

POOLgroup GmbH - General Terms and Conditions of Delivery (Version: January 2016)

1. General information - Scope of application

- 1.1 These Terms and Conditions of Delivery shall apply exclusively; terms and conditions of the Customer that oppose or deviate from these shall not be recognised unless POOLgroup has explicitly confirmed their applicability in writing. These Terms and Conditions of Delivery shall also apply if POOLgroup carries out the delivery to the Customer in the knowledge of conflicting or deviating terms of business of the Customer.
- 1.2 Deviations from these Terms and Conditions of Delivery shall only be valid if they are confirmed by POOLgroup in writing.
- 1.3 These Terms and Conditions apply to all business transactions conducted with companies, traders, legal entities under public law and special assets under public law.

2. Quotation, quotation documentation and concluding an agreement

- 2.1 The quotations created by POOLgroup are subject to change without notice, unless otherwise explicitly stated.
- 2.2 POOLgroup reserves the ownership rights and copyright of illustrations, drawings, calculations, data and data storage media. This particularly applies to such documents which are considered to be of a "confidential" nature. The Customer shall require explicit written consent from POOLgroup before transmitting such documents to third parties.
- 2.3 Images, illustrations, dimensions, weights or any other service specifications shall only be binding if they have been expressly agreed in writing. Details of this kind do not constitute quality guarantees.

3. Prices - payment terms and conditions - contractual exclusion of set-off

- 3.1 Unless otherwise regulated in the order confirmation, the prices stated by POOLgroup relating to goods services from the warehouse located at "48282 Emsdetten, Südring 26" include standard packaging but exclude freight, customs or any other fees or expenses.
- 3.2 Statutory VAT is not included in our prices; this will be stated separately on the invoice using the value applicable on the date of invoice.
- 3.3 Invoices shall be due for payment, unless otherwise agreed, 14 days from the invoice date without any deductions. If an agreed advance payment or instalment is due and such a payment is not made on time, then POOLgroup is under no obligation to perform the service without at first receiving the payment.
- 3.4 The Customer shall only be permitted to offset claims if its counterclaims are upheld by a court of law, undisputed or acknowledged by POOLgroup.

4. Customer's obligation to cooperate

- 4.1 In view of the complexity and level of customisation involved with the contractual services to be provided by POOLgroup when planning or holding events, it is only possible to successfully perform such services with the collaborative efforts between the Customer and POOLgroup. In particular, the decisions made by the Customer in terms of design and creativity are, to a great extent, crucial in ensuring that the project and its associated operations successful progress as well as for developing the event concept and obtaining detailed information on the project and specifications for the services. The Customer's obligation to cooperate and support the project forms an essential contractual obligation.
- 4.2 The Customer shall obtain the necessary authorisations in order for the contractual services to be carried out and for the event to be held before it commences. It shall provide evidence of this on request by POOLgroup. The Customer shall ensure that the event location is suitable for heavy goods vehicles to drive on.

5. Delivery and service times, delays

- 5.1 The commencement of delivery times stated by POOLgroup assumes that all technical and planning issues have been clarified.
- 5.2 For POOLgroup to observe its delivery and service obligations, the Customer must firstly fulfil their obligations in a timely and proper manner. We reserve the right to assert the defence of breach of contract.
- 5.3 If the Customer enters into default of acceptance or violates other cooperation obligations, POOLgroup shall be entitled to demand compensation for the resultant damages it incurs, including any additional expenditure. Further claims or rights shall remain reserved.
- 5.4 POOLgroup shall be liable in accordance with the legal provisions, insofar as the underlying agreement is a short selling as defined in § 286 Para. 2 No. 4 BGB (German Civil Code) or in § 376 HGB (German Commercial Code). POOLgroup shall also be liable in accordance with legal provisions insofar as the Customer is entitled to assert that its interest in further fulfilling the agreement is discontinued as a consequence of a delay in delivery to be borne by POOLgroup.
- 5.5 POOLgroup shall also have liability in accordance with the legal provisions if the delayed delivery is due to a breach of agreement for which POOLgroup is responsible, either on the grounds of intent or gross negligence; fault on the part of representatives or agents shall be attributed to POOLgroup. If the delay in delivery stems from a grossly negligent breach of the agreement to be borne by POOLgroup, the liability for compensation shall be limited to foreseeable, typically occurring damage.
- 5.6 POOLgroup shall also be liable in accordance with the legal provisions if the delay in delivery to be borne by POOLgroup rests on the culpable breach of a significant contractual obligation. However, in this case, the liability of POOLgroup shall be limited to foreseeable, typically occurring damage.

6. Special provisions for purchases

- 6.1 Unless otherwise agreed the delivery shall be made from the warehouse located at "48282 Emsdetten, Südring 26". Risk shall be transferred to the Customer as soon as the shipment is passed to the person transporting it or as soon as the shipment leaves the warehouse of POOLgroup for the purpose of shipping, even when POOLgroup is to transport the shipment using its own resources.
- 6.2 The delivered goods shall remain the property of POOLgroup until all outstanding debts arising from the business relationship between POOLgroup and the Customer have been settled in full. The transference of individual claims to a running invoice and recognising the balance do not affect the reservation of ownership. Payment shall only be considered as made once the equivalent amount is received by POOLgroup.
- 6.3 Should the Customer act in violation of the agreement, notably in the case of default of payment, POOLgroup shall be entitled to recover the delivered goods. The

recovery of the delivered goods by POOLgroup does not constitute withdrawal from the agreement unless expressly indicated by POOLgroup in writing. After recovery of the purchased item, POOLgroup is entitled to make use of the item; the earnings from the disposal shall be offset against the Customer's liabilities, less reasonable disposal costs.

