

General Terms of Sale

for the Firm Dr.-Ing. K. Busch GmbH, Maulburg

Date: July 2009



1. General - Scope

The following terms apply to all sales and deliveries unless agreed otherwise in writing. Furthermore, they apply within the framework of an ongoing business relationship, as well as for all future business with the customer, even if this is not expressly agreed in the future. The customer's terms of business apply only if we have agreed to them in writing.

2. Tenders

2.1 Our tenders are without obligation and are non-binding, especially with regard to indications of price, quantity, availability, lead time and delivery date, unless expressly agreed otherwise. Contracts shall only be concluded by means of our written order confirmation. Telephone or verbal additions or changes require our written confirmation in order to take effect.

2.2 In the case of indications of dimensions, weights and other technical data in our brochures, illustrations or other descriptions, these figures are approximate values. Therefore, unless expressly agreed in writing, they do not constitute information about the characteristics of the items and we do not provide any guarantee that these characteristics are present. We reserve the right to change this information, especially if this is necessary to meet statutory requirements, for technical reasons or to make progress insofar as this is reasonable in consideration of the customer's interests.

2.3 We hold the intellectual property rights and copyright to our documents supplied with the tender. The forwarding or duplicating of these documents is not permitted.

3. Delivery

3.1 Delivery is ex works. The risk is transferred to the customer as soon as we deliver the goods to him or an appointed carrier. The same applies if the customer is not ready to take delivery of the goods but he has been informed that the goods are ready for dispatch. Any losses or damage occurring during transport must be reported immediately, if possible at the time of receipt, and to both us and the carrier.

3.2 We are entitled to make part deliveries and consequently to issue partial invoices as well.

3.3 Delivery dates are only binding if they have been expressly confirmed by us in writing as binding. Lead times only start after we have received all the necessary documents (for example, drawings or authorisations) and, if agreed, after receipt of an appropriate advance payment.

In the case of call-off orders, the above conditions must be met and the call-off must be issued at least six weeks before the delivery date.

3.4 If delivery dates or lead times have been agreed in writing, we shall be liable in the event of delays in the case of intent or gross negligence in accordance with the statutory regulations.

In other cases of delayed performance, i.e. in

the case of slight negligence, our liability for damages in addition to or instead of performance is limited to 5% of the value of the goods concerned. These limitations of liability for cases of slight negligence do not apply in the case of liability due to death or personal injury, nor do they apply in the case of a breach of fundamental contractual obligations, whereby however, in cases of slight negligence, liability is limited to foreseeable damage typical of contracts. Further claims by the customer on the grounds of delayed performance are excluded. Liability is not accepted for consequential damages or third party damages.

3.5 If we are completely or partly prevented from providing a proper service as a result of force majeure or similar events, for example natural catastrophes, strikes, industrial action or a shortage of raw materials, then any agreed lead times are considered to be reasonably extended or we are entitled to repudiate the contract.

4. Prices, Payments

4.1 Our prices are exclusive of packing, insurance, transport costs, value added tax and other taxes and duties.

In the case of consignment stock, the date of removal is deemed to be the delivery date.

4.2 Our invoices are payable within 30 days from the date of invoice, without deduction. Invoices for repairs and/or assembly are payable immediately on receipt of invoice, without deduction.

4.3 Payments are only deemed to have been received when we have the funds at our disposal in a bank. We only accept cheques and bills of exchange on account of performance whereby discounts and charges are payable by the customer. In the event of the customer being in arrears, we are entitled to require immediate payment of all invoices and to charge interest on arrears of 9% p.a. over the basic rate of interest (Section 247 of the Civil Code), provided we are not entitled to a higher rate of interest on a different legal basis. If the customer defaults on a due payment or if the settlement of our claims seems to be at risk in any other way, we are entitled to demand advance payments or the provision of a security.

4.4 The customer may only offset undisputed or lawfully established counterclaims against our claims. The customer is not entitled to withhold payment of all or part of the due invoice amount in the case of complaints about the delivery.

4.5 We reserve the right to obtain the equivalent value of deliveries in cash, by means of cash in advance or cash on delivery.

5. Obligation to Inspect/Give Notice of Defects

5.1 The customer must inspect the consignment immediately after receipt. He must inform us of all complaints within 8 working days of receipt of the consignment at the latest, where-

by the type of defect found must be stated in as much detail as possible in the notification.

5.2 If the customer fails to provide notice of defects, then the consignment is deemed to have been accepted unless it is a case of a defect which could not be detected on inspection. If a defect of this type is found later, notification must be provided as soon as the defect is discovered; otherwise the consignment is deemed to have been accepted after taking this defect into account.

6. Warranty

6.1 If the item delivered has a defect, especially a manufacturing, construction and/or material defect, then the customer can make a claim under the warranty in accordance with the following terms.

6.2 Within the scope of supplementary performance, the customer only has a right to have the defect remedied. We are, in no way, obliged to make a new delivery or to manufacture a new item.

However, if the supplementary performance fails, the customer has the right, at his discretion, to either a reduction in price or to repudiate the contract. This does not affect the customer's right to obtain damages in accordance with the statutory regulations and the following terms in No. 8.1 to 8.4.

6.3 The customer is obliged to make any claims with due consideration for the terms under No. 5.1 and 5.2 Obligation to Inspect/Give Notice of Defects.

However, the customer is not entitled to make warranty claims in the event of any improper handling, excessive use or other breaches of the installation and operating instructions, especially when using unsuitable equipment or when using excessive chemical, electrical or other means in applications. Warranty claims are also excluded in the case of incorrect delivery and inappropriate transport, and in the case of incorrect maintenance or repair, especially if the material defect is due to the customer connecting the delivered item to parts which were not obtained from us.

