

### § 1 Validity

1. All our deliveries, services and offers take place exclusively on the bases of these general business conditions. They are component of all contracts that we enter with our contract partners (hereinafter also called customer). If no special re-negotiation has taken place, then these conditions are valid also for all future deliveries, services or proposals to our customers.
2. Our business conditions are valid exclusively for merchants.
3. We do not recognize business conditions of customers or third parties, also in such single cases that the validity of such conditions would not be disagreed upon by us. Even if we make reference to language of a letter of a customer or that of a third party, which contains customer conditions or references such, shall not constitute agreement with customer conditions.
4. In accordance with this contract, all agreements between our contract partners and us shall be in writing.

### § 2 Offer and Contract Close

1. As far as they are not specifically marked binding or contain specific terms of acceptance, our offers are non-binding and subject to change. If an order is qualified as a special offer then it can be accepted within two weeks.
2. As far as reasonable for our contract partners, discrepancies of technical and creative work, in specifications and details of prospectuses, proposals and written documentation as well as services, constructions and material changes, also changes in color, form and/or weight in the course of technical advancement is reserved. The properties of our products (technical data, measurements and the like) are estimated and approximated only; they are no warranted conditions, unless, such warranties takes place exclusively in writing.
3. The property of goods shall mean exclusively the product description. Public comments, promotions or advertising comments from us or from the manufacturer in contrast thereto, shall not constitute agreement of the property of the goods.
4. In case the customer receives assembly instructions containing discrepancies, then we are liable merely for the supply of assembly instructions free of discrepancies and this only then, if the discrepancies contained in the assembly instructions cause direct hindrance of the proper assembly.
5. The right of ownership and that of intellectual property rights for samples, drawings, price quotes and similar – also in electronic form is reserved by us. These may not be made accessible to third parties without permission and are to be returned immediately upon request.
6. The contract close takes place under reservation that supplies from our suppliers are received in a timely manner and are free of discrepancies. This however, is valid only for the case that we have a congruent supply arrangement with our supplier and in so far that we are not liable for an untimely supply and/or defective supply received. The contract partner is notified immediately about the unavailability of services from our suppliers. A possible already rendered payment is refunded immediately.
7. Even in the event of full calculation of costs, tools – as far as

nothing else has been agreed upon – shall not become property of the customer.

8. The provision of samples takes place exclusively at cost.

### § 3 Prices, Payment, Offset, etc.

1. Prices are valid for the services and scope of delivery listed in the purchase order confirmation. Increased or special services are calculated separately. Prices are quoted in Euro ex factory plus packaging, statutory sales tax and for export deliveries plus customs as well as fees and other public taxes.
2. As far as agreed upon, prices are on the basis of our list prices and for example, if delivery is to take place four months after contract close we shall apply the list prices of the supplier (less a possible beforehand agreed upon percentage rebate or discount) valid at time of delivery.
3. As far as nothing else has been agreed upon, our contract partner is obligated to pay net within 30 days as of invoice.
4. An offset with customer counterclaims or the withholding of payments due to such claims is permissible only then, if such counterclaims are undisputed or legally binding.
5. We reserve the right to execute or render still outstanding deliveries and services only against pre-payment or security deposit, if in the course after contract close we gain awareness about conditions that would apply to substantially compromise the credit worthiness of the customer and through which remittance for an open contractual agreement (including that of other single orders that feature the same general conditions) would be jeopardized.

### § 4 Delivery and Duration, Delivery Delays and Cancellation

1. Deliveries take place ex factory.
2. Unless definite terms or definite deadlines for deliveries and services are promised or agreed upon, deliver terms or deadlines quoted by us are to be viewed as an approximate delivery time. As far as shipment is agreed upon, delivery terms and delivery times refer to the date of the handover to the shipper, carrier or other for the transport contracted third party.
3. The start of the quoted delivery time by us requires the clarification of all technical questions. A further requirement is the timely and orderly fulfillment of the contractual obligations of the customer.
4. Without prejudice of our rights arising due to arrears of the customer – we can demand an applicable extension of delivery and services terms or an extension of delivery and service dates as a minimum around such time in which the customer does not meet his contractual obligations toward us.
5. We are not liable for non-compliance of delivery or for delivery delays, as far as these are caused by force majeure or other causes (e.g., disruption of operations, difficulties with the procurement of materials and energy supply, transport delays, strikes, lawful lock-outs, deficiency of manpower, energy or raw materials, difficulties with the procurement of necessary regulatory permissions or official provisions) and are not caused due to our doing. We have the right to rescind from the contract as far as such events complicate substantially, make the delivery or services impossible or cause

hindrance of not only temporary duration.

