

# GENERAL CONDITIONS OF SALE

## 1. General Provisions

**1.1** Unless otherwise expressly agreed upon, all our business transactions – also future ones – shall be exclusively subject to these Conditions of Sale. We shall not recognise any of the purchaser's conditions to the contrary, the purchaser's terms and conditions hereby being objected to. Our conditions of sale shall apply even if, in awareness of the purchaser's conditions to the contrary, our contractual obligations are fulfilled without reservation.

Any modification of the following conditions shall be subject to our prior written approval or to a written agreement in order to be effective.

**1.2** These conditions shall apply analogously to contracts for services and mixed contracts.

**1.3** We shall have the exclusive ownership and copyright of our offer documents, depictions, drawings, calculations and other documents. On principle, and especially if marked as confidential, they shall not be disclosed to third parties.

**1.4** Any information made known to us in connection with orders shall not be considered confidential.

**1.5** The place of performance for our obligations and for the purchaser's obligation to pay shall be our indicated business address.

**1.6** From passage of title of our deliveries the buyer shall be responsible for himself to observe all effective legal import and export provisions.

## 2. Conclusion of Contract

**2.1** Any agreements between us and the purchaser concerning the contract and its execution must be made in writing. Oral agreements and e-mails shall be not effective.

**2.2** Our offers, and the drawings, depictions, measurements, weights and other performance figures contained therein, shall be without obligation. We shall be bound by the prices quoted in offers expressly marked as binding for four weeks from the date of the offer.

**2.3** All statements in our offers do not constitute a guarantee (Beschaffenheitsgarantie) in terms of § 443 German Civil Code (BGB).

**2.4** A contract shall not become effective before the order has been confirmed in writing by us and on condition that the licensing authority grants an export licence if these is necessary in an individual case.

## 3. Terms of Payment

**3.1** The value added tax, not included in our offers and quotations, will be set out in the invoice in its statutory amount on the day of making out the invoice.

**3.2** The purchase price shall be payable net within 30 days from the date of invoice. The relevant date for meeting this deadline shall be the date of receipt of payment. The granting of a discount shall be subject to a separate written agreement.

**3.3** Notwithstanding the purchaser's terms of settlement, any payments made by him may first be credited against his longest outstanding debts. The purchaser will be informed without delay against which particular debt a payment has been credited.

**3.4** In the event that we become aware of circumstances which raise doubts of the purchaser's creditworthiness, in particular overdue payments not settled, we may immediately call due the total of the outstanding debt. In such case we are furthermore entitled to render performance of outstanding obligations only against advance payment or against provision of security.

**3.5** A set-off by the purchaser against his counterclaims shall not be admissible, unless such counterclaims are uncontested by us or have become res judicata. The purchaser shall be entitled to exercise a right of retention only if the uncontested or non-appealable counterclaim is based on the same contract.

## 4. Terms of Performance

**4.1** Delivery shall be effected „ex works“ our indicated address pursuant to the INCOTERMS 2000.

**4.2** Any delivery dates and deadlines shall be without obligation. The delivery period shall not commence until all technical details of the order have been clarified, the

documents and/or advance payments agreed upon have been received, and the purchaser has fulfilled all his obligations.

**4.3** We shall be entitled at any time to effect partial deliveries and render partial performance.

## 5. Warranty

**5.1** Defects of quality and/or defects in title have to be notified in writing.

**5.2** The seller shall have the right to opt between subsequent delivery or rectification of defects as subsequent performance pursuant to Sect. 439 I of the German Civil Code.

**5.3** The costs of the subsequent performance shall be borne by the seller, unless such costs are a disproportionate financial burden.

**5.4** The assignment of warranty rights asserted by the direct purchaser against us shall not be admissible.

**5.5** Any warranty claims shall be limited to a period of 1 year from delivery. Damage claims pursuant to paragraphs 6.1. and 6.2. shall be subject to the statutory period of limitation.

**5.6** In the event of revocation of the contract we will reimburse the purchase price minus a sum depending on the date to which the delivery dates back.

**5.7** Any instructions for use or maintenance not adhered to, changes made in the delivered goods, exchange of parts, or use of materials not in line with the original specifications, shall result in the forfeiture of any warranty rights. This shall apply likewise if performances rendered by us are not used as stipulated in the contract, or are used together with third-party performances, or if the deficiency in the performance results from construction documents furnished by the purchaser, or from other instructions given by him.

