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## **General Conditions of Sale**

(Version: March 2009)

### **§ 1 Scope**

The following conditions will apply exclusively in respect of companies within the meaning of § 310 paragraph 1 of the German Civil Code. Conditions of the Purchaser which conflict with or deviate from these Conditions of Sale will only be honored by us if we expressly agree to their validity in writing. These conditions will also apply to all future business transactions between the parties to the contract.

### **§ 2 Offer and contract conclusion**

If an order is to be deemed an offer in accordance with § 145 of the German Civil Code, we may accept it within two weeks.

### **§ 3 Surrendered documentation**

We will retain the right of ownership and copyrights in respect of all documentation, such as calculations, drawings etc., surrendered to the Purchaser in connection with the placing of the order. This documentation may not be made accessible to third parties, unless we expressly give the Purchaser written permission to do so. The documentation must be returned upon request at any time.

### **§ 4 Prices, payment and minimum order**

1. Unless a written agreement to the contrary has been drawn up, our prices will apply ex works, excluding packaging and plus the applicable rate of value added tax. Packaging costs will be invoiced separately.
2. Payment of the purchase price must be made exclusively into our account.
3. To the extent that it is not expressly agreed otherwise, payment of our invoices is due after the date of the invoice within 14 day minus a 2 percent discount or within 30 days for the net amount. Interest for default will be calculated at 8 % p.a. above the respective base lending rate. The right to claim greater damages for delay is reserved.
4. The company reserves the right to charge a minimum charge of 75.00 EURO to cover administrative costs. Orders or purchase views from a value of 75.00 to 250.00 EURO EURO are each charged with handling costs in the amount of 20.00 EURO.
5. The right to alter our prices commensurate with changes in payroll, material or distribution costs occurring 6 months or later after conclusion of the contract is reserved.

## **§ 5 Set-off and retention rights**

The Purchaser will only be entitled to a right of setoff if his counterclaims have been recognized by declaratory judgment or are uncontested. The Purchaser will only be authorized to exercise a right of retention if his counterclaim is based on the same contractual relationship.

## **§ 6 Delivery**

1. We will not assume any supply risk. We will be entitled to withdraw from the contract if, despite the prior conclusion of an appropriate purchase agreement on our part, we fail to receive the delivery item; this will not affect our liability for damage

caused by intent or negligence. We will inform the Purchaser without delay of the fact that the delivery item will not be available in due time and, should we wish to withdraw from the contract, exercise our right of cancellation without delay; if we do withdraw from the contract, we will return the commensurate consideration made without delay.

2. The start of the delivery period specified by us will be subject to all technical issues having been clarified and the Purchaser having satisfied his obligations properly and in due time. The right to plead that the contract has not been fulfilled will be reserved.

3. Should the Purchaser be in default of acceptance, or should he be culpable of infringing other obligations to cooperate, we will be entitled to demand that the damage thereby caused to us, including any additional expenditure incurred, be made good. The right to make further claims will be reserved. Should the above conditions exist, the risk of accidental loss, destruction or deterioration of the object of sale will pass to the Purchaser as of the time when the default of acceptance or debtor's delay occurred.

## **§ 7 Reservation of ownership**

1. Ownership of the delivered goods will remain in our hands until all claims arising against the Purchaser as a result of the business relationship have been satisfied. This will also apply to all future deliveries, even if we do not always expressly refer to this fact. We will be entitled to take the goods back if the Purchaser should act in violation of the contract.

2. The Purchaser will be obliged to handle the object of sale with care while its ownership has not yet been transferred to him.

3. While reservation of ownership exists, the Purchaser is prohibited from pledging or transferring ownership of the object of sale by way of security. He must inform us in writing without delay if the delivered object has been pledged or is exposed to any other kind of interference from third parties.

