

General Terms and Conditions of Sale (as of: April 2004)

1. General

All services and deliveries effected by us shall be subject exclusively to our Terms and Conditions as laid down herein below. This Article 1 shall also apply to any future transactions even if the present Terms and Conditions are not explicitly referred to. We hereby explicitly reject any terms and conditions of Buyer which deviate from or contradict the present Terms and Conditions. Buyer's own terms and conditions will not bind us even in the event that we may fail to explicitly reject such terms and conditions upon the conclusion of any contract.

2. Proposals/order acceptance

All our proposals shall be subject to change without notice with regard to prices and availability.

3. Delivery

(1) The delivery deadlines and periods of delivery are approximate dates only. The delivery period shall begin with the posting of the order confirmation, provided however that all documents, permits, licences, approvals and releases to be obtained by Buyer are duly furnished and provided further that any agreed advance payment is effected in a timely manner.

(2) The period of delivery shall be deemed met when the delivery item has left our works or, in the case of direct shipment, has left the works of the supplier by the time of expiry of that period.

We reserve our own punctual and faultless receipt of supplies. We shall not be answerable for delayed or omitted deliveries insofar as such delays or omissions have been caused by our own suppliers without any fault on our part. We will notify Buyer of such delivery obstacles as soon as reasonably possible.

(3) In the event of any delays in delivery caused by Acts of God, riots, strike, lockout, raw material shortage, or equipment failures for which we are not responsible, or which affect our providers, the period of performance shall be extended by the period of time required to remedy the fault to the extent that the fault affects the production or delivery of the delivery item. We shall notify customer of the beginning and end dates of such hindrances at the soonest possible time. In the event of a permanent breakdown caused by Acts of God, riot, strike, lockout, raw material shortage or any breakdown for which we are not responsible or in the event that we have through no fault of ours failed to receive the supplies ordered from our supplier, we shall also be entitled to rescind the entire agreement or parts thereof and all claims for damages shall be excluded.

(4) Reasonable part shipments shall be permitted.

- (5) The transport risk shall in all cases be borne by Buyer. This paragraph (5) shall apply also in the event that goods are delivered free house by way of an exception. Insurance will be taken out only if requested by Buyer and only at Buyer's cost.
- (6) Packaging, if in undamaged condition, will be charged at cost. Buyer will be credited with 30% of the value charged for empty boxes if such boxes are returned free within one month. Mail boxes, cartons and crates are not taken back.
- (7) Illustrations are not binding with regard to items delivered. We reserve the right to effect reasonable engineering changes.

Orders for electrical equipment must include specification of current type and voltage.

3. Prices

- (1) Prices are subject to change without notice and given in Euro. VAT will be added at the prevailing rate.
- (2) Except as otherwise agreed, all prices are ex warehouse exclusive of packaging and freight. In the event of direct shipment or special procurement, prices are ex supplier's works.
- (3) Except as otherwise agreed the price payable and due shall be the price specified in the order acknowledgement or – if no order acknowledgement is issued – the price applicable at the time of delivery.
- (4) If a delivery period of more than four months has been agreed and our costs rise in the meantime due to higher prices for material, manufacture, assembly, staff, delivery and similar items, we shall be entitled to charge Buyer in accordance with such increase of costs.

4. Payment / prohibition of setoff / right of retention

- (1) Our invoices are payable cash without discount within 30 days of the invoice date.
- (2) If Buyer defaults on payment, Buyer shall have to pay 12% interest on arrears per annum, however not less than the legal rate of interest in accordance with Section 288 of the German Civil Code (BGB). Where the interest rate applicable in accordance with the foregoing sentence exceeds the legal rate of interest due under the provisions of Section 288 of the BGB, Buyer shall be free to prove that no damage or less damage than alleged has been caused by such default. Where we can prove the occurrence of damage or loss caused by default we reserve the right to claim damages.

- (3) If Buyer defaults on any payment, all receivables shall be payable without further delay, even if we accepted a bill of exchange for the settlement of such payment.
- (4) If Buyer suffers a major deterioration in its financial circumstances, thus putting at risk any claims we may have against Buyer, we shall be entitled to request cash in advance or reasonable security. This shall apply also if we subsequently learn of such circumstances already in existence at the time of the conclusion of the contract. If no advance payments or security are provided within the period of grace notwithstanding a reasonable extension of the original term and notification of default, we shall be entitled to cancel the contract or to claim damages for non-performance. In the cases specified in the foregoing sentence, payment or provision of security must not be made contingent on the return of any current bills of exchange.
- (5) Buyer shall not be entitled to set off claims against counterclaims unless such counterclaims are undisputed or have been finally determined. Buyer shall not be entitled to assert any right of retention unless such right is based on the same contractual relationship or unless counterclaims are undisputed or have been finally determined.
- (6) Our employees may collect monies on our behalf only with a special written power of attorney.

5. Reservation of ownership

- (1) We reserve the right of ownership to all goods delivered by us ("Reserved Goods") until full payment of the purchase price.

If Buyer is a company, we reserve the right of ownership to all goods delivered by us until all our claims resulting from the business relation – including contracts signed subsequently for any legal reasons whatsoever – and all contingent liabilities (payment by cheque or bill of exchange) have been paid.

- (2) Buyer shall be entitled to process and resell the goods in the ordinary course of business, provided, however, that Buyer is not in default regarding his duties towards us and provided further Buyer does not suspend payments. More specifically, the following provisions shall apply:
 - a. No act of processing or finishing of the Reserved Goods shall be binding upon us in our capacity as manufacturer of the goods pursuant to Section 950 of the BGB. Processing or finishing the Reserved Goods shall not give Buyer the right of ownership to the newly created goods in accordance with Section 950 of the BGB.