**5.8** Regarding the sale of software, warranty is given by us for its corresponding to our programme specifications, provided that such software is installed in the respective systems according to our instructions and that it is used by the purchaser as stipulated in the contract in the combinations specified by us.

## 6. Liability

**6.1** Regarding damages not caused to the delivered good itself, we shall be liable for breach of contractual and non-contractual duties only in case of intent and gross negligence, culpable harm to body, life and health, malice, or for a warranty given in an individual case.

**6.2** In case of breach of essential contractual duties we shall be liable also for slight negligence, which is, however, limited to the damage typical for the contract and which is reasonably foreseeable.

**6.3** Claims under the German Product Liability Act shall remain unaffected.

**6.4** Liability for loss of data shall be limited to the reproduction costs typically incurred if the purchaser makes regular data backups in relation to risk. In the event that the purchaser should not fulfil his duty set forth under paragraph 9.4, we shall not be liable for any damage resulting from it.

**6.5** Any further damage claims of the purchaser shall be excluded.

## 7. Reservation of Title

**7.1** We shall hold title in any goods delivered until all claims, including future and conditional claims, and the balance claim in the current account, have been settled (reserved goods). The purchaser may use the reserved goods for production in his ordinary course of business within the meaning of Sect. 950 of the Civil Code and resell such goods, provided that he is not in default. Neither pledging such goods nor transferring ownership by way of security shall be admissible. If the value of the security provided to us exceeds the claims secured by more than 20 %, we shall release at our discretion part or the total of such security on request.

**7.2** The purchaser shall insure the goods against the usual risks.

**7.3** Any use for production shall be carried out on our behalf as manufacturer without engaging us. We shall

have a property share in the new goods in proportion of the invoice value of the reserved goods to the value of the new goods. The purchaser shall keep such items in storage for us free of charge.

**7.4** Any claims arising with regard to the reserved goods, including all balance claims in the current account, shall already be assigned by way of security by the purchaser to us. The purchaser shall, however, be entitled to collect such claims in his own name for our account, provided that we have not withdrawn such collection authorisation due to the purchaser's delay in payment.

**7.5** In the event of seizures by third parties of the reserved goods, in particular executions, the purchaser shall point out the fact that it is our property and shall inform us immediately. Such third party shall be liable for any costs incurred by us in this regard. Should such third party not be able to satisfy our claims, the purchaser shall be held liable.

## 8. Industrial Property Rights and Copyrights

In the event that, due to the purchaser's using the performance, third parties should assert claims against the purchaser for infringement of industrial property rights or copyrights, the purchaser shall give us immediate written notice. In such case we shall reserve any defence and out-of-court measures to pursue our rights. The purchaser shall give us any support required for this purpose.

## 9. Software Rights

**9.1** Regarding the software, its replacements, supplements, extensions, and accompanying documentation, which is included in our delivery or delivered at a later date, the purchaser shall be granted an indefinite, non-transferrable and non-exclusive right of use for the internal use of such performance. Any copyrights shall continue to be held by us.

**9.2** The simultaneous input of the software delivered by us into, or its use on, more than one piece of hardware shall be inadmissible. The software shall not be modified, copied, or reproduced in any other way, by the purchaser. The production of a security copy marked as such shall be admissible.

**9.3** The interface information required for the interoperability (Sect. 69e of the German Copyright Act) may be demanded from us against payment of a small contribution to the cost.

**9.4** The purchaser shall commit himself to preventing access by his employees and third parties to the delivered software and the accompanying documentation by means of appropriate preventive measures, in particular the safekeeping of the original data carriers and the back-up copies at a place safe from access.

## 10. Constraints in Delivery

**10.1** Constraints in delivery based on act of god or based on events unforeseeable and not caused by us, in particular these are official measures and restrictions concerning import and export entitle us to execute the delivery only if the constraints in delivery are eliminated.

**10.2** Constraints in delivery entitle us to cancel the contract without any right to the buyer to claim damages. In such case we pay back immediately any payment made by buyer. We inform the buyer about the beginning and the end of such constraints in delivery in writing.

## 11. Applicable Law, Jurisdiction

**11.1** All legal relationships between us and the purchaser shall be exclusively governed by German law, excluding the UN Convention on Contracts on the International Sale of Goods.

**11.2** For any disputes directly or indirectly arising from the legal relationship between us and the purchaser, the courts at our place of business shall have jurisdiction. The purchaser may, however, also be sued before the courts having jurisdiction at his general place of business.

## 12. Partial Invalidity

In the event that any provisions of these General Conditions of Sale should be partly or entirely invalid, the remaining provisions shall have full validity.