2**

**Offers – Incorporated Documents**

- (1) A Purchase Contract will only materialize if COOLIKE has received the offer and accepted it within 14 days of its receipt.
- (2) Particulars of dimensions and weight, volumes, prices, descriptions and other data such as that featured in catalogues, circular letters, advertisements or price lists are only approximate values and will not be binding for COOLIKE unless they have been explicitly incorporated in the Contract.
- (3) COOLIKE will retain the title and copyright to all illustrations, drawings, calculations and other documents as well as to all types of samples and to the tools, moulds or production items provided for the contracted performance; these will not be rendered accessible to third parties without the explicit written consent of COOLIKE and will be surrendered at the request of COOLIKE.

**§ 3**

**Prices – Conditions of Payment**

- (1) The prices featured in the Purchase Contract are fixed prices and in euros and will be subject to the amount of VAT required by law. VAT will be posted separately in the invoice.
- (2) Unless otherwise derived from the Purchase Contract, the price including the VAT required by law will be paid without deduction as follows: 1/3 upon order confirmation, 1/3 upon completion of the order after the Purchaser has been duly notified of completion and 1/3 within 14 days after receipt of the invoice.

- (3) Should the Purchaser come into default of payment, COOLIKE will be entitled to call for penalty interest as laid down by the law.

#### **§ 4**

##### **Delivery, Transfer of Risk, Handling**

- (1) Deliveries will be effected "EXW – Germany, Lager COOLIKE, Bensheim, Lilienthalstrasse 55-57" (INCOTERMS 2000).
- (2) If the Purchaser requests COOLIKE to despatch the goods to a location other than that specified in No. (1), despatch will be at the risk and expense of the Purchaser. The risk will pass to the Purchaser when the consignment is handed over to the transport person, even if transport is carried out by employees of COOLIKE.
- (3) If COOLIKE defaults for reasons for which it is responsible, the Purchaser will be entitled to the rights specified by law.
- (4) If the Purchaser defaults in acceptance or breaches other duties to active involvement, COOLIKE will be entitled to call for compensation of the damages it has incurred, including any extra disbursements. In this case, the risk of accidental loss or accidental deterioration of the goods will pass to the Purchaser at the point in time when the Purchaser defaults in acceptance.

#### **§ 5**

##### **Warranty for Defects**

- (1) The Purchaser's rights of warranty will require that the Purchaser has properly complied with its owed responsibility for inspecting consignments and filing objection thereto as defined in Section 377 HGB [German Commercial Code].
- (2) In the event of a defect for which COOLIKE is responsible, COOLIKE will be entitled to choose whether to provide subsequent performance in the form of eliminating the defect or to substitute delivery. When the defect is eliminated, COOLIKE undertakes to bear all costs necessary to do so, in particular the costs of transport, travel, labour and materials.
- (3) Should subsequent performance prove unsuccessful, the Purchaser will be entitled to choose to cancel the Contract or to call for payment to be accordingly reduced.

The Purchaser will not be entitled to cancel the Contract on the grounds of only an insignificant defect.

- (4) Unless otherwise agreed in the following (Nos. 5 to 8), any farther-reaching claims on the part of the Purchaser – irrespective of their legal grounds – will be ruled out. COOLIKE will hence not be liable for damages which are not incurred to the goods themselves; in particular COOLIKE will not be liable for loss of profits or other financial losses of the Purchaser.

- (5) COOLIKE will be liable as agreed for the lack of a guaranteed property of the item. Unless legal consequences are defined in the guarantee agreement, these will be derived from the law.
- (6) Where COOLIKE is to blame for the breach of a major contracted duty, liability will be restricted to damages that are typical for the contract; in other respects it will be ruled out subject to No. (4). As defined in the present Terms and Conditions, a "major" breach of contract will prevail if COOLIKE is to blame for breaching such duties, in which the Purchaser trusts and is entitled to trust for proper performance because only thus is the proper implementation of the Contract rendered possible. If the major breach of contract lies in the delivery of a defect-free item, compensation for damages in place of performance may only be demanded for defects, which are not insignificant.
- (7) The period of warranty will be for 15 (fifteen) months as from the transfer of risk.
- (8) COOLIKE will be unrestrictedly liable for damages incurred to life and limb. This will also apply for injury to other legally protected interests if the cause of damages is attributable to wilful intent or gross negligence.

