

GENERAL TERMS AND CONDITIONS OF BUSINESS

§ 1 Applicability of Terms and Conditions

- (1) All deliveries and services provided and offers made by the seller shall exclusively be subject to and governed by the terms and conditions set forth hereinafter. These business terms will also extend and apply to any business dealings or relations to be entered into in the future notwithstanding that there shall be no further explicit agreement thereon. These terms and conditions are deemed to be finally accepted on receipt of the goods delivered or service rendered. Any counter-confirmations made by the buyer indicating that his business conditions or purchasing terms should take effect, are hereby objected to.
- (2) All the agreements reached between the seller and the buyer in respect of the implementation of this contract shall be stipulated and conditioned by contract herein.

§ 2 Submission of Offer and Conclusion of Contract

- (1) All offers made by the seller are considered to be without any obligation and not binding. In order to become legally effective, declarations of acceptance as well as all orders placed will require the seller's written acknowledgment, either by letter or telex.
- (2) Members of the seller's sales-staff shall not be authorized to conclude any additional verbal agreements or make promises by word of mouth which will go beyond the terms and conditions as contained in the written contract.

§ 3 Price Changes

- (1) Prices may be subject to alterations if the period of time between the date of appending signatures to the contract and the agreed-on delivery date will amount to more than 6 (six) weeks. In the event that there will be price increases as to labour wages, material costs or market-induced cost prices between the expiry of such time-limit and the completion of the delivery process, we shall have the right of appropriately effecting an upward adjustment of prices in accordance with the actual cost increase. Only in those cases where the price-rises involved are, in actual fact, exceeding the general increase on the cost of living during the period of time between the placing of the order and the delivery of the goods to quite a considerable degree, the orderer shall have the right to a resolution of contract.

§ 4 Delivery Period and Performance Time

- (1) Dates and deadlines which can be fixed in advance, whether binding or not binding, must be specified in writing and signed.
- (2) For any delays in executing deliveries or rendering services due to force majeure, acts of God or other extraordinary occurrences - such as strikes, lock-outs, orders or directives by the authorities and the like even if these incidents would be occurring in connection with the seller's suppliers or their subcontractors - which would render it not only temporarily more difficult or impossible for the seller to meet his contractual delivery obligations, the seller cannot be held responsible even if delivery dates and deadlines had been firmly agreed upon. In such cases, the seller will be entitled to either extend the period for executing the contractual deliveries or work performances for as many days as the impediments or obstructions have lasted plus an appropriate start-up period, or to have the contract partially or totally cancelled on account of the unperformed portion thereof.
- (3) In the event that the impediment or obstruction continues to last longer than 3 (three) months, the seller shall, after having fixed a reasonable final deadline, be justified to partially or totally repudiate the contract in respect of the unperformed portion thereof. In those cases where the delivery period has been extended or the seller was released from his obligations under the contract, it will not be possible for the buyer to derive any damage claim therefrom. The seller may only refer to the circumstances set forth hereinbefore, if he is informing the buyer promptly about delay causes and extensions required.
- (4) In the event of default by the seller in fulfilling his obligations to observe all firmly promised deadlines or time-limits, or if he is found guilty of delay in performance, the buyer shall be entitled to compensation for damages or losses occasioned by delay at a rate of ½% for each completed week of delay. The total amount of the delay penalty shall, however, not exceed 5 % of the invoice value of the delayed portion of the deliveries or services affected by the delay concerned. Provided the default is not resulting from at least gross negligence caused by the seller, all further claims shall be excluded.
- (5) With the exception of those case where the buyer is not interested in having part-deliveries or part-services executed, the seller shall at all times have the right to perform part-deliveries or part-services.
- (6) adherence to the obligations entered into by the seller with regard to execution of deliveries and services is conditioned upon the timely and proper fulfilment of the buyer's contractual obligations.
- (7) In the event of default by the seller due to the circumstance that the buyer has refused to accept the delivery of goods, the seller shall be entitled to claim compensation for any losses sustained by him as a result thereof. Upon occurrence of a case of default in taking delivery, the risk of accidental loss or deterioration of the goods sold, passes to the buyer.

