

General Sales Conditions of DOMO in EUROPE

0. Definitions

For the purpose of these general sales terms and conditions, the following words shall have the meanings assigned to them below:

'us', 'we' or 'our': refers to the legal entity of the DOMO Group through which the goods are sold to the Purchaser;

'Purchaser' means the professional customer's legal entity purchasing our goods.

1. Scope

1.1. These general terms and conditions shall be applicable to all our services, supplies, offers and sales contracts unless specified otherwise. Purchaser's general terms and conditions are hereby expressly excluded, regardless of the point in time in which they are sent to us.

1.2. Within permanent business relationships, these general terms and conditions shall also apply to future transactions in which they are not specifically referred to. By entering into the business relationship, the Purchaser acknowledges these general terms and conditions for the duration of the business relationship with us.

1.3. Any provision included in Purchaser's documentation subsequent to our commercial offer or purchase order which modifies these general terms and conditions shall be considered null and void, unless specifically agreed in writing by us.

1.4. These general terms and conditions have been provided to the Purchaser in the preparation of the sale of the product to enable him to take notice of the same.

2. Commercial Offers & Orders

2.1. Our commercial offers are not binding and may be changed at any time, even if they include a period of validity. Any amendment to a commercial offer made by the Purchaser shall not be valid unless expressly accepted by us in writing.

2.2. An order, a contract, as well as supplements, modifications or ancillary agreements, shall be deemed entered into only upon (and with the content of) the written order confirmation by us. The acknowledgement of receipt of an order is not considered as an acceptance of the same. Except as confirmed in writing by us in the individual case, declarations by sales employees, representatives, agents or other persons shall not bind us. This shall apply, in particular, for any supplements or modifications after the order has been confirmed.

3. Price & Terms of Payment

3.1. Except as otherwise agreed in writing, all prices are net prices without discount, commission or rebate for delivery ex-factory or ex central warehouse, exclusive of freight, customs and import duties, including normal packaging. VAT and any other taxes as applicable at the date of the invoice will be charged additionally.

3.2. We reserve the right to adapt the agreed-on prices if the cost factors (wages, costs of raw materials or other materials and costs of operations) applicable at the date of confirmation of the order and the market conditions change between the confirmation

of the order and the delivery. If the Purchaser objects to such price adaptation, he shall have the right to commission, at his own cost, an expert to be designated by the Chamber of Industry and Commerce at the place of performance to render an opinion on the legitimacy of the price adaptation. This shall not affect the initial obligation to pay the adapted price. We will, however, recognize the result of such opinion as binding and refund overpayments (if any) to the Purchaser.

3.3. To the extent permissible by law, if other exceptional circumstances, occurred between the acceptance of the order and the delivery of the goods, affect the economic balance of the sales contract, price and payment conditions may be subject to change in the exact measure necessary to reinstate the economic balance. In such a case, we shall notify the Purchaser, who will then be able to withdraw its order within seven (7) calendar days after being notified of the new price. If the Purchaser fails to do so within this period, the new conditions shall be deemed accepted by the Purchaser and shall apply to the sale.

3.4. Payments shall be made at thirty (30) calendar days from the date of invoicing, unless otherwise agreed by us in writing.

3.5. Nonpayment of any invoice shall be considered a fundamental breach by the Purchaser entitling us to suspend any further delivery or to consider the contract terminated immediately by reason of the Purchaser's default. In the event of late payment, default interest is due automatically, without the necessity of a reminder and without prejudice to any other damages, from the day following the date or the end of the period for payment indicated on the invoice or fixed in the contract. The interest rate will be equal to the base interest rate applied by the European Central Bank plus nine percent (9%). In addition, as compensation for recovery costs and pursuant to the relevant European Directive on combating late payment in commercial transactions, a fixed sum as well as any additional costs of the recovery of the original invoice (to the extent reasonably incurred), shall be payable.

3.6. If the Purchaser ceases to make payments in general as well as in the event of judicial or extrajudicial composition proceedings or bankruptcy proceedings with respect to the Purchaser, our claims shall be due and payable in full immediately.

3.7. In the event there has been a substantial reduction of the solvency ratio of the Purchaser, we reserve the right to require advance payments for outstanding shipments of good, payment guarantees from the Purchaser or, as an alternative, to terminate any outstanding orders.

We also reserve the right to unilaterally amend and/or renegotiate payment conditions with Purchaser in the event that the credit insurance agency used by us reduces the credit insurance limit or warranty of the Purchaser.

4. Delivery & Defects

4.1. All delivery times provided by us are indicative and not binding in any way. We are not liable for any delay to deliveries.

4.2. Unless the parties have agreed on a specific Incoterm (as defined in the latest edition of the International Chamber of Commerce's International Rules for the interpretation of trade terms) in the order confirmation

or sales invoice, risk of loss or of damage to the goods shall pass to the Purchaser ex-works and delivery shall be made when the goods are made available for collection by or on behalf of the Purchaser.

