

## I. Applicability

These general terms of sale are components of all contracts and offers on delivery of Goods and performance - including those concluded in the future - even if not specifically referred to. They are applicable to all contracts exclusively, even if the Contracting Party especially refers to her own general terms of purchase, unless we explicitly agree in writing.

## II. Offers/Documents

1. Our offers shall be subject to confirmation and shall not be binding.

2. We reserve title-, copyrights and other industrial property rights in respect to all drawings, pictures, calculations and other documents. These documents as well as economic and technical details are to be kept strictly confidential. Any third party access thereto is inadmissible without our prior explicit approval in writing. This shall not be applicable for information that is public knowledge or has become public knowledge without violation of the contract.

## III. Alterations/Delivery/Passing of risk

1. We reserve the right to alter the construction and form of Goods in consequence of technical improvements or legal requirements during the time of delivery provided that the alteration does not materially change the Goods and in not unreasonable for the Contracting Party.

2. Delivery dates and times shall be subject to confirmation, unless agreed upon otherwise. The time for delivery stated by us shall begin only if all questions of technical or commercial nature have been clarified and the Contracting Party has met its obligations, especially concerning the identification of the Goods with respect to serial numbers etc.

3. Delivery of Goods shall be from our works (EXW according to Incoterms 2000). The risk of accidental loss, destruction or deterioration of the Goods will pass to the Contracting Party on provision of the Goods.

4. The time for delivery shall be prolonged accordingly in case of disruptions of business not attributable to us, Force Majeure, lawful measures of industrial conflict or administrative measures. In case such disruption persists for longer than one month we shall be entitled to withdraw from the contract.

5. If our carefully selected supplier fails to deliver in breach of contract, our time for delivery shall be prolonged accordingly (*Selbstbelieferungsvorbehalt*). If performance by our supplier becomes impossible, we shall be entitled to withdraw from the contract.

6. We shall be entitled to partial deliveries for operational reasons. However, partial deliveries shall only be admissible, if they do not burden the Contracting Party unreasonably. In case of partial deliveries any claims resulting from delays or defects shall be restricted to the respective partial delivery.

7. We shall be entitled to withdraw from the contract and demand compensation instead of performance in the amount of 10 % of the total amount of the order if our delivery is rejected unjustifiably after we have set an adequate time for the acceptance of our delivery. Our right to claim higher damages as well as the right of the Contracting Party to prove that our damage was indeed smaller remains unaffected.

8. Packaging shall not be taken back by us.

## IV. Prices/Payment/Default/Advance payment

1. Our prices do not include sales tax and costs for packaging and shipment. They are subject to an increase of our costs of production not attributable to us, especially prices for materials and products purchased by us, vis-à-vis our costs of production at the time of our offer. In this case our prices will increase accordingly.

2. Our invoices are due upon reception and payable within 30 days after reception of the invoice without deduction.

3. Payment by cheque and bill of exchange shall be on account of performance; discounting costs, bill charges and other costs shall be borne by the Contracting Party.

4. In case of default we will charge interest for default in the amount of 8 percentage points over the base interest rate (*Basiszins*). Our right to claim higher damages shall remain unaffected.

5. Any set-off with claims against us or retention of invoice amounts due shall only be permissible, if the claim is undisputed by us or has been asserted by a final judgment.

6. In case the financial situation of the contracting partner materially and verifiably deteriorates after the conclusion of the contract, we shall be entitled to demand advanced payments for our deliveries, to accelerate all invoice amounts open and to demand payment in cash against return of bills of exchange taken in on account of performance.

## V. Defects

1. The Contracting Party undertakes to inspect the Goods upon reception. Obvious defects shall be notified to us without delay, however, within a maximum of 8 days after reception of the Goods, hidden defects shall be notified to us without delay after their detection. Claims based on defects shall be excluded if the notification of defect is not in good time. The notification of defect shall contain exact specification of the use of the Goods and of the nature and scope of the alleged defect.

