

1. General

1.1. Our deliveries, services and quotations are made solely on the basis of these Terms and Conditions. Consequently these shall also apply to all future business relations, even if they are not expressly agreed again. These Terms and Conditions shall be deemed to have been accepted on acceptance of the goods or services at the latest.

We do not recognise any Purchaser terms and conditions that are contradictory to or differ from our Terms and Conditions, unless we have agreed to their applicability expressly in writing. Our Terms and Conditions shall also apply even if we perform the delivery to the Purchaser unconditionally in the knowledge of the Purchaser's contradictory or different terms and conditions.

1.2. The Purchaser cannot assign any claims against us.

1.3. Agreements, contractually intended uses, the assumption of procurement risks, guarantees or other warranties prior to or on conclusion of the agreement shall only be effective if they have been made in writing.

1.4. German law shall apply to this contract with the exception of the United Nations Vienna Convention of 11 April 1980 (Contracts for the International Sale of Goods CISG).

The negotiating and contractual language shall be German.

1.5. The place of fulfilment for the Purchaser's obligations and for our obligations shall be the headquarters of our company.

1.6. The place of jurisdiction for all present and future claims arising from the business relationship including bills and cheques receivable shall be Dresden, if the Purchaser is a businessman, legal entity under public law or a special fund under public law. This place of jurisdiction shall also apply if the Purchaser does not have a general place of jurisdiction in this country, relocates their permanent address or usual residence away from this country after the conclusion of the contract or their permanent address or usual residence is not known at the time the case is brought.

2. Quotation, Scope of the Goods or Services supplied, Delivery Time, Transfer of Risk and Returns

2.1. Our quotations are not binding and are subject to change. Declarations of acceptance and all purchase orders must be confirmed by us in writing or by telex to be legally effective.

2.2. Our written order confirmation shall be decisive regarding the scope of the goods or services to be supplied; in the event of a quotation from us, then the quotation shall be decisive provided it is accepted and no other order confirmation is given by us.

2.3. We reserve the right to make changes in

production on technical grounds as well as deviations in dimensions, weights, colours, patterns, etc. provided these are not unreasonable to the Purchaser, therefore in particular if it is a matter of changes and/or deviations, which maintain or improve value. This shall apply to subsequent deliveries accordingly.

2.4. Partial deliveries in reasonable quantities shall be permissible and separately, chargeable, provided the interests of the Purchaser are preserved.

2.5. The delivery time shall begin when the order confirmation is sent, in the case of a quotation from us at the point in time when the same is accepted, which depends however on the full clarification of all details to be performed. Meeting the delivery time also depends on the fulfilment of the Purchaser's contractual obligations, including receipt of payment in the case of prepayment.

The delivery time shall also be deemed to have been met if the item of sale was despatched or readiness for despatch was notified by the 15th calendar day after the delivery date at the latest.

2.6. The delivery time shall extend appropriately in the event of measures associated with industrial disputes or the occurrence of unforeseen obstacles, which lie beyond our control (e.g. material, energy, staff or transport capacity shortages, disruptions to production, traffic disruptions, official orders, etc.) where such obstacles can be proven to have a considerable effect on the production or despatch of the item of sale. This shall also apply if the circumstances occur at sub-contractors or upstream suppliers. We shall also not be responsible for the aforementioned circumstances if they arise during an already existing delay, so long as the delay has not occurred through intent or gross negligence. We shall inform the Purchaser of the beginning and end of such obstacles in important cases as soon as possible. Clause 6 shall apply to any possible liability.

2.7. In the event of delivery delay the Purchaser may only withdraw from the contract after the fruitless expiry of a reasonable subsequent deadline of at least 14 calendar days, which they have provided in writing, unless the setting of a deadline is dispensable under law, and only if the goods had not been despatched or notified as ready for despatch. The same shall apply accordingly in the event of a partial delay or partial impossibility.

If we are responsible for not meeting deadlines and dates, which we have promised in binding manner, or are in delay the Purchaser shall be entitled to damages caused by delayed performance in the sum of 0.5% of the invoice value for every full week of the delay, however up to a maximum of 5% of the invoice value of the goods and services affected by the delay. Any claims going beyond this shall be excluded unless we are responsible for the

delay at least through gross negligence or it is a matter of damages arising from injury to life, health or body.

2.8. The risk (transport, material and reimbursement risk) shall transfer to the Purchaser when the goods have left the factory or warehouse, irrespective of whether with own or third party means of transportation. This shall also apply in the case of carriage-paid deliveries. If the shipment is delayed as a result of circumstances which the Purchaser is responsible for, then the risk shall transfer to the Purchaser on the day the goods are ready for despatch; we shall however be obliged to take out insurance at the request and cost of the Purchaser if they so request.

