

General Terms and Conditions of Sale and Delivery for purchasers which at the time when the contract is concluded are exercising their commercial or independent professional activity (entrepreneur)

1. General

- 1.1 All goods and services including repairs or commissioning shall be supplied on the basis of our terms and conditions of sale and delivery below. Their application may only be excluded in full or in part in individual business transactions by express written agreement.
- 1.2 Deviations which exclude or contradict our general terms and conditions of business shall only be valid if they have been confirmed by us in writing. This also applies to the waiver of the stipulation requiring written form.
- 1.3 Our customers' general terms and conditions of contract, in particular conditions of purchase shall not apply to goods and services provided by us without our express written acknowledgement. We shall not be bound by them even if we do not specifically object to them in any individual case.
- 1.4 Our quotations are non-binding at all times. Orders shall apply as accepted only after our written confirmation including volume, unless we have in writing agreed otherwise in individual cases.
- 1.5 All indications on our products, in particular photographs, drawings, specifications on weight, dimensions and performance capacities are approximative and only based on average values. They are not guarantees but descriptions or designation of the goods. Insofar as limits for variations of specifications are not expressly specified in the confirmation of the order, variations of specifications customary in the industry are tolerated.
- 1.6 Qualities of the products which the customer can expect, based on our public statements or statements by our selling staff, in particular in our advertising or labeling of the products, or which fall under trade usages, shall only be considered to be covered by the contractual qualities if they are expressly set forth in an offer or an order confirmation. Guarantees are only binding for us if they are qualified as such in

an offer or an order confirmation and if our individual obligations from the guarantee are determined therein.

- 1.7 We reserve our title and industrial property rights on samples, drawings, sales catalogues and other information of material or immaterial nature – including when in electronic form. They must not be communicated to third parties without our previous written consent.
- 1.8 The customer undertakes not to make available information or documents designated by us as being confidential to third parties unless with our previous written approval.

2. Delivery

- 2.1 Delivery times or time limits for performance are only approximative unless a fixed date is expressly been agreed upon in writing. The compliance with agreed delivery deadlines is subject to previous clarification of all commercial and technical aspects regarding the delivery or performance, and on the complete fulfillment of all obligations incumbent on the customer. They start at the moment of our order confirmation and are considered to be met, if by the time the delivery date expires the goods have left our warehouse or when readiness for shipment has been notified, should shipment of the goods not be possible.
- 2.2 Delivery by us is under the proviso of timely and correct self-delivery by our suppliers.
- 2.3 Unforeseeable events beyond our control which interrupt the business operations, in particular in the event of strike action or lock-outs, as well as in other cases of force majeure, affecting either us or our suppliers, the delivery dates shall also be extended accordingly. The customer may not make any claims for compensation for delays in performance or in lieu of performance in any cases where performance is delayed, even after a deadline which we have been set for performance. The customer may only cancel the contract pursuant to regulations of statutory law provided we are responsible for the delay. In that event, the customer shall, upon our request, undertake to explain within a reasonable period of time whether, in light of the delay, it still insists on performance and/or which of the entitlements and rights owing to it shall be asserted by it.

2.4 If the forwarding or the acceptance of the goods is delayed on grounds which the customer is responsible for, we may charge the costs resulting from the delay beginning one month after notification of the dispatch or readiness for acceptance.

2.5 Partial deliveries and partial performances are permissible within the agreed time for delivery and/or performance, insofar as this is reasonable for the customer.

2.6 The customer may cancel the contract without setting a deadline if the entire delivery becomes definitely impossible for us prior to the transfer of risks. Furthermore, the customer may also cancel the contract if at the time of placing the order the fulfillment of a part of the delivery becomes impossible and the customer has a justifiable interest in refusing partial delivery. The same applies in case of our inability to perform. For the rest the subsequent section 6 applies.

- Should our inability to perform occur during an instance of default of acceptance, or should the customer solely or predominantly be responsible for these circumstances, the customer remains liable for consideration.

2.7 If we fall into arrears and the customer thereby suffers damages, customer is entitled to claim a flat rate compensation for delay. This compensation amounts to 0,5 % for each full week of delay, however limited to an amount of 5 % of the value of that part of the total consignment that cannot as a result be used in time or in agreement with the terms of the contract.

