



## General Terms and Conditions of PETER/LACKE GmbH

### Section 1 Scope of application

1. The following General Terms and Conditions apply to all contracts of PETER-LACKE GmbH, Herforder Strasse 80, 32120 Hiddenhausen, Germany (hereinafter: "Peter-Lacke" or "We"), concluded with entrepreneurs (hereinafter "Customer"). According to Section 14 of the German Civil Code, an entrepreneur is any natural or legal person or partnership with legal capacity who, when concluding a legal transaction, acts in the exercise of his or her commercial or independent professional activity. In contrast, a consumer within the meaning of Section 13 BGB is any natural person who concludes a legal transaction for a purpose that cannot be attributed to their commercial or self-employed activity.

2. The Terms and Conditions apply to all present and future business relations, even if they are not expressly agreed again.

3. Deviating, conflicting or supplementary general terms and conditions, even if known, shall not become part of the contract unless their validity is expressly agreed. Counter-confirmations of the customer (entrepreneur) with reference to his own terms and conditions of purchase are hereby expressly contradicted.

### Section 2 Offer and conclusion of contract

1. Our offers are subject to change and non-binding.

2. Contracts are only concluded when We have confirmed the Customer's order in writing within a period of 2 weeks, at the latest upon delivery of the goods.

3. Our written order confirmation shall be decisive for the content and scope of the contract. Ancillary agreements with travellers, commercial agents and employees as well as amendments, supplements, etc. require our written confirmation.

### Section 3 Delivery and delivery time and transfer of risk

1. We reserve the right to make changes to the design or production for technical reasons and to deviate from samples as long as this is reasonable for the Customer. Our deliveries may deviate from the order quantities by up to 10%, maximum 25 kg, in the case of production-related excess and short quantities (nuances), and by up to 3% in the case of filling-related excess and short quantities.

2. Partial deliveries are permissible and can be invoiced independently, insofar as this is reasonable for the Customer and it has an objective interest in the partial delivery.

3. Unless otherwise agreed, the Customer shall collect the goods at the agreed delivery date or, if a delivery date has not been agreed in a binding manner, immediately after notification that the goods are ready for collection at the place of performance pursuant to Section 8 No. 2.

4. If the Customer defaults in accepting the goods, We are entitled, at our own discretion, to dispatch them at the Customer's expense or – if no other option is possible – to store them outdoors if necessary. In this case, We are not liable for the accidental destruction, loss or damage of the goods. If the goods are stored by us, We are entitled to invoice the goods and demand payment after one week has elapsed following the occurrence of default in acceptance.

5. If We are in default, the Customer may only withdraw from the contract after the fruitless expiry of a reasonable grace period set in writing, which must be at least 1 month, insofar as the goods have not been notified as ready for dispatch by then.

6. If, in deviation from No. 3, it is agreed that We are obliged to ship the goods, transport shall be at the Customer's expense and the choice of means of transport and the transport route shall be at our discretion, unless the Customer has given us special instructions to this effect. The risk shall pass at the time when the goods are handed over by us to the carrier.

7. For deliveries or services which are delayed due to the occurrence of unforeseen extraordinary events and which We were unable to avert despite the care required under the circumstances of the individual case (even if they occur at sub-suppliers), e.g. strike, lockout, operational disruption, material procurement difficulties which occurred subsequently, rejection of an important work item, official order, etc., the delivery period shall be extended by the duration of the hindrance plus a reasonable start-up period which meets our operational requirements.

8. If the aforementioned events make delivery or performance impossible through no fault of our own, We are released from the delivery obligation without the Customer being entitled to claim damages.

9. In the event of non-acceptance of ordered goods, We are entitled to claim 25% on the value of the goods for expenses already incurred and lost profit. The Customer is entitled to prove that no damage or damage to a significantly lesser extent than the amount of the lump sum has been incurred.

10. The processing of all goods to be dispatched by us shall be for the account and at the risk of the Customer, the latter even if carriage paid delivery has been agreed. Transport insurance cover will only be taken out on the express instruction and at the



expense of the Customer. The risk of accidental loss shall pass to the Customer when the goods are handed over to the person entrusted with the transport, but at the latest when the goods leave our plant.

