



**General Terms and Conditions of Sale and Deliveries of
Cornelius Deutschland GmbH
Applicable to Merchants and Companies**

§ 1 General area of applicability

1. All deliveries, services and offers of Cornelius Deutschland GmbH (hereinafter referred to as: Cornelius) shall take place exclusively on the basis of these general terms and conditions of payment and delivery. These shall form a part of all contracts which Cornelius concludes with its contracting partners (hereinafter: Customer) in respect of the services and/or deliveries offered by Cornelius. These terms and conditions shall also apply in respect of all future deliveries, services or offers to the Customer, even if not separately agreed once again. At the latest on acceptance of the goods which form the subject matter of the contract, the terms and conditions here listed shall be deemed to have been accepted. However, these general terms and conditions of payment and delivery shall only apply if the customer is an entrepreneur in accordance with § 14 of the German Civil Code (BGB), is a legal person under public law or is a special fund under public law.

2. Any terms and conditions of purchase provided by the Customer shall not apply if and to the extent that they conflict with the provisions of the present terms and conditions or stipulate provisions whose scope of application exceeds the terms and conditions stipulated herein. Even if Cornelius refers to correspondence which contains terms and conditions of the Customer or of third parties or makes mention of such, this does not suggest any agreement in respect of the validity of such terms and conditions.

§ 2 Offer and conclusion of the contract

1. All offers of Cornelius shall be subject to confirmation and non-binding unless expressly identified as being binding or containing a specific acceptance deadline.

2. The Customer shall be bound towards Cornelius in respect of its delivery commission/order following receipt by Cornelius. Delivery commissions/orders shall require written confirmation by Cornelius in order to take legal effect. An invoice concerning the respective order which is sent to the Customer shall also be deemed to represent written confirmation.

3. If the order confirmation issued by Cornelius contains elements which put the Customer in a better position with regards to prices, delivery terms or the provisions of these terms and conditions, the Customer shall be deemed to have accepted such deviations.

4. Representations concerning the object of delivery of service (for example drawings and pictures) as well as information provided by Cornelius concerning the object of delivery or service (for example weight, dimensions, utility value, durability, technical data and/or tolerances) shall only be approximately applicable, unless their applicability for the purpose which is contractually envisaged requires precise conformity. They shall not represent guaranteed performance specifications, rather they are descriptions or designations of the delivery or service. Deviations according to commercial customs and usage, as well as deviations resulting from statutory provisions and deviations constituting technical improvements, together with a replacement of components by equivalent parts, shall be permissible provided they do not impair usability for the contractually agreed purpose



5. Cornelius shall retain ownership and/or copyright in respect of all offers and quotations submitted by it, as well as in respect of all drawings, pictures, calculations, prospectuses, catalogues, tools, models and other documents and aids made available to the Customer. The Customer shall not be permitted to make such items accessible to third parties either as such or in terms of contents, to make the items known, to use them by itself or through third parties or to duplicate them without the express permission of Cornelius. The Customer shall be obliged to fully return the items to Cornelius at the request of the latter and to destroy any copies made if the said copies are not necessary for the proper course of business or if negotiations do not lead to conclusion of a contract.

§ 3 Prices and payments

1. The sales prices of Cornelius shall be net prices for the scope of service and delivery listed in the order confirmation. Additional or special services shall be charged for separately. Any value added tax accrued shall be calculated and charged to the extent under statute and to the legally applicable amount. The sales prices shall apply, except by special agreement, from the place of performance outlined in § 4 and shall be exclusive of packaging, freight, postal fees, insurance and other shipping charges, which will also be charged for separately.

2. Insofar as the agreed prices are based on the list prices of Cornelius and the deliveries do not take place until more than 4 months following conclusion of the contract, the valid list prices of Cornelius at the time of delivery shall apply (minus an agreed percentage or fixed discount).

3. Price amendments shall be permissible if a period of time of more than 4 weeks exists between submission of the offer or conclusion of the contract and the agreed delivery date. Should the cost of wages, the price of raw materials, the costs of materials or the market cost prices then increase prior to delivery, Cornelius shall be entitled to reasonably increase the price in accordance with the cost increases. The Customer shall only be entitled to rescind the contract if the price increase considerably exceeds the increase in the general cost of living between placing of the order and delivery.

4. Unless otherwise agreed in writing, invoice amounts shall be paid without any deduction within 30 days of issuing of the invoice. The date of receipt by Cornelius shall be decisive in respect of the date of payment. In case of payment default, Cornelius shall be entitled to charge default interest. The rate of interest for default interest shall be 5% above of the currently applicable base rate of interest, in accordance with § 352 of the German Commercial Code (HGB).