If the Reserved Goods are processed, commingled, combined or amalgamated with

other objects, we shall acquire co-ownership in the resulting new product in proportion with the relation between the invoice value of our Reserved Goods and the total value.

The provisions applicable to the Reserved Goods shall equally apply to any co-owner's shares created under the foregoing provisions.

- b. Buyer hereby assigns to us all claims from the resale or other disposal – e.g. on the basis of a contract for work and materials – including all ancillary rights and covering also our co-owner's shares to the extent that the goods have been processed, commingled or combined thus leading to our co-ownership of such goods to the amount of our invoice value. Insofar as the Reserved Goods have been processed, commingled or combined, such an assignment shall entitle us to a fraction of the claim from the resale corresponding to the relation between the invoice value of our Reserved Goods and the invoice value of the object. In the event that Buyer sells the Reserved Goods together with other goods not supplied by us, Buyer herewith assigns to us a share in the claim from the resale equal to the invoice value of our Reserved Goods.

In the event that Buyer sells this claim within the scope of a factoring transaction, Buyer herewith assigns to us the substitute claim against the factor. In the event that Buyer places the claim from the resale under an open account relationship with Buyer's client, Buyer hereby assigns to us Buyer's claims from the open account relationship to the amount of the invoice value of the Reserved Goods.

We hereby accept the above assignments.

- c. Buyer shall have authority to collect the claims assigned to us until revoked. The authority to collect claims shall cease when revoked; revocation shall be effected if Buyer gets into arrears or suspends payment. In that case we shall be deemed to have Buyer's permission to notify customers of the assignment and to collect the claim ourselves.

Buyer undertakes to submit to us upon request a detailed list of the claims due to Buyer including the names and addresses of customers, the amount of each of the claims, the invoice date etc. and to provide us with all information and documents required for the assertion of the claims assigned to us and to permit us to check any information provided.

- d. Any sums of money received by Buyer on the basis of claims assigned to us must be separately deposited to our credit until remitted.

(3) The Reserved Goods or the claims assigned shall not be pledged or transferred by way of security. Buyer shall notify us immediately of any order of attachment, specifying the name of the attaching creditor.

- (4) If the value of the security due to us exceeds the total of our claims against Buyer by more than 10%, we shall release the exceeding amount at Buyer's request.
- (5) In the event that Buyer gets in arrears or suspends payment we shall be entitled to take back the Reserved Goods. If, by virtue of our reservation of ownership, we take back the Reserved Goods, then this shall constitute a cancellation of the contract only if we explicitly announce the cancellation. We shall be entitled to use at our discretion any Reserved Goods taken back for our satisfaction.
- (6) Buyer shall hold the Reserved Goods in safe custody for us. Buyer shall take out reasonable insurance with regard to the Reserved Goods against the usual risks such as fire, theft, flooding. Buyer hereby assigns to us its claims for any compensation due to Buyer from any insurance agency or other obligors for the damages mentioned above to the amount of our claims. We accept the above assignments.

6. Claims arising from defects / compensation for damages

- (1) In the event that a justified complaint is lodged against us, we shall re-perform at our option either by rectifying the defects or by substitute delivery to the extent legally required. Replaced parts shall become our property. In addition, Buyer shall have the right to pursue any other legal remedies available to Buyer and in particular to cancel the contract and to reduce the purchase price provided that the relevant legal requirements have been met. Article 377 of the German Commercial Code (HGB) shall remain unaffected.
- (2) Buyer shall not be entitled to assert claims for damages against us, our legal representatives and persons employed in performing an obligation for us or against our vicarious agents on whatever legal grounds, including but not limited to the provisions of Sections 280 et seq. of the (BGB), unless such claims are made for:
 - a) injury to life, bodily injury or injury to health if caused by intentional or negligent breach of duty on the part of ourselves or any of our legal representatives or vicarious agents, **or** for
 - b) intentional or negligent breach of a material duty (fundamental breach of contract) on the part of ourselves or any of our legal representatives or vicarious agents, **or** for
 - c) intentional or grossly negligent breach of duty on the part of ourselves or our legal representatives or vicarious agents, **or** for fraudulent non-disclosure of a defect, **or** for
 - d) damages asserted under the Product Liability Act (Produkthaftungsgesetz).

In the event of breach of a material duty (fundamental breach of contract) due to slight negligence, the amount of claims for damages asserted against us shall be limited to the amount of the typical and foreseeable damage or loss occurred.

The legal provisions regarding the burden of proof shall remain effective.

- (3) The above limitations shall not apply in cases where we have assumed a supply risk or a guarantee.

7. Statutory limitation of claims based on quality defects

Any claims asserted by Buyer for quality defects shall expire by limitation within one year unless:

1. the product delivered by us is an item integrated within a building in accordance with the habitual manner of use of that product, causing the defectiveness of that building, **or unless**
2. the claims are for compensation of expenses under Section 478 para 2 of the BGB, **or unless**
3. the defect is due to fraudulent non-disclosure of a defect or intentional breach of duty on the part of ourselves or any of our legal representatives or vicarious agents.

The cases listed in Items 1 to 3 and any claims for damages in accordance with Item 6 shall be subject to statutory periods of limitation. The same shall apply in cases where we have assumed a guarantee or a supply risk.

The legal provisions on suspension, interruption and renewed beginning of the statute of limitations shall remain in effect.

8. Governing law

These Terms and Conditions shall be governed exclusively by the substantive law of the Federal Republic of Germany to the exclusion of the uniform United Nations Convention on Contracts (CISG).

9. Place of Performance/Jurisdiction

If the Purchaser is a businessman or a corporation under public law or a special fund under public law Bielefeld shall be the place of jurisdiction and place of performance for all claims including claims for bills of exchange and cheques.