

General Terms and Conditions of MOTIP DUPLI GmbH

Updated in August 2014

I. Area of Application

The deliveries and services of the MOTIP DUPLI GmbH are effected exclusively under the general terms and conditions stated below. These sales terms only apply with regard to traders and enterprises according to § 14 BGB (German Civil Code). They also apply to future business with the customer. Terms and conditions deviating from or conflicting with those do not apply unless MOTIP DUPLI GmbH has explicitly agreed to their validity. The terms and conditions below also apply if MOTIP DUPLI GmbH or their representative, having knowledge of those deviating or conflicting regulations of the customer, carry out the services without any reservation knowing of those deviating or conflicting regulations of the customer. Changes or amendments to the terms and conditions below are effected by the management or by agents especially authorized by the management. Verbal agreements or declarations of other persons are only effective if they are approved in writing by the management.

Our general terms and conditions are made known to the customer by forms, price lists, invoices or publications on the internet.

II. Quotation, Conclusion of the Contract and Scope of Services

1. The quotations of MOTIP DUPLI GmbH are not binding but are to be understood as request to the buyer to submit MOTIP DUPLI GmbH with a corresponding bid. The contract is concluded by an order placed by the customer (bid) and the acceptance by MOTIP DUPLI GmbH. If the latter deviates from the order, this is valid as a new quotation subject to change by MOTIP DUPLI GmbH.
2. If the customer orders the goods electronically, receipt of order is acknowledged as quickly as possible. Acknowledgement of receipt does not mean that the order has been accepted without any reservation. The acknowledgement of receipt can be combined with an acceptance of the order.
3. The technical data and description of the particular product information, promotional material and technical bulletin as well as specifications by the manufacturer or their abettor as defined by § 434 para. 1 item 3 BGB (German Civil Code) are no warranted properties or guarantee for durability of the goods which are to be supplied by MOTIP DUPLI GmbH unless these specifications are stipulated individually.

With regard to sales by test or sample, these only imply that the sample has been construed professionally but cannot be taken as a warranty for the property or durability for the goods to be supplied by MOTIP DUPLI GmbH.

4. The application-technical advice is granted to the best of knowledge by MOTIP DUPLI GmbH. All specifications and information about fitness and application of the goods do not release the buyer from their own tests and trials regarding fitness of the products for the intended treatment and purpose.

III. Prices, Terms of Payment, and Set-offs

1. All prices are calculated ex works except for packaging. The prices are stated in EURO if not indicated otherwise and are without VAT. The latter is detailed separately on the invoice at the valid interest rate according to the valid fiscal regulations. A minimum order value is to be stipulated individually based on the net value of the order.
2. Price and performance statements as well as other explanations or assurances are only binding for MOTIP DUPLI GmbH if they have been submitted in writing or have been confirmed.
3. The prices, which were agreed upon, are only valid for the particular concluded contract.
4. MOTIP DUPLI GmbH is entitled to increase the stipulated prices adequately if after conclusion of the contract rising costs, particularly due to wage agreements or increases in the price of material occur. Evidence for these is to be provided on the customer's demand.
5. Unless otherwise stated in the order confirmation the purchasing price is due for payment within 30 days from the invoice date. A special written agreement is required for a cash discount.
6. Alternatively, the buyer can entitle MOTIP DUPLI GmbH to SEPA direct debit. The deadline for the pre-notification can be cut to one day. The buyer ensures that the account is balanced. The buyer shall be held liable for all costs incurred by dishonoring or negative booking operations of debits as far as the buyer is responsible.
7. If delivery is delayed due to causes to be warranted by the buyer, delivery is considered to be as effected on notification of readiness for delivery.

8. Payment times are considered as adhered to if MOTIP DUPLI GmbH can have the amount at their disposal within the payment period. Payment can be charged against other, still outstanding payment requests if MOTIP DUPLI GmbH chooses to do so.
9. Cheques and – as far as payment by note has been agreed upon – bills of exchange are accepted as payment. Discount and collecting fees as well as interest are to be reimbursed to MOTIP DUPLI GmbH immediately.
10. A set-off or withholding of the customer is impossible unless the set-off or the withholding claim have been established as undisputable or as final and absolute. MOTIP DUPLI GmbH is entitled to avert the exercise of the right of retention by provision of security – also by surety.
11. If the buyer is partially or completely behind schedule with his/her obligation to pay, he/she must pay default charges amounting to annually 8 percentage points above the basis interest of the European Central Bank irrespective of all rights of MOTIP DUPLI GmbH from this point in time as far as MOTIP DUPLI GmbH does not prove a higher damage.
12. If the buyer stops payment, overindebtedness is at hand or insolvency proceedings are filed for or if the buyer falls behind with honouring a bill of exchange or cheques, the total receivables of MOTIP DUPLI GmbH are due immediately. The same applies with other considerable deterioration of the buyer's economic situation. In such cases MOTIP DUPLI GmbH is entitled to claim sufficient provision of security or to withdraw from the contract.

