

Preamble

Our deliveries and services will be carried out – also in future – exclusively in accordance with the following conditions, even if we do not make special reference to them in a particular case. Their applicability can only be fully or partially excluded when explicitly agreed in writing in the event of an individually concluded business transaction. General terms and Conditions, in particular Conditions of Purchase of the customer do not apply to our deliveries and services. They do not bind us even if we do not contradict them in particular in a given instance; we object to them herewith. Our General Terms of Sale and Delivery are regarded as accepted, at the latest on receipt of the goods or service.

I. EXTENT OF OBLIGATION TO DELIVER

1. Our offers are subject to change even if they are issued at the request of the customer. A legally binding contractual relationship with the customer does not exist, until we have confirmed the order in written or electronic form. This may take place either by telefax or it may be computer-generated without a signature or by e-mail; the same applies to contractual amendments or supplements.

Our written order confirmation is decisive for the extent, type and date of the delivery.

2. We retain the right to modify the design and make production changes. Our catalogues, advertising materials as well as our product presentations on the Internet are subject to continuous revision. Illustrations and drawings as well as descriptions of the characteristics contained in these catalogues are not binding and are not part of the agreed quality. Neither do they constitute a warranty of durability nor a warranty of quality.

3. Documents pertaining to the offer, e.g. drawings, data sheets, illustrations, plans files etc. shall only be deemed to be approximate guides unless they are expressly designated as binding. The documents remain our property; we retain all rights to them. The documents shall not be made accessible to third party without our written consent and shall be returned to us immediately and/or irrevocably deleted at our request at all times.

4. Call-off orders shall be called off in due time in the agreed partial quantities. In the event of call-off orders without agreed terms, production

batch size and acceptance dates, we can only demand a binding stipulation of same at the latest 3 months after confirmation of the order. Should the customer not comply with this request within 3 weeks, we are entitled to allow a final deadline of a further two weeks and on the futile expiry of this period, we are entitled to rescind the contract or to reject delivery and demand compensation. The entire quantity contained in the call-off order shall in any case be purchased and paid 18 months after the date of the order by the customer.

If the contractual quantity is exceeded by the individual call-offs, we are entitled to delivery of the excess quantity but not committed to do so. We can charge prices for the excess quantity that are valid at the time of call-off or delivery.

II. PRICE

1. Prices always refer to EURO prices. VAT will be charged extra at the valid rate.

2. Prices apply to domestic deliveries ex works, without insurance and excluding packing and for deliveries abroad free German border or fob German airport or seaport, including packing appropriate for export and transport insurance.

3. Surcharges and subsequent charges in addition to the agreed charges are permissible, if circumstances, e.g. material costs or increases in wage or energy costs, increases in financial burdens etc. compel same and the delivery or service is to be executed later than 4 months after conclusion of contract. Concerning other price increases, the customer has a right to withdrawal, in the event that the list price has risen considerably higher than the general living costs. Deliveries from follow-up orders that are executed after the date of a price change, will be calculated at the new prices without the customer being entitled to withdrawal.

III. DELIVERY

1. The term of delivery commences when the order confirmation is dispatched, however not before all details of the order execution have been clarified and not prior to receipt of an agreed prepayment or material supply. Our delivery dates are always subject to our own delivery on behalf of our supplier. The term of delivery is regarded as adhered to, when the delivery object has been dispatched or collected

before expiry or readiness to deliver has been announced, should dispatch not take place through no fault of ours.

2. Force majeure and other events for which we are not to blame, that could jeopardize the smooth processing of the order, in particular delays in delivery or impossibility of delivery on the part of our supplier, traffic disruptions, interruption of operations, labour disputes, material or energy stops, entitle us to rescind fully or partially the contract or to delay the delivery without the customer being entitled to compensation claims. The customer can demand us to declare whether we wish to rescind the contract or whether we wish to fulfil the contract within an appropriate period of time. Should we not issue a declaration, the customer may rescind the contract.

We are not liable for the above-mentioned events or circumstances, even if they occur during a currently existing delay of delivery.