In addition to an adequate start-up period, hindrances of temporary nature will prolong the delivery or service terms or postpone the delivery and service dates around the date of the hindrance. Insofar as due to the delay of delivery or services the customer cannot be expected to accept the order, he may with immediate written statement addressed to us rescind from the contract.

6. We are authorized to partial deliveries, if,

- within the scope of the contractual intended use the partial delivery is of use to the customer, and
- the delivery of the remaining order is secured, and
- the customer is hereby not subjected to substantial increased expenses or additional costs (unless we accept payment of these costs).

7. If we get into difficulties with a delivery or service or, no matter what the reason, a delivery or service becomes impossible for us, then compensation for damages shall be limited to the provisions of the following in § 8 listed policies and procedures.

8. As far as nothing else has been agreed upon in writing, if we owe delivery on call, delivery calls are to be made at the latest within 6 months after purchase order confirmation. We have the right to deliver and validate our delivery conditions even without the call of the customer, or even after a preceding or as the case may be varying agreed upon call period has elapsed. The contract partner is then liable for acceptance and reimbursement.

## **§ 5 Place of Fulfillment, Shipping, Packaging, Risk Transfer, Acceptance**

1. As far as nothing else is determined, place of fulfillment for all obligations listed in the contractual relationship is our principal office
2. The mode of dispatch and packaging are subject to our obligatory discretion.
3. Insurance, regardless what kind is taken out only if expressly requested by the customer and only for reimbursement of costs.
4. The risk is transferred to the customer upon takeover of the goods by the shipper, carrier or other third party assigned with the execution of the transport of the goods, whereby loading of the goods is relevant here. The same is true for partial deliveries unless we have agreed to and taken over other services. In case shipment or transfer is delayed due to circumstances caused by the customer, risk transfer to the customer takes place on such day that we are able to deliver and have so notified the customer.
5. Storage cost after the risk has been transferred is to be carried by the customer. By storage through us, storage cost amounts to 0.25% of the net invoice of the to be stored delivery items per beginning week. We reserve the right of assertion and verification of storage costs that goes beyond.

## **§ 6 Warranty**

1. The warranty period is one year as of delivery or, as far as acceptance required, as of acceptance.
2. Discrepancy claims by the customer depend on whether he has properly complied with the in § 377 HGB owed research and claim obligations.

3. Upon our request, the rejected delivery item is to be sent back to us free of delivery charges. For legitimate notice of defects, we shall reimburse the costs of the most low priced shipping route, this is in so far not valid if shipping costs increase because the to be shipped item is located at a different location than that of its intended use.

4. In material defects of the delivered item, we are obligated and authorized to subsequent improvement or replacement within a reasonable period. In the case of failure, i.e., impossibility, unacceptability, refusal or unreasonable delay of the subsequent improvement or replacement, the customer may rescind the contract or may reasonably reduce the purchase price.

5. Is the deficiency caused through our negligence, then the customer may demand compensation for loss suffered as per the regulation in § 8 of these contract provisions.

6. The warranty is not applicable, if the customer changes or has the delivery item changed by a third party without our permission and the deficiency removal is therewith made impossible or made unacceptably difficult. In every case, the customer has to carry the cost of so emerging increased costs of the deficiency removal.

7. Agreements reached with the customer for a single case delivery agreement for used items takes place under exclusion of any warranty.

## **§ 7 Property Rights**

1. Every contract partner shall immediately notify the other in writing in the case claims of third parties are being enforced toward him in regards to industrial or intellectual property rights.
2. If we produce according to instructions of the customer, or deliver services as per the guidelines of the customer, then he is obligated to release us of infringements of property claims of third parties.

## **§ 8 Liability to Claims for Damages for Cause**

1. Our liability to claims for damages, no matter on what legal grounds, but especially due to impossibility, delay, deficient or wrong delivery, contract violation, violation of obligations in contract negotiations and liability in tort, and in as much as it is in matters of fault, is limited in accordance with this paragraph.
2. We are not liable,
  - a) in the case of simple negligence of our agencies, legal agents, employees or other assignees,
  - b) in the case of gross negligence of a non-executive employee or other assignee, as far as these are not in regards to a violation of contract essential obligations.
3. Insofar that we are admitting to the merits of a claim and are liable in accordance with § 8 Para 2, this liability toward claims is limited to the foreseeable and typically occurring damage. Secondary damages and subsequent damages which are the result of deficiencies of the delivery item, are in addition reimbursable only insofar that such damages are to be typically expected in the specified normal use of the delivered item.
4. In case of liability of simple negligence our reimbursement

obligation for material and personal damages for each case is limited to an amount of 30% of the net material value of the material that caused the damage, even if it is in regards to a violation of contract essential obligations.