IV. Delivery

1. Stipulated delivery times only apply approximately unless business to be settled at a fixed date has been agreed upon explicit.

The declaration of delivery times is effected strictly under conditional acceptance subject to the co-operation of the buyer.

If, however, MOTIP DUPLI GmbH exceeds stipulated delivery times due to acceptable circumstances the buyer can withdraw from the contract or claim damages after the expiration of a period of grace which has to amount to a minimum of 15 working days. Withdrawal from the contract must be submitted in writing.

The liability to pay compensation complies with item VII 6 ff., X item 1 ff.

2. MOTIP DUPLI GmbH only falls behind schedule after fixing an adequate period of grace of at least 15 working days. In the case of force majeure or other unforeseeable, extraordinary circumstances which MOTIP DUPLI GmbH is not responsible for, such as operational disruption caused by fire, water or similar circumstances, breakdown of manufacturing facilities and machines, late deliveries or failure of delivery by suppliers as well as business interruptions due to shortage of raw materials, energy or lack of labour force, strike, lock out, difficulties with procurement of means of transport, traffic hold-up, intervention of authorities, MOTIP DUPLI GmbH is entitled to put off the delivery or service beyond the duration of the obstruction plus an adequate lead time – as far as they are prevented from the timely fulfilment of their services by no fault of their own. If the delivery or service is delayed by more than one month, both MOTIP DUPLI GmbH and the buyer are entitled to withdraw from the contract in writing with regard to the shortcomings caused by the disruption of delivery, excluding any kind of damages (see item VII item 6 ff., X item 1 ff.).
3. MOTIP DUPLI GmbH is entitled to partial delivery or partial service within the stipulated delivery and service periods if reasonable for the customer.
4. Compliance of the delivery and service obligations of the MOTIP DUPLI GmbH requires the timely and orderly fulfilment of the obligations of the buyer.
5. If the buyer falls behind schedule with the call-off order, the take-over or collection order or if there is a delay in shipping or the delivery to be warranted by the buyer, then MOTIP DUPLI GmbH is, irrespective of further claims, entitled to claim a claims lump sum to the amount of the storage costs customary in place regardless whether the goods are stored with MOTIP DUPLI GmbH or a third party. The buyer is obliged to prove that no or just minor damage has occurred.

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V. Shipment

1. Shipment is effected ex works or ex stock and is to be collected there from the buyer at their own risk and cost unless explicitly stipulated otherwise between MOTIP DUPLI GmbH and the buyer in writing. In this case, the risk of accidental perishing or the accidental deterioration of the contractual delivery item changes over to the buyer after providing them for collection with the receipt of the collection notice with the buyer. For the rest, the risk of accidental perishing or accidental deterioration of the delivery item changes to the buyer with the handover to the freight carrier (also with delivery carriage prepaid or delivery insured in transit by MOTIP DUPLI GmbH).
2. As far as the delivery of the goods is effected in or on returnable units, e.g. drums, hobbos, pallets and others, these are left with the customer on loan. If these returnable units on loan are not returned to Haßmersheim within two months, pallets within one month after date of invoice in a clean state and fit for reusing carriage prepaid by the buyer, the buyer is charged with a monthly usage fee as customary in the market for the units on loan. This does not apply if there are corresponding options of exchange of the returnable units on loan or if there are agreements on this issue on an individual contract basis. Returnable units on loan which are returned damaged are repaired or exchanged on the customer's expense. The buyer places the repair order already now.

If return of the returnable units on loan is not effected within six months after invoicing, they so billed at their replacement costs considering potential prepaid rental fees. Afterpayment, ownership changes to the customer.

Disposable units are billed separately and are not taken back.