2.9. Transport and all other packaging in accordance with the German Packaging Ordinance shall not be taken back, except for pallets. The Purchaser shall take care of disposal of packaging at their cost.

3. Prices and Terms of Payment

3.1. Prices are in euros and shall be deemed to be ex works/warehouse unless otherwise agreed, excluding loading and packaging. Statutory VAT shall be added to the prices.

3.2. If one or more of the following factors such as energy costs and/or costs of raw or primary materials and/or auxiliary and operating materials, and/or wage costs and/or the costs for the procurement of the item of sale if it is purchased from a sub-contractor or upstream supplier, should increase in the period between conclusion of the contract and the delivery date we shall be entitled to adjust the prices by the amount that the costs of purchase or manufacture have increased. Such cost reductions shall be deducted that have arisen in the case of the factors stated in sentence 1 during the same period. In the event of a price increase we shall present the cost increases and reductions according to type and amount. In the event that the price increase exceeds 5% of the price originally agreed the Purchaser shall have the right to withdraw.

3.3. Cheques or bills of exchange shall only be accepted on agreement and always on account of payment. Expenses are always charged to the Purchaser and are due immediately.

3.4. Our representatives and other employees are not authorised to accept payments or other orders without written power to collect.

3.5. The retention of payments or offsetting against counter claims of the Purchaser is not permitted notwithstanding Clause 3.6 unless the counter claims are uncontested or legally enforceable.

3.6. Where the order value is more than €500.00 net the agreed price is payable within 30 days of delivery; where the order value is up to €500.00 net inclusive within 30 days of invoice date (delivery after receipt of payment in case of prepayment), or from notification of readiness for

despatch in the event of default in acceptance by the Purchaser, notwithstanding justified and recognised complaints regarding defects. In the event of justified complaints payments by the Purchaser may be retained to the extent that is in reasonable relation to the defects. If a complaint is made that is unjustified we shall be entitled to demand compensation from the Purchaser for any expenses that we have incurred.

3.7. In the event of default we shall be entitled to demand statutory interest. We reserve the right to assert further claims in the event of default.

In the event of default all other receivables from the Purchaser relating to the supply of other goods or services shall become due immediately, despite any possible agreements regarding due dates or deferrals.

3.8. In the event that our claim to the purchase price is put at risk through the Purchaser's lack of ability to pay and this risk only becomes apparent to us after the conclusion of the contract we shall be entitled, irrespective of the terms of payment defined in the contract, to demand the payment of the purchase price before the delivery of the goods. If the Purchaser does not meet this demand or does not provide any security through a third party we shall be entitled to withdraw from the contract after 14 days.

4. Retention of Title

4.1. We shall retain the title to the item of sale (conditional goods) until the fulfilment of all receivables (including all current account balances and any possible refinancing or promissory notes), which are due to us on any legal basis from the Purchaser now or in the future.

Payments, which are made in exchange for a purchaser's promissory note issued by us, shall only be deemed to be a payment when the bill of exchange has been honoured by the drawee and we are thereby released from the endorser's liability.

4.2. The treatment or processing of the conditional goods shall take place for us as manufacturer within the meaning of Section 950 of the German Commercial Code (BGB) without any obligation on our part. The treated or processed goods shall be deemed to be conditional goods within the meaning of Clause 4.1. In the event of the conditional goods being processed, combined or mixed by the Purchaser with other goods, which do not belong to us, we shall co-own the new items pro rata in the proportion of the invoice value of the conditional goods to the invoice values of the other goods used.

If our ownership expires through processing, combination or mixing, then the Purchaser now transfers the right of ownership to the new stock and the item to the extent of the invoice value of the conditional goods.

The purchaser shall safeguard the (co)ownership for us free of charge.

Our co-ownership rights shall be deemed to be

conditional goods within the meaning of Clause 4.1.

4.3. The Purchaser may only sell the conditional goods in ordinary business transactions under normal business conditions and only if they have not defaulted, provided that the receivables from the onward sale in accordance with Clause 4.4 to 4.6 are transferred to us. They shall not be entitled to dispose of the conditional goods in any other way.

4.4. The receivables arising from the onward sale or other legal basis (e.g. insurance, tortious acts) in relation to the conditional goods (including all current account balances) shall be assigned now by the Purchaser to us to the full extent. They shall serve to cover our receivables to the same extent as the conditional goods within the meaning of Clause 4.1. If the conditional goods are sold by the Purchaser together with other goods not sold by us then the receivable from the onward sale shall be assigned to us in the proportion of the invoice value of the conditional goods to the invoice values of the other goods used. In the event of the sale of goods in which we have a share of co-ownership in accordance with Clause 4.2, a part equivalent to our proportion of co-ownership shall be assigned to us. If the conditional goods are used by the Purchaser in order to fulfil a contract for work then the receivable from the works contract will be assigned to us in advance to the same extent. We accept the aforementioned assignments.