5. In case of small orders with a net value of less than 100.00 euros, we shall charge a flat shipping and packaging fee of 15.00 euros, which shall be added to the invoice.

6. The setting off of counter claims of the Customer or the retention of payments due to such claims shall only be permissible if the said counter claims are undisputed or have been legally recognised.

7. Cornelius shall be entitled to only carry out or provide outstanding deliveries or services in consideration of an advance payment or provision of security, should Cornelius become aware, following conclusion of the contract, of circumstances which are of a nature to significantly reduce the creditworthiness of the Customer and due to which the payment of outstanding claims of Cornelius by the Customer (including those of other individual orders for which the same framework agreement applies) is endangered.



§ 4 Delivery and delivery time

1. The place of performance shall be place of business of Cornelius, unless another location is stated in the order confirmation. On handover of the goods to the Customer, the risk shall be assumed by the Customer. Handover to a carrier, freighting company or other third party engaged with transportation shall be the same as handover to the Customer.

2. Intended deadlines and dates of delivery issued by Cornelius shall always apply approximately, unless a set deadline or set date has been agreed (fixed transaction). If shipping was agreed, delivery deadlines and delivery dates shall be calculated according to the time of handover to the carrier, freighting company or other third party engaged with transportation.

3. Cornelius shall not be liable in respect of impossibility of delivery or delivery delays to the extent that this was caused by force majeure or other occurrences which were not foreseeable at the time of conclusion of the contract (for example, operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful blockades, lack of manpower, energy or raw materials, difficulties obtaining the necessary official permits, official measures, or non-delivery, incorrect delivery or non-timely delivery by suppliers), for which Cornelius is not responsible. To the extent that such occurrences make the delivery or service significantly more difficult for Cornelius or makes this impossible, and the hindrance is not only of a temporary nature, Cornelius shall be entitled to rescind the contract. In case of hindrances of a temporary duration, the delivery and service obligations shall be extended or the delivery and service dates shall be postponed in accordance with the period of time of the hindrance, plus a reasonable period of grace. To the extent that the Customer cannot be expected to accept the delivery or service due to the delay, the Customer shall be entitled to rescind the contract by informing Cornelius in writing immediately.

4. Cornelius shall be entitled to provide partial deliveries, in particular in the following cases:

- the partial delivery can be used by the customer within the scope of the contractual intended use.
- delivery of the remaining ordered goods is guaranteed.

5. Should Cornelius enter default in respect of a delivery or service, or should a delivery or service become impossible for it for whatever reason, the liability of Cornelius shall be limited to payment of damages in accordance with § 6 of these terms and conditions.

6. Correct and timely self delivery on the basis of a covering transaction on the same terms shall be reserved. Cornelius shall inform the Customer without delay of the non-availability of the goods which form the subject matter of the contract or their primary products and in case of rescission, shall refund the corresponding consideration to the Customer immediately (settlement of advance payment).

§ 5 General liability

1. Cornelius shall be liable in case of intention or gross negligence on the part of one of its representatives or vicarious agents in accordance with the statutory provisions. Otherwise, Cornelius shall only be liable in accordance with the Product Liability Act (Produkthaftungsgesetz) due to injury to life, body and health or due to culpable breach of



so-called cardinal obligations. Cardinal obligations in accordance with Sentence 2 concern obligations whose fulfilment makes the proper execution of the contract possible and whose compliance the contracting parties can reasonably expect to be able to rely on. However, the claims to damages in respect of breach of cardinal obligation in accordance with Sentence 2 shall be limited to foreseeable losses which are typical for the contract. The liability of Cornelius shall also be limited to foreseeable losses which are typical for the contract in cases of gross negligence, if none of the exceptional cases listed in Sentence 2 of this paragraph are present.

2. Liability for damage by the supplied item to the legal property of the Customer, for example damage to other property, shall be fully excluded. This shall not apply if intention or gross negligence are present, so-called cardinal obligations under Paragraph 1 Sentence 2 were breached, or in case of liability due to violation of life, body or health.

3. The provisions of the two paragraphs above concern payment of damages alongside performance and payment of damages instead of performance, regardless of legal reason, in particular due to defects, breach of obligations under the contractual relationship or due to unlawful acts. They shall also apply to claims to reimbursement of frustrated expenditure. Liability for delay shall however be determined by § 6, liability for impossibility shall be in accordance with § 7 of these general terms and conditions and sale and delivery.

