

I. Scope of application, conclusion of contract

1. The following terms and conditions of sale shall apply exclusively to all legal relationships between us and a commercial customer (hereinafter referred to as the "Customer"). They are deemed as accepted with the placement of an order or acceptance of delivery. Our terms and conditions of sale shall also apply should we provide services in the knowledge that the Customer's terms contradict or differ from our own terms of sale; equally, they shall apply to all future business transactions of a similar nature with the Customer. We shall not accept any other terms.

2. All orders and contracts, as well as amendments or additions to such, must be made in writing. Fax and e-mail messages fulfill the aforementioned requirements. Verbal agreements are only binding for us if confirmed in writing. Orders are only binding, if we accept them in writing within two weeks of receipt of the order and no contrary arrangement has been made as part of a general agreement.

3. All offers made by Melitta Professional Coffee Solutions GmbH & Co. KG (hereinafter referred to as "MPCS") are subject to change with regard to price, quantity, delivery period and delivery possibility and can be revoked at any time. Written notification is deemed as received by the Customer after normal postal periods if it was sent to the Customer address last known to MPCS, whereby the message is deemed to have been sent if a copy or similar facsimile of the document concerned has been signed or marked as sent by MPCS.

4. All measurements and performance details of the object of performance quoted in offers and order confirmations are to be regarded as approximations. Illustrations, drawings and descriptions are subject to minor deviations.

II. Prices and terms of payment

1. Prices quoted in our price lists are subject to change. The price given in the respective order confirmation is valid. This price is ex works and includes packaging, but not transport. All deliveries are ex works without insurance. Changes in our price calculation bases – such as for material and labor costs – entitle us to adjust prices, even during running contracts, if delivery is made more than three months after conclusion of the contract.

2. All fees incurred, import duties etc. are on the Customer's account.

3. Payment is due immediately and is to be settled within 30 days from date of invoice without deduction. Invoices concerning spare parts, repairs or other services and work performances are payable without deduction immediately after receipt of invoice. If payment is not received within the agreed period, we shall charge collection expenses and interest on arrears of at least 8 % above the respective base interest rate. We are further entitled to make new deliveries dependent on the settlement of open accounts, without extinction of existing agreements.

4. Should MPCS take back the object of performance, payments made will be netted with the actual impairment in value. In order to compensate any impairment in value due to use of the object of performance, MPCS is entitled to demand compensation for use as follows:

- 25 % of the purchase price if taken back within the first quarter of a year;
- 30 % of the purchase price if taken back within the second quarter of a year;
- 40 % of the purchase price if taken back within the second half of a year;
- 50 % of the purchase price if taken back within the second year;
- 70 % of the purchase price if taken back within the third year.

The amount due will be credited only when the object of performance has arrived at MPCS's Minden facilities or, should we choose, has been taken back at the Customer's premises.

The transportation of returned goods is to be arranged at the Customer's expense. Only such goods will be taken back as are deemed faultless in appearance and function.

III. Delivery; delay

1. Orders are delivered as a whole wherever possible. MPCS reserves the right, however, to make partial deliveries.

2. The delivery dates given are subject to change. Adherence to agreed delivery dates is subject to MPCS receiving correct, complete and timely supplies itself and the punctual receipt of all required documents, licenses, approvals and, in particular, plans from the Customer as well as observance of the agreed payment terms and other obligations of the Customer. If such requirements are not fulfilled on time, the periods will be prolonged accordingly; this does not apply if MPCS is responsible for the delay itself.

3. If non-adherence to the delivery period is due to operating breakdowns, acts of God or similar events, e.g. strike or lockout, the delivery periods are prolonged by a suitable amount. MPCS is also entitled to withdraw from the agreement as a result of the non-fulfilled portion. The Customer may withdraw from the agreement if we have not declared within a suitable period whether we wish to withdraw or supply within a suitable period.

4. All deliveries are ex works. The risk of transport passes to the Customer with the surrender of goods to the carrier or with their provision should the goods be collected by the Customer; no later however than with their departure from the works premises or warehouse.

5. Should the Customer not accept delivery of the object of performance, even after additional respite of 10 days, MPCS is entitled to claim compensation instead of performance and to withdraw from the agreement. MPCS is hereby entitled to claim a lump sum of 15 % of the purchase price, without proof of damage, subject to evidence provided by the Customer that in this particular case a lower amount would be suitable. Optionally, replacement for the actual damage incurred may be demanded.