3. In the event of a delay in delivery caused by us, we must be granted an adequate period of grace. On expiry of this period of grace, the customer can demand compensation and / or rescind the contract should readiness to dispatch the goods not be announced or the goods be delivered before expiry of the period of grace. A right to rescission does not exist, if we are not responsible for the delayed delivery, i.e. the delivery date is exceeded.

4. If the customer incurs damage due to our delay in delivery, he is entitled to demand compensation. Maximum compensation amounts to 0.5 % for every full week of delay, however in all a maximum of 5 % of the value of that part of the entire delivery that cannot be used in due time or cannot be used in accordance with the contract as a result of the delay.

The customer is only entitled to compensation claims instead of performance, if the cause of the damage is due to intent or gross negligence on our part. This is not applicable if it refers to sale to be performed at a fixed point in time.

5. Obligations to deliver and terms of delivery are suspended as long as the customer is in default with the acceptance of the goods or other obligations, without our rights arising from the default of the customer being affected or without the cus-



customer having exceeded the credit limit that we allowed him. In this case, the risk of accidental loss or accidental deterioration is transferred to the customer at that time when the customer defaults.

6. The originally agreed term of delivery becomes void, if a change is made to the order desired by the customer with our written consent.
7. Adequate part deliveries as well as deviations (max. +/- 10 %) from the order quantity are permissible as long as they can be regarded as acceptable to the customer when taking into account the interests of same.
8. The weight and number of the delivered goods as determined by us are decisive for calculation purposes.

IV. DISPATCH

1. Dispatch is always executed at the cost and risk of the customer from a location that we shall determine.
2. We select the packing, mode of dispatch and forwarding route at our own discretion if we receive no special requests from the customer in this respect. Surcharges for special requests made by the customer shall be borne by same. We accept no responsibility for the cheapest form of dispatch.
3. If dispatch or delivery is delayed at the request of the customer, we are entitled to set the customer a reasonable term of acceptance and on futile expiry of this term, we are entitled to demand immediate acceptance as well as reimbursement for damage caused by delay.

V. TERMS OF PAYMENT

1. The conditions stipulated in our order confirmation apply to payment. Payment for deliveries abroad shall be always be made by an irrevocable, confirmed Letter of Credit.
2. Cheques will only be accepted under usual provisions. For all types of payment, the settlement date is regarded as the day on which we can dispose of the amount in question. The customer bears the costs of payment, in particular all types of bank charges and banking fees.
3. Should payments be deferred or made at a later date than agreed then interest at 9 percent above the relevant basic interest rate per an-

num will be charged for the interim period without having to issue a reminder. We reserve the right to claim further damage caused by delay. The customer has the right to prove that less damage has been caused by delay. Further, we are entitled to claim a flat rate reminder fee of Euro 40 against the customer.

4. The customer is not entitled to set off with counter claims, unless his claims are acknowledged by us, are undisputed or have been determined as legal. The customer is also not entitled to right of retention due to disputed counter claims.
5. All our receivables are due immediately, if the terms of payment are not adhered to or we become aware of circumstances that qualify for reducing the creditworthiness of the customer. We are then also entitled to execute deliveries that are still outstanding only against prepayment or provision of security or to rescind the contract after reasonable period of grace and/or to demand compensation for damage instead of performance. We can also forbid the resale and the processing of delivered goods and their return or demand the transfer of the indirect ownership of the delivered goods at the expense of the customer and recall the authorisation to collect according to Paragraph IX, Point 7. The customer authorises us here and now in the stated cases to enter his plant and remove the delivered goods.
6. Payments will always be used to settle the oldest due invoice. As long an old invoice remains unpaid, the customer is not entitled to claim discount on payment of subsequent invoices.

VI. TRANSFER OF RISK, COMPLAINTS AND NOTICE OF DEFECT

1. Risk is transferred to the customer even in the event of freight-free delivery as follows: Delivery without installation and assembly if the goods have been despatched or collected. If the customer does not expressly object, the delivery will be insured by us against the usual transport risks, theft, loss, breakage, damage due to fire and water; Delivery with installation or assembly on the day of take-over at our own plant or, if agreed, after successful trial operation.
2. If the despatch, delivery, commencement, execution of the installation or assembly, the take-over at our own plant or the trial operation

is delayed for reasons for which the customer is responsible or the customer delays acceptance for other reasons, the risk is transferred to the customer.

