

# General Terms and Conditions of the company morethanshelters GmbH

## 1. SCOPE AND GENERAL REMARKS

These Terms and Conditions shall apply to all present and future business relationships. All our quotations, deliveries and services shall be provided exclusively pursuant to these Terms and Conditions. Business conditions deviating from these Terms and Conditions and our terms of delivery shall not apply unless expressly confirmed by us in writing. Pursuant to these General Terms and Conditions, the term consumer shall mean every natural person who enters into a legal transaction for purposes that predominantly are outside his trade, business or profession (Section 13 of the German Civil Code). The term entrepreneur within the meaning of these Terms and Conditions means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession (Section 14 of the German Civil Code). The term customers, for the purpose of these Terms and Conditions, shall refer to both consumers and entrepreneurs.

## 2. QUOTATIONS

A contract shall be deemed concluded only upon written order confirmation. Any information, drawings, illustrations, technical data, descriptions of weight, size or services in our brochures, catalogues, newsletters, advertisements, price lists or in documents that are part of our quotations shall not be binding, provided the customer can be reasonably expected to accept at any deviations in the delivered item, and except where information has been expressly specified as binding in the order confirmation. Furthermore we reserve the right to make changes based on technical advancements provided that the customer can be reasonably expected to accept them.

## 3. CONCLUSION OF CONTRACT

A written order confirmation shall form the basis of processing all purchase orders at all times. Side agreements and amendments of our offers shall only be valid if confirmed by us in writing.

## 4. REQUIRED AUTHORISATIONS

Our goods are only approved and may only be used for the purposes stated in our product description and in the way specified therein. The customer shall bear full responsibility for any use of our goods for any other purposes or in any other way. Please note that due to statutory provisions that differ from country to country, special authorisations may be required for specific types of use, combining tents, intended longer periods of use or using the tents in specific locations. The customer shall be responsible for verifying if any authorisations are required and for obtaining any such authorisations. Upon request and provided that our expenses are reimbursed, we will support the customer in this process by providing drawings, plans or certificates if available.

## 5. TERMS OF PAYMENT AND OFFSETTING

The terms of payment shall be as specified in the order confirmation. In the event of default of payment we are entitled to charge consumers interest for the delay calculated at a rate of 5% above the respective base interest rate and entrepreneurs 8% above the respective base interest rate. Any cash discount shall require a special written agreement.

If the customer is in default of acceptance, an obligation to pay the remainder of the purchase price shall become due after a period of 15 days after the customer has been informed about the readiness for dispatch. Furthermore, if the customer is an entrepreneur, we shall be entitled to revoke agreed payment terms for future deliveries in the event of a significant deterioration of the customer's economic situation or of arrears with any payments or any other reasonable doubt about the customer's solvency. In this event, any existing claims shall become due immediately. The customer shall only be entitled to offset undisputed or legally binding claims and may only exercise a right of retention with regard to claims resulting from the same contractual relationship.

## 6. RETENTION OF TITLE

Until complete payment of all claims resulting from the purchase contract, we reserve ownership of the goods supplied. If the customer is an entrepreneur, the retention of title shall also apply to all our other and future claims irrespective of their legal reason. The retention of title shall remain unaffected by the inclusion of individual receivables in a current account or by balancing and the recognition thereof. Customers shall not be permitted to pledge or assign as security any goods that are subject to the retention of title.

Customers shall inform us immediately about any attachment or other impairment of our rights. Subject to revocation at any time, customers shall have the right to resell the delivered goods in the course of their regular business operations. The customer herewith already assigns to us all receivables arising from reselling the goods delivered by us with all ancillary rights. We hereby already accept this assignment. Customers shall be authorised and obliged to collect claims assigned to us unless we revoke such authorisation.

The authorisation to collect receivables shall expire, without express revocation, if and as soon as the customer does not fulfil its obligations towards us or is facing financial distress. Upon our request, the customer shall immediately inform us in writing about the recipients of the goods and any claims arising from the resale. At the same time, the customer shall make all documents available (especially quotations, contracts and invoices) required to enforce the claims assigned to us. We shall be entitled to inform the purchaser of the customer about the assignment of claims and to collect the receivables. Upon the customer's request, we shall be obliged to release the securities to which we are entitled to the extent that the viable value of our securities exceeds the secured receivables by more than 20%.

## 7. DELIVERY AND ACCEPTANCE

The delivery period shall commence with receipt of the order confirmation. In addition, if an advance payment was agreed upon, its receipt shall also be required. The delivery period shall be deemed met when the goods to be delivered have left the plant or when the customer has been notified of readiness for dispatch. We shall be entitled to make partial deliveries, provided this is reasonably acceptable to the customer. Should the customer be in default of acceptance after the item's readiness for dispatch has been announced and a reminder has been sent to no avail, we shall be entitled to cancel the contract after setting a reasonable grace period of 14 days. If dispatch is delayed at the customer's request, we shall be entitled to reimbursement of storage costs commencing on the day the customer has been notified of readiness for dispatch.

## 8. PASSING OF RISK

If the buyer is an entrepreneur, the risk of accidental loss and accidental deterioration of the goods shall pass to the customer upon delivery of the goods, in the event of a sale by dispatch upon delivery of the goods to the forwarding agent, transport carrier or any other person or organisation entrusted with dispatching the goods. Notwithstanding the above, the risk shall pass to the customer if the customer is in default of acceptance.