§ 6 Liability for delay

Cornelius shall be liable for delay in respect of performance in cases of intent or gross negligence, both on its own part and on the part of its representatives or vicarious agents in accordance with the statutory provisions. However, the liability of Cornelius in cases of gross negligence and breach of so-called cardinal obligations in accordance with § 5 Paragraph 1 Sentence 2 shall be limited to foreseeable losses which are typical of the contract, provided no injury to life, body or health is present. Otherwise, the liability of Cornelius due to delay in performance in respect of payment of damages alongside performance shall be limited to 10% of the net value of the delivery and in case of payment of damages instead of performance, 20% of the net value of the delivery (excluding packaging, freight, postage, insurance and other shipping costs). Further claims of the Customer shall be excluded - also following expiry of any deadline for performance set to Cornelius. The above-mentioned limitations shall not apply in respect of liability due to injury to life, body or health.

§ 7 Liability for impossibility

Cornelius shall be liable in accordance with the statutory provisions in case of impossibility of performance in case of intention or gross negligence or on the part of one of its representatives or vicarious agents. The liability of Cornelius in cases of gross negligence or the breach of cardinal obligations in accordance with § 5 Paragraph 1 Sentence 2 shall, however, be limited to the losses which are foreseeable and typical of the contract if none of the exceptional cases listed in Sentence 5 of this provision are present. Otherwise, the liability of Cornelius due to impossibility shall be limited to payment of damages and to refund of frustrated expenses to a total of 30 % of the net value of the delivery (excluding packaging, freight, postage, insurance and other shipping costs). Further claims of the Customer due to impossibility of the delivery shall be excluded. The said restriction shall not apply in cases of liability due to intention, gross negligence, or injury to life, body or health. The right of the Customer to rescind the contract shall not be affected.



§ 8 Complaints and liability for defects

1. Following handover of the goods, the Customer shall inspect these without delay. Defects which the Customer discovers during inspection shall be notified to Cornelius in writing immediately. Otherwise, the goods shall be deemed to have been accepted and the defect as approved. Should a hidden defect only arise later, the defect notification shall also be submitted to Cornelius without delay, however at the latest within one year of transfer of risk.

2. To the extent that the objects of the contract are not handed to or delivered to the Customer in order to shorten the delivery channel, rather they are handed to or delivered to a third party on the instructions of the Customer, the said third party shall be authorised and obliged by the Customer to assume the above-mentioned obligations and duties of the Customer. The conduct of the third party shall be charged as the own conduct of the Customer.

§ 9 Obligation of subsequent delivery

Within the framework of subsequent performance, Cornelius shall not, under any circumstances, be obliged to make subsequent delivery or to undertake remanufacturing. Should subsequent performance fail, the Customer shall have the right to request a reduction or to rescind the contract. Failure in accordance with the previous provision shall be present if a second subsequent delivery was also defective. The right of the Customer to require damages in lieu of performance in accordance with the statutory provisions and these terms and conditions shall not be affected.

§ 10 Right of rescission of the Customer

1. Within the framework of the statutory provisions, the Customer shall only be entitled to rescind the contract if Cornelius is responsible for the breach of obligation. However, in case of defects, the statutory prerequisites shall remain. In case of breach of obligation, the Customer shall declare to Cornelius within a reasonable period of time on request as to whether it will rescind the contract or request continued performance.

2. As a rule, a right of rescission on the part of the Customer shall be excluded in case of ordering products which are specially manufactured and delivered in accordance with the wishes and requirements of the Customer (so-called "specials") where, in case of rescission by the Customer, a further sale is impossible or is only possible following modification or technical amendments, unless the rescission is communicated by the Customer without delay, at the latest within three days of receipt of the order confirmation and Cornelius can cancel purchase orders which have already been carried out without incurring any expenses. Otherwise, rescission shall only be possible if the Customer covers the cost of labour and materials which have already been accrued.

§ 11 Statute of limitation

1. The period of limitation for claims and rights due to defects in the delivery shall be one year, regardless of legal reason.

2. The periods of limitation in accordance with Paragraph 1 above shall also apply in respect of all damages claims against Cornelius which are connected to the defect, regardless of the legal basis of the claim. To the extent that damages claims of any kind which are not



connected with defects exist against Cornelius, the period of limitation in accordance with Paragraph 1 shall apply in respect of the said claims.

3. The periods of limitations in accordance with Paragraphs 1 and 2 above shall apply with the following provisos:

a) The periods of limitation shall not, as a rule, apply in case of intent.

b) The periods of limitation shall also not apply if Cornelius has maliciously kept the defect a secret or if Cornelius has assumed a guarantee in respect of the quality of the delivery. Should Cornelius have maliciously concealed a defect, the statutory periods limitation which would apply without the presence of malice shall apply in place of the periods set out in Paragraph 1 above.

c) The periods of limitation shall also not apply to damages claims in cases of injury to body, life, health or freedom, to claims under the Product Liability Act (Produkthaftungsgesetz), in case of gross negligent breach of duty or in case of breach of cardinal obligations as defined in § 5 Paragraph 1 Sentence 2.

d) The periods of limitation shall not apply in respect of actions for recourse of the Customer in accordance with §§ 478, 479 of the German Civil Code (BGB).