3. We shall be informed immediately in writing of complaints due to incomplete or incorrect delivery or notice of identifiable defects at the latest however, within 2 weeks after receipt of the goods. We shall be informed immediately in writing of other defects, at the latest however, within 2 weeks after their detection.

If we are not informed in due time of complaints or defects, compensation claims are excluded. If we are informed in due time, we are committed to warranty according to Paragraph VII.

4. In the event of damage due to transport, the customer shall provide us with an assessment of damage issued by the railways, post office or forwarding agent.
5. Defects of part of the delivered goods do not entitle the customer to reject the entire delivery unless the partial delivery is not of interest to the customer.

VII. WARRANTY

1. All those parts or services that show a material defect shall be repaired, replaced or provided again at our choice free of charge in so far as the cause existed at the time when the risk was transferred.
2. Claims for supplementary performance become time-barred 12 months after delivery, if acceptance is necessary, as from the acceptance. The same applies to withdrawal and reduction. This period is not applicable – insofar as the law according to §438, Subsection 1 No. 2 (Structures and material for structures) and §634a, Subsection 1 No. 2 (Construction defects) BGB (German Civil Code) stipulates longer periods. , - in the case of intent - , fraudulent non-disclosure of the defect as well as in the case of non-compliance with a guaranteed quality. Compensation for expenses claims of the customer according to §445a BGB (German Civil Code) (recourse of the seller) also become time-barred 12 months as from the legal start of the limitation period provided that the last contract in the delivery chain is not a consumer goods purchase. The legal provisions regarding expiry suspension, suspension and recommencement of the periods remains unaffected. This period does not apply to the

claims for damages of the contracting entity arising from injury to life, body or health or arising from intentional or grossly negligent breaches of obligation of the seller or his vicarious agents that become time-barred according to legal provisions.

3. The delivered objects shall be carefully examined immediately after delivery to the contracting entity or to the third party determined by him. They are regarded as being approved by the purchaser with regard to obvious defects or other defects that would have been identifiable had they been carefully examined immediately, if the seller does not receive a written notice of defects within (seven) workdays after delivery. With regard to other defects, the delivery objects are regarded as being approved by the purchaser, if the seller does not receive notice of defects within (seven) workdays after the period in which the defect became apparent; if the defect was already apparent during normal use at an earlier date, this earlier date is decisive for the commencement of the complaint period. At the seller's request, defective goods shall be returned to the seller freight-free. In the event of justified notice of defects, the seller reimburses the costs of the cheapest shipment; this does not apply if costs are increased due to the fact that the delivery object is located at a site that is not the site of intended use.
4. In the event of defects of the delivery objects, the seller is obliged and entitled to choose within a reasonable period of time at his discretion between repairing or making a replacement delivery. In the case of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the repair or replacement delivery, the customer can rescind the contract or reduce the purchase price appropriately.
5. If a defect is attributable to the seller, the customer can demand compensation according to the conditions stipulated in Section VIII.
6. In the event of defects of components of other manufacturers that the seller cannot eliminate for licensing or other reasons, the seller will then at his choice make his warranty claims against the manufacturer and supplier for the customer's account or assign such claims to the customer. Warranty claims against the seller in the event of defects of this kind exist under other conditions and in accordance with

these General Terms of Sale and Delivery, when the legal enforcement of the above mentioned claims against the manufacturer and supplier was unsuccessful or is futile due to an insolvency. The limitation period of the relevant warranty claims of the customer against the seller is suspended during the legal dispute.

7. The warranty is invalid when the customer modifies the delivery object or allows it to be modified by third party without the consent of the seller and the elimination of defects thus becomes impossible or unreasonably difficult. In any case, the customer shall bear the additional costs of the elimination of the defects incurred by the modification. A delivery of used goods agreed in individual cases with the customer excludes any warranty for material defects.
8. Our liability is limited to the assignment of warranty claims for substantial purchase-complete products that we are entitled to against the supplier of the purchase-complete product, unless satisfaction arising from the assigned right fails or the assigned claim cannot be asserted due to other reasons.