## 9. INSTRUCTIONS ON WITHDRAWAL

If the customer is a consumer and the purchase agreement is an off-premises contract, the customer has a right of withdrawal. The following instructions apply with respect to this right:

### Right of Withdrawal

You have the right to withdraw from this contract within fourteen days without giving any reason. The withdrawal period will be fourteen days commencing on the day on which you acquire, or a third person other than the carrier and indicated by you acquires, physical possession of the goods. To exercise the right of withdrawal you must inform us – morethanshelters GmbH, Gaußstr. 19b, 22765 Hamburg, Germany, telefax: +49-40-181 492 39, e mail: sales@morethanshelters.org – of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post, fax or e-mail). You may use the attached model withdrawal form, but it is not obligatory.

To meet the withdrawal deadline, it is sufficient for you to send your communication concerning your exercise of the right of withdrawal before the withdrawal period has expired.

### Effects of Withdrawal

If you withdraw from this contract, we shall reimburse to you all payments received from you, including the costs of delivery (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us), without undue delay and in any event not later than fourteen days from the day on which we are informed about your decision to withdraw from this contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of such reimbursement. If returning the goods by post is not possible due to their size or weight, we will collect the goods at our own expense. Should returning the goods by post be feasible, you shall send back the goods or hand them over to us, without undue delay and in any event not later than fourteen days from the day on which you communicate your withdrawal from this contract to us. The deadline is met if you send back the goods before the period of fourteen days has expired. We will bear the cost of returning the goods. For goods that can be returned by post we may withhold reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest. You are only liable for any diminished value of the goods resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the goods.

### Exceptions

Das Widerrufsrecht besteht nicht für Waren, die nicht vorgefertigt waren und für deren Herstellung eine individuelle Auswahl oder Bestimmung durch den Verbraucher maßgeblich ist oder die eindeutig auf die persönlichen Bedürfnisse des Kunden zugeschnitten sind.

## 10. LIABILITY FOR DEFECTS

- (1)** We reserve the right for minor, customary or technically unavoidable deviations from the quality, size, colour or weight as well as deviations due to alterations of construction. They shall not be considered defects, provided that the use of the goods in accordance with the contract is not noticeably affected. Furthermore we shall not be liable for damages resulting from ordinary wear and tear, improper installation or inappropriate use or which occur as a result of modifications or repairs performed by the customer or by third parties without our prior written approval. Liability for defects shall not cover defects that occur due to natural forces, force majeure and improper use or handling.
- (2)** Entrepreneurs shall notify us in writing about obvious defects within a period of two weeks from the day of the receipt of the goods; failing this, our liability for these defects shall be excluded. A timely sending of the notification shall suffice to meet the deadline.
- (3)** Consumers shall notify us in writing about obvious defects within a period of two weeks after their having discovered the defect. The day of dispatch of the notification shall be decisive for meeting the deadline. Should the consumer fail to notify us, any warranty claims relating to such defects shall expire two months after the customer discovered the defect. This shall not apply if we fraudulently concealed the defect.
- (4)** If the customer is an entrepreneur, we shall be entitled to remedy defects at our choice by rectification or a replacement delivery. If the customer is a consumer, he shall be entitled to request supplementary performance either by rectification or by replacement delivery. We shall be entitled to reject the chosen type of supplementary performance, if it is only possible at unreasonable costs and if the other type of supplementary performance does not cause any significant disadvantages for the customer.
- (5)** If the customer chooses to cancel the agreement due to a defect of title or a material defect after a supplementary performance failed, he shall not be entitled to claim damages due to the defect. If, after a supplementary performance failed, the customer chooses to claim damages the goods shall remain with the customer, if this is reasonably acceptable to the customer. Damages shall be limited to the difference between the purchase price and the value of the defective goods. This shall not apply if we have fraudulently concealed the defect.

(6) If the customer is an entrepreneur, the liability period for defects shall be one year commencing with the delivery of the goods. If the customer is a consumer, the liability period shall be two years from delivery of the goods.

(7) If the assembly instructions the customer has received are deficient, we shall be merely obligated to supply defect-free assembly instructions and only if the defect in the assembly instructions stands in the way of proper assembly.

(8) We do not provide a guarantee that exceeds the statutory liability for defects.

(9) If the customer is an entrepreneur and resells the goods, the customer shall only be entitled to the right of recourse to the extent that the customer and his purchaser have not reached any agreements exceeding statutory and mandatory claims for defects.

## 11. COMPENSATION

If the agreement cannot be fulfilled due to reasons for which the customer is responsible we may claim damages pursuant to Section 325 of the German Civil Code. In this event, we shall be entitled to claim damages for non-performance amounting to 25% of the agreed gross price unless the customer proves that no damages occurred or that actual damages were lower.

## 12. LIABILITY

Without prejudice to our liability for defects, we shall be fully liable for injuries to life, body or health caused by negligent or intentional violation of obligations by our legal representatives or agents and for damages, with regard to which liability arises under the German Product Liability Act, as well as for any damages caused by intentional or grossly negligent violations of our contractual obligations or fraud by our legal representatives or agents. Furthermore, we shall be liable for damages caused by ordinary negligence insofar as such negligence concerns contractual obligations the observance of which is essential for achieving the objectives of the contract (cardinal duties). With regard to entrepreneurs, our liability for the violation of cardinal duties shall be limited to damages, which are typically connected to the contract and which are foreseeable. We shall not be liable for any other violations of secondary obligations caused by our ordinary negligence. Any further liability on our part shall be excluded, irrespective of the legal basis for the claim.

## 13. APPLICABLE LAW / PLACE OF FULFILMENT / VENUE

This contract and the entire legal relationship between the parties shall be subject to the law of the Federal Republic of Germany with the exception of the United Nations Convention on Contracts for the International Sale of Goods (CISG). If the customer is an entrepreneur, our place of business shall be the place of fulfilment. If the customer is an entrepreneur or the customer's place of general jurisdiction is outside of Germany, the venue for any disputes arising from this contract shall be our place of business. Nevertheless, we shall also be entitled to sue the customer at his general place of jurisdiction.