4. The period of limitation shall commence for all claims on the assignment of risk, as outlined in § 4 Paragraph 1.

§ 12 Recourse (§ 478 of the German Civil Code, BGB)

Recourse claims on the part of the Customer against Cornelius in accordance with § 478 BGB (recourse of the entrepreneur) shall only exist to the extent that the Customer has not reached any agreements with its customer which go beyond the statutory claims for defects.

§ 13 Return of goods which have been objected to

Goods in respect of which a complaint has been registered can only be returned to Cornelius with permission or recognition of a warranty claim.

§ 14 Reservation of title

1. All delivered goods shall remain the property of Cornelius (supplied under reservation of title) until settlement of all claims of Cornelius against the Customer, regardless of legal reason, in particular in respect of the relevant balance claims of Cornelius against the Customer, even if payments are made for specified claims. The transfer of ownership shall not take place until full payment of the purchase price. In case of breach of duty by the Customer, in particular in case of payment default, Cornelius shall be entitled to demand surrender of the delivered goods and/or rescind the contract, also without the setting of a deadline. The Customer shall be obliged to surrender the delivered goods. The surrender demand on the part of Cornelius shall not constitute a declaration of rescission unless such a declaration is expressly mentioned.

2. Should the customer combine, process or mix the goods supplied by Cornelius under reservation of title with other goods which are not the property of Cornelius, the company



shall be entitled to co-ownership in the combined, processed or mixed goods to the relationship of the invoice value of the goods supplied under reservation of title to the invoice value of the other goods. The Customer shall store the said goods for Cornelius free of charge.

3. The Customer shall only be entitled to sell the goods supplied under reservation of title in the course of normal business dealings under its normal terms and conditions of business, provided it is not in default. The Customer shall only be entitled to resell the goods subject to retention of title if the claim arising from resale is assigned to Cornelius. The Customer shall not be entitled to dispose of the goods supplied under reservation of title in any other way. The claims of the Customer arising from the resale of the goods supplied under reservation of title are hereby assigned to Cornelius. In case that the goods supplied under reservation of title are sold together with other goods which are not the property of Cornelius, the assignment of the claim from the resale shall only apply to the amount of the invoice value of the goods subject to reservation of title.

4. The Customer shall be entitled to collect claims arising out of the sale of the goods supplied under reservation of title. The Customer shall not be entitled to assign such claims. The authority of Cornelius to collect the claims by itself shall not be affected. However, Cornelius shall be obliged not to collect the claims by itself if the Customer properly complies with its payment obligations and is not in payment default. Should this however be the case, Cornelius shall be entitled to demand that the Customer gives notification of the assigned claims and their debtors, gives all necessary information for collection surrenders the relevant documents and informs the debtors (third parties) of the assignment.

5. Should the value of the securities held by Cornelius exceed the claims of Cornelius in relation to the Customer by more than 10%, Cornelius must release such securities on the demand of the Customer.

6. The Customer shall notify Cornelius immediately concerning seizures or other impairments by third parties. If the reservation of title or the assignment is not effective according to the law in the scope of which the goods are placed, the reservation of title and assignment in this country shall be deemed agreed. Should the co-operation of the Customer be required in this respect, the Customer shall take all measures which are necessary for authorisation and maintenance of such rights.

§ 15 Data protection

All data shall be electronically and/or manually saved in accordance with data protection laws and other statutory provisions and regulations. To the extent that is necessary to carry out the transaction or to the extent required under laws and regulations, we shall forward the data (or parts thereof) onto third parties, whilst complying with the statutory provisions.

§ 16 Severability clause

The ineffectiveness, unenforceability or incompleteness of one of the provisions in these terms and conditions of business or in a contract concluded on the basis of these terms and conditions of business shall not affect the effectiveness of these terms and conditions of business and the corresponding contract. The statutory regulations shall replace the ineffective provision.



§ 17 Place of jurisdiction, applicable law

The place of jurisdiction for disputes arising out of contracts which were concluded on the basis of these terms and conditions shall be the court having jurisdiction over the place of business of Cornelius. In such disputes, the law of the Federal Republic of Germany shall apply. In case of doubt the German version of the terms and conditions shall prevail.

Terms and conditions of sale Cornelius GmbH
As of 01/2012