

General Terms and Conditions for Sale and Delivery

for the company HOESCH Design GmbH
as of 1. August 2009

§ 1 General provisions

- (1) All of our deliveries, services and products offered shall be provided even without express reference during negotiations, exclusively because of these provisions. Our General Terms and Conditions shall apply for all contracts with companies, legal entities and special funds under public law and therefore also for all future business relationships even if not expressly agreed. Our General Terms and Conditions shall apply upon acceptance of the merchandise at the latest.
- (2) Seller's terms and conditions that are contrary to or differ from our Terms and Conditions shall apply only if we expressly agree to their application in writing.
- (3) Incoterms 2000, which are considered agreed upon, shall apply for all sales.

§ 2 Products offered and alterations

- (1) Delivery times are approximate and not binding unless expressly agreed.
- (2) Products shall be subject to manufacturing changes, changes in appearance and technical changes (provided they serve to adapt the products to the latest state of technology) and alterations due to packaging provided they are reasonable for the customer and do not impair usability.

§ 3 Terms of payment

- (1) The net price (without discount and free of charges) shall be paid within 30 days of the invoice date save otherwise specified in the order confirmation (or invoice). A 2% discount shall be given on invoices paid within 14 days.
- (2) If the customer fails to pay by the due date, we shall be entitled to charge late interest in the amount of 8 percentage points above the base interest rate. In addition, we can at any time increase the interest rate and can invoice accordingly.
- (3) Failure to meet the terms of payment, delay in payment, or circumstances that would lower the customer's credit rating shall cause all of our debts to become due immediately.
- (4) We are not obligated to accept bills of exchange or checks. Credits relating hereto shall always be subject to recovery (on account of payment, not in place of performance); they shall be recovered at the value on the day on which we can determine their equivalent. Bills of exchange shall be charged by the passing on of calculated discounts, stamp duty, bank fees, and if necessary recovery charges.

§ 4 Delivery period and delivery hindrances

- (1) Delivery periods and deadlines shall be unbinding in the absence of other written agreements. The delivery period shall begin with the sending of the order confirmation but not before the customer supplies the documents, licenses, and releases he or she must obtain, before receipt of an agreed deposit, or before all technical issues have been clarified.
- (2) The delivery period shall be considered honored if the merchandise to be delivered leaves the factory before the period expires or if the customer is informed that the merchandise is ready to be shipped.
- (3) In case of unforeseen hindrances that we did not intend and that we cannot, due to the circumstances of the hindrances, avoid despite reasonable care – regardless of whether the hindrances occur at our facilities or at those of another subcontractor – such as force majeure (for example, war and natural disasters), delay in the delivery of important raw materials, etc. – we are entitled to withdraw, in part or in full, from the supply contract or to extend the delivery period to the duration of the hindrance. We shall be entitled to the same rights in case of strike or lockout at our facilities or those of our suppliers. We shall inform our clients of such circumstances without delay.
- (4) In case of delay in delivery, the buyer can withdraw from the contract following an expired and appropriate grace period with no results; if we cannot provide our service, the buyer shall be entitled to this right without a grace period.

Delay in delivery shall equal inability to provide service if delivery is not made within one month.

Claims for damages shall be excluded (including possible consequential damage) without prejudice to Paragraph 4; the same shall apply for reimbursement of expenses.

- (5) The exemption from liability stipulated in Paragraph 4 shall not apply provided an exemption or limitation of liability is agreed for damages resulting from loss of life, bodily injury or detriment to health caused by the user's willful or reckless neglect of his or her duty or by reckless neglect on the part of a legal representative or assistant of the user to perform his or her duty. Nor shall the exemption apply if an exemption or limitation of liability is agreed for other damages caused by willful neglect or gross negligence on the part of the user to perform his or her duty or by willful neglect or gross negligence on the part of a legal representative or an assistant of the user to perform his or her duty.

If we intentionally breach an essential contractual obligation or a "cardinal obligation", liability shall not exceed the foreseeable damages for this contract; liability shall be excluded according to Paragraph 4. The above shall apply analogously in the case of reimbursement of expenses.