11. If the delivery is made in returnable containers, these must be returned empty and carriage paid within 90 days of receipt of the delivery. Loss of and damage to loaned packaging shall be at the expense of the Customer if it is responsible for the loss and damage. Loaned packaging may not be used for other purposes or to hold other products. They are only intended for the transport of the delivered goods. Labels must not be removed. We do not take back disposable packaging. Instead, We shall name a third party to the Customer who will recycle the packaging in accordance with the statutory and official provisions.

#### **Section 4 Prices and terms of payment**

1. Our prices do not include the respective statutory value added tax. This is shown separately in each case.
2. For domestic deliveries and deliveries to other EU countries, the Customer is obliged to pay without deduction no later than 30 days after receipt of the invoice.
3. Deliveries outside the EU area are always made against advance payment, or alternatively by means of a letter of credit (hereinafter referred to as "LC") at our discretion, whereby each side shall bear the respective domestic costs of the LC.
4. After expiry of the time limit according to No. 2, the Customer shall be in default.
5. In the event of default in payment, the Customer shall pay default interest at the statutory rate. We reserve the right to assert further claims for damages. For custom-made products of small quantities, a price surcharge will be levied according to a separate calculation. Separate small invoice surcharges will be charged for small orders.
6. If the delivery of goods or the provision of other services takes place later than 4 months after the conclusion of the contract and if the wage and material costs or the prices of our suppliers increase in this time, We are entitled to increase our remuneration accordingly. If carriage paid delivery has been agreed, this shall only apply to domestic deliveries and deliveries to Benelux countries and Alsace-Lorraine of at least 200 kg/l, for deliveries to other EU countries 2 t/l and to EU entry areas 5 t/l, for deliveries to CIS countries 10 t/l and for deliveries outside Europe 2 t/l fob German seaport or airport.
7. If, in the case of a claim by the Customer for carriage paid delivery, the shipment is not carriage paid, only the general cargo freight without surface freight and cartage for receipt shall be remunerated in all cases. Additional costs for express freight or other surcharges shall be borne by the recipient. Deliveries to addresses outside the Federal Republic of Germany are made free German border, duty unpaid and without additional charges.
8. The Customer may offset against our claims or assert a right of retention if its counterclaims are undisputed or have been legally established. This does not apply if the Customer's counterclaims are based on defective performance.
9. Non-payment of due invoices or other circumstances which indicate a significant deterioration in the financial circumstances of the Customer after conclusion of the contract shall entitle the immediate demand of payment of all our claims based on the same legal relationship.

#### **Section 5 Warranty claims of the Customer**

1. The Customer shall inspect the goods for defects immediately upon receipt (Section 377 of the German Commercial Code (HGB)). Within the scope of the obligation to inspect and give notice of defects pursuant to Section 377 HGB, the Customer shall carry out a trial processing.
2. Defects must be reported in writing immediately after receipt, unless the defect was not recognisable during the inspection. If such a defect becomes apparent later, it must also be reported immediately. The notification must be made in writing and must precisely describe the type and extent of the defect.
3. The Customer is obliged to inform us immediately and to give us the opportunity for immediate inspection if it wishes to claim defects in the products delivered by us.
4. The rights of the Customer arising from material defects shall be limited to subsequent performance. Subsequent performance shall be effected, at our discretion, by remedying the defect or by delivery of a defect-free item. If the subsequent performance fails, the Customer is entitled to withdraw from the contract, to reduce the purchase price or – in the case We are at fault – to claim damages after the expiry of a grace period to be set of 10 working days. In the event of rectification of defects, We will pay all expenses necessary for this purpose, insofar as these are not increased by the fact that the object of sale was transported to a place other than the place of performance.
5. We shall only be liable irrespective of fault if we have expressly assumed a guarantee in writing (Section 276 BGB) or a guarantee of quality (Section 443 BGB). In all other respects, Section 7 shall apply.



