

### **Article 1 Application**

1. All deliveries, services and quotations of the Seller are based exclusively on these General Terms and Conditions of Sale and Delivery. These form an integral part of all contracts concluded by the Seller with its contractual partners (hereinafter also referred to as "Customer") for the deliveries and services offered by the Seller. They apply equally to all future deliveries, services or quotations to the Customer, even if they are not agreed separately once again.
2. Terms and conditions of business of the Customer or third parties do not apply, even if the Seller makes no special objection to their application in the individual case. Even if the Seller refers to a letter containing the terms and conditions of business of the Customer or of a third party or which makes reference to such terms, this does not constitute any consent to the application of such business terms and conditions.

### **Article 2 Quotations and Conclusion of the Contract**

1. Quotations of the Seller are without obligation and not binding unless they are expressly described as such or contain a specific period for acceptance. The Seller is entitled to accept the offer to contract contained in the purchase order within two weeks of it being received by the Seller. A purchase order or other order can be accepted either in writing or implicitly by delivering the goods to the Customer.
2. By ordering the goods, the Customer bindingly declares its intention to purchase the goods ordered. It remains bound to the purchase order for the duration of the acceptance period specified in No. 1, unless a longer binding period is expressly quoted.
3. Binding for the legal relations between Seller and Customer is the contract of sale concluded in writing, including these General Terms and Conditions of Sale and Delivery. The contract reflects the entirety of all agreements made between the contractual parties on the subject matter of the contract. Verbal agreements of the Seller prior to the conclusion of this contract have no legally binding effect and verbal agreements between the contractual parties are substituted by the contract in text form unless they expressly show that they continue to have binding effect.
4. If the Customer orders the goods by remote data transfer, the Seller will store the text of the contract and send it to the Customer on request by e-mail. In these cases, confirmation of the order is deemed to have been given if the order is not expressly rejected within 2 weeks of receipt of the purchase order.
5. Details given by the Seller on the subject matter of the delivery or service, e.g. dimensions, weights, illustrations and drawings and the details and pictures contained in brochures and catalogues of the Seller (e.g. weights, dimensions, utility values, resilience, tolerances and technical specifications) are merely approximate, unless otherwise expressly agreed in writing or unless the use for the contractually intended purpose requires exact conformity to the specifications given by the Customer. Details of such kind given by the Seller on the subject matter of delivery or service are not guaranteed characteristic features, but descriptions or designations of the delivery or service. Customary trade deviations and deviations which arise by reason of legal provisions or which represent technical improvements and the replacement of building components by parts of similar quality are admissible, provided that they do not impair use for the contractually intended purpose. The same applies to other technical modifications and alterations in form, colour and/or weight. Where the Customer prescribes or desires tolerances for certain quality features, these must be communicated together with the purchase order and be agreed in text form in any case before the start of production.
6. If the Seller is to deliver according to drawings, specifications, samples, etc. of the Customer, the Customer assumes the risk of suitability for the intended purpose. To this extent, the Seller is liable merely for proper processing.
7. Unless expressly agreed otherwise, no liability is assumed for the selection of the material quality and for corrosion damage.
8. Quantity deviations and deviations from the quality ordered up to +/-10% are usual in the trade.
9. For goods which are specially manufactured for the Buyer, any residual quantities unavoidable by reason of the production process must also be purchased.
10. If the Customer cancels a purchase order already placed without cause, the Seller is entitled, without prejudice to the right to claim higher damages actually suffered, to require 25% of the selling price for the costs incurred by processing the order and for lost profit. The Customer is entitled to prove that damages were lower.

### **Article 3 Delivery Period**

1. Delivery periods are binding only if they are expressly described as binding by the Seller and confirmed in writing. Otherwise the deadlines and periods for deliveries and services indicated by the Seller are merely approximate.
2. The delivery period begins at the earliest always with the sending of the confirmation of order. If the cooperation of the Customer is required for the manufacture of the product ordered (e.g. must procure documents, grant or procure permits or give approvals), the period for delivery begins only after all duties of cooperation to be met by the Custom-

er have been met. Where the delivery is made dependent on the payment of an advance payment sum, the period for delivery does not begin until the agreed payment has been received.