- (6) The liability limitations of Paragraphs 3 and 4 shall not apply if a business transaction for delivery by a fixed date has been agreed. The same shall apply if the customer can contend that because of the delay through us, he or she has lost interest in the performance of the contract.

§ 5 Retention of title

(1) We shall retain the title to all merchandise delivered until the customer has paid all current and future debts from the business relationship.

The retention of title provision shall also apply to spare or replacement parts such as engines, controlling devices, etc., even if these parts are built in, as they are therefore not essential components as defined by § 93 of the Civil Code.

(2) In case of customer behavior contrary to this contract, particularly in case of delayed payment, we shall be entitled to repossess the merchandise; the customer herewith already agrees to the repossession of the merchandise in this case.

Repossession of the merchandise shall only equal a withdrawal from the contract if expressly stated by us.

Costs resulting from our repossession of merchandise (particularly transportation costs) shall be borne by the customer.

We shall also be entitled to prohibit the customer from any resale or processing of the goods delivered under the retention of title provision and to withdraw the direct debit authorization (§ 7 of the Contract). The customer can only request merchandise repossessed without a repossession declaration once the customer has paid the remainder of the sale price and all other costs.

(3) The customer is obligated to handle the merchandise with care.

(4) The customer may neither garnish nor assign by way of security nor transfer the merchandise and the debts in its place.

The customer must inform us immediately of garnishments or other interventions by third parties so that we can file a complaint in compliance with § 771 of the Code of Civil Procedure.

According to § 771 of the Code of Civil Procedure, the customer must cover costs remaining from legal action, even if we are successful in our suit.

(5) The customer shall be entitled to resell, process or mix sold products through the normal course of business; in doing so, however, the customer herewith already cedes to us all debts from the resale, processing, mixing or other legal grounds (particularly from insurance or tort) in the amount of the end sum agreed with us (incl. VAT).

The customer shall remain authorized to recover debts even after the act of transfer. Our authorization to recover the debts ourselves shall remain unaffected.

However, we shall undertake not to recover debts provided the customer carries out his or her payment duties resulting from collected debts, is not late in making payments, has not applied to begin insolvency proceedings, or if suspension of payments exists.

If this is the case, however, the customer must, upon our request, inform us of the transferred debts and debtors, make all statements necessary for recovering the debts, hand over the associated documents, and inform the debtors (third parties) of the transfer.

We can withdraw debt-recovery authorization in the case of breaches of contract (particularly delayed payment) through the customer.

(6) The retention of title provision shall also apply to products resulting from the processing, mixing or joining of our merchandise to their full value, wherein these processes have as their result that we are considered the manufacturer. If a third party retains ownership after the processing, mixing or joining with that third party's merchandise, we shall acquire co-ownership in proportion to the objective values of that merchandise.

(7) The customer shall also cede to us debts provided to us as security for debts between the customer and a third party, which exist as a result of the relationship between the merchandise supplied and a piece of property.

(8) The securities entitled to us shall not be seized provided the value of our securities surpasses the nominal value of the debts to be provided as security by 50%; we decide which securities become vacant.

(9) Assertion of the retention of title provision in case of delayed payment or endangerment and garnishment of the merchandise through us shall be considered rescission of the contract.

§ 6 Warranty for defects in the supply

We shall be liable for defects in the supply in case of proper performance through the customer of the duty to examine and duty to make a complaint in respect of a defect immediately upon receipt of the goods outlined in § 377 of the Commercial Code as follows:

(1) If a product is defective, we are entitled to choose whether to repair the defect or to supply a product free of defects (supplemental performance).

In order for us to do so, the defect must not be insignificant.

If one of the two or both types of this supplemental performance is impossible or unreasonable, we are entitled to refuse them.

We can refuse to provide supplemental performance if the buyer does not fulfill his or her payment duties toward us and corresponding to the defect-free portion of the service.

(2) If the supplemental performance of Paragraph 1 should be impossible or fail, the buyer shall be entitled to choose whether to reduce the sale price to a corresponding level or withdraw from the contract in accordance with legal regulations; this shall apply in particular to negligent delay or refusal to provide supplemental performance, even if this fails a second time.