6. Should dispatch or delivery be delayed at the Customer's request by more than one month from notification that the goods are ready for shipping, the Customer can be charged storage costs of 0.5 % of the respective consignment's value, no more however than a total of 5 %. Both parties are entitled to provide evidence of higher or lower storage costs.

7. The Customer is not entitled to refuse delivery of supplies or services due to insignificant defects. 8. In the case of delayed delivery, MPCS has the right to subsequent fulfillment as it wishes within a suitable period. Should such subsequent fulfillment fail, for reasons which MPCS must account for; the Customer has the right to withdraw or demand reduction of price and claim damages pursuant to Section V.

IV. Security interest

To secure the payment of any amount due and owing by Customer, Customer hereby grants to us a first security interest in all current and future inventory of the Products, including any returned or repossessed Products as well as in Customer's rights as a seller of goods under the Uniform Commercial Code, and in all proceeds. Customer shall execute and deliver such instruments, in particular financing statements, as shall be required by us to perfect our security interest. Customer hereby authorized us to prepare, execute, deliver and file on behalf of Customer any and all documents required or necessary to create, perfect, preserve and enforce our security interests in the Products. Customer agrees to keep the insurable aspects of the collateral fully insured against all risks and casualties customarily insured against and to protect the collateral from the elements and theft and vandalism. Customer shall not remove the inventory comprising part of the collateral from its current facilities other than in conjunction with the sale of Products to customers in the ordinary course of business.

V. Limited warranty

1. Limited Warranty. MPCS issues a guarantee of 12 months for parts from the delivery date (ex stock Minden). Replacement of defective parts will be effected after the return of defective parts with correspondent report. Replacement of parts will not extend the guarantee period.

2. Prerequisites. Products which have been altered or modified, improperly installed or applied, or which have failed

due to abuse or inadequate maintenance after installation or application, have been used in violation of instructions for use, installation or application, or which were damaged due to malfunction of other parts not supplied by Seller, are not covered by this limited warranty. This limited warranty shall also be void if Buyer fails to make any damaged or defective products available to Seller for inspection. Specifically excluded from Seller's warranty is the replacement of products with a limited shelf life, and any products where the manufacturer thereof provides its own warranty.

3. No Implied Warranties. The foregoing warranty is expressly in lieu of any and all other warranties, and seller disclaims any and all other express warranties and all implied warranties with respect to the products, including any warranty of merchantability or fitness for a particular purpose.

4. Amount Limitation. Seller's maximum liability under the above provisions shall not in any case exceed the price for the products claimed defective or deficient.

VI. Copyright and property rights; Legal imperfections

1. MPCS is only obliged to supply the objects of performance free of such copyright and industrial property rights of third parties (hereinafter referred to as "property rights"), which would limit the contractual use of the objects of performance in the country to which they are supplied. Should a third party lodge a justified claim against the Customer resulting from the infringement of property rights through the contractual use of the objects of performance supplied by MPCS, the latter shall be liable for a period of 12 months after passage of risk as follows:

a) MPCS shall, at its own discretion and own expense, either obtain right of use for the objects of performance, change them in such a way that property rights are not infringed or exchange them. If this is not possible under conditions satisfactory to the Customer, then the Customer shall be entitled to the rights pursuant to Section V.

b) The above mentioned obligations are only valid providing the Customer informs MPCS immediately in writing about the claims lodged by third parties, does not recognize an infringement and respects the right of MPCS to undertake defensive measures and settlement negotiations. Should the Customer suspend use of the objects of performance in order to mitigate damages or for any other important reasons, he undertakes to inform the third parties that such suspension of use does not constitute recognition of any infringement of property rights.

2. Claims by the Customer are excluded insofar as they result from an infringement of property rights by the Customer himself, or from the Customer's specifications or usage not intended by MPCS or were caused by the Customer altering the objects of performance or using them with products not supplied by MPCS.

3. All further claims of the Customer, or others not specified in this Section, toward MPCS and its agents due to legal imperfections are excluded.

VII. Final provisions

1. Mutual place of performance and exclusive place of jurisdiction for all disputes arising from the contractual relationship with the Customer is the registered office of MPCS.

2. All disputes arising from the contractual relationship with the Customer are governed by the UN convention on contracts for the international sale of goods (CISG).

3. Should individual provisions of these terms and conditions be void or become invalid in future, this does not invalidate the other provisions nor the validity of contracts concluded between MPCS and the Customer; unless such maintenance of the contract, under consideration of mutual interests, represents an unreasonable hardship for one of the contracting parties. The parties undertake to replace invalid provisions with an effective provision which is most similar to the intended economic purpose of the invalid provision. The same applies to omissions.