

General Terms and Conditions

§ 1 Validity of these conditions

- (1) The deliveries, services and offers of seller will be made exclusively based on these terms and conditions. Therefore, they will also apply to all future business relations, even if not expressly agreed once more. With the receipt of the goods or services, these terms will be deemed as accepted. We will not accept any terms to the contrary or any of buyer's terms being different from seller's sales conditions.
- (2) All agreements made between Seller and Buyer regarding the execution of this contract will be written down in this contract.
- (3) The sales conditions will only apply to companies within the meaning of § 310, section 1, of the German civil code.

§ 2 Offer and conclusion of the contract

- (1) Seller's offers will be without engagement and non-binding. Declarations of acceptance and all orders will be subject to seller's confirmation either in writing or sent electronically to be legally effective.
- (2) Drawings, figures, sizes, weights, and any other performance data will only be binding if expressly agreed in writing. Seller will reserve the right of property and copyright to figures, drawings, calculations and any other records. This will also apply to such written records that have been classified as "confidential". Buyer will obtain the seller's prior written consent before transmitting any of those records.
- (3) If Buyer's products are supplied based on Seller's drawing or figures, only the latter will be decisive. Verbal subsidiary agreements will only be valid if confirmed in writing by Seller within 2 working days. Section 6 will apply accordingly.
- (4) If the drawings or figures contain technical data such as sizes, weights, degrees of hardness, etc. and if no nominal sizes have been indicated, manufacture acc. to DIN ISO 2768-M-K will be deemed as fulfillment of the contract.
- (5) Subject to an agreement to the contrary acc. to section 3, Seller will be free to choose the material to be processed and to select his suppliers. However, Seller will engage himself to make this selection conscientiously. The same will apply when he charges subcontractors with single manufacturing processes.
- (6) Seller's staff, representatives and/or vicarious agents will not be authorized to make additional oral agreements and/or oral warranties beyond the contents of this written contract.
- (7) The conclusion of this contract will be subject to the correct and timely self-delivery by Seller's supplier. However, this will only apply if Seller is not responsible for non-delivery, in particular in case of conclusion of a congruent covering transaction with Seller's supplier. Buyer will be immediately informed about the unavailability of the performance. Any counter-performances already provided will be reimbursed immediately. In this case Seller will make reasonable efforts to obtain delivery from other sources.

§ 3 Prices and payment conditions

- (1) Unless otherwise indicated we will feel ourselves bound to the prices mentioned in our offers for 30 days from the date of our offer. The prices indicated in our order confirmation will be decisive plus legal VAT, without discount. Any additional deliveries and services will be charged separately.
- (2) Notwithstanding any of Buyer's conditions to the contrary Seller will be authorised to set off the Buyer's payments against the latter's older debts, and he will inform Buyer about the way of the realised set off. If any costs and interest have accrued already, Seller will be authorized to first set off the payment against the costs, then against the interest and eventually against the principal.
- (3) Unless otherwise agreed the prices will be understood "ex works" plus packing costs for transport by truck.
- (4) Unless otherwise indicated in the order confirmation the invoice amount will be payable (without deduction) within 14 days from date of invoice. Regarding the consequences for delayed payment the legal provisions will apply.
- (6) If Seller becomes aware of circumstances that question Buyer's creditworthiness, and in particular, if one of Buyer's cheques is irredeemable or if he suspends his payments, or if Seller becomes aware of other circumstances that question Buyer's creditworthiness Seller will be authorised to demand payment of all outstanding amounts, even if he has already accepted cheques. In this case, Seller will furthermore be authorised to demand advance payments or securities.
- (7) Buyer will only be entitled to set off if his counterclaims have been legally established or been accepted by Seller by a written statement. Buyer will be only entitled to exercise a right of retention if his counterclaim is based on the same contractual relationship.

