

# Terms of Service

## General Conditions of Sale

- applicable to business transactions with undertakings –  
(Translation from German original, only the version in German is legally valid)

### § 1 Validity of conditions

1. The terms of business below apply to all current and future business relationships with customers which are “undertakings” as defined in § 310 para. 1 BGB (German Civil Code), hereinafter called “Purchasers”. They apply exclusively, even if no reference is made to them in individual cases. Verbal side-agreements are valid only if confirmed in writing by MOVIT GmbH, hereinafter called MOVIT.

2. Any conditions issued by the Purchaser which contradict the MOVIT conditions of sale or which vary from them shall not be recognised; they shall only have validity for MOVIT if agreed in writing. These conditions of sale continue to apply even if MOVIT makes a delivery to the Purchaser without reservation of rights in the knowledge that the Purchaser has issued conditions which contradict these or vary from them.

### § 2 Offer, contract and sales documents

1. Offers made by MOVIT are always subject to change without notice. No guarantee is given that the goods and services can in fact be supplied and at the stated prices, unless this has been expressly confirmed in writing.

2. The contract is formed only when MOVIT has accepted the Purchaser's order in writing. MOVIT may accept the order within two weeks of receipt of the order.

3. All sales documents, specifications and prices lists, as well as technical information and drawings, must be treated as strictly confidential. MOVIT reserves its rights of ownership and rights of utilisation under the terms of copyright law without restriction.

4. The contract is entered into subject to the reservation that MOVIT has received correct on-time delivery from its own suppliers, unless MOVIT is itself responsible for the failure to take delivery. The Purchaser will be informed without delay about non-delivery of any goods or services.

### § 3 Delivery dates, obstacles to delivery

1. Delivery dates must be agreed in writing. Part-deliveries are permitted.

2. The ability to meet delivery periods for goods or services is subject to receipt in good time of all the documents, necessary permits and release notes to be supplied by the Purchaser, in particular the receipt of drawings, and compliance with the agreed conditions of payment and other obligations which the Purchaser has. If these prior conditions are not met on time, the delivery dates shall be reasonably extended; this does not apply if MOVIT is responsible for the delay. The right to pursue the objection of non-performance of contract is reserved.

3. If failure to meet delivery dates is due to an Act of God, e.g. mobilisation, war, uprising or similar events e.g. strike, lock-out etc., the delivery dates shall be reasonably extended.

### § 4 Sale of specification

If goods are manufactured and/ or processed by MOVIT, and if the Purchaser has presented a specification for this purpose, the Purchaser must indemnify MOVIT against any loss or damage, costs or other expenses incurred by MOVIT due to the fact that manufacturing and/ or processing the goods in accordance with the Purchaser's specification represents infringement of a patent, copyright, trademark or other protected right belonging to a third party.

### § 5 Prices, methods of payment, prohibition on offsetting

1. Unless otherwise provided for in the order acceptance, prices are deemed to be “ex works”, excluding packing; this will be charged as a separate item.

2. Statutory VAT is not included in the prices; it must be shown separately on the invoice at the statutory rate applicable on the date of issue of the invoice.

3. Unless the selling price has been expressly agreed between the Purchaser and MOVIT, the list price valid on the date of the order as fixed in MOVIT's current price lists at that time is deemed to be agreed for the product in question.

4. MOVIT reserves the right to raise the price of the goods, after informing the Purchaser in good time and before delivery of the goods, in any way necessary as a result of general price developments which are outside its control (such as fluctuations in exchange rates, currency regulations, changes in customs duties, significant increases in material and manufacturing costs) or due to a change of supplier.

5. The deduction of any discount must be agreed in writing.

6. Unless otherwise agreed in writing, payment shall be made by prior transfer/ cash in advance.

7. The Purchaser has the right to offset payments only if his counterclaims have been established as legally enforceable, are undisputed or have been accepted by MOVIT. He is furthermore entitled to exercise the right to withhold payment only to the extent that his counterclaim is based on the same contractual relationship.

### § 5 Despatch, delivery of goods, non-acceptance

1. Unless otherwise stated in the confirmation of contract, delivery is agreed to be “ex works”. Risk transfers to the Purchaser at the latest on despatch of the goods and/ or their handover to the person carrying out the transport.

2. The Purchaser shall pay the costs of packing and transport. If the Purchaser wishes, MOVIT will take out transport insurance at the Purchaser's cost.

3. If, despite notification, the Purchaser does not accept the goods delivered in accordance with the contract, or refuses to accept fulfilment of the contract of sale, MOVIT is entitled to demand compensation due to non-performance amounting to 20% of the purchase price. The right of the Purchaser to prove that MOVIT has not suffered a loss, or has

suffered only a substantially lower loss, is reserved. MOVIT reserves the right to pursue claims for a greater loss.

### § 6 Reservation of ownership

1. MOVIT reserves the right of ownership to the item being sold until all payments due under the terms of the supply contract have been made. If the Purchaser behaves contrary to the contract, in particular by delaying payment, MOVIT is entitled to take back the item being sold. If MOVIT takes back the item being sold, this implies withdrawal from the contract. After taking back the item being sold, MOVIT is authorised to utilise it, and any revenue from such utilisation will be offset against the liabilities of the Purchaser, less reasonable costs incurred in so doing.