Save provisions to the contrary in the following (Paragraph 4), further claims of the buyer, regardless of the legal grounds (particularly claims resulting from faults at the conclusion of the contract, breaches of

primary and collateral contractual duties, reimbursement of expenses save those according to § 439 II of the Civil Code, tort, and other tortious liability), shall be excluded; this shall apply in particular for claims resulting from damage outside of the sold product and claims for lost profits. Claims not resulting from defects of the sold product shall also be included.

(3) The present provisions shall also apply if another product or a reduced quantity is delivered.

(4) The exemption from liability stipulated in Paragraph 2 shall not apply if an exemption or limitation of liability is agreed for damages resulting from loss of life, bodily injury or detriment to health caused by the user's willful or reckless neglect of his or her duty or by reckless neglect on the part of a legal representative or assistant of the user to perform his or her duty. Nor shall the exemption apply if an exemption or limitation of liability is agreed for other damages caused by willful neglect or gross negligence on the part of the user to perform his or her duty or by willful neglect or gross negligence on the part of a legal representative or an assistant of the user to perform his or her duty.

If we intentionally violate an essential contractual obligation or a "cardinal obligation", liability shall not exceed the foreseeable damages for this contract; liability is excluded according to Paragraph 2.

The exemption from liability shall not apply even in cases where personal injury and damage to privately used property are covered under the Product Liability Act.

Nor shall it apply in case of the assumption of a warranty or in case of warranting a feature if a defect covering that feature has already prompted our liability.

The above shall apply analogously in the case of reimbursement of expenses.

(5) No guarantee shall be assumed for damage resulting from the following: inappropriate or improper use; faulty installation through the customer or third party; normal wear and tear; faulty or negligent handling; inappropriate resources; faulty construction work; inappropriate building ground, substitute materials, chemical, electrochemical or electrical influences (provided they are not attributable to us); improper modifications carried out without prior authorization through us; or repair work on the part of the customer or third parties.

(6) We shall deliver our products with the appropriate assembly and installation instructions. The customer shall undertake to include and point out these instructions upon resale. Warranty claims shall not apply if installation was not carried out according to the instructions, the defect is attributable to this failure, and the instructions were free of defects.

§ 7 Liability for collateral duties

If, through our fault, the buyer cannot use the delivered product according to the contract as a result of a failure to carry out or failure in carrying out suggestions and advice provided either before or after conclusion of the contract or other collateral contractual duties (particularly operating and maintenance instructions for the delivered product), the provisions of §§ 6 and 8 shall apply analogously to the exclusion of further claims of the customer.

§ 8 Limitations on liability

(1) In case of slightly negligent breaches of duties, our liability shall be limited to the foreseeable, immediate average damages for this contract according to the type of product. This shall also apply in case of slightly negligent breaches of duties through our legal representatives or assistants.

We are not liable to companies in case of slightly negligent breaches of non-essential contractual duties.

(2) The above limitations on liability shall not affect customer claims resulting from product liability. Nor shall the limitations on liability apply in case of unattributable bodily injury or detriment to health or in case of loss of life of the customer.

(3) Customer claims for damages due to defect shall be subject to a period of limitations of one year from delivery of the merchandise. This shall not apply if we can be accused of fraud.

§ 9 Place of performance, jurisdiction and applicable law

(1) The place of performance is the place of shipment (factory or warehouse location).

(2) The place of jurisdiction is Düren, provided the customer is also a merchant. We are also entitled to take legal action against the customer in other permissible jurisdictions.

(3) The non-standardized law of the Federal Republic of Germany (Civil Code, Commercial Code) shall apply for all claims and rights of this contract. Application of the UN Sales Convention (CISG) is expressly excluded.

§ 10 Other provisions

(1) Modifications to the contract can only take effect with our consent.

(2) Should individual provisions of these terms and conditions become ineffective or null and void, whether in whole or in part, the remaining provisions shall remain unaffected. The contractual parties shall undertake to agree to a regulation that would accomplish, to a large extent, the purpose and objectives sought in the ineffective or null and void provision.