6.4 The aforementioned claims for defects are subject to a limitation period of one year from delivery. Notwithstanding this, they are subject to statutory limitation periods if it is claimed that we have guaranteed characteristics in an individual case or have maliciously concealed a defect.

6.5 Additional costs incurred because the delivered item is transferred to a different place are paid by the customer. This also applies in the case of warranty claims.

7. Retention of Title

7.1 We shall retain title to the item delivered until the settlement of all our claims against the customer on whatever current or future legal basis, including all interest and costs, as well as balance claims. We shall release the securities, to which we are entitled, provided their value exceeds the claims being secured, insofar as

they have not yet been paid, by more than 20%.

7.2 The customer is entitled to sell the item delivered, which is subject to retention of title (item subject to retention of title), to third parties in an orderly business transaction provided there is no current prohibition in this legal relationship with regard to the claim for the purchase price. The customer shall already assign to us the claims, resulting from the resale or another legal basis, with regard to the item subject to retention of title as a precautionary measure. We accept this assignment of claims. However, the customer is authorised, on a revocable basis, to collect the assigned claim in his own name. The authorisation to collect the claim can only be revoked if the customer has not properly met his payment obligations. We can require the customer to inform us of the assigned claims and the debtors, and to provide all the information required to collect the claims and especially to give us the associated documents and to inform the debtors of the assignment of claim.

7.3 The processing or reworking of the item subject to retention of title is always carried out for us by the customer. If the item subject to retention of title is combined with other items, which do not belong to us, then we acquire ownership of the new item in the proportion of the value of the item subject to retention of title to the other processed items at the time of processing.

7.4 The customer shall treat the item subject to retention of title with care during the period of the retention of title, and shall insure it adequately against theft, breakage, fire, water and other damage and shall maintain the insurance in place.

On request, the customer shall provide the necessary proof. If the customer fails to meet his obligation to insure the item subject to retention of title, we are entitled to take out the necessary insurance at the customer's cost.

7.5 In the case of any access by third parties to the item subject to retention of title, especially in the case of seizure, the customer shall state our ownership of the item and inform us immediately of the event. In the case of the customer being in breach of contract, especially in the case of default in payment or a breach of the obligation under 7.4, we are entitled to repudiate the contract and can demand that the item subject to retention of title is surrendered. The customer is obliged to surrender the item and is not entitled to claim rights of lien with regard to the item subject to retention of title. In order to enforce the demand for the item to be surrendered, the customer is also obliged to grant us and our employee or authorised agent the necessary access to his business premises or other places where the item subject to retention of title is located. The customer is also obliged to provide the necessary information in this respect.

8. Liability

8.1 We are liable for damage due to breaches of duty committed by us, our legal representatives or agents with intent or gross negligence in accordance with the statutory regulations. Furthermore, we are only liable under the Product Liability Law on the grounds of causing death or personal injury or on the grounds of the negligent breach of fundamental contrac-

tual obligations. However, claims for damages due to a breach of these fundamental contractual obligations are limited to the foreseeable damage typical of a contract.

8.2 However, liability for damage caused by the delivered item to the customer's assets, for example damage to other items, is completely excluded. This does not apply insofar as there is intent or gross negligence or if liability is incurred on the grounds of causing death or personal injury.

8.3 The regulations under No. 8.1 and 8.2 above extend to damages in addition to performance and damages instead of performance, irrespective of the legal basis, especially due to defects, the breach of duties resulting from the relationship under the law of obligations or resulting from unlawful acts. This also applies to the claim for the reimbursement of wasted expenditure.

8.4 Liability for late delivery is in compliance with No. 3.4, liability in the case of the impossibility of delivery is in compliance with the statutory regulations with the following restriction. The customer's claim for damages in addition to or instead of performance and for the reimbursement of wasted expenditure is limited to 10% of the value of the part of the delivery concerned which cannot be used because of the impossibility of delivery. Further claims by the customer on the grounds of the impossibility of delivery are excluded. However, this limitation does not apply if liability is incurred in the case of intent, gross negligence or on the grounds of causing death or personal injury or in the case of a breach of a fundamental contractual obligation. This does not affect the customer's right to repudiate the contract.

8.5 All of the customer's claims for damages, irrespective of the legal basis, are subject to a period of limitation of one year from delivery of the item. However, notwithstanding this, the statutory periods of limitation apply. In the case of wilful or grossly negligent breaches of obligations, death or personal injury, claims under the Product Liability Law, the breach of a fundamental contractual obligation or if it is claimed that a defect has been maliciously concealed or that we have provided a guarantee of characteristics.

9. Final Provisions

9.1 All changes, additions or additional agreements relating to these terms require the written form. This also applies to the waiver of the requirement for the written form.

9.2 If provisions in these General Terms of Sale are or become invalid or unenforceable, this does not affect the validity of the other provisions. The law shall then take the place of the invalid provisions. If the law does not contain any provision, the invalid or unenforceable part shall be replaced by a provision which is as economically close as possible to the invalid or unenforceable provision. The same applies in the case of omissions from these general terms and conditions.

9.3 All legal relationships resulting from business transactions with the customer are subject to German Law. The application of the UN law on the sale of goods (Vienna Convention) is excluded.

9.4 The place of performance is Maulburg. Jurisdiction for all legal disputes resulting from the business relationship is in accordance with our registered office. However, at our discretion, we can also lodge claims with the court which has jurisdiction for the customer's registered office.