

## 1.0 General

1.1 The provision of goods and services by us shall be governed by the following General Terms and Conditions of Sale and Delivery (GTC), provided these are validly incorporated by reference. They apply to all contracts with customers, in particular companies, public corporations and special funds under public law (the "Orderer"). General terms and conditions of the Orderer's that deviate from, are contrary to or supplement our terms and conditions will not apply unless we specifically agree to them in writing.

1.2 For ongoing business relationships our GTC shall also apply to the future provision of goods and services even if they are not expressly agreed each time.

1.3 The Orderer hereby declares that it agrees to our storing and evaluating order and orderer data in accordance with the Federal Data Protection Act. In the event that the Orderer does not agree, it is hereby granted the right to oppose the storage and evaluation of its data at any time. Where the Orderer exercises such right, we hereby undertake not to store and/or evaluate the data in question.

## 2.0 Offers

2.1 Except as otherwise expressly indicated in a particular case, our offers are non-binding and are simply to be understood as an invitation to place an order.

2.2 We are not legally bound by measurements, weights, performance data and physical or material properties of our products indicated in catalogues, brochures, circulars, advertisements, illustrations, price lists and other documents unless we expressly confirm in writing upon conclusion of the contract that they are binding and they therefore become part of the contract with the Orderer.

## 3.0 Conclusion of Contracts

3.1 The Orderer is bound by written orders for fourteen days from the date when the order is sent.

3.2 The contract does not come about until we accept the order in text format or complete the order, whichever happens first.

## 4.0 Prices

4.1 Except as expressly agreed otherwise, our prices are ex works 73240 Wendlingen, Germany. Value-added tax (VAT) will be itemised separately on invoices. VAT will be charged at the rate in force at the time of conclusion of the contract.

4.2 If an order is delivered in instalments, each instalment can be invoiced separately.

## 5.0 Payment, Default, No Setoff

5.1 Means of payment other than cash or transfers will be accepted only by prior written agreement and even then only by way of provisional performance. Cheques will be accepted without prior written agreement, but again only by way of provisional performance. The acceptance of bills of exchange shall only signify an extension of the payment term if this is expressly agreed in writing. Interests, costs and taxes shall be borne by the Orderer.

5.2 Cash or other discounts can only be deducted if this is agreed in writing. Cash discounts will only be granted if we receive all payments owing in connection with an order within the cash discount period.

5.3 If the Orderer defaults on payment, we have the right to claim default interest pursuant to sections 286, 288 German Civil Code. This does not affect our right to claim compensation for a greater loss, if actually sustained.

5.4 Claims can only be offset against counterclaims if the latter are *res judicata*, uncontested or ready for a decision.

5.5 If the Orderer defaults on its payment obligation under a contract for more than two months, we shall be entitled to require the Orderer to make advance payment for deliveries outstanding under other contracts or call-off orders.

5.6 The Orderer may only exercise a right of retention if its counterclaim is uncontested, ready for a decision, or *res judicata*.

## 6.0 Delivery Dates, Delivery Periods, Late Delivery

6.1 Where delivery dates are agreed, delivery will be deemed to have been made on time if the goods are made available on the works premises by the agreed delivery date.

6.2 In the event of force majeure, in particular industrial disputes, strikes or lockouts, as well as plant stoppages as a result of unforeseen events, agreed delivery periods will be extended by the duration of the disruption if said disruption adversely affects the possibility of completing or delivering the goods on time.

We shall have the right to rescind the contract if our operations are affected in such a way by the aforementioned circumstances that we can no longer reasonably be expected to complete the order.

## 7.0 Shipping and Transfer of Risk

7.1 Incoterms 2010, ex works 73240 Wendlingen, Germany shall apply.

7.2 At the request of the Orderer we shall arrange for shipment of the goods. Unless the Orderer requests a particular carrier, we shall select one at our discretion.

7.3 Even where the client is late accepting the goods, delivery will be deemed to have taken place.

## 8.0 Warranty, Warranty Period, Notification of Defects

8.1 If the quantity of products delivered by us exceeds or falls short of the agreed quantities by up to 10%, this shall not be deemed a defect.

8.2 The Orderer's warranty claims for defects shall become statute-barred 12 months from when the goods are made available/delivered. This shall not apply to objects that are intended to be, and have been, used in the construction of a building and which have caused a defect in that building; in this case claims will only become statute-barred after 5 years. Where a claim for subsequent performance is statute-barred, then claims for reduction of the purchase price, and the exercise of rights of retention are excluded.

8.3 The Orderer has no warranty claim for declassified goods, special items, waste and non-new goods.

8.4 The Orderer shall verify the delivered goods without undue delay after delivery and notify us of any obvious defects within 10 days. Hidden defects are to be notified without undue delay after their discovery. The Orderer shall be deemed to have accepted the goods if it fails to verify the goods or to send us a timely written notification of defects. The Orderer bears the burden of proving the merit of its claims, in particular the defect itself, the timing of the discovery of the defect, and the timeliness of the notification of the defect.

8.5 If the Orderer makes an unjustified notification of defects, it shall reimburse us for the costs incurred in making subsequent performance.

## 9.0 Warranty Rights

9.1 In the event of a defect we have the right, at our option, to repair the defect (remedying) or to deliver a defect-free product (subsequent delivery) (subsequent performance). We may refuse to do either unless the Orderer has satisfied its payment obligations to an extent that corresponds to the defect-free part of our performance.