VI. Title Retention

1. The goods remain property of MOTIP DUPLI GmbH until all the claims they rightfully have against the buyer are fulfilled (goods subject to retention of title) even if the single goods have been paid for. A pledge or transfer by way of security of the goods subject to retention of title is not acceptable.
2. Within the scope of what is acceptable in regular business operations, the buyer will provide for the case that he/she resells or rents out the goods subject to retention of title: From now on until all the duties have been discharged, he/she will cede all future claims he/she may have against his/her customers as a result of reselling and renting out of the corresponding goods as a means of security without further explanations being required. The act of transfer also extends to balance claims which arise within existing open accounts or with the termination of such situations of the buyer with his/her customer. If the goods subject to retention of title are resold or rented out together with other objects with no unit price having been stipulated for the goods subject to retention of title, the buyer will transfer to MOTIP DUPLI GmbH this very part of the total claim which is in accordance with the amount invoiced by MOTIP DUPLI GmbH for the goods subject to retention of title, giving priority to the relevant amount before considering any other claims. Until cancellation the buyer is authorized to collect the assigned claim from reselling or renting; he/she is, however, not entitled to dispose of them in another way, e.g. by assignment.

On demand of MOTIP DUPLI GmbH the buyer must make the assignment known to the customer and hand over the documents to MOTIP DUPLI GmbH which are required to enforce their rights towards the customer (e.g. invoices) as well as provide them with the necessary information. The buyer is to bear all costs incurred by collection of interventions. If, following his/her authorization to collect the assigned claim, the buyer receives a bill of exchange from reselling, the title of these papers with vested right changes over to MOTIP DUPLI GmbH as a precaution. The transfer of the bill is substituted by the agreement that the buyer takes it into custody for the MOTIP DUPLI GmbH and then delivers it to the MOTIP DUPLI GmbH immediately and endorsed. In case that the buyer should receive the equivalent value of the claim assigned to MOTIP DUPLI GmbH as a cheque or at a bank of the buyer, he/she is obliged to immediate notification of the receipt of payment and to payment. The title to the cheques is transferred to MOTIP DUPLI GmbH with vested right as soon as the buyer receives them. The handover of the papers is replaced by the agreement that the buyer takes them into custody for MOTIP DUPLI GmbH in order to deliver them to MOTIP DUPLI GmbH immediately and endorsed.

3. If the buyer processes the goods subject to retention of title, does he transform them or connect them with other objects, then this processing, transformation or connection is effected for MOTIP DUPLI GmbH. They become the immediate owners of the processed, transformed or connected item. If this is not possible for legal reasons, then MOTIP DUPLI GmbH and the buyer agree that MOTIP DUPLI GmbH becomes owner of the new item at every point in time of the processing, transformation or connection. The buyer takes custody of the new item for MOTIP DUPLI GmbH with the care of a prudent businessperson. The item created by processing, transformation or connection shall be deemed to be goods subject to retention of title. With the processing, transformation or connection with other objects not belonging to MOTIP DUPLI GmbH, MOTIP DUPLI GmbH is entitled to common ownership of the new item to the amount of the share which results from the ratio of the value of the processed, transformed or connected goods subject to retention of title to the value of the new item. If the new item is sold or rented, the buyer assigns his/her claims resulting from selling or renting towards his/

her customer to MOTIP DUPLI GmbH together with all ancillary rights as a precaution without later special explanations necessary. The assignment is only valid to the amount of the sum which corresponds to the invoiced value of the processed, transformed or connected goods subject to retention of title MOTIP DUPLI GmbH. The debt security assigned to MOTIP DUPLI GmbH has priority over the remaining claims.

4. If the goods subject to retention of title are connected with estate or moveable items by the buyer, the buyer assigns his/her claims which he/she is entitled to as a compensation for the connection to MOTIP DUPLI GmbH together with all ancillary rights as a precaution without requiring a further special explanation. If the buyer is owner of the estate or if he/she is entitled to collecting rent resulting from this estate for other legal reasons, he/she also assigns the rent to MOTIP DUPLI GmbH. VI. item 3 is correspondingly valid for the amount of the assigned claim.
5. If the buyer is partly or completely in default with his/her duty of payment or with honouring due bills of exchange or cheques, if overindebtedness or cessation of payment is at hand, or if a settlement petition or an insolvency is filed for, MOTIP DUPLI GmbH is entitled to seize all goods subject to retention of title immediately, and they can also enforce the other rights resulting from the goods subject to the retention of title; the same applies in case of an otherwise considerable deterioration of the economic situation of the buyer. The buyer grants MOTIP DUPLI GmbH or their authorized representative access to the entire office premises during business hours. The claim of possession or the appropriation are not a withdrawal from the contract. MOTIP DUPLI GmbH is entitled to utilize the goods subject to the retention of title with the care of a prudent businessperson and to settle their claims from their corresponding proceeds considering all pending claims.
6. If the value of securing the claims of the MOTIP DUPLI GmbH exceeds the claims against the buyer resulting from a current business relationship by more than 20%, MOTIP DUPLI GmbH is obliged on demand of the buyer to release security which he/she is entitled to according to his/her choice.
7. Product carriers which were provided to the buyer by MOTIP DUPLI GmbH free of charge or on loan remain property of MOTIP DUPLI GmbH. The buyer is not allowed to store other products which have not been supplied based on the business relations to MOTIP DUPLI GmbH on these product carriers.