4. The Purchaser will be entitled to resell the reserved goods in the ordinary course of business. Should the delivery item or the new goods be sold, the Purchaser will hereby assign to us by way of security any claims against the buyer to which he may be entitled from the resale, together with all ancillary rights, without the need for any further particular declarations. The assignment will include any balance claims. It will, however, only apply up to the amount corresponding to the price of the delivery item invoiced by us. The part of the debt assigned to us must be settled as a matter of priority. This assignment will apply irrespective of whether the object of sale has been resold without or following processing. The Purchaser will remain entitled to collect the debt following the assignment. This will not affect our authority to collect the debt ourselves. However, we will not collect the debt as long as the Purchaser meets his financial obligations from

the revenue received, is not in default of payment and, in particular, there has been neither an application to open insolvency proceedings nor a suspension of payment.

5. Any processing or remodeling of the object of sale by the Purchaser will always be performed in our name and on our behalf. In this case, the expectant right of the Purchaser to the object of sale is continued in respect of the remodeled object. Should the object of sale be processed with other objects not owned by us, we will acquire co-ownership of the new object at a ratio of the objective value of our object of sale to the other processed objects at the time of processing.

6. The Purchaser will also assign such debts in respect of third parties to us which result from the conjunction of reserved goods and movable property; we accept this assignment as of now.

7. Insofar as the marketable value of all security rights to which we are entitled exceeds the sum of all secured claims by more than 20 %, we will release a commensurate part of the security rights at the request of the Purchaser; we will be entitled to choose which of the various security rights we release.

## **§ 8 Warranty and notice of defects**

1. Any warranty rights of the Purchaser are dependent on him having duly satisfied his statutory obligations to inspect for and give notice of defects in accordance with §§ 377 of the German Commercial Code. Should defects be noted despite the most careful attention, apparent defects must be asserted without delay, but within 14 days following receipt of the goods at the latest, and hidden defects must be asserted immediately upon discovery, in accordance with § 377 of the German Commercial Code, otherwise the goods will be deemed to have been approved.

2. Claims based on defects will fall under the statute of limitations 12 months after delivery to the Purchaser of the goods supplied by us. Our consent must be sought before returning the goods.

3. Should the delivered goods possess a defect which already existed at the time of the passing of risk, despite the greatest care on our part, we will have the choice of either rectifying the defect or supplying replacement goods, provided that the notice of defects was given in due time. We must always be given the opportunity of subsequent fulfillment within a suitable period of time.

4. Should subsequent fulfillment fail, the Purchaser – notwithstanding any claims for damages – may withdraw from the contract or reduce payment. The Purchaser will not be able to demand reimbursement of expenditure paid to no avail.

5. Claims based on defects cannot be lodged in the case of merely negligible deviation from the agreed quality, merely negligible impairment to usefulness, natural wear and tear, or in the case of damages occurring after the passing of risk as a result of faulty or negligent handling, excessive stress conditions, unsuitable production equipment and facilities or particular outside influences which are not assumed under the terms of the contract. If the Purchaser or a third party undertakes inappropriate repair work or modifications, no claims based on defects can be lodged in respect of this work or any resulting consequences.

6. Claims by the Purchaser in respect of expenditure paid for the purpose of subsequent fulfillment, and in particular transport, freight, labor and material costs, will be excluded insofar as the expenditure has risen owing to the goods we supplied being subsequently

transported to a place other than the establishment of the Purchaser, unless this transport is

commensurate with use of the goods in accordance with the terms of the contract.

7. Any rights of recourse of the Purchaser against us will exist only insofar as the Purchaser has not concluded any agreements with his buyer which extend beyond the statutory claims based on defects. Paragraph 6 will further apply in respect of the extent of the rights of recourse of the Purchaser against us.

8. More extensive claims of the Purchaser against us and our subcontractors, or claims other than those addressed in § 9 of this contract as a result of a defect will be excluded.

## **§ 9 Other**

1. This contract and the entire privity of contract between its parties will be governed by German law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

2. The place of performance and exclusive place of jurisdiction for all disputes arising from this contract will be our place of business.

3. Amendments and supplements to this contract must be made in writing. This will also apply to amendments to the clause stipulating the written form. Verbal agreements when the contract is concluded will only be effective if we have confirmed them in writing.

4. The German version of this document is the sole authoritative version and prevails in case of conflict.