§ 4 Time of delivery and performance

- (1) Delivery dates or times that can be agreed either in a binding or a non-binding way must be in writing.
- (2) Seller will not be responsible for delays in delivery and performance - even not if binding dates and terms have been agreed for the latter - if the delays have been caused by Acts of God due to events that make delivery for Seller very difficult or impossible; in particular, such events include strike, lockout, administrative orders, etc. - also when these occurred at Seller's suppliers or at the latter's subcontractors. Such events will entitle Seller to postpone delivery and/or performance by the term of hindrance plus a reasonable initial period or to wholly or partially withdraw from the contract regarding the non-fulfilled part.
- (3) If the hindrance subsists for more than three months Buyer will be entitled to withdraw from the contract regarding the non-fulfilled part after having set a reasonable respite period. If the delivery time is extended or the Seller is exempted from his obligation, Buyer will not derive any claim for compensation based on that fact. Seller will only be entitled to refer to the indicated circumstances if he informs Buyer immediately.
- (4) If Seller is responsible for the non-compliance with bindingly accepted dates and terms or if he is at default, Buyer will be entitled to compensation for delay of 1/2 % for each full week of delay, however, only up to 5 % of the invoice value of the deliveries and performances involved with the delay. Any further claims will be excluded, unless the delay is based on at least gross negligence by Seller. If the delayed delivery is not based on contract violation for which Seller is responsible, his liability for damages will be limited to the typically foreseeable type of damage.
- (5) Seller will be entitled to make partial deliveries or performances at all times.
- (6) If Buyer is in default of acceptance, Seller will be entitled to demand compensation for the damage involved; when default of acceptance has occurred the risk of accidental loss or deterioration will be transferred to Buyer.

§ 5 Transfer of risk

- (1) The risk of accidental loss or deterioration of the goods will be transferred to Buyer with the delivery of the goods.
- (2) In case of sale by dispatch the risk will be transferred to Buyer as soon as the consignment has been handed over to the person charged with transport or has left Seller's stock for dispatch. If transport is made impossible without Seller's fault, the risk will be transferred to Buyer with the notification of readiness for dispatch.

§ 6 Liability for defects

- (1) Unless otherwise agreed the guarantee period will be twelve months from transfer of risk acc. to § 2, section 3.
- (2) If any of Seller's operating or maintenance instructions are not observed, products are changed, parts replaced or consumables used that do not comply with the original specifications, any guarantee will become null and void, unless Buyer disproves a corresponding substantiated statement saying that the defect has been caused by one of those circumstances.
- (3) Claims for defects require that Buyer has properly fulfilled his obligations of inspection and complaints acc. to § 377 of the German commercial code. Therefore Buyer will inform in writing Seller's customer service management about the defects immediately but not later than within one

week from receipt of the object to be supplied. Any defects that cannot be discovered within that term despite thorough inspection will be notified in writing to Seller immediately after their discovery.

- (4) Inasmuch as the bought object is defective Seller will be entitled to optionally deliver a new object free from defects or to rework the faulty object. In case of reworking Seller will be entitled to demand that - at his costs:
 - a) the faulty part and/or unit is sent to Seller for repair and subsequently returned; b) Buyer keeps available the faulty part and/or unit and one of Seller's service technicians is sent to Buyer to carry out the repair.
- If Buyer demands that remedies of deficiencies are carried out at a place defined by him Seller may agree to this demand and the parts being involved with fault liability will not be charged, whereas the working time and travelling expenses will be paid based on Seller's standard rates.
- (5) If rework is not carried out within a reasonable term Buyer may optionally demand reduction of payment or annulment of the contract.
- (6) Seller will be liable acc. to the legal regulations if Buyer claims for damages that are based on wilful intent and gross negligence. If Seller cannot be made responsible for wilful breach of contract, liability for damages will be limited to the typically foreseeable damage.
- (7) Liability for culpable injury to life, limb or health will remain unaffected; this also applies to mandatory liability acc. to the product liability act.
- (8) If Buyer makes objects available to Seller for connection, mixture and/or processing and/or demands that defined Suppliers' objects are connected, mixed and/or processed, Buyer will exempt Seller upon first demand from any possible claims acc. to § 4 section 2 of the product liability act, unless Buyer proves that a possible defect is not causally related to his instructions. In such cases Buyer will waive to refer to § 278 of the German civil code vis-à-vis Seller.
- (9) Unless otherwise agreed as aforesaid, liability will be excluded.