2. If the Goods are defective we undertake – at our choice – to remedy the defect or to deliver new Goods in compensation in adequate time. Costs for the remedy or compensation delivery shall be borne by us, provided that and insofar as they are not caused by the removal of the Goods from their original destination. If the remedy of defects or the compensation delivery fails, the Contracting Party shall be entitled to reduce the purchase price or to withdraw from the contract.

3. If the notification of defects is unfounded, especially if there is no defect, we shall be entitled to compensation for the costs incurred by us in connection with the notification of defects.

4. Any claims based on defects will become statute-bared after one year after delivery of Goods.

5. Para. 4 and Para 2 shall not be applicable in case of delivery recourse (*Lieferergröss*). Para. 4 shall also not be applicable in case of an installation that is in accordance with regulations of Goods into a building that has caused the defectiveness of the building. In both cases statutory law shall apply.

## VI. Liability

1. Any claims for damages against us based on simple negligence of our representatives, employees and other personnel deployed in the fulfillment of our obligations shall be excluded, provided that no material contractual obligations are broken and damages do not result from injury of life, body or health. If material contractual obligations have not been met because of simple negligence, our liability shall be restricted to the typical damage foreseeable to us at the time of the conclusion of the contract.

2. The Contracting Party undertakes to make our instructions of use fully available to the purchaser in case of a resale. The Contracting Party undertakes to indemnify us from damages that result from a breach of this obligation.

3. The Contracting Party undertakes to indemnify us from third party claims, if and insofar the damage is attributable to her.

## VII. Reservation of title/Assignment/Collection/Release of Security

1. We reserve title to the Goods until our claims have been fully satisfied ("Reserved Goods"). This reservation extends to all claims arising from our business relation with the Contracting Party (*Kontokorrentvorbehalt*).

2. We shall be entitled to take back and utilize the Reserved Goods after an adequate time limit has been set, if the Contracting Party is in breach of contract, especially in default. Taking back of Reserved Goods shall be considered as withdrawal from the contract. The proceeds of utilization of Reserved Goods shall be netted against the Contracting Parties accounts payable to us.

3. The Contracting Party undertakes to store Reserved Goods properly, treat them with care and to insure them against fire-, water and theft at her expense at their replacement value. The Contracting Party undertakes to inspect and maintain Reserved Goods as necessary at her expense.

The Contracting Party undertakes to notify us immediately about any third party access - especially seizure or similar measures - to Reserved Goods to enable us to assert our rights. If the third party is not able to compensate the costs incurred by us in the connection with the third party access, the Contracting Party shall be liable for our compensation.

4. The Contracting Party shall be entitled to resell the Reserved Goods in ordinary course of business. She herewith assigns all claims resulting from any resale of Reserved Goods to us by way of security (*Vorausabtretung*).

5. The Contracting Party shall be entitled to process and to join the Reserved Goods in ordinary course of business. In this case we shall acquire pro rata property to the product at the rate of the value of the Reserved Goods to value of the product. In case the product is sold, the Contracting Party herewith assigns resulting claims to us at a rate that correspond to our pro rata property of the product

6. The Contracting Party shall be entitled to collect claims assigned to us. Our right to collect claims shall remain unaffected. However, we undertake to make no use of this right if and insofar the Contracting Party meets contractual obligations, especially payment obligations.

In case the Contracting Party suspends payment or insolvency proceedings in respect to her estate are commenced or motioned for, her rights pursuant to Para. 4, 5 and 6 expire. The right to collect claims shall also expire in case of a cheque- or bill of exchange protest.

7. In case that and insofar as the total value to be realized in utilization of our securities exceeds the value of our claims against the Contracting Party by more than 10 per cent we will release security, at our choice, on demand.

## VIII. Miscellaneous

1. If any of the clauses of these general conditions of sale is or becomes void, partially or in its entirety, this shall not affect the effectiveness of the rest of the clause or other clauses.

2. The contract shall be governed by German Law.

3. Place of delivery and performance shall be Berlin.

4. The place of jurisdiction shall be Berlin. We retain the right to file actions against the Supplier at his forum domicili.