VII. Claims of the Buyer in Case of Shortcomings/Compensation

1. Obvious defects, wrong deliveries and wrong quantities are to be reported to MOTIP DUPLI GmbH by the buyer in writing immediately, but no later than 8 days after receipt of goods. Hidden defects are to be reported to MOTIP DUPLI GmbH in writing immediately, but no later than 8 days after discovering them. If the buyer fails to notify MOTIP DUPLI GmbH, the goods are considered as approved. For the rest §§ 377 ff. HGB (German Commercial Code) is valid.
2. The buyer is to check – by trial processing, if necessary – if the delivered material is free of faults and if it is in accordance with his/her order. Processing of rejected goods may only be continued if MOTIP DUPLI GmbH agrees in writing.

After 3 months of transfer of perils to the buyer according to V. item 1 complaints about hidden defects are excluded and are considered as too late as far as they should have been reasonably noticeable.

3. If the goods show a defect on transfer of perils, then MOTIP DUPLI GmbH is entitled and obliged to supplementary performance. The supplementary performance is optionally effected by remediation of defect or by replacement delivery. The costs for supplementary performance, particularly transport, infrastructure, labour and material costs, are at the expense of MOTIP DUPLI GmbH. If these costs amount to more than 50% of the value of goods to be supplied, MOTIP DUPLI GmbH is entitled to refuse supplementary performance.
4. If supplementary performance fails, if it is not effected within an adequate period of time fixed by the buyer, or if it is refused, the buyer is optionally entitled to withdraw from the contract, to ask for a discount of the price corresponding to the decreased value due to the defect or – within the constraints stated below – to claim damages.
5. The buyer's legal right of withdrawal does not imply culpa in contrahendo of the supplier in case of a defect. In other cases the buyer can only withdraw if there is a neglect of duty which the supplier is responsible for.
6. If a defect results in damage, MOTIP DUPLI GmbH is liable according to the legal requirement if it is injury to persons, if the damage falls in the category of the Product Liability Act, or if it is due to a deliberate act or gross negligence.
7. If the damage is due to culpable infringement of an essential contractual obligation or if it is due to a 'cardinal obligation' without gross negligence or a deliberate act at hand, MOTIP DUPLI GmbH is only held liable for the damages which are foreseeable and typical for this kind of contract..
8. Claim beyond the contractual and tortious claims of the buyer are excluded. MOTIP DUPLI GmbH is not held liable for damages which did not evolve at the item of delivery itself, particularly not for

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lost profit or other economic loss of the buyer.

- The regulations above do not apply to used goods. MOTIP DUPLI GmbH is only held liable for defects in case of explicit acceptance of guarantee, deliberate acts or gross negligence.

VIII. Other Liability

- Buyer's claims beyond this, no matter for what legal reason, particularly due to infringement of other obligations resulting from the contractual obligation and from lawful act, are excluded based on the regulations of item VII. item 6-9. A change of the burden of proof to the disadvantage of the buyer is not connected to the preceding regulation.
- As far as there is a claim for damages at hand, these become time-barred like defects.
- In case of the infringement of pre-contractual obligation or of an impediment to performance already existing on conclusion of the contract (§§ 311 para. 2, 311 a BGB (German Civil Code)) der MOTIP DUPLI GmbH's liability to pay damages is restricted to breach of confidence (reliance interest).
- For damages or futile expenses, which have been caused by advisory service or information which is not to be paid for separately, MOTIP DUPLI GmbH is held liable in case of deliberate or gross negligent breach of duty as far this breach of duty is not a defect according to § 434 BGB (German Civil Code) of the goods supplied by MOTIP DUPLI GmbH.
- As far as liability of MOTIP DUPLI GmbH is excluded or limited, this also applies to personal liability of MOTIP DUPLI GmbH's staff, representatives, and auxiliary persons.