- If, after the due maturity date, the customer – taking into account the exceptions provided for by statutory law – sets us a reasonable deadline to render performance and if the deadline is not complied with, the customer is entitled to cancel the contract pursuant to statutory law.
- Further claims for default in delivery are exclusively governed by section 6 of these general conditions.

3. Prices, risk

3.1 We apply prices in accordance with our price list valid on the delivery date unless a fixed price has expressly been agreed upon in writing.

- 3.2 All prices are net prices ex warehouse excluding VAT and possible customs duties. These have to be paid by customer in the amount specified by applicable law. Transport costs and – if requested insurance costs – will be invoiced separately.
- 3.3 The risk is transferred to the customer when the goods have left the warehouse even in case of partial delivery or even when we have taken over other services as well, e.g. dispatch costs or delivery. The customer may not refuse acceptance of the goods on the grounds of a non-significant defect.
- 3.4 If the dispatch is delayed or does not take place as a result of circumstances which are not attributable to us, the risk is transferred to the customer as of the day of the notice of readiness for dispatch or notice of acceptance of delivery. We undertake to contract an insurance policy at the expense of the customer when required.

4. Payments

- 4.1 Unless otherwise agreed our invoices are immediately due for payment and payable within 30 days after the date of the invoice. In case we receive payment within 10 days after the date of the invoice we shall grant a cash discount of 2 %.
- 4.2 If payment terms have been exceeded by customer we are entitled to claim interest equivalent to the rate charged by banks for overdrafts, but at least interest in the amount of 8 % above the basis interest rate of the European Central Bank. Each party is entitled to give evidence for a different damage caused by default.
- 4.3 So long as old invoices are outstanding, a deduction for cash discounts on new invoices is not permissible.
- 4.4 Bills of exchange are generally not accepted.
- 4.5 The customer is only entitled to set-off with undisputed or non-appealable claims or to assert a right of retention on those grounds.

5. Notice of defects and warranty

- 5.1 The required quality of the goods is exclusively determined by the agreed technical specifications. Insofar as the customer has transmitted drawings, specifications, samples and other descriptions to us, customer is assuming the risk of the suitability of the delivered items to us for the agreed purpose. The date which is decisive for the contractual compliance conditions of our goods is the date when risks are transferred.
- 5.2 Immediately after their arrival the customer must carefully inspect the goods supplied for defects, including quality discrepancies and incorrect deliveries. The delivery will be deemed to have been approved unless we have received written notice of defect within seven days after receipt of the goods at the place of destination or, within seven days after discovery of the defect by a written note accompanied by a bill of delivery if the defect could not have been discovered after proper inspection.
- 5.3 Transport damages must be notified in writing to us and the carrier; in that regard the provisions of the Allgemeinen Deutschen Speditionsbedingungen (ADSp) apply to the notice requirements.
- 5.4 In the event of a justified notice for defects of the goods we will at our choice fulfill our warranty obligation by repair or replacement. If the repair or the replacement fail, the customer may request cancellation of the contract. If the defect is only insignificant, the customer only has the right to reduce the contract price. The right to reduce the contract price is excluded in all other cases. The before-mentioned regulation does not apply in case of recourse by our customers if the goods have been sold to consumers.
- 5.5 The customer shall give us the time and opportunity required to carry out all repairs and replacement deliveries which appear to be appropriate after previous consultation with us; otherwise we are exonerated from our liability for consequences resulting therefrom. Only in urgent cases in order to prevent disproportionate great damages, in which case we must be immediately informed, the customer is entitled to rectify the defect himself or through a third party and to claim reimbursement of the necessary expenses.

- 5.6 Of the direct costs resulting from repairs or replacement delivery – insofar as the complaint has proven to be justified – we shall bear the costs for the replacing part including transport. We shall also bear the costs for dismantling and installation as well as the costs for fitters and auxiliary staff, including travelling expenses, to the extent that this does not create unreasonable expenses for us.
- 5.7 Further claims for defects of any kind whatsoever are excluded without prejudice to any claim for damages limited according to subsequent section 6.
- 5.8 No guarantee is granted in particular in the following cases:
- unsuitable or improper use,
 - faulty assembly or commissioning by the customer or a third party,
 - improper storage,
 - natural wear and tear,
 - wrong or negligent handling and
 - improper maintenance.
- 5.9 If the customer or a third party inexpertly carries out repairs, we shall not assume any liability for the consequences resulting thereof. The same applies for modifications of the product which have been carried out without our previous consent.

