

## 1. Applicability

These Terms and Conditions of Delivery and Payment only apply to companies within the meaning of § 14 of the German Civil Code (BGB).

All our services and deliveries shall only be provided on the basis of these Terms and Conditions of Delivery and Payment. Contradicting or deviating General Terms and Conditions of the Customer shall not be recognized unless we have expressly agreed their validity. These Terms and Conditions of Delivery and Payment also apply for future business even if they are not specifically referred to in an individual case.

## 2. Orders

Delivery contracts shall be based on our written order acknowledgement. Offers shall be subject to change without notice. Documents enclosed with an offer, such as illustrations, drawings, dimensions and weight details, etc., shall only be binding if they have been expressly confirmed as such. All amendments and supplements to a contract shall only be valid when they have been confirmed by us in writing.

## 3. Prices

The prices specified in the order acknowledgement shall control. These apply ex works Pforzheim and exclude packaging, transport, insurance, customs duty and value-added tax. Packaging shall be charged at cost and 2/3<sup>rds</sup> shall be credited within four weeks if it is returned without damages with all freight costs paid.

## 4. Delivery Period

Details of the delivery period are non-binding. Binding delivery periods must be specifically agreed upon.

If a delivery period or delivery date is agreed, its compliance presupposes that the Buyer fulfils his/its contractual obligations. A delivery period commences with the date of despatch of the order acknowledgement. The delivery period or the delivery date shall be deemed to have been met if the goods have been despatched by the end of the period or date if readiness to deliver has been notified. In addition, the delivery period shall only start when

the Buyer has fulfilled all claims due also in connection with other contracts insofar as we have expressly requested fulfilment. If a delivery date is overstepped for reasons attributable to us, the Buyer shall be entitled to withdraw from the individual contract after he/it has set us a reasonable period of grace in writing and if the aforesaid period of grace passes without response from us. Damage claims of the Buyer shall be excluded unless for wilful intent or gross negligence on our part. If we are hindered from effecting delivery on account of force majeure, the delivery date shall be automatically extended for the duration of the force majeure plus a reasonable start-up period. Force majeure shall be equivalent to unforeseeable circumstances not attributable to us which make delivery unreasonable or impossible. Examples thereof are delivery delays by the envisaged sub-contactors, labour disputes, actions by the authorities, raw material or energy shortages, major operational disruptions by means of disruptions to the business as a whole or in major departments or essential production equipment and facilities, serious transport disruptions, etc., e.g. road blockages, labour disputes in the transport industry, energy shortages and driving bans. If the aforesaid circumstances last longer than four months, we shall also have the right to withdraw from the contract. At the request of the Buyer, we shall be required to state whether we are withdrawing or whether we will deliver within a reasonable period of grace to be determined by us. Compensation claims by the Buyer shall be excluded.

If we are in delivery delay (*Lieferverzug*), we shall be liable for the delay damages sustained by the Buyer in the event of gross negligence on our part. Our liability for delay damages shall be excluded in the event of slight negligence.

## 5. Acceptance Delay, Delivery on Call

If the Buyer fails to accept goods on time which have been reported as ready for despatch or if he/it fails to call up goods on time which are delivered on call, we shall be entitled to store the goods at the cost and risk of the Buyer and to demand payment of the purchase price or, after a reasonable period of grace, to reject performance of the contract and to demand compensation for non-performance.

## 6. Transport and Transfer of Risk

Delivery shall be effected at the cost of the Buyer unless otherwise agreed. We shall be entitled to conclude a transport insurance, with the costs of the transport insurance being for the account of the Buyer. Delivery shall be made at the risk of the Buyer. This shall also apply if we are obliged to assume the relevant delivery costs by way of exception. The risk shall pass to the Buyer as soon as the goods have left our works. If despatch is delayed for reasons beyond our control or attributable to the conduct of the Buyer, the risk shall pass to the Buyer when we have informed him/it of our readiness to despatch. Unless the Buyer issues instructions to the contrary, we shall determine the mode of transport, the transport route and the transport insurance without being responsible for the quickest or cheapest possibility being selected. Damage claims for non-compliance with despatch instructions or on account of defective packaging of the goods shall be excluded unless for wilful intent or gross negligence on our part. If the goods are damaged or lost during transport, the Buyer shall immediately arrange an investigation of the relevant facts and circumstances with the carrier.

## 7. Payment Terms

Invoices shall be payable within 30 days, net. The Buyer shall not be entitled to deduct a cash discount. Invoices for precious metals, tools and packaging shall be payable immediately, net.

Bills of exchange and cheques shall only be accepted as conditional payments (*zahlungshalber*) with our express agreement but under no circumstances as direct payments (*an Zahlungs statt*). Expenses and costs shall be borne by the Buyer.

The Buyer may only offset amounts with an undisputed or non-appealably established counterclaim. The Buyer shall only have a right of retention if it is based on the same contractual relationship.

If the Buyer is in delay with overdue payments or if circumstances become known to us which justify substantiated doubts concerning the solvency or creditworthiness of the Buyer, we shall be entitled to request an advance payment or security at our option. If the aforesaid request is not complied with, we furthermore shall have the right to refuse any further

performance of the contract after having set a reasonable period of grace and to demand damages for non-performance of the contract.

## 8. Reservation of Title

We shall reserve our title to all goods delivered by us pending full and complete payment of all claims in connection with the whole business relationship. Such claims also include cheques and bills of exchange as well as current account claims. If in connection with the payment, a bill of exchange-liability is substantiated our reservation of title shall only lapse when the possibility of claims being made against us in connection with the bill of exchange is excluded.