§ 5 Passing of the Risk

- (1) As soon as the consignment has either been turned over to the person taking care of the transportation of the goods or will have left the warehouse of the seller for forwarding purposes, the risk shall pass to the buyer. In the event the transport of the goods is being delayed upon request of the buyer, the risk shall pass to him with the advice indicating the readiness of dispatch.

§ 6 Warranty

- (1) We shall assume liability for defects in the objects delivered in a manner as specified hereinafter:
 - a. In the course of a guarantee term of 6 (six) months after the taking-over of the delivery item, the buyer has the right to demand the removal of defects or imperfections (remedying of defects). In the event that we do not find ourselves in the position of removing any defects or imperfections being subject to our contractual warranty obligation, or if our repeated attempts at remedying the defects prove to be a burdensome charge to the buyer, the buyer may, as an alternative, instead of having remedial actions or repair measures carried out, request dissolving of the contract (cancellation of contract) or the abatement of the purchase price (reduction in price).

§ 7 Retention of Ownership

- (1) Until the satisfaction of all claims (including all claims to balances on current accounts) which may be due to the seller against the buyer on any legal basis, either at present or in future times, the seller shall be granted the following securities which he, upon request and at his own discretion, shall release as soon as the value of such security guarantees is constantly exceeding the debts of the buyer by more than 20% (twenty percent).
- (2) The ownership in the goods remains with the seller. Processing or conversion of the products shall always be effected for the seller as the manufacturer, however, without the incurrance of any liabilities on the part of the seller. Upon expiry of the seller's (co)-ownership on account of connections between various components, it is already now and hereby agreed that the (co) ownership of the buyer in the unified property item shall be transferred to the seller at a value calculated on a pro rata basis (invoice amount). The buyer will hold the seller's (co)-ownership in custody without demanding any payment. Goods where the seller is entitled to rights of (co)-ownership shall be referred to in the following as "goods subject to reservation".
- (3) As long as the buyer is not in any delay in fulfilling his contractual obligations, he shall have the right to process and sell the "goods subject to reservation" in the ordinary course of business. Pledgings or transfers of ownership by way of security are not permissible. The receivables resulting from resales or deriving from any other cause of law (insurance, tortious act) in connection with the goods subject to retention (including all claims to balances on current accounts) shall already at this time. Be assigned in its entirety and for security's sake to the seller. The seller, for his part, will authorize the buyer revocably to collect those receivables assigned to the seller, for the seller's account and in his own name. This direct debit authorization may only be withdrawn if the buyer fails to meet his financial obligations.
- (4) In the event of seizure of the goods subject to retention by any third party, especially by way of pledges, the buyer shall draw attention to the seller's right of ownership and promptly notify the seller accordingly so as to enable the seller to assert his rights of ownership. Insofar as the third party is unable to reimburse those judicial and extra-judicial costs and expenses incurred by the seller in the aforesaid context, the buyer shall be held liable for payment of all costs involved.
- (5) In the event of any contract-breaching behavior by the buyer, especially in the case of default in payment - the seller shall be entitled to either take back the goods subject to reservation or, where appropriate, demand the assignment of the buyer's claim for return of property against third parties. The taking back or the seizure of the goods subject to reservation by the seller does not amount to the termination of the contract concerned.