3. If it should become apparent that the documents or drawings of the purchase order of the Customer contain technical ambiguities or errors, this interrupts the delivery period. The period for delivery begins anew after these have been eliminated.
4. The period for delivery has been adhered to if either the product has been completed and is ready for collection from the Seller and the readiness for despatch is notified before expiry of the delivery period or if the delivery item has left the works.
5. Part deliveries are admissible within the delivery periods stated by the Seller insofar as no disadvantages arise for use, the delivery of the remaining goods ordered has been assured and the Customer incurs no considerable extra effort or additional expenses as a result (unless the Seller declares its willingness to assume these costs).
6. If the Customer has awarded a call order, the goods covered by this call order must always be purchased within 6 months of conclusion of the contract, unless other agreements have been made. If the Customer issues a call order without specifying how the delivery is to be divided up, the goods must be purchased in approximately equal monthly quantities over the delivery period.
7. The Seller is not liable for impossibility of delivery or for delays in delivery, if these are caused by force majeure or other events not foreseeable at the time of conclusion of the contract (e.g. business disruptions of all kinds, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labour, energy or raw materials, problems in the procurement of necessary official permits, measures by the authorities or non-delivery, wrong delivery or late delivery by suppliers) for which the Seller is not responsible. Where such occurrences make the delivery or service much more difficult or impossible for the Seller and the obstruction is not merely of temporary duration, the Seller is entitled to withdraw from the contract. In the event of obstructions of temporary duration, the delivery or service periods are extended or postponed by the length of the obstruction plus a reasonable start-up period.
8. If shipment is delayed at the request of the Customer or for reasons for which the Customer is responsible, the Customer owes the refund of the costs incurred for storage and financing beginning one month after notification of readiness for shipment. At the discretion of the Seller, these may be charged as a flat rate of 1% of the net invoice amount for each month commenced, however a maximum of 5% in total of the net invoice amount. This does not affect the claiming of further rights based on default.

#### **Article 4 Prices and Payment**

1. Unless otherwise agreed, the prices apply ex works plus packaging costs and plus the statutory rate of value-added tax. In the case of export deliveries, the prices agreed are net of any additional public charges, duties, fees or customs duties.
2. Unless otherwise agreed, services (commissioning, maintenance, installation and servicing work) are always billed additionally. These invoice amounts are – after conclusion of the relevant work – due for payment immediately.
3. For purchase orders with a net goods value of less than €500.00, a minimum quantity charge of €50.00 (net) plus the statutory rate of value-added tax is applied. The minimum order value for customised manufacturing according to the specifications of the Customer equals €2,000.00 net.
4. Bills of exchange are not accepted. Payment by cheque is excluded unless agreed specially in the individual case.
5. The invoice amount is payable immediately. The date of payment is determined by the date of receipt by the Seller. If the Customer gets into default with payment, it must pay interest on the debt in the amount of 9 percentage points above the base interest rate during default. In the event of default, the Customer also owes a lump sum for default costs of €40.00. However, the Seller is entitled to verify and claim higher default damages.
6. The Customer can only exercise a right of retention if its counter-claim is based on the same contractual relationship and if the counter-claim is undisputed or has been established with final and non-appealable effect.
7. The set-off against counter-claims of the Customer is admissible only if the counter-claims are undisputed or have been established with final and non-appealable effect.
8. The Seller is entitled to perform or provide still outstanding deliveries or services only against advance payment or the furnishing of security if it becomes aware, after concluding the contract, of circumstances which are suitable for significantly diminishing the creditworthiness of the Customer and through which the payment of the outstanding receivables of the Seller by the Customer under the relevant contractual relations (including under other individual orders to which the same skeleton agreement applies) is at least theoretically in danger. Non-adherence to agreed terms of payment or a refusal of cover by the trade credit insurer normally represent such circumstances. The Seller may cease work on the item for delivery until the security has been furnished.
9. On request by the Customer, the Seller issues a cost estimate for the services to be performed. Remuneration based on expenses incurred is payable for cost estimates which do not lead to the conclusion of a contract.