VIII. LIABILITY

1. Our liability for damage, irrespective of the legal reason, in particular, for impossibility, delay, defective or incorrect delivery, breach of contract, violation of obligations in contractual negotiations and unlawful acts to the extent that this involves culpability is limited in accordance with this Section VIII.
2. We are not liable for simple carelessness of our executive bodies, legal representatives, employees or other vicarious agents, insofar as it is not a case of violation of essential contractual obligations. Essential to the contract are obligation to punctual delivery and installation of the delivery object, its lack of defects and such material defects that affect its functionality or suitability for use more than just insignificantly as well as consultancy services, protection and care designed to enable the customer to use the delivery object according to contract or for the purpose of protecting the life and limb of the customer's personnel or the protection of his property against considerable damage.
3. Insofar as we are liable for damage according to Section VIII, this liability is limited to damage that we anticipated at the time of conclusion of

contract as a possible consequence of a breach of contract or which we should have anticipated in the course of applying due diligence. Indirect damages and subsequent damages that are a result of defects of the delivery object, are furthermore only eligible for compensation insofar as such damage is to be typically expected when the delivery object is used for the intended purpose.

4. In the event of a warranty for simple carelessness, our obligation to pay compensation for material damage and resulting further financial loss, is limited to the foreseeable damage typical for the contract, at the most however, to an amount of 250000 Euros per claim even if it is a question of a violation of contractual obligations.
5. The above mentioned limitations and restrictions of liability apply to the same extent in favour of our executive bodies, legal representatives, employees and other vicarious agents.
6. Insofar as we provide technical information or a consultancy service and this information or consultation is not part of our scope of performance incumbent upon us under the contract then this is carried out free of charge and is exempt from any liability.
7. The restrictions of this Section VIII do not apply to our liability due to deliberate behaviour, for guaranteed qualities, due to injury to life, body or health or in accordance with the Product Liability Law.

IX. RETENTION OF TITLE

1. All delivered goods remain our property (conditional commodities) until all claims have been fulfilled, in particular also the respective demands of balance against the customer that we are entitled to due to the business relation. This also applies if payments are made for specific claims.
2. In the event of combination and mixing of the conditional commodities with other goods by the customer, we are entitled to co-ownership of the new object in the relationship of the invoice value of the conditional commodities to the invoice value of the other used goods. Should our ownership cease due to combination, the customer shall transfer to us the ownership rights here and now to the new object to which he is entitled to the extent of the invoice value of the con-

- ditional commodities and shall hold same in safe custody for us free of charge. The co-ownership rights that then arise are regarded as conditional commodities in the indentment of Paragraph 1. We accept the transfer.
3. The customer is entitled to sell the conditional commodities only in the ordinary course of business according to his business conditions, if they contain an extensive retention of title in accordance with these provisions and as long as he is not in default, on the condition that the claims arising from the reselling are transferred to us according to Paragraphs 4 and 6. He is not entitled to other disposals of the conditional commodities, in particular the entitlement to disposal of the conditional commodities is regarded as revoked if insolvency proceedings are being instituted against the property of the customer or winding up is being initiated.
 4. The claims of the customer arising from the resale of the conditional commodities shall be assigned here and now to us. They serve as security to the same extent as the conditional commodities. We herewith accept the assignment.
 5. Should the conditional commodities of the customer be sold together with other goods not sold by us, assignment of the claim arising from the resale applies only to the amount of our invoice value of the sold conditional commodities in question. With regard to the sale of goods of which we hold co-ownership shares according to Paragraph 2, the assignment of the claim is equivalent to the amount of these co-ownership shares.
 6. Should the conditional commodities be employed by the customer to fulfil a contract for work or contract for work and materials, Paragraphs 4 and 5 shall apply accordingly to the claim arising from this contract.
 7. The customer is entitled, to collect claims arising from sales in accordance with Paragraphs 3, 5 and 6 until our revocation that is permitted at all times. We will only make use of the right to revocation in the cases mentioned in Paragraph 3 as well as Paragraph V. 5. The customer is on no account entitled to assignment of claims elsewhere. He is obliged to inform his buyers immediately of the assignment to us at our request unless we do so ourselves and to hand over to us information and documents that we require for collection purposes. The custo-

mer is not entitled to a pledge or assignment as security of the conditional commodities.