6. Insofar as the Customer asserts claims for material defects against us on the basis of public statements made by us or our assistants, in particular in advertising or in labelling about certain properties, the Customer shall bear the burden of proof that the statement was causal for the order. No liability is accepted for statements made in third-party advertising.

7. The samples merely indicate the quality of the subject matter of the contract and do not constitute a guarantee (Section 276 BGB) or a warranty of quality (Section 443 BGB).

8. Verbal and written recommendations for use based on available experience and the current state of knowledge do not represent any agreed or presumed quality between the parties and do not release the Customer from the responsibility of checking the products for their suitability for the intended use and processing method.

9. Liability for material defects is excluded in any case if thinners, curing agents, additional paints or other components are added which were not obtained from the supplier or us and were not recommended by the supplier or us for this mixing.

10. If the Customer does not give us the opportunity to convince ourselves of the defect, in particular if it does not immediately provide the rejected goods or samples thereof upon request, all warranty claims shall lapse.

11. The Customer's claims for defects shall become statute-barred within one year of delivery of the item. The shortened limitation period for claims for defects shall not apply to claims for damages for which liability is not excluded pursuant to Section 7 of the General Terms and Conditions.

12. In the case of entrepreneurial recourse (Section 445a BGB), it is presumed that defects were not present at the time of the transfer of risk to the Customer if the Customer has dutifully examined the goods in accordance with Section 5 No. 1 but has not reported any defects, unless this presumption is incompatible with the nature of the item or the defect. If the Customer had to take back the sold, newly manufactured item from a consumer as a result of its defectiveness or if the Customer's buyer as a consumer reduced the purchase price, the Customer's statutory rights in the event of defects shall apply without the limitations of the warranty rights specified in this provision with the exception of claims for damages (Section 478 BGB). If the Customer otherwise asserts claims under a right of recourse (Section 445a BGB), it must allow itself to be treated by us as if it had implemented all legally permissible contractual options towards its contractual partner (e.g. refusal of subsequent performance due to disproportionality or limitation of the reimbursement of expenses to a reasonable amount).

## **Section 6 Retention of title**

1. The delivered goods shall remain our property until full payment of the purchase price including all ancillary claims and all claims already existing from the business relationship as well as all future claims arising from the business relationship.

2. The Customer may neither pledge our goods nor assign them by way of security. However, it may resell or process them in the ordinary course of business unless it has already effectively assigned the claim against its contractual partner to a third party in advance or has agreed a prohibition of assignment.

3. Any processing of our goods into a movable item shall be carried out on our behalf and with effect for us. In the event of processing with other goods not belonging to us, we acquire co-ownership of the new item according to the ratio of the value (delivery price including VAT without discount deduction) of the goods delivered by us and the other goods at the time of processing. In the event that the Customer acquires sole or co-ownership of the new item through processing, combining, mixing or blending, it hereby assigns to us sole ownership or co-ownership in the proportion of the value of the goods delivered by us to the other goods at the time of processing as security for the fulfilment of all our claims.

4. The Customer undertakes to keep the new item in safe custody for us free of charge with due commercial care.

5. In order to secure the fulfilment of our claim, the Customer hereby assigns to us all claims, including future claims, arising from the resale with all ancillary rights in the amount of the value of our ownership or co-ownership share with priority over the remaining part of its claims. In the event that the Customer sells our goods (together with other goods not belonging to us) or items manufactured from our goods or combines, mixes or blends our goods with another movable item and acquires a claim for this which also covers its other performances, it hereby assigns to us on account of the same claims this claim with all ancillary rights to the amount of the value of our ownership or co-ownership share with priority over the remaining part of its claim. The same shall apply to the same extent to any rights based on the processing of our goods due to and in the amount of our total outstanding claims.

We hereby accept the Customer's declarations of assignment.

6. In the event of default on the part of the Customer, the Customer shall, at our request, provide us with individual proof of these claims and notify subsequent purchasers of the assignment which has taken place, with the request that they pay us up to the amount of our total claims.

7. We are also entitled to notify the subsequent purchasers of the assignment at any time and to collect the claim against them.