4.5. The Purchaser shall be entitled to collect receivables from the onward sale. This power to collect shall expire if we revoke it. We shall only make use of our right to revoke if circumstances become known to us arising from a significant deterioration of the Purchaser's financial circumstances, which put our claim for payment at risk, in particular in the event of default, dishonoured bill of exchange or cheque or filing for insolvency proceedings.

At our request, the Purchaser shall be obliged to inform their buyer immediately of the assignment to us and to give us the paperwork necessary for collection.

4.6. If the contractual provisions of the third-party debtor with the Purchaser contain an effective restriction of the power of assignment or if the third party makes the assignment dependent on their consent we are to be informed immediately in writing. In this case we shall hereby have the irrevocable power in accordance with Clause 4.5 to collect the receivable due to us in the name of and on account of the Purchaser. The Purchaser shall at the same time issue the third-party debtor irrevocably with payment instructions in our favour.

The Purchaser must inform us directly of any seizure or other impairment by third parties. The Purchaser shall bear all costs, which must be expended to nullify the seizure or for the return transportation of the conditional goods, if they are not reimbursed by third parties.

4.7. If the realisable value of the securities existing on our behalf sustainably exceeds our receivables by a total of more than 20% then we shall be obliged at the request of the Purchaser or a third party who is affected by our over-securitisation to release securities of our choice to this extent.

4.8 In the event of a breach of obligations by the Purchaser, in particular in the event of payment default, we shall be entitled to withdraw from the contract and to reclaim the conditional goods – notwithstanding further claims for compensation. The Purchaser shall be obliged to surrender the goods and to assign claims for surrender. We shall be entitled to enter the premises of the Purchaser for the purpose of reclaiming the conditional goods. The same shall apply if other events should occur, which indicate a significant deterioration of the Purchaser's financial circumstances and put our claims for payment seriously at risk. The demand for surrender, the taking possession, etc. shall not represent a withdrawal from the contract.

5. Material Defects and Defects in Title

5.1. Documents or details relating to the goods or services to be supplied, to the intended purpose (e.g. drawings, diagrams, dimensions, weights, practical values and other performance data), regardless of whether these were expressly agreed in writing or not, shall only represent descriptions or characterisations and not guarantees, assured qualities, contractually intended uses, etc. and are to be regarded as approximate. We reserve the right to make deviations that are in line with industry standards if these are reasonable for the Purchaser, i.e. in particular if the value of the goods is retained or improved as a result.

Neither our drivers nor third party drivers are authorised to accept complaints.

Complaints are excluded at any rate after treatment or processing if it was possible to detect the defect when inspecting the condition of the delivery.

5.2. The Purchaser must inspect the goods immediately after receipt as long as they are in the condition they were delivered in or on collection and to notify any possible defects immediately or at the latest one week after receipt of the item of sale. Otherwise the claims for defects shall lapse to this extent. The deadline for notification and the consequences of missing it shall apply to hidden defects from their discovery. Greater or lesser weights or deliveries within normal commercial limits shall not give entitlement to complaints and price reductions. Section 377 of the HGB shall apply in the case of business people.

5.3. Claims for material defects shall lapse after 12 months in the case of newly manufactured material or work output. This shall not apply if the law stipulates longer deadlines. In the case of delivery of used goods any claims for material defects shall be excluded – subject to statutory provisions and agreements to the contrary. The

shortened time limitation and the exclusion of liability shall not apply in cases of wilful or negligent injury to life, body or health, in the event of wilful or grossly negligent breach of duty on our part, culpable breach of essential contractual obligations, fraudulent concealment of a defect, a relevant guarantee relating to the qualities or claims in accordance with the German Product Liability Act. This shall not affect statutory provisions regarding beginning, progress, suspension and new beginning of the time limits.

5.4. In the event of material defects we must initially be given the opportunity for subsequent performance within a reasonable deadline, where we will either rectify the defect or deliver defect-free goods, according to our choice. In the latter case the Purchaser shall be obliged to send back the defective material at our request in accordance with statutory provisions. If the subsequent performance should fail or if we refuse subsequent performance seriously with finality or if we can refuse subsequent performance in accordance with Section 439 paragraph 3 of the BGB or if the subsequent performance is not reasonable for the Purchaser or if there is a case of Section 323 paragraph 2 of the BGB then the Purchaser can – notwithstanding any possible claims for compensation in accordance with Clause 6 – withdraw from the contract or reduce the counter performance.