## **§ 6 Liability**

- (1) Any farther-reaching liability for compensation to damages other than that defined in Section 5 Nos. (4) to (8) will be ruled out, irrespective of the legal nature of the claim asserted.
- (2) The ruling of No. (1) will not apply to claims filed under the Product Liability Act.
- (3) The ruling in (1) will also not apply to initial inability or justifiable impossibility.
- (4) Where the liability of COOLIKE is ruled out or restricted, the same will also apply for the personal liability of the employees, workers, representatives and vicarious agents of COOLIKE.

## **§ 7 Retention of Title**

- (1) COOLIKE will retain title to the goods until all claims to which it is entitled from the Purchaser have been satisfied. In the event that the Purchaser breaches the Contract, particularly in the case of default in payment, COOLIKE will be entitled to cancel the Contract and to take back the goods. After taking back the goods, COOLIKE will be entitled to use them and the proceeds from said use - minus the costs of use - will be offset against the liabilities of the Purchaser.
- (2) The Purchaser undertakes to treat the goods with care, particularly to provide adequate insurance cover at reinstatement value against fire, water and theft. Where maintenance and inspection work is required, the Purchaser will have this carried out in good time and at its own expense.

- (3) In cases of attachments or other third-party intervention, the Purchaser will inform COOLIKE immediately thereof in writing, so that COOLIKE may file for third-party action (in opposition to execution of a judgment).
- (4) The Purchaser is entitled to sell the goods in the course of normal business proceedings; however the Purchaser herewith now assigns to COOLIKE all claims to payment of the agreed price (including VAT) that accrue to the Purchaser from its customer or third parties on the grounds of the resale, irrespective of whether the goods were sold without or after processing. The Purchaser will remain empowered to collect these claims to payment, even after the assignment thereof. The authority of COOLIKE to collect payment itself will not be affected hereby. However, COOLIKE undertakes not to collect payment for as long as the Purchaser meets its duties to render payment from the collected proceeds, does not default in payment and in particular for as long as insolvency proceedings have not been opened on the assets of the Purchaser, or payments have ceased. Should this be the case, however, COOLIKE will be able to require the Purchaser to provide details of the assigned claims and their debtors, to supply all information necessary to collect payment and to hand over the relevant documents and inform the debtor (third party) of the assignment.
- (5) Processing or the recasting of the goods by the Purchaser will always be carried out for COOLIKE. If the goods are processed with other items that do not belong to COOLIKE, COOLIKE will acquire co-ownership of the new item in the proportion of the objective value of the goods of COOLIKE to the other processed items at the time of processing. In other respects the same will apply for the item generated through processing as for conditionally delivered goods.
- (6) If the goods are inseparably compounded with items, which do not belong to COOLIKE, COOLIKE will acquire co-ownership of the new item in the proportion of the objective value of the goods of COOLIKE to the other compounded items at the time of compounding. If the compounding is such that the item of the Purchaser is to be considered the principle item, it is deemed agreed that the Purchaser will transfer proportionate co-ownership to COOLIKE. The Purchaser will keep the exclusive property or co-owned property thus generated on behalf of COOLIKE safely.
- (7) At the request of the Purchaser, COOLIKE undertakes to release the securities to which it is entitled, providing the realisable value of said securities exceeds the claims to payment to be secured by more than 10% or the nominal amount by more than 50%. COOLIKE will be responsible for selecting the securities to be released.

## **§ 8**

### **Offset - Retention**

- (1) The Purchaser will only be entitled to offset if its counterclaims have been determined by declaratory judgment, are undisputed or have been acknowledged by COOLIKE.
- (2) The Purchaser will also only be entitled to exercise a right of retention if its counterclaim is attributable to the same contractual relations.

**§ 9**  
**Other**

- (1) Place of performance and jurisdiction will be Bensheim. COOLIKE will also be entitled, however, to file action at the general venue of jurisdiction of the Purchaser.
- (2) Exclusively the law of the Federal Republic of Germany will apply to contractual relations, yet to the exclusion of the legal norms of incorporation under private international law. The UN Sales Convention (CISG) will likewise not apply.
- (3) Every amendment and addition to an order once placed and to the present Terms and Conditions will require the written form. Any waiver of the present requirement will be subject to the written form.