8. Our retention of title is on the condition that ownership of the conditional commodities is transferred to the customer and he is entitled unrestrictedly to the assigned claims when payment of all claims has been made. Should the value of the existing securities exceed in total more than 20%, we are obliged at the request of the customer to release the securities at our option. The realisable value of the securities is decisive for their evaluation.
9. The customer shall inform us immediately of a pledge or every other hazard or infringement of our ownership and legal claims by third party and surrender the reports on assets seized or other documents and shall do all in his power to defend our rights.
10. We are entitled at all times to enter the warehouse and the business premises of the customer to remove, sort or label the conditional commodities. The customer shall provide us with useful information pertaining to the conditional commodities on request and shall issue the necessary receipts. The customer is obliged to insure extensively the conditional commodities at his own expense on our behalf and to provide us with evidence of the insurance at our request. He assigns here and now all resulting insurance claims to us; we accept the assignment.
11. The enforcement of our retention of title is not regarded as a rescission of contract. The right of the customer to ownership of the conditional commodities expires if he does not fulfil his obligations arising from this contract or another contract. We are then entitled to take possession of the conditional commodities ourselves and to turn them to account in the best possible manner irrespective of the obligation to pay and other obligations of the customer to us by voluntary sale or in the form of an auction. The surplus proceeds on sale will be credited to the payables of the customer after deduction of costs. A possible surplus shall be paid to him.
12. If the retention of title or the assignment is not effective according to the law pertaining to the goods, the security applicable to the retention of title or the assignment is regarded as agreed. If the cooperation of the customer is required for this purpose, he shall take all mea-

sures that are necessary to justify and maintain such rights.

X. TOOLS

1. Tools, moulds, devices and the like – hereinafter named “Tools” – are in principle our property, even if the customer has paid the costs for same fully or partially. This is applicable regardless of whether we have manufactured the tools ourselves or a third party was commissioned by us to do so.
2. We undertake not to produce parts for third party with tools for which the customer has borne the entire costs as long as the customer places follow-up orders with us. This obligation shall cease without a claim for reimbursement of any type against us arising for the customer if we do not receive further orders within two years after the last order.
3. We will store the tools free of charge. The costs for the maintenance and repair shall be borne by the customer. Our obligation to store expires on expiry of the 2-year period mentioned in Paragraph 2.
4. The afore-mentioned provisions (Paragraphs 1-3) do not apply to tools for common and generally usable items.

XI. INDUSTRIAL PROPERTY RIGHTS OF THIRD PARTY

If we have to manufacture products according to the drawings, models or samples of the customer, the customer shall assume the warranty vis-à-vis ourselves that the industrial property rights of third party are not violated. However, should this happen, the customer shall exempt us from any such claims of third party to the full extent and compensate us for the ensuing damage in full. If a third party claims its property rights, we are entitled to stop the manufacture or delivery of the products immediately without checking the legal position.

XII. OTHER CONDITIONS

1. Place of fulfilment and venue for both contractual parties in so far as the customer is a merchant is 78112 St. Georgen. We are also entitled to institute proceedings against the customer at his general venue.
2. The law of the Federal Republic of Germany is applicable exclusively for all legal relations between us and the customer.

3. Should any of these conditions and contractual provisions be ineffective or become ineffective, this shall not affect the validity of the remaining provisions. The ineffective provisions shall be reinterpreted so that the intended legal and economical purpose is achieved. The same applies if a loophole becomes obvious in a contract that requires supplementing. The contractual parties are obliged to replace the ineffective provisions immediately by legally effective agreements or to close the loophole.
4. Customer data will be stored by us in the course of the purpose of the contractual relationship.