### **Article 5 Price Changes**

1. Changes in prices are admissible if more than twelve months have elapsed between conclusion of the contract and the agreed date of delivery (also in the event of part-deliveries and invoices issued for down payments). In the event that there is an increase in wages, costs of materials or market cost prices (normally list price) thereafter until completion of the delivery, the Seller is entitled to reasonably raise the price commensurate with the cost increases that have occurred.
2. In the event of a price increase demanded by the Seller, the Customer is only entitled to withdraw if the price increase as a percentage of the original price is more than double the percentage increase in the general costs of living between purchase order and delivery.

### **Article 6 Confidentiality**

1. Each contractual partner will use all documents (also including samples, models and data) and information that it gains from the business relations only within the framework of the business relations for the purpose of performing the order and keep them secret from third parties. The parties will allow their employees and other agents to gain access to trade secrets only to the extent to which this is necessary for the purposes of this contract.
2. The obligation does not apply to documents and information which are generally known or which were already known to the contractual partner at the time of receipt without it having been obliged to secrecy. The obligation also does not apply to persons who are obliged to professional secrecy, in the event of statutory duties of disclosure and also if the other party has previously consented to disclosure in writing.

### **Article 7 Packaging and Shipping**

1. The selection of the type of shipment and the packaging are at the due discretion of the Seller. The Seller will charge for the packaging; it passes into the ownership of the Customer.
2. The risk of accidental destruction passes to the Customer at the latest with the handover of the delivery item to the parcel service/transport company/freight forwarder or other third party intended to perform shipment (whereby the start of the loading operation is determinant).
3. If shipment is delayed by a circumstance whose cause lies with the Customer, the risk passes to the Customer on the day on which the delivery item is ready for shipment and the Seller has notified the Customer accordingly.
4. Prices exceptionally quoted free of freight and agreed transport costs apply only on condition that transport by rail, road or ship is not obstructed on the traffic routes that can be used. Dead freight is at the expense of the Customer.
5. In the event of transport damage or short quantities, the Customer must inform the parcel service/transport company/freight forwarder without undue delay and notify the Seller.

### **Article 8 Warranty**

1. The warranty period is one year from the date of delivery or, if acceptance is required, from the date of acceptance. This period does not apply to claims for compensation of the Customer arising from harm to life, physical injury or harm to health or from intentional or grossly negligent breaches of duty by the Seller or its employees or agents which become time-barred respectively in accordance with the statutory regulations.
2. The items delivered must be carefully examined without delay after delivery to the Customer or to the third parties named by the latter. They are deemed to have been approved by the Buyer with regard to obvious defects or other defects which would have been recognisable in the event of a careful examination without delay unless a written complaint of defects is sent to the Seller without delay, however, within seven working days after delivery at the latest. If acceptance of the goods has been agreed with the Customer, the goods are deemed to have been approved upon acceptance.
3. The Seller is not liable for material defects which are caused by unsuitable or improper use, defective installation, usual wear and tear, excessive stress, faulty or negligent treatment or non-adherence to the maintenance regulations and maintenance periods. The Seller is also not liable for the consequences of improper modifications or repair work on the delivery item which have been undertaken by the Customer itself or by third parties without the consent of the Seller.
4. The Seller is not liable for defects which diminish the value or suitability of the goods to a merely insignificant extent.
5. If the Seller receives samples and/or drawings for the submission of a quotation and for possible later production, the Customer guarantees the freedom from rights to patents, utility models and registered designs of third parties. The Seller will undertake no research to determine whether the desired article is protected by patent law or a registered design. The Customer holds the Seller free from any and all claims to compensation for damages by third parties and from all economic disadvantages and costs of legal prosecution arising for the Seller in this respect.
6. Defects must be notified to the Seller without delay in writing, however, no later than 7 working days after they become recognisable for the first time. Otherwise, defects are deemed to be approved.
7. The Seller must be given the opportunity to establish the defect complained of. Goods complained of must be returned to the Seller without delay or must be made ready for collection. If the Customer does not fulfil these obligations or undertakes modifications on the goods already complained of without the consent of the Seller, it forfeits any

claims based on material defects. The Seller is also entitled to refuse any kind of subsequent performance if this is out of proportion, i.e. in particular if this is associated with merely disproportionately high costs.