IX. Industrial Property Rights and Copy Rights/Defects of Title

- If not stipulated otherwise, MOTIP DUPLI GmbH is obliged to effect delivery within the country of the place of delivery independent of industrial property rights and copy rights of third parties (in the following property rights). If a third party enforces their legitimate claim against the buyer due to an infringement of property rights caused by MOTIP DUPLI GmbH's effected contractually used consignment, MOTIP DUPLI GmbH is held liable against the buyer within the time period defined in item X item 1 as follows:
 - At their choice MOTIP DUPLI GmbH will either sue out a property right for the relevant consignments at their own expense or change them in such a way that the property right is not infringed or exchange them. If this is not possible for MOTIP DUPLI GmbH within adequate regulations, the buyer is entitled to the legal right of withdrawal or to legally reduce the price.
 - MOTIP DUPLI GmbH's obligation to payment of damages is in accordance with item VIII.
 - The obligations of MOTIP DUPLI GmbH mentioned above are only valid if the buyer immediately informs MOTIP DUPLI GmbH about the claims made by third parties in writing, does not acknowledge an infringement and all defensive measures and negotiations for amicable settlement are reserved to MOTIP DUPLI GmbH. If the buyer discontinues use of the consignment for reasons of mitigation of damages or other reasons, he/she is obliged to point out to the third party that discontinuation of use is not connected to acknowledgement of an infringement of property rights.
- Claims of the buyer are excluded if he/she is responsible for the infringement of property rights.
- Claims of the buyer are also excluded if the infringement of property rights has been caused by particular specifications of the buyer, by an application not foreseeable by MOTIP DUPLI GmbH or by the fact that the consignment is modified by the buyer or used to together with products which have not been supplied by MOTIP DUPLI GmbH.
- If defects of title occur, the regulations of item VII. of this agreement apply accordingly.
- Claims going beyond this or other claims than regulated in item IX. of the buyer against MOTIP DUPLI GmbH and their auxiliary agents are excluded due to defect of title.

X. Lapse of Time

- Claims lapse in 12 months. The time period commences with transfer of perils according to V. item 1, unless it is regulated by law according to §§ 438 para. 1 nb.2 (items for buildings), 479 para.1 (right of recourse) and 634a para.1 nb. 2 (construction defects) BGB (German Civil Code) that longer periods apply.
- For claims regarding defects, time lapses subject to §§ 438 para. 1 nb.2, 479 BGB (German Civil Code) within one year.
- With newly manufactured goods supplied by MOTIP DUPLI GmbH which have been used for a building

according to their common mode of application and have caused defects to it, claims lapse within five years from the legal start of the limitation period.

- The regulations fixed in item 1 to 3 do not apply to the limitation period of claims due to infringement of life, the body or health as well as not for the limitation period of claims according to the product liability act and due to defects of title of the goods supplied by MOTIP DUPLI GmbH which exist in a right in rem of a third party based on which the delivery of the consignment supplied by MOTIP DUPLI GmbH can be claimed. It also does not apply for the limitation period of claims by the buyer/customer which are based on the fact that MOTIP DUPLI GmbH maliciously kept quiet about defects on their supplied goods or that MOTIP DUPLI GmbH infringed an obligation deliberately or by gross negligence. For cases of claims mentioned under this item the legal limitation periods apply when it comes to the limitation periods, also if MOTIP DUPLI GmbH explicitly accepted warranty for the property of an item.

XI. Limitation of Liability of Recourse according to §§ 478 f. BGB (German Civil Code)

The agreement upon the place of jurisdiction is also valid for lawsuits regarding bills of exchange and cheques.

XII. Miscellaneous Provisions

- Place of execution and exclusive place of jurisdiction for all claims between MOTIP DUPLI GmbH and businesspersons or legal bodies of public law or separate assets regulated by public law is 74855 Haßmersheim, as far as compellent legal requirement is opposed to this. MOTIP DUPLI GmbH is entitled to institute legal proceedings against a buyer at his/her legal place of jurisdiction.

We accept assembly and disassembly costs only amounting to a reasonable sum within the frame of the recourse of the entrepreneur.

- Exclusively the law of the Federal Republic of Germany applies to the legal relationship between MOTIP DUPLI GmbH and the buyer. The application of the regulations about international sale of goods (UN CISG) and the German international private law are explicitly excluded.
- If delivery is effected via sea route, the latest INCOTERMS apply.
- If a regulation under these terms and conditions and the concluded agreement should be or become invalid, the validity of the remaining regulations stays unaffected. The contractual partners are obliged to replace the invalid regulations with one which is as much as possible close to the invalid one in its economic success.