

**1. General**

The Terms of Sale, Purchase and Supply set forth below shall be applicable to any and all business relationships we may have with any contracting party. Any such contracting party shall acknowledge said Terms as binding upon it in respect of this purchase agreement and any future business transactions. No agreement deviating here from shall be valid without our written confirmation. Any purchaser shall waive its own standard terms of purchase. No such standard terms shall be included in any purchase agreement, not even by our silence or by any delivery we might make.

**2. Binding Character of Offers**

In the absence of any commitment period expressly mentioned, every offer or quotation shall remain subject to change without notice. If, during any period of commitment, offers or quotations submitted by producers or by our suppliers are modified, any period of commitment shall be deemed null and void.

**3. Supplies and Delivery Time**

A) Should we be prevented from performing any agreement in due time by disturbances regarding employment, production, or delivery occurring in our facilities or at our suppliers', such as lack of energy, traffic disturbances, strikes, lockouts, etc., any delivery period then prevailing shall be reasonably extended. Purchaser may not withdraw from any such agreement except upon granting a reasonable grace period subsequent to said period so extended. Should we fail to deliver during said grace period, any repudiation shall be made in writing.

B) If performance of an agreement becomes, wholly or in part, impossible for any of the reasons set forth in subsection. A) above, we shall be released from our duties to deliver.

C) We shall inform Purchaser of any hindrance pursuant to subsection. A), and of any impossibility pursuant to subsection. B).

D) In the absence of wrongful intent or gross negligence on our part, any claims of Purchaser for damages due to default or non-performance shall be excluded.

E) Should Purchaser be in default regarding payments on some earlier delivery, we shall be entitled to retain shipments wholly or in part without incurring any responsibilities for any damage so caused.

F) We shall be entitled to make partial deliveries, just as to provide Purchaser, whenever required, with excess or reduced quantities, within reason.

**4. Prices**

In the absence of any specific understanding to the contrary confirmed in writing, any goods supplied shall be charged at the price or prices prevailing on the day of delivery. Said prices shall be determined by those charged by our subcontractors at the time of quotation as well as by exchange parities, customs duties and import levies.

Moreover, prices may be modified if closing of an agreement and delivery date are separated by more than 4 months.

**5. Payment**

A) In the absence of any understanding to the contrary confirmed in writing, our invoices shall be payable within 8 days upon invoicing date. However, we shall be entitled to make any delivery conditional upon immediate payment.

B) Should Purchaser default on an payment, we shall be entitled to charge the discount rate imposed by Deutsche Bundesbank plus 3.5%, but in no event less than 7.5% per annum.

C) We reserve the right to decide on whether to accept or reject bills and checks in every single case. They shall be accepted only on account of payment. They shall be credited only subject to the usual proviso. For bills, we shall charge any discounting and collecting expenses usual with the banks. We accept no warranty for collecting or protesting a bill in due time.

D) In the event that any bill or check is not honored in due time, or whenever there are any circumstances making it unlikely that Purchaser is duly entitled to be granted a period for payment, we may declare the entire account receivable immediately payable even if bills or checks have been submitted for it.

E) Only persons in a position to rely on written powers of attorney extended by us shall be entitled to collect on our behalf.

F) Purchaser may claim no right of retention except if any justification for doing so claimed by Purchaser was recognized and confirmed by us.

G) Should Purchaser be in default on any payment, we may irrespective of any property rights and subsequent to imposing a reasonable grace period rescind an agreement or request damages for non-performance.

**6. Reservation of Ownership**

A) Any goods shall remain our property until any and all receivables, including future ones, arising from our business relations with Purchaser have been discharged, including but not limited to conditional receivables.

B) Should any conditional commodity within the meaning of sects. 947 and 950 BGB [German Civil Code] be processed or commingled with other items not owned by us, we shall be entitled to a condominium share in any new item so formed in the amount of any sales price charged to Purchaser, plus value-added tax. Purchaser shall safeguard any such item without charge to us.

C) Purchaser may dispose of any such conditional commodities within the ordinary course of its business operations, either against immediate payment or subject to reservation of ownership. Purchaser shall not be entitled to make any other dispositions, including but not limited to assignment by way of collateral and pledging.

D) As of now, Purchaser shall assign its accounts receivable out of selling on any such conditional commodity – resale price incl. value-added tax – including any receivables under bills and together with all incidental rights. Should any conditional commodity be sold by Purchaser together with other goods not belonging to us subject to an overall price, assignment shall be made only in the amount charged by us to Purchaser for any conditional commodity sold along with other goods, including value-added tax.

E) Should any account receivable of Purchaser under a resale be included in a current account, Purchaser shall assign, as of now, any receivables under said current account against its customer. Said assignment shall be in the amount of any resale price charged, plus value-added tax.

F) Until further notice, Purchaser shall be entitled to collect any receivables assigned to us. Assigning or pledging any such receivables shall be admissible only subject to our written consent. Should Purchaser's circumstances change in a manner making it unreasonable, in our view, to keep it granting terms of payment, Purchaser shall be held to notify, at our request, its debtor of said assignment, to submit, and dispatch to us, documents and to surrender any bills of exchange. For said purpose, Purchaser shall grant us, if necessary, access to its relevant records.

G) Should the value of any such collateral exceed our receivables by more than 20%, we shall, at Purchaser's request, release to such extent collateral at our election.