2. The Purchaser has a duty to handle the item being sold with care; in particular he has a duty to insure it adequately at its new value at his own expense against damage due to fire, water and theft. If maintenance and inspection work is necessary, the Purchaser must carry this out in good time at his own expense.

3. The Purchaser must inform MOVIT without delay in writing of any attachment orders or other interventions by third parties, so that MOVIT can pursue an action in accordance with § 771 ZPO (Code of Civil Procedure). If the third party is not in a position to reimburse the legal and out-of-court costs incurred by MOVIT in such an action in accordance with § 771 ZPO, the Purchaser is liable for the financial loss thereby incurred by MOVIT.

4. The Purchaser is entitled to sell the item being sold onwards as part of a normal business transaction; however, as of now he assigns to MOVIT all claims amounting to the sum of the final invoice (including VAT) of the claim to which he becomes entitled under the terms of the onward sale in respect of his customer or a third party, irrespective of whether the item being sold is sold onward without or after processing.

The Purchaser is authorised to collect this claim even after it has been assigned. MOVIT's authority to collect the claim itself remains thereby unaffected. However, MOVIT undertakes not to collect the claim, provided the Purchaser has fulfilled his payment obligations under the terms of the consideration collected, has not delayed payment and in particular has not made any application for the opening of court composition or insolvency proceedings, or suspended payment. If this is the case, however, MOVIT may demand that the Purchaser notifies MOVIT of the claims assigned and its debtors, provides all details necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the said assignment.

5. The processing or re-design of the item being sold by the Purchaser is always carried out for MOVIT. If the item being sold is processed together with other items which do not belong to MOVIT, MOVIT acquires joint ownership of the new item in the ratio of the value of the item being sold (final invoice amount including VAT) to the other objects processed at the time of processing. Furthermore, the same applies to the item created through processing as to the object of sale supplied, subject to reservation of ownership.

6. MOVIT undertakes to release the securities to which it is entitled at the request of the Purchaser, to the extent that the realisable value of the securities exceeds the claims to be secured by more than 10%; the choice of securities to be released is the responsibility of MOVIT.

### § 7 Warranty and exclusion of liability

1. Claims for defects pursued by the Purchaser are subject to the condition that the Purchaser has properly carried out his duties to investigate and complain as defined in § 377 HGB (German Commercial Code) to the extent that the Purchaser is a trader.

2. If there is a defect in the item being sold, at the Purchaser's discretion he is entitled to subsequent performance of the contract in the form of remedying the defect or to supply a new item which is free from defects. In the event of remedying the defect, MOVIT has a duty to pay all the costs, in particular transport, transit, work and materials costs necessary for the purpose of remedying the defect, unless these are increased due to the fact that the item being sold had been taken to a place other than the place of performance.

3. If subsequent performance of the contract is not successful, the Purchaser is entitled at his discretion to demand withdrawal from the contract or a price reduction.

4. If the Purchaser pursued claims for compensation, MOVIT has liability under statutory regulations to the extent that these claims are based on wilful intent or gross negligence by the representatives or vicarious agents of MOVIT. If MOVIT is not charged with deliberate breach of contract, liability for compensation is limited to foreseeable damage which could typically have occurred.

5. MOVIT is liable under statutory regulations if MOVIT is culpably in breach of a major duty under the terms of the contract; in this case, however, liability for compensation is limited to foreseeable damage which could typically have occurred.

6. Liability due to culpable loss of life, physical injury or damage to health remains unaffected; this also applies to compulsory liability under the terms of the Product Liability Law.

7. Unless regulated to the contrary in the above clauses, liability is excluded.

8. The period of limitation for claims for defects is 12 months, calculated from the date of transfer of risk.

### § 8 Installation, use on public highways and motor sport

1. As some of the items sold by MOVIT are not licensed for use on public highways within the EU, the Purchaser must inform himself before signing the contract about legal conditions concerning such licences and take care to ensure that any modifications/ re-equipping activities are carried out in accordance with the requirements of national conditions issued by the authorities in each case. No liability is

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accepted for unlawful behaviour by the Purchaser.

2. The goods are not in principle suitable for use in the area of motor sports, unless MOVIT has agreed to their use in motor sports in writing. Any such use which goes beyond the normal use on public highways is always made at the Purchaser's own risk.

### § 9 Partial invalidity

Should any individual conditions or clauses of the contract be inoperable, the validity of the remaining conditions and clauses of the contract are thereby unaffected.

### § 10 Choice of law; place of performance and legal jurisdiction

1. If the Purchaser is a trader, the court with jurisdiction is the court covering the MOVIT Head Office; MOVIT is, however, entitled also to pursue an action against the Purchaser at the court with jurisdiction at the Purchaser's Head Office.

2. The law of the Federal Republic of Germany applies; the UN Convention on Contracts for the International Sale of Goods is excluded.

3. Unless otherwise specified in the contract confirmation, the MOVIT Head Office is the place of performance.

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Stand: 01.02.2010