5.5. Notwithstanding Section 478 of the BGB, claims for defects shall not exist in the case of only minor deviations from the agreed qualities, only minor impairment of the usability, in the event of natural wear or damage arising after the transfer of risk as the result of incorrect or negligent handling or storage, excessive stress, unsuitable equipment, poor work or as a result of particular external influences, which are not provided by the contract. If inappropriate modifications or maintenance work is inappropriately undertaken by the Purchaser or by third parties then there shall likewise be no claims for defects for them or the consequences.

5.6. The Purchaser's rights of recourse against us in accordance with Section 478 of the BGB (Recourse of the Businessman) shall only exist to the extent that the Purchaser has not made any agreements with his buyer beyond the statutory claims for defects. Clause 5.7 below shall apply accordingly for the scope of the rights of recourse by the Purchaser against us in accordance with Section 478 paragraph 2 of the BGB.

5.7. Claims by the Purchaser on the grounds of the expenses necessary for the purpose of subsequent performance, in particular transportation costs, travel expenses, work and material costs, shall be excluded, if the expenses increase because the object of delivery has subsequently been transferred to a place other than the branch of the Purchaser, unless the transfer corresponds to its intended use.

5.8. Complaints in relation to partial deliveries shall not justify refusal of the remaining deliveries unless the Purchaser has no interest in the latter due to the defects of the partial deliveries.

5.9. We shall not assume any liability for claims for defects outside the territory of the Federal Republic of Germany regarding compliance of the object of the delivery with regulations that go beyond the German regulations.

5.10. In the event of defects of title the provisions in Clauses 5.1 to 5.9 shall apply accordingly.

6. Claims by the Purchaser in the event of Delayed Delivery, Impossibility and other Breaches of Obligations as well as Limitation of Liability

6.1. Any claims for compensation by the Purchaser on the grounds of delayed delivery, impossibility of the delivery or on any other legal basis, in particular on the grounds of breach of contractual obligations and tortious acts, shall be excluded unless otherwise agreed in Clauses 6.2 to 6.6. This shall also apply to claims for expenses by the Purchaser.

6.2. The above exclusion of liability shall not apply

- a)** in cases of intent or gross negligence,
- b)** to damages arising from injury to life, body or health, caused by a negligent breach of obligation by us or a wilful or negligent breach of obligation by one of our legal representatives or one of our vicarious agents,
- c)** in accordance with the German Product Liability Act,
- d)** in accordance with other mandatory statutory provisions or
- e)** on the grounds of breach of essential contractual obligations that we are responsible for.

The claim for compensation for the breach of essential contractual obligations shall however be restricted to foreseeable damages related to the contract unless there is intent or gross negligence or if there is liability on the grounds of negligent or wilful injury to life, body or health.

The liability for foreseeable damages related to the contract shall be limited to 7 times the net price of the individual contractual item, of which the delivery or non-delivery has resulted in the Purchaser's claims, if a limitation of liability is admissible.

A shift in the statutory burden of proof to the disadvantage of the Purchaser is not linked to the above rules in Clause 6.1 to 6.2.

6.3. If the Purchaser is entitled to compensation for damage or expenses as a result of defects in accordance with Clause 6.1 and 6.2 above, these shall lapse when the time limitation applicable to claims for material defects in accordance with Clause 5.3 above expires. In the case of claims for compensation of the kind described in Clause 6.2 a) and b) and claims for compensation pursuant to the Product Liability

Act the statutory limitation periods shall apply.

6.4. The above exclusions from or restrictions of liability shall not apply if a stricter liability is defined in the contract or a stricter liability can be understood from the other content of the contractual relationship, in particular from the assumption of a guarantee or a risk of procurement.

6.5. The Purchaser cannot demand compensation instead of supply of goods or services if the breach of obligation on our part is minor.

6.6. Notwithstanding the above restrictions, this shall not affect any possible right of the Purchaser under law to withdraw from the contract. In the event of breaches of obligation, which are not to do with defective goods, it shall however be necessary for us to be responsible for this breach of obligation.

7. Title and Copyright

7.1. All diagrams, drawings, calculations, dimensional information and other paperwork regarding technical know-how and production procedures provided by us shall remain our property.

7.2. We shall retain the copyright that has arisen or does arise to and in connection with deliveries, services, quotations and orders. As well as this we shall retain all brands used, patents and other property rights.

The copyright and industrial property rights may only be used after express written consent from us.

8. Non-Disclosure

8.1. The Purchaser shall be obliged not to disclose any information that becomes accessible in connection with our deliveries, services, quotations and orders, which is marked confidential or can be recognised to be such, and not to record, pass on to it or sell it unless it is necessary in order to achieve the purpose of the contract. This shall also apply after the end of the contract.

8.2. The Purchaser shall be obliged to only provide information to third parties after express authorisation from us. They shall ensure that all employees and authorised third parties are bound by non-disclosure.