- 4.3** We shall be permitted to carry out reasonable partial deliveries and partial invoicing. The price shall remain unaffected thereby. Each partial delivery shall constitute a separate transaction.
- 4.4** Our quantity and quality measurements taken at the point of loading will be stated in the invoice or sales documentation and shall be binding for the parties unless proved by Purchaser to be in error. Deviations in net weight or volume against invoiced quantity up to 0.5% per bag or bulk delivery, or up to 1% per drum, shall be permitted.
- 4.5** If the Purchaser is in delay of collection of the goods when the goods are available for collection, we shall have the right (but shall be under no obligation) to take any and all defensive and remedial measures that may seem necessary to protect the products for the account and at the expense of the Purchaser; such measures shall not give rise to any liability whatsoever on our part. If such delay continues for one (1) week, we shall also have the right to freely sell the goods; the Purchaser shall compensate us for any damage resulting therefrom.
- 4.6** The Purchaser shall examine the goods promptly after receipt. In case of visible or apparent defects, shortage or damage in transit, the Purchaser must immediately, and not later than five (5) calendar days following delivery and in any event before processing or mixing of the goods, inform us in writing specifying the lot number, delivery date, type of defect and the quantity found to be defective, in each case. In case of latent or hidden defects, the Purchaser shall notify us immediately upon discovery of such defects. In case of non-conformity to the specifications of the goods, the Purchaser must immediately upon becoming aware of such non-conformity, and not later than forty (40) calendar days following delivery, inform us in writing specifying the lot number, delivery date, type of non-conformity, the quantity found to be non-conform, and in respect of goods which have been processed be supported by reasonable evidence that the non-conformity was not ascertainable before processing.
- 4.7** Non-compliance with the said reporting deadlines shall be considered as unconditional acceptance of the goods, and forfeiture of the right to raise any complaints whatsoever in such regard.
- 4.8** If a defect or non-conformity exists and has been promptly notified, we shall, in our discretion, repair the defect or non-conformity, or supply new goods. If the repair fails even though an appropriate remedy period has been set, the Purchaser shall be entitled, at its choice, to demand a reduction of the price or a rescission of the contract.

5. Retention of Title

- 5.1** Notwithstanding that risk in the goods shall pass to the Purchaser as provided by Article 4, full legal and equitable title and interest in all and any goods shall remain with us and shall not pass to the Purchaser until full payment of the price. Goods delivered to the Purchaser while the title to such goods has not yet passed to the Purchaser shall be referred to herein as the "Reserved Goods".
- 5.2** The Purchaser shall hold the Reserved Goods as our

fiduciary agent and bailee and will keep the Reserved Goods, at the Purchaser's expense, separate from its own goods and those of third parties, properly stored, protected, insured to their full replacement value and identified as our property.

- 5.3** The Purchaser is not allowed to dispose of the Reserved Goods in order to give security to its creditors, in particular to create a charge, execute a bill of sale or to create a lien on the Reserved Goods.
- 5.4** Should Purchaser be in breach of the contract, in particular be in default of payment, we or our agents shall have the immediate right to retake possession of and permanently retain any of the Reserved Goods and shall take all necessary steps for the purpose of repossession. All costs incurred by us or our agent in such possession shall be borne by the Purchaser.
- 5.5** In the event that the Purchaser processes or mixes the Reserved Goods with other goods, we will then have co-ownership title and rights on the end-product in proportion of the value of the Reserved Goods processed or mixed in relation to the end-product.
- 5.6** In the event the Reserved Goods were resold or lost, the amounts received by the Purchaser in consideration of such resale or loss are to be transferred to us.

6. Warranty

- 6.1** Unless otherwise expressly agreed by the Parties, we warrant that the goods supplied correspond to our issued specifications at the time of shipment. Any technical advice provided by us, before and/or during the use of the goods, whether provided verbally or in writing, is given in good faith but without any warranty from us.
- 6.2** The processing and use of the goods are undertaken solely at Purchaser's risk, and following any such processing or use, Purchaser shall no longer be entitled to claim any non-compliance with the warranty described above. Purchaser independently must determine the suitability of the goods for any intended purpose and its manner of use.
- 6.3** Other than the warranties provided here, we make no representation or warranty, express or implied, in connection with the delivered goods or any part thereof, to the fullest extent permitted by law. All conditions, representations and warranties, whether express, implied, statutory or otherwise, including any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third-party rights, are hereby excluded.
- 6.4** Except as otherwise agreed in writing, warranty rights of the Purchaser vis-à-vis us shall be time-barred six (6) months after the goods has been received.

7. Limitation of Liability

- 7.1** To the extent permissible by law and regardless of the nature of the claim, our contractual and extra contractual liability shall be limited, at our sole discretion, to the replacement or reimbursement of the price of the goods that are defective, non-conforming or missing. This shall not affect Purchaser's right, under applicable law, for requiring specific performance or contract termination. Any liability for loss of production and any other liability, including but

not limited to, loss of profit, indirect or consequential damages are excluded, except to the extent that they are based on a willful or grossly negligent conduct on our part.