8. The Seller gives a warranty for defects in the goods by way of subsequent performance. It can undertake the same at its discretion by subsequent improvement, if appropriate by exchanging functional units or making a replacement delivery. The Seller has at least two attempts at subsequent performance at its discretion.
9. If subsequent performance fails, the Customer may at its discretion reduce the remuneration (price reduction) or demand rescission of the contract (withdrawal). However, in the event of a merely insignificant breach of contract, in particular with only insignificant defects, the Customer has no right of withdrawal.
10. If the Customer wishes to withdraw from the contract due to a legal or material defect after subsequent performance has failed, it is not entitled to any compensation for damages for the defect. If the Customer wishes compensation for damages after subsequent performance has failed, the goods remain with the Customer if this can be reasonably expected of it. Compensation for damages is limited to the difference between the selling price and the value of the defective item. This does not apply if the Seller has maliciously caused the breach of contract.
11. The Customer receives no guarantees in the legal sense. This does not affect any manufacturer guarantees.

#### **Article 9 Limitations of Liability**

1. The Seller is not liable in cases of simple negligence of its boards, statutory representatives, employees or other agents, unless this concerns the breach of essential contractual obligations. Essential contractual obligations are the obligation to timely delivery of the delivery item, its freedom from legal defects and such material defects that would more than unsubstantially impair its functionality or suitability for its purpose, as well as duties to advise and protect and duties of care, which are intended to enable the Customer to use the delivery item for the contractual purpose or intended to protect the personnel of the Customer against physical injury or harm to life or to protect its property from considerable damage.
2. If the Seller is liable for compensation on the merits, this liability is limited to damages which the Seller has foreseen at the time of concluding the contract as a potential consequence of breach of contract or which it should have foreseen in the event of applying the normal standard of care. Indirect damage and consequential damage which are consequences of the defects in the delivery item are, moreover, only able to be compensated for to the extent to which such damage is to be expected in the event of the delivery item being used for its usual intended purpose.
3. The above exclusions of liability and limitations of liability apply equally in favour of boards, statutory representatives, employees and other agents of the Seller.
4. The aforesaid exclusions and limitations of liability do not apply to the Seller's liability for intentional conduct, for guaranteed characteristic features, for harm to life, physical injury or harm to health or under the Product Liability Act.

#### **Article 10 Reservation of Title**

1. The Seller reserves title to the goods until all receivables from the current business relations have been paid in full regardless of their legal basis. For a current account, the reservation of title acts as security for the relevant balance of account of the Seller. This also applies if payments are made by the Customer for specifically named receivables.
2. The Customer is obliged to treat the goods with care. Where maintenance or inspection work is required, the Customer must perform the same at regular intervals at its own expense.
3. Processing or recombination of the reserved-title goods always takes place for the Seller as manufacturer without this giving rise to an obligation for the Seller. In the event of the processing or recombination of the reserved-title goods with other goods not delivered by the Seller, the Seller acquires co-ownership in the new item in relation to the value of the reserved-title goods to the value of the other goods processed or recombined at the time of processing or recombination. In the event that the title of the Seller to the reserved-title goods is extinguished by compounding or mixing, the Customer hereby already now assigns to the Seller its (co-) ownership rights to the new item or to the mixed stock equal to the invoice value of the reserved-title goods and stores these free of charge for the Seller. The new item created by processing, recombination, compounding or mixing (hereinafter referred to as "new item") or the (co-) ownership rights accruing to the Seller or transferred to it under No. 2 of this Article serve the same purpose of securing receivables of the Seller as the reserved-title goods themselves.
4. The Customer may sell the reserved-title goods only in the ordinary course of business at the usual terms and conditions of business and only as long as it punctually performs its payment obligations to the Seller. The Customer is obliged, for its part, to re-sell the reserved-title goods only subject to reservation of title and to ensure that the receivables arising from such sales transactions can be assigned to the Seller.
5. The receivable of the Customer from the resale of reserved-title goods is already now assigned to the Seller. The Seller accepts this assignment. The receivable serves as a security for the Seller to the same extent as the reserved-title goods. If the Customer sells the reserved-title goods together with other goods not delivered by the Seller, the assignment of the receivable from such resale applies only in the amount of the invoice value resulting from resale of the reserved-title goods. In the event of the sale of the goods in accordance with Article 9 (4) or with the statutory provisions governing the compounding or mixing of the item which is in the co-ownership of the Seller, the receivable is assigned in the amount of the co-ownership share of the Seller.