9.2 If the defect cannot be repaired, if attempts at repair have failed for a second time, or if we are unable to repair the defect or deliver a replacement, or are only able to do so with culpable delay, the Orderer may, at its option, demand a reduction in price or rescind the contract. In the case of a non-material or only minor breach of duty, the Orderer shall not have the right to rescind.

9.3 Except as otherwise indicated below, the Orderer has no further claims of any kind whatsoever.

9.4 The above provisions shall also apply in the event of the delivery of a product other than the one ordered and – notwithstanding section 8.2 - the delivery of a smaller quantity.

## 10.0 Overall Liability, Exceptions from Disclaimer of Liability

10.1 We accept no liability for damage sustained by the Orderer or third parties that legitimately come into contact with the subject of our performance hereunder. This shall not apply in the following cases:

- in the event of a breach of conduct caused deliberately or through gross negligence on our part or on that of our officers, staff or agents;
- in the event of damage to life, limb or health;
- in the event of a breach of material contractual duties. In this latter case our liability is, however, limited to damage that is typical and foreseeable at the time of conclusion of the contract.

10.2 The above limitations shall not apply in the case of mandatory statutory liability provisions, such as those of the Product Liability Act.

10.3 We have no obligation to assume liability for damage resulting from the following causes:

- unsuitable or improper use of the products by the Orderer or persons for whom it is accountable;
- normal wear and tear to the product;
- use of unsuitable operating resources and tools by the Orderer or persons for whom it is accountable;
- chemical, electrochemical or electrical interference;
- improper modifications made by the Orderer or third parties without our prior consent.

10.5 Claims of ours under manufacturer's recourse (section 478 German Civil Code) are unaffected.

10.6 Where our liability is excluded or limited, this shall also apply to the personal liability of our staff, representatives and agents.

## 11.0 Reservation of title

11.1 The delivered product shall remain our property until all of the claims that have already arisen from the business relations between us and the Orderer have been paid in full. The allocation of individual claims to a current account as well as the balancing of the account and acknowledgement thereof shall not affect the reservation of title.

11.2 The Orderer shall have the right to resell the reserved goods in the course of proper business dealings. This shall not apply if a valid prohibition of assignment exists between the Orderer and its customer. In this case the resale by the Orderer may take place only with our express prior, written consent. The Orderer shall not be permitted to pledge or transfer the reserved goods by way of security. If an expectant right is pledged or transferred by way of security, the Orderer must make the security taker aware of our ownership and notify us without undue delay that the expectant right to the reserved goods has been pledged or transferred by way of security.

11.3 The Orderer already assigns to us the claims that arise in connection with the resale of the reserved goods that are subject to the reservation of title. This is carried out as compensation for the loss of the reservation of title and as security for the claims we have against the Orderer (Extended Reservation of Title). Upon our request the Orderer shall notify its customer of this assignment. We accept the assignment.

11.4 Irrespective of the assignment and our collection right, the Orderer shall be entitled to collect as long as it complies with its obligations towards us and does not fall into financial collapse. If the Orderer's financial situation deteriorates significantly – in particular with an application for insolvency proceedings to be opened – the Orderer's collection right shall expire.

11.5 Upon our request the Orderer shall provide us with the information required for collection and notify the customer/debtor of the assignment. Upon our request the Orderer shall at any time, i.e. even if it has the right to collect, hand over to us a notice of assignment signed by the Orderer.

11.6 Any treatment or processing of the reserved goods shall be carried out by the Orderer for us, without us incurring any obligations as a result. In the case of any processing, combination, mixing or blending of the reserved goods with other goods that do not belong to us, we shall have co-ownership of the new things in proportion to the ratio of the invoice value of the reserved goods to the remaining processed goods at the time of the processing, combination, mixing or blending.

11.7 Should the Orderer acquire sole ownership of the new thing, the contracting parties already agree that the Orderer shall grant us co-ownership of the new thing in proportion to the invoice value of the processed/combined, mixed or blended reserved good; a safekeeping of this new thing by the Orderer for us, free of charge, is hereby agreed.

11.8 If the reserved goods are resold together with other goods – regardless of whether or not they have been processed, combined, mixed or blended with such goods – the advance assignment agreed above shall only apply in the amount of the invoice value of the reserved goods that are resold together with the other goods.

11.9 The Orderer shall, until full ownership is acquired, be obliged to insure goods delivered subject to reservation of title against fire and water damage and, upon request, to furnish proof that this has taken place.

11.10 The Orderer must inform us of any third party measure that conflicts with the reservation of title, e.g. attachment of goods that are the subject of the reservation of title.

11.11 We are obliged to release security if and insofar as the sum of the security granted by the Orderer exceeds the overall claim arising from the business relationship with us by 10%, and the Orderer asks for the release.

## 12.0 Guarantees

Only where a property is expressly designated as being guaranteed does this constitute a guarantee in the legal sense. References to DIN standards or other sources of accepted engineering standards serve only to describe the goods and do not constitute a guarantee.

## 13.0 Place of Performance, Legal Venue, Choice of Law

13.1 The place of performance for all obligations on our part and for all payments is 73240 Wendlingen, Germany.

13.2 The exclusive legal venue for any and all disputes out of or in connection with contracts between the Orderer and ourselves, including disputes over the validity of said contracts, is 73240 Wendlingen, Germany if the Orderer is a merchant within the meaning of section 1 et seq. German Commercial Code.

13.3 This contract and all questions relating thereto shall be governed by German law. Provisions of private international law and the CISG do not apply.