- 7.2** Claims do not release the Purchaser from his obligation to pay the price of the delivered goods. Failure to do so shall be considered as a default in payment.

8. Packaging

- 8.1** Packaging lent by us: this shall remain our property. It is solely intended for the goods sold. The Purchaser, the user or the bailee shall be liable for all and any accident which might occur as a result of this packaging. It shall be returned to us in good condition and within the time specified by us. If the packaging is not returned within the stipulated time, or is destroyed or deteriorates, we will be entitled, without any prior written notice, to invoice the Purchaser for the cost of its replacement, in which case the Purchaser shall become the owner of the replaced packaging, or the cost of restoring the packaging to its original condition and also to claim for the Purchaser an indemnity for loss suffered as a result of the failure of the Purchaser to comply with the above provisions.

- 8.2** Transferred packaging: when ownership of the packaging has been transferred to the Purchaser, he shall remove all references to the previous owner and shall not use such packaging for any purpose other than for which it was originally intended.

- 8.3** Retested packaging: when packaging is subject to retesting in accordance with a timeline set by regulations (the Purchaser declaring that he is aware of the same) the last testing date is marked on the packaging. We will have no liability for any accident arising from this packaging, whether empty or full, where it has been transferred to the Purchaser or not returned to us before the date of the next test.

- 8.4** Packaging supplied by the Purchaser: the Purchaser shall be responsible for the choice and the quality of the packaging that is intended to receive the goods. The Purchaser shall supply packaging which conforms to the regulations then in force.

9. Force Majeure

Events of force majeure and, in general, all circumstances which might prevent, reduce or delay manufacture or dispatch shall entitle us, as appropriate, to terminate, reduce or suspend performance and the Purchaser is not entitled to claim damages during the period of force majeure. The terms "force majeure" and "circumstances" are deemed to refer to any cause, event or circumstance beyond our reasonable control, in particular but not limited to: war, mobilization, strike or lock-out, riot, labor dispute, machinery breakdown or factory stoppage, explosion, fire, natural disaster, flooding, [epidemic, national or regional emergency, quarantine, restriction or](#) blockage in transport means, failure or reduction of usual sources of raw materials or other sources of supply, and any kind of intervention by the public authorities. If such events of force majeure and circumstances continue for a period of ten days or more, we are entitled to terminate the sales contract as a whole or in part immediately upon notice. The Purchaser shall have no claims for damages vis-à-vis us in such a case.

10. Waiver / Severability

- 10.1** In the event any provision of these general terms and conditions is declared invalid or unenforceable, the remaining provisions will continue to apply and will retain their validity and significance. In such case(s), the parties will, to the extent possible, replace in good faith the invalid and/or unenforceable provision(s) with valid provision(s) which legally and economically are the closest to the desired purpose and intent of such invalid and/or unenforceable provision(s).

- 10.2** No waiver of any right under these general terms and conditions shall be deemed effective unless the same is set forth in a writing signed by the party giving such waiver, and no waiver of any right of these general terms and conditions shall be deemed to be a waiver of any such right, or any other rights hereunder, in the future. No breach of these general terms and conditions will be treated as a waiver of any subsequent breach of these general terms and conditions.

11. Law/Jurisdiction

- 11.1** German law shall be applicable to all relations between our legal entities with registered offices in Germany, Poland or Italy and the Purchaser to which these general terms and conditions apply. Applicability of the United Nations Convention on Contracts for the International Sale of Products of 11.04.1980 (CISG) is however excluded.

All disputes between the parties arising out or in connection with these general terms and conditions governed by German law shall be submitted to the exclusive jurisdiction of the courts of Leuna and Halle/Saale (Germany).

- 11.2** French law shall be applicable to all relations between our legal entities with registered offices in France, Spain or any other country than the countries mentioned in article 11.1 and the Purchaser to which these general terms and conditions apply. Applicability of the United Nations Convention on Contracts for the International Sale of Products of 11.04.1980 (CISG) is however excluded.

All disputes between the parties arising out or in connection with these general terms and conditions governed by French law shall be submitted to the exclusive jurisdiction of the courts of Lyon (France).

12. Intellectual Property Rights

By purchasing goods from us, the Purchaser shall not obtain any rights to any intellectual property in or relating to the goods, including (without limitation) any trade marks, copyright, patents or rights in design, whether or not such intellectual property is registered.

13. Personal Data Protection

Any personal data provided by the Purchaser shall be processed in compliance with applicable laws, by using paper supports and/or computerized means, in any case through adequate means in order to ensure their security and confidentiality.

We may disclose such personal data to all natural or legal persons who need to process them in order to comply with our and their legal obligations in relation to the business relationship. The Purchaser may at any time exercise its rights to be informed and to obtain the erasure, correction, updating and supplement of its own personal data, and to object to their use for the

purposes stated herein. The data controller is the legal entity of the DOMO Group specified in the heading of the sales contract.