5. The before mentioned liability exclusions and limitations shall be valid to the same extend for our agencies, legal agents, employees or other assignees.

6. If we give technical information or are active in a consulting capacity and such information or consultation is not included in the agreed upon scope of delivery, this then is carried out without charge and under the exclusion of all liability.

7. The limitations of § 8 are not valid on account of our liability and that of our assignees in the case of deliberate conduct, warranted characteristics of the facts, injury to life body or health or if in accordance with the product liability act.

### § 9 Reservation of Property Rights

1. In contracts we do reserve the right to our property until payment in full of all outstanding bills from current business relations is received. Where applicable we also reserve our right to property until receipt of all payments from a possible existing open account relationship with our contract partner. This reservation is in reference to the acknowledged balance.

2. The conversion or alteration of the delivery item through the customer is always done for us. If the delivery item is converted with other items that do not belong to us, then we acquire a co-ownership of the new object in relation to the value of the delivery item (net invoice plus sales tax) to the other converted items at time of conversion. For the object created through the conversion the same rules as in goods delivered under reservations applies.

3. If the delivery item is mixed with other items that do not belong to us in a manner that they can no longer be separated, then we acquire a co-ownership on the new creation in relation to the value of the purchased item (net invoice plus sales tax) to the other mixed items at time the mixing occurred. If the mixing takes place in such a manner that the material of the customer is to be viewed as the main thing, it is agreed upon that the customer transfers ownership to us proportionately. Our contract partner stores the emerging property or co-property for us.

4. The customer has the right to further sell the goods in an orderly fashion. Surrenders to us, however, already now all accounts receivables in the amount of the invoice (incl. sales tax) that accrue for him through that sale vis-à-vis a third party. We hereby accept the surrender.

After the surrender the entrepreneur has the right to collect the receivables for our account until revocation or cessation of his payments or until submission of a request to open insolvency proceedings.

In case of delay of payment of the entrepreneur as well as in payment and/or operation cessation and in cases of submission of a request for the opening of insolvency proceedings, we may demand that the contract partner reveals the surrendered receivables and their debtor and furthermore that he gives all necessary information and provides all necessary documentation for the collection and also that he notifies the debtors (third parties) of the surrender. Our right to disclose the surrender in such cases

and to collect the receivables ourselves remains untouched. Receivables that were surrendered by the entrepreneur to us in accordance with the above may not be surrendered to a third party. The same is true for pledging; security conveyance is impermissible.

5. The contract partner is obligated to treat our sole or co-owned property with care. And insofar maintenance and inspections are necessary these have to be done at regular intervals at his expense.

6. The contract partner is obligated to immediately notify us in case our sole or co-owned property is being seized by a third party, such as for example the execution of a levy. The same is true for possible damages or destruction of the goods. A change in owner of the goods as well as his address change is to be indicated immediately as well.

7. If the contract partner violates the above obligation in accordance with section 5 and 6, we have the right to demand the goods; this is also true vis-à-vis entrepreneur and even if we do not at the same time rescind from the contract. Taking back the goods, even vis-à-vis entrepreneurs does not constitute withdrawal from the contract unless we would have expressly declared that in writing. In business or payment cessations as well as in - reserved rights of an insolvency administrator - the above-mentioned paragraphs 1 and 2 apply for insolvency proceedings. We have the right to utilize the goods after they are returned. The utilization proceeds are to be allocated to the contract partner's liability - less applicable utilization costs

8. We obligate ourselves to release the securities due us insofar as they exceed our to be secured receivable securities by more than 10%, the choice of which securities are to be released shall remain with us.

### § 10 Final Provisions

1. As far as nothing else has been agreed upon, place of fulfillment is our place of business.

2. The relations between the customer and us are exclusively subject to the laws of the Federal Republic of Germany. The agreement of the United Nations about contracts of the international purchase of goods dated 11 April 1980 (CISG) does not apply.

3. Exclusive jurisdiction for all disputes is our place of business. The same is true when our contract partner has no general place of jurisdiction in Germany, or a place of residence or the usual abode at time of legal action commencement is not known. We do although reserve the right to bring suit at the customer's location. Lawful provisions about exclusive jurisdictions remain untouched.

4. Our customer is advised that as per § 28 Federal Data Protection Act, we retain data from the contract agreement for purposes of data processing and that we reserve the right to transfer such data to third parties in as much as it is necessary for the fulfillment of the contract.