H) Purchaser shall inform us, immediately and in writing, as to the access of any third party to conditional goods or receivables assigned to us, and support our intervention in any manner whatsoever.

I) The costs of performing any duties set forth above of contributing to enforcing our rights under said reservation of ownership and all outlays made for safeguarding and storing the goods shall be borne by Purchaser.

**7. Packing and Shipment**

A) In the absence of any agreement to the contrary, packing shall be performed in accordance with all aspects usual in trade and commerce; special and individual shipments such as equipment to be repaired sent in without packing shall be charged at the best price available. For certain sensitive items requiring special packing, said packing shall be invoiced and credited, fully or in part, upon immediate return free of freight charges.

B) All shipments shall be made, in the absence of any understanding to the contrary, in writing, freight unpaid ex warehouse or shipping point.

C) To the extent Purchaser requests some specific type of shipment, we reserve the right to charge extra costs, if any, incurred by us.

**8. Passage of Risk**

Risk shall pass to the party ordering whenever the item to be delivered by a supplier or producer is shipped. This shall be applicable to partial shipments even if freight prepaid terms were agreed upon for delivery. At the request of the party ordering, Supplier shall endeavor to take out any insurance requested by the party ordering, at said party's expense.

**9. Liability for Defects and Compensation for Damages**

A) Any goods shall be supplied in the condition and version usual at the time of delivery.

B) Our shipments shall be verified for proper condition upon receipt. No underages, erroneous supplies or defects, if any, can be complained about except within 14 days upon receipt. Hidden defects shall be claimed within three months.

C) Purchaser shall observe any contractual duties incumbent upon it, including but not limited to any terms of payment agreed upon. If any complaint for defects is brought to bear, Purchaser's payments may be reduced only at a rate agreed upon with us. Claims for damages, even if justified, will not interrupt or preclude the continuation of the term of warranty.

D) Any warranty shall lapse whenever the commodities supplied were changed or modified by any third party, or Purchaser fails to comply with our request for returning any item Purchaser is complaining about.

E) In the event of any justified and recognized complaint we shall make good any defect concerned, at our election, by performing a repair free of charge, or by providing a replacement. Should repair or replacement fail, Purchaser may, at its election, request a reduction of price, or else rescission of the purchase. In any event, in the absence of willful malfeasance or gross negligence, there shall be no further liability, including but not limited for damages caused not to the goods delivered themselves.

F) Any goods complained about shall be sent in a competent manner.

G) Repairing any goods supplied shall not suspend or interrupt any warranty periods initially agreed upon.

H) Purchaser shall bear exclusive responsibility for observing any construction and/or safety rules and regulations imposed by TÜV [German Technical Examination Association]/E.T.C.J. mutual indemnity insurance association.

**10. Repairs**

A) In the absence of any repair on defects, repairs shall be made without granting any warranty.

B) In the event of defective repairs, obvious defects shall be notified within a fortnight. Hidden defects shall be claimed within 3 months.

C) Claims for damages shall not be recognized except pursuant to sect. 9 subsection. E).

**11. Other Claims for Damages**

In the absence of any willful malfeasance or gross negligence on our part, any further claims for damages on the part of Purchaser against us shall be excluded, irrespective of their cause in law.

**12. Resale**

When distributing any goods bearing our trademark, Purchaser shall be held to refrain from any acts that, within the context of laws, rules and regulations prevailing, might be deemed unethical.

**13. Trademarks, Export Restrictions, Patent Warranty**

A) No modification of our goods, no removal of our serial numbers or nameplates, and no special stamps that might be taken for Purchaser's or any third party's sign of origin, or which might create the impression that there is some special product, shall be admissible.

B) Reselling our goods for direct or indirect shipment to countries outside the EC shall be inadmissible unless agreed upon in advance in every single case.

C) We warrant the goods sold by us to be free from any third-party industrial property rights within the Federal Republic of Germany. Should any third party bring to bear any justified claims under any industrial property right, we shall, at our election and expense, obtain a license for Purchaser or replace any goods sold by others not subject to such industrial property rights, or else take back any such goods upon repayment of any purchase price received therefore. In respect of any further claims for damages, we shall be liable in accordance with sect. 10. We shall not accept any liability for the fact that using goods sold by us might interfere with third-party industrial property rights.

**14. Transactions Abroad**

The provisions of the Hague Convention on the International Sale of Goods shall not be applicable.

**15. Embargo Provisions**

The export of products might be subject to authorization subject to US export laws. Any such rules and regulations shall be obtained and observed exclusively by Purchaser. Within the Federal Republic of Germany, any official supervision shall be incumbent upon the Frankfurt/Main Office of Supervising Trade and Industry.

**16. Venue of Court and Lieu of Fulfillment**

A) Should the party ordering be a fully qualified merchant under German commercial law, sole venue of court regarding any litigation resulting directly or indirectly from this contractual relationship shall be the domicile of the party supplying the goods.

B) Any contractual relationships shall be subject to German law.

C) Lieu of fulfillment for our supplies or services shall be the place of dispatch.

**17. Efficiency**

Should any provision of these Terms of Sale, Purchase and Delivery be – for any reason whatsoever – not applicable, the efficiency of any provision remaining shall be unaffected thereby.