8. In the event that the Customer collects parts of the claim assigned to us, it hereby assigns to us its respective residual claim in the amount of these parts of the claim. The claim to surrender of the collected amounts shall remain unaffected; the Customer



may neither assign its claim against subsequent purchasers to third parties, nor pledge it, nor agree a prohibition of assignment with subsequent purchasers.

9. In the event of access by third parties to the goods subject to retention of title, in particular seizures or other impairments of our rights by third parties, the Customer shall point out our ownership and notify us immediately; the Customer shall provide us with all documents necessary for an intervention.

10. If the value of the items serving as security and/or delivered under reservation of title exceeds our total claim by more than 20%, not only temporarily, We are obliged to release securities to this extent at the request of our contractual partner. The delivery prices including value added tax without cash discount deduction shall be decisive for the determination of the amount of the security.

11. Upon full payment of all our claims arising from the business relationship, ownership of the reserved goods shall pass to the Customer. At the same time the Customer acquires the claim which it has assigned to us as security for our claims in accordance with the above provisions.

12. Insofar as the retention of title should not be effective according to the law of the country in which the delivered goods are located, the Customer shall provide equivalent security at our request. If it does not comply with this request, We may demand immediate payment of all outstanding invoices without regard to agreed payment terms.

## **Section 7 Liability**

1. Claims for damages against us are excluded irrespective of the legal grounds (impossibility, delay, defective performance, breach of ancillary contractual obligations, other obligations arising from the contractual obligation and tort). This does not apply:

- for damages arising from injury to life, limb or health
- for other damage, if

- a) these are based on an intentional or grossly negligent breach of duty by us or one of our executive employees,
- b) an essential contractual obligation has been breached, whereby these are obligations arising from the contract, the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner relies and may also rely;
- c) obligations not covered by b) have been violated intentionally or through gross negligence by simple vicarious agents.

2. In cases no. 1 b) and c), the amount of liability is limited to compensation for the typically foreseeable damage.

3. Insofar as liability has been excluded or limited in clauses 1 and 2, this shall also apply to the personal liability of the employees, workers, staff, representatives and vicarious agents.

4. The above exclusion of liability does not apply to claims under the Product Liability Act.

5. Insofar as the Customer, instead of claiming damages in lieu of performance, demands reimbursement from us of expenses incurred by it in reliance on the receipt of the performance (Section 284 BGB), the amount of such expenses shall be limited to such expenses as a reasonable third party would have incurred.

6. In the event of a breach of duty by us which does not consist of a defective performance, the Customer shall only be entitled to withdraw from the contract if We are at fault.

## **Section 8 Sustainability and Code of Conduct**

1. The topic of sustainability is becoming increasingly important and is also very important to us. We follow the concept of corporate social responsibility – which is based on the 3 pillars “ecology, economy and society”. We fulfil the resulting documentation obligations by following the ESG (environmental, social, governance) approach and complying with the Corporate Social Responsibility Directive (CSRD) to prepare the legally required sustainability report according to the GRI standards.

2. We act in accordance with the 17 UN Sustainable Development Goals. Further information is available at [www.peter-lacke.com/csr](http://www.peter-lacke.com/csr).

3. We define our requirements for compliance with general business principles, fair competition, human rights, labour and social standards, environmental protection and product safety in our Code of Conduct.

4. We also expect our business partners to adhere to these principles and to implement the issue of sustainability in accordance with the law.



#### **Section 9 Place of performance, place of jurisdiction and other matters**

1. The assignment of claims against us to which the Customer is entitled from the business relationship is excluded, with the exception of monetary claims within the meaning of Section 354 a HGB.
2. The place of performance for all deliveries and payments is the registered office of Peter-Lacke.
3. If the Customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship, including actions on bills of exchange and cheques, shall be the registered office of Peter-Lacke.
4. These Terms and Conditions and the entire legal relationship between the contracting parties shall be governed exclusively by German law to the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods.
5. Should individual provisions of our Terms and Conditions or the provisions within the scope of other agreements be or become void or ineffective, this shall not affect the effectiveness of any other provision or agreement.