6. Limitation of liability

- 6.1 In case of slight negligence we are liable for claims for damages for fault, irrespective of the legal basis, amongst others default in performance, special breach of contract, impossibility of performance, subsequent inability of performance, breach of obligations in contract negotiations or advisory duties, tort and product liability, only in case of violation of essential obligations putting the purpose of the contract at risk. Apart from that our liability for slight negligence or for strict liability is excluded.
- The above mentioned limitations of liability do not apply in cases of liability pursuant to product liability, personal injury, for defects after having assumed a guarantee for a product quality or in cases of fraudulently deceived defects.

- 6.2 In case our liability applies, with the exception of willful misconduct, we are only liable for contract-typical and foreseeable damages.
- 6.3 The liability regime pursuant to sections 6.1 and 6.2 of these general conditions is also applicable for our staff.
- 6.4 The current limitations of liability are also applicable if the goods are specified only as to their category.

7. Reservation of title

- 7.1 We retain title in the goods (reserved goods) until the purchase price as well as all our other claims due arising from the ongoing business relationship with the customer at the time of the stipulation of the contract have been completely paid.
- 7.2 We authorize the customer to dispose of the goods in the usual course of its business. The customer, however, already assigns to us all claims in the amount of the total invoice amount (including Value Added Tax), accruing to customer for the resale against its buyer or a third party, regardless of whether the goods are resold without or after re-working or after installation. The customer is still entitled to collect such claim even after the assignment. Our right to collect such claim ourselves remains unaffected thereby. We, however, commit not to collect the debt so long as the customer complies with its payment obligations from the collected proceeds, so long as the financial status of the customer has not deteriorated substantially, and so long as the customer is not in default with payment obligations, and in particular, customer has not filed an application to commence insolvency proceedings or is unable to pay its debts. If such is the case or if there is good cause, we may request that the customer communicates the assigned claims and their debtors to us, provides all information needed for collection, hands over all corresponding documents and notifies the debtors (third parties) of the assignment. This assignment of future claims includes the acquired claim as well as the securities provided and possible financial claim substitutes. Other disposals of the goods by the customer are not permitted and give rise to damages.
- 7.3 If the customer is in default with payment, we are entitled, after having unsuccessfully set a one-week grace period, to recover the reserved goods. Such action does not

constitute a cancellation of the contract, with the result that our claims remain unaffected. Our right to cancel the contract remains unaffected and requires our explicit declaration.

- 7.4 If the customer is in default with the payment for the goods subject to the reservation of title, we may cancel the contract, without having to grant the customer another grace period for payment.
- 7.5 The customer is obliged to notify the existence of our rights in case of seizure by third parties and to inform us without undue delay. If the third party is not in a position to reimburse us for the court and out-of-court costs of a law suit, the customer is liable for costs accruing to us.
- 7.6 The customer is obliged to treat the goods with care, in particular to sufficiently insure these at value when new and at its cost against damages caused by fire, water and theft. If maintenance and inspection work is necessary, the customer shall carry them out on time and at its own costs.

8. Statute of limitations

Each and every claim of the customer against us – no matter on what legal grounds – are time-barred twelve months after delivery. This provision is not applicable for regress claims of our customers if the goods have been sold to consumers. The statutory provisions on prescription apply for compensative claims pursuant to previous section 6.1 subsection 2.

9. Place of performance, jurisdiction and applicable law

- 9.1 The place of performance for our deliveries is the seat of our company.
- 9.2 The place of jurisdiction for all disputes resulting from this contract is at our discretion the seat of our company or the domicile of the customer, for civil action of the customer it is the seat of our company only. Statutory legal provisions regarding exclusive jurisdictions remain unaffected.

9.3 German law is applicable.

10. Partial invalidity

If one or more provisions of these general conditions or a part thereof are or become invalid or if a necessary regulation is missing, in case of doubt this does not affect the validity of the remaining provisions.

11. Data protection

All data of the customer required for order processing shall be stored by us.