§ 8 Terms of Payment

- (1) Insofar as nothing to the contrary is agreed, the seller's invoices shall be due and payable 30 (thirty) days after rendering of the accounts, net and free of any deduction. Notwithstanding any provisions to the contrary, the seller shall be entitled to, initially appropriate the buyer's payments to the more previous outstanding debts of the buyer. He will keep the buyer informed about the set-off-procedure employed. In case costs and interests have already accrued, the payments effected by the buyer shall firstly be allowed as credit against the costs, subsequently against the interest and finally against the principal debt.
- (2) Payments are only considered to be effected when the debt is actually at the seller's disposal. In the case of cheques, the payment shall only deemed to be effected after the cheque has been honored.
- (3) In the event of any delay by the buyer in fulfilling his obligations as provided for in the contract within the deadlines, the seller shall be entitled to demand default interest to serve as compensation for losses suffered, at the rate of 3% (three percent) above the current discount rate of the Deutsche Bundesbank from the due date for payment up to the actual date of payment. The interest may be fixed at a lower rate if it can be evidenced by the buyer that the losses incurred had burdened the seller to a lesser extent. The seller will, on the other hand, have the right to furnish proof of higher damages or losses sustained by him.
- (4) If the seller should become aware of any circumstances which are apt to impeach or jeopardize the buyer's creditworthiness, especially in cases where a cheque issued by the buyer is not honored or his payments are being discontinued or if the seller finds out about other facts seriously calling the creditworthiness of the buyer into question, the seller shall be entitled to immediately call up the entire balance due and owing notwithstanding the fact that cheques had previously been accepted by him. In a case like this, the seller will also have the right to request advance payments or the lodging of a security deposit.
- (5) Even after having lodged complaints in respect of defects in goods or counterclaims set up, the buyer shall only be entitled to any set-offs, retentions or reductions in purchase prices if the counterclaims filed have been recognized by declaratory judgment or were found to be uncontested. The buyer will, however, also be entitled to retentions on account of counterclaims deriving from the same contractual relationship.

§ 9 Limitation of Liability

- (1) The seller shall only be held liable for damages of any possible kind not being caused to the object of delivery itself (direct and immediate damages as well as consequential losses/damages caused by a defect) in those cases where wrongful intent, gross negligence, intentional or negligent breach of material contractual obligations had been causally responsible for the damages suffered, but also in cases of failure of quality aspects expressly guaranteed to the buyer, if this warranty ensuring the quality of the goods had actually been furnished for serving the purpose to guard the buyer against damages not directly caused to the object of delivery itself. All additional further liabilities are hereby excluded. All the liabilities undertaken are limited to just those damages foreseeable at the time of the conclusion of the contract. In all these cases the liability of the seller as required under the provisions of the Product Liability Act, shall remain unaffected.

§ 10 Applicable Law, Jurisdiction, Severability

- (1) The implementation of this contract shall exclusively be governed by and construed in accordance with German law, to the exclusion of the laws concerning the international sale of goods even if the orderer's registered office is situated outside the Federal Republic of Germany.

- b. Occurrences of loss in value due to normal wear and tear, shall at all events be excluded from any performance guarantee.
- [2] If operating or maintenance instructions provided by the seller are not being observed, alterations made to the products, or parts thereof subjected to renewal or replacement, or incidentals employed not corresponding completely with the original specifications, the obligations under a warranty shall not be applicable if the buyer will not be capable of confuting a corresponding and substantiating assertion to the effect that one of the afore-stated circumstances was the actual cause of the defect concerned.
- [3] The buyer must notify the seller immediately in writing of any defect or malfunctioning, at the latest, however, within one week from receipt of the delivery item concerned. All concealed defects which cannot be detected within this time-limit, shall have to be reported to the Supplier immediately after their discovery.
- [4] They are not assignable, only the immediate buyer shall be entitled to raise warranty claims against the seller.
- [5] The foregoing paragraphs are conclusively dealing with product liabilities and are excluding any other kinds of warranty claims. This, however, does not apply to claims for damages derived from quality warranties.
- [2] Any disputes or differences that may arise out of or in connection with the implementation of this contract, shall, in those cases where the buyer proves to be either a fully qualified merchant, a juristic person under public law or a utility fund, be submitted for settlement to the jurisdiction of the Court being locally competent for our principal place of business. We shall also have the right to take proceedings against the orderer at the orderer's main place of business.
- [3] If at any time any of the provisions contained in these business terms or any other provision within scope of other agreements is or shall become illegal, invalid or ineffective in any respect, the legality, validity and effectiveness of the remaining provisions of this contract or of the agreements will in no way be affected or impaired as a result.