6. If the Customer includes receivables from the resale of reserved-title goods in a current account relationship with its purchasers, it assigns any recognised balance or final balance arising in its favour already now to the Seller in the amount of the entire receivable arising from the resale of reserved-title goods that is equal to the receivable included in the current account relationship. The aforementioned paragraph applies mutatis mutandis.
7. The Customer is empowered to collect the receivable from the resale of the reserved-title goods assigned to the Seller in its own name. The Customer is not entitled to assign the receivable from the resale, not even under a genuine factoring agreement.
8. The Seller is entitled at all times to revoke the authority to collect the receivables under paragraph 7. in the event of default in payment, cessation of payment, transfer of the business operations of the Customer to third parties, in the event of impaired creditworthiness or reliability or dissolution of the company of the Customer and in the event of a breach by the Customer of its contractual duties under paragraph 3. of this section. In this event, the Customer is obliged to notify its customers of the assignment of the receivables to the Seller without delay and provide the Seller with all information and documents required for collection. Moreover, it is obliged in this case to surrender or assign to the Seller any securities which accrue to it for the customer receivables (of its customers).
9. If the realisable value of securities existing for the Seller exceeds the value of the receivables of the Seller to be secured by more than 15%, the Seller is prepared, after receiving a request from the Customer, to release securities to the extent of the excess amount at its discretion.
10. The Customer is obliged to notify the Seller without delay of any attachment or any other or actual impairment or risk to the reserved-title goods or to other securities existing for the Seller.
11. The Customer undertakes to adequately insure the reserved-title goods, in particular against fire, water, storm and lightning strike and theft. It already now assigns the claims under the insurance contract as security to the Seller. The latter accepts this assignment.
12. The Seller is entitled, in the event of a breach of contract by the Customer, in particular in the event of default in payment or breach of a duty under this section, to withdraw from the contract and to require the surrender of the goods. In this event, the Customer already now declares its consent to the Seller taking away the reserved-title goods still in the possession of the Customer or - if the Seller is sole owner - the new item as defined in paragraph 2. of this section or having them taken away. To perform these measures, as well as for a general inspection of the reserved-title goods or the new item, the Customer must grant the Seller or the persons appointed by the latter access at all times.

#### **Article 11 Concluding Provisions**

1. The law of the Federal Republic of Germany applies. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) have no application.
2. Place of jurisdiction for all disputes arising from the contractual relations is Sprockhövel. The Seller is also entitled to bring a complaint at the head office of the Customer.
3. Place of performance for all obligations to be performed under the contract is 45549 Sprockhövel.
4. Should individual provisions of this contract with the Customer including these General Terms and Conditions of Business be or become wholly or partly invalid, this shall not affect the validity of the remaining provisions.
5. A provision that is wholly or partly invalid shall be replaced by a provision whose economic outcome comes closest to that of the invalid provision.
6. Where there are omissions in the contract or in these General Terms and Conditions of Business, the legally valid provisions to fill these omissions are deemed to have been agreed that the contractual parties would have agreed, according to the economic aims of the contract and the purpose of these General Terms and Conditions of Business, if they had known of the omissions.
7. The assignment of rights and duties of the Customer under the contract concluded requires the prior written consent of the Seller in order to be valid.

#### **Article 12 Data Protection Clause**

The Seller is entitled to store personal data about the Customer using automatic data processing.