- 6.4 Unless otherwise agreed, used goods shall be sold without guarantee.
- 6.5 If the purchased item has a defect for which POOLgroup is responsible then POOLgroup shall initially be granted the opportunity to rectify the defect within an appropriate period. POOLgroup shall be entitled to select a method to remedy the defect at its own discretion or to deliver a replacement.
- 6.6 Material defect claims shall expire after a period of 12 months; the period commences upon transferral of the risk. The above provisions shall not apply provided the law as per § 438 Para. 1 No. 2, 479 BGB and 634 a No. 2 BGB consider longer periods to be more appropriate.

7. Special provisions for leased services

- 7.1 The Customer shall be responsible for the professional transportation of the leased object. The Customer shall undertake to protect the leased object against risks such as damage and loss during transportation and to provide evidence of this on request by POOLgroup. In other respects Section 6.1 shall apply accordingly.
- 7.2 The Customer shall ensure that damages and / or the deterioration of the leased object brought about by the actions or failures of the Customer at the place of utilisation are covered by the Customer's business liability insurance. Furthermore, the Customer shall insure the leased object at its original value against damage by fire, theft, water and mechanical breakdown, if required, and to produce evidence of this on request by POOLgroup.
- 7.3 The Customer shall keep the leased object in a proper and safe condition taking into consideration the operation and maintenance instructions provided by the manufacturer or POOLgroup. The Customer is obliged to take appropriate precautions against the leased object being subjected to excessive use. The Customer shall ensure that only suitably skilled employees operate the leased object.
- 7.4 The lease agreement shall cover a fixed period as contractually agreed between the Customer and POOLgroup and may only be terminated for good cause. The term of the lease shall be counted in days / weeks. Days that have been begun shall count in full. The lease agreement shall commence on the agreed date of provision of the leased object at the warehouse operated by POOLgroup.
- 7.5 In the event the lease agreement is terminated by the Customer for good cause, POOLgroup shall be liable to pay damages amounting to a maximum of 10 times the contractually agreed lease amount for cases of simple negligence.
- 7.6 The Customer has no right to damages from POOLgroup for defects to the leased object caused by POOLgroup as a result of actions which are unintentional or not due to gross negligence in accordance with § 536 a BGB.

8. Special provisions for service agreements

- 8.1 POOLgroup may request that partial acceptances / deliveries are made for parts of services for which there is a clear differentiation or which may be used independently of others. In such a case, the entire service shall be considered accepted upon the final partial acceptance. The service shall also be deemed accepted upon the Customer putting the contractual service into operation. Partial acceptances which have already been completed shall remain unaffected by the success of the final acceptance.
- 8.2 In addition to this, Section 6.5 and 6.6 shall apply accordingly.

9. Joint liability

- 9.1 Insofar as nothing different is provided for in these Terms and Conditions, including the following provisions, POOLgroup shall be liable in the case of a breach of contractual and non-contractual duties in accordance with the relevant statutory provisions.
- 9.2 POOLgroup shall be liable for damage compensation - regardless of the legal basis - in cases of intent or gross negligence. In the event of simple negligence POOLgroup shall only be liable for
 - a) damage from injury to life, body or health,
 - b) damage from the culpable breach of an essential contractual obligation (an obligation, the fulfilment of which is prerequisite to enable the proper implementation of the agreement and upon compliance with which the Contracting Party regularly relies and should be able to rely); in this instance, the liability of POOLgroup shall be limited to compensation for the foreseeable damage typically occurring for similar cases.
- 9.3 Limitations of liability arising from 9.2 a) and b) shall not apply if POOLgroup fraudulently conceals a defect or has assumed a guarantee for the quality of the goods. The same shall apply for claims of the Customer under the German Product Liability Act.
- 9.4 Due to a breach of duty which did not consist of a defect, the Customer can only withdraw from or terminate the agreement if POOLgroup is responsible for this breach. The Customer's right of termination (in particular according to §§ 651, 649 BGB) is excluded. In all other cases, the statutory requirements and legal consequences shall apply.
- 9.5 Insofar as the liability for compensation of POOLgroup is excluded or limited, this shall also apply to the personal liability for compensation of its employees, workers, co-workers, representatives and vicarious agents.

10. Applicable law, place of jurisdiction

- 10.1 The exclusive place of jurisdiction shall be the District Court of Münster for all current and future claims arising from the business relationship with traders, legal entities under public law and special assets under public law, including all claims related to bills of exchange and cheques. However, POOLgroup shall also be entitled to bring action against the Customer even in their place residence.
- 10.2 Unless otherwise specified on the order confirmation, the registered office of POOLgroup in "Emsdetten" shall be the place of performance.
- 10.3 For these Terms and Conditions of Delivery and all legal relationships between the Customer and POOLgroup, the law of the Federal Republic of Germany shall apply, excluding all international and supranational (contract) law, particularly the UN law of sale.