If the Buyer is in payment arrears or if it becomes apparent that our payment claims are in jeopardy on account of the inadequate solvency of the Buyer, we shall be entitled to demand return of the goods based on our reservation of title. A withdrawal from the contract shall not be a prerequisite for the aforesaid demand for the return of goods delivered by us.

The Buyer shall inform us immediately in the event of any liens or other seizures by third parties. The Buyer shall bear the costs which have to be incurred for lifting the seizure and for re-collecting the delivered goods insofar as they cannot be collected from the third parties.

The Buyer shall undertake to take out adequate insurance cover against loss or damages at his/its cost for the reserved goods. Any insurance claims arising in the event of damage are hereby assigned to us.

The Buyer shall be entitled to adapt and process reserved goods within the ordinary course of business and may dispose of them provided he/it is not in payment arrears or has not suspended payments.

In case our reserved goods are re-sold, the Customer hereby assigns all claims to us arising from their resale equivalent to our final invoice amount (including value-added tax), especially payment claims and any other claims which are connected with the sale, regardless of whether the delivered goods were resold with or without processing. The Buyer shall be entitled to collect assigned claims on a trustee basis unless a revocation is issued by us for good cause. We shall also be entitled for good cause to notify third party debtors of the assignment of claims in the name of the Customer. The right to collection of the Buyer shall lapse upon the aforesaid assignment notification to third party debtors. If the collection authority is revoked, we shall be entitled to request the Buyer to notify us of the assigned claims and the respective debtors, to provide us with all information required for collection purposes, to make the relevant documents available to us and to notify debtors of the assignment.

Any adaptation or processing of the delivered goods by the Buyer shall always be made on our behalf. We are regarded as a manufacturer within the meaning of § 950 of the German Civil Code (BGB) with no further obligations. If the delivered goods are processed with other goods not belonging to us, we shall acquire a co-ownership in the new item in the ratio of the value of the delivered goods to the value of the other processed goods at the time of processing. The provisions applicable for the delivered goods shall also apply for the goods arising from the adaptation process.

If the delivered goods are inseparably intermingled with other goods not belonging to us, we shall acquire a co-ownership of the new item in the ratio of the final invoice amount for the delivered goods to the other intermingled goods at the time of intermingling. If the intermingling is carried out in such a way that the goods of the Buyer are to be regarded as

the main goods, it is hereby agreed that the Buyer shall assign pro-rata ownership to us. The Buyer shall keep the sole ownership or co-ownership goods in safe custody on our behalf. These provisions shall apply accordingly as far as the confusion of goods is concerned.

## 9. Industrial Property Rights

Orders based on drawings, sketches, technical delivery conditions or any other details or information assigned to us by the Buyer shall not be verified by us with regard to any possible breaches of industrial property rights of third parties. The aforesaid orders shall be executed at the risk of the customer. The Buyer shall indemnify us against all claims if any infringement of third party industrial property rights occur as a result.

## 10. Defects Claims

The Buyer shall be obliged to examine all deliveries upon acceptance or receipt thereof and shall immediately notify us of any identifiable defects in writing. Hidden defects must be notified in writing immediately after their discovery. Deliveries shall otherwise be deemed to have been approved.

If a defect is identified which is attributable to us, we shall be entitled to correct the situation by rectifying the defect or by delivering a non-defective replacement at our option. The Customer shall be entitled to assert his/its additional legal rights if rectification is refused by us, if it is unsuccessful or is unreasonable for the customer.

In order to carry out the rectifications and replacement deliveries which we consider necessary, the Buyer shall grant us the necessary time and opportunity after due consultation with us; we shall otherwise be exempt from liability for the ensuing consequences. The Buyer shall only have the right to rectify the defect himself/itself or to have it rectified by third parties and to demand reimbursement of the necessary expenses incurred in urgent cases involving a risk to operational safety and in order to avert disproportionately greater damages. The Buyer shall not be entitled to withdraw from the contract if the defect is only immaterial.

Defect claims of the Customer shall be statute-barred in 12 months with effect after dispatch date of the goods concerned. The statutory limitation period shall, however, apply in the case

of goods which have been used for a building construction in line with their customary mode of application (§ 438, para. 1, no. 2 of the German Civil Code - BGB), in the case of fraudulent nondisclosure of a defect (§ 478 Abs. 3 BGB) or in the event recourse by the company (§ 479 BGB).

We reserve a quantitative over-/under-shipment of up to 10 percent.

## 11. Damage Compensation

We shall be liable for wilful intent and gross negligence. We shall only be liable for simple negligence if breaches of major contractual obligations are involved which arise from the nature of the contract or the breach of which jeopardizes the attainment of the purpose of the contract. Also in such cases, damages shall be limited to typical contractual and foreseeable damages. In the case of slight negligence, damage claims of the customer shall be excluded, regardless of the legal cause.

Damage claims in connection with defects in quality shall be statute-barred 12 months after despatch of the goods. The statutory limitation period shall apply in the cases referred to in Section 10, para. 4, in the event of wilful intent, gross negligence and negligent injury to life, body and/or health.

## 12. Place of Performance, Governing Law and Legal Venue

The place of performance for deliveries and payments shall be Pforzheim for both parties. The legal venue for all disputes in connection with the present contract, its consummation or its validity shall be Pforzheim for both parties if they are merchants. We shall also have the right to bring legal action against the Buyer at its registered seat. The contractual relationship shall be exclusively governed by German law. The UN Convention on International Contracts for the Sale of Goods shall not apply.

The German Version of these Terms and Conditions of Delivery and Payment (which will be readily sent to you on request) prevails over the English version.