§ 7 Reservation of title

- (1) Until satisfaction of all accounts receivable (including all balances from current account) which are now or will be in future due to Seller by Buyer for whatever legal ground, the following securities will be granted to Seller which the latter will release at his own discretion upon request inasmuch as their value effectively exceeds that of the accounts receivable by more than 20 %.
- (2) The goods will remain Seller's property. Processing or transformation will always be carried out for Seller as the manufacturer, however, without any obligation for him. If Seller's (co-)property ceases by connection, it is agreed already now that Buyer's co-property of the unitary item will pass over to Seller in proportion to the value of Seller's property (invoice value). Buyer will keep Seller's (co-)property free of charge. Any goods for which Seller is entitled to (co-)property will be hereinafter described as reserved goods.
- (3) Buyer will be entitled to process and alienate the reserved goods in the normal course of business as long as he is not in default. Pawning and security transfers will not be allowed. Any claims regarding the reserved goods and resulting from resale or for any other legal grounds (insurance, unlawful act) will already now be fully assigned by way of security by Buyer to Seller. Seller will irrevocably authorise Buyer to collect the assigned accounts receivable on his own behalf for Seller's account. This collection authority can only be revoked if Buyer does not properly meet his payment obligations.
- (4) If third parties take hold of the reserved goods, in particular, in case of pawning, Buyer will point out that the goods are Seller's property and immediately inform the latter, so that Seller can enforce his property rights, in particular by taking the appropriate legal action acc. to § 771 of the code of civil procedure. If the third party is not able to reimburse the judicial and extrajudicial costs involved in this connection to Seller Buyer will be liable accordingly.
- (5) In case of Buyer's behaviour contrary to contract - in particular delayed payment - Seller will be entitled to take the reserved goods back or possibly to demand the assignment of Buyer's claims against third parties to surrender the property. Surrender of property as well as levy of execution of the reserved goods by Seller will not mean withdrawal from the contract.

§ 8 Design change

- (1) Seller will reserve the right to carry out design changes inasmuch as this does not affect the technical function of the object; however, he will not be obliged to carry out such changes also regarding the products that have already been delivered.
- (2) The same as described in section 1 will apply accordingly to the use of materials and production processes.

§ 9 Patents

- (1) Seller will exempt Buyer and the latter's customers from claims based on violations of copyrights, trademarks or patents, unless the design of a supplied object comes from Buyer. Seller's obligation of exemption will be limited to the amount of the foreseeable damage. Another condition for exemption is that conduct of litigations is left to Seller and that the claimed infringement is solely apportioned to the construction of the items delivered by Seller without their connection or use with other products.
- (2) Seller will be entitled at his own discretion to free himself from the obligations assumed in section 1 either by
 - a) procuring the required licences regarding the allegedly infringed patents or b) making available to Buyer a changed delivery item and/or parts thereof, which in the event of exchange of the infringing article or its part will eliminate the accusation of infringement with respect to the delivery item.

§ 10 Secrecy

Unless expressly otherwise agreed in writing the information supplied in connection with the orders will not be deemed as confidential.

§ 11 Applicable law, place of jurisdiction, partial nullity

- (1) The law of the Federal Republic of Germany will apply to these business terms and to all legal relationships between Seller and Buyer.
- (2) Inasmuch as Buyer is a registered trader within the meaning of the commercial code, a legal entity under public law or a special fund under public administrative law, Seller's general place of jurisdiction will be the exclusive place of jurisdiction for all litigations resulting directly or indirectly from this contractual relationship.
- (3) Should any clause of these business terms or a clause within the scope of any other agreements be or become ineffective, the effectiveness of all other clauses or agreements will not be affected thereby. The wholly or partially ineffective clause will be replaced by a clause of which the economic success corresponds to the largest possible extent to that of the ineffective clause.