

General Terms of Delivery and Payment (1/2)

As at July 2008

1 Validity of conditions. These General Terms of Delivery and Payment apply to all our legal transactions. Conflicting terms and conditions of business of contracting parties are not recognised. A separate objection on our part is not required in this respect. This applies even if the purchaser's terms and conditions specify that differing conditions of the supplier shall not be valid or that they shall only be valid upon written acknowledgement.

We reserve the right to withdraw from the contract in the event that circumstances exist in respect of the person of the purchaser or its business which, in the opinion of the seller, jeopardise the purpose of the contract or the implementation of the contract, in particular the payment of the purchase price. We shall inform the purchaser thereof. The purchaser shall be given the opportunity to prevent the withdrawal through the provision of security, in particular to secure the purchase price. The security must, however, be accepted by the seller. The purchaser shall refrain from asserting claims arising from the withdrawal.

Instead of withdrawal, the seller is entitled to adhere to the contract, but suspend delivery until the purchaser has resolved the jeopardising circumstances. The agreed delivery period shall be extended as a result and the purchaser shall refrain from asserting any claims arising from an agreed date of delivery being exceeded.

2 Scope of deliveries. Our written order acknowledgement shall be decisive for the scope of the deliveries; in the case of a time-limited offer by us and timely acceptance, the offer shall be decisive in the absence of timely order acknowledgement. Any collateral agreements or modifications shall require our written confirmation.

3 Conclusion, prices and payments. Agreements will only become effective once a written confirmation has been issued by us. This shall in particular also apply to individual call-offs from existing blanket orders. Unless otherwise agreed, the prices of the offer are understood to be net ex works, excluding packaging, freight, carriage, loading, customs duties, insurance and installation. We reserve the right to invoice any increases in labour and material costs incurred after submission of the offer up until completion by charging a reasonable overhead surcharge. Payments must be made immediately after receipt of the invoice in cash without any deductions. Bills of exchange shall only be accepted as payment upon special written agreement. Crediting of bills of exchange and cheques shall be subject to their being honoured. Counterclaims not acknowledged by us in writing do not entitle the purchaser to withhold or offset payment. Invoices are due for payment immediately after receipt unless there is a separate written agreement between the parties. The debtor shall be in default of payment after the due date and from this point in time we shall be entitled to charge default interest in the amount of 8% above the discount rate of the European Central Bank, without prejudice to any higher claims for damages. We shall already be entitled to the following rights on the due date: we may (1) withdraw from the contract and demand the return of the goods and compensation; (2) call back any goods which have not been accepted; (3) demand payments in advance or the provision of security for any goods which have not been accepted or still have to be delivered; (4) realise any provided security; (5) withdraw from any contracts not yet implemented and demand compensation for non-fulfilment after a grace period of at least one week has elapsed; (6) mandate a collection agency and claim damages for default.

4 Retention of title. The seller reserves the title to all the goods supplied by it until the purchaser has paid all claims arising from the business relationship, including any claims arising in the future, in particular also any current account balances. A bill of exchange

or cheque is not valid as payment until the paper has been honoured. The purchaser is permitted to combine or mix the reserved goods with goods which do not belong to the seller in the ordinary course of business. In this case, the seller shall acquire joint title in accordance with sections 947, 948 of the German Civil Code (BGB). The purchaser is also entitled to process the supplied goods in the ordinary course of business. Processing by the purchaser shall take place for and on behalf of the seller, but at no expense to it. Under no circumstances shall the purchaser acquire title to the reserved goods pursuant to section 950 BGB in the event that a new item is created. The purchaser shall hold this item in safe custody for the seller free of charge. If the goods are processed by the purchaser with other items not belonging to the seller, the seller shall acquire joint title to the new item in proportion to the value of the reserved goods compared with the value of the other processed items at the time of processing. If the seller acquires sole title to the new item created through the processing, it shall be deemed reserved within the meaning of these terms and conditions; if the seller acquires joint title, the terms and conditions which apply to the reserved goods shall apply to the co-ownership share. The purchaser shall also hold these items in safe custody for the seller free of charge. The purchaser is also entitled to resell the supplied goods (reserved goods), without or after processing, to one or more customers in the ordinary course of business, subject to the provision of para. 5. The following then applies:

a) If the purchaser grants its customers a respite for payment of the purchase price, it shall reserve the title to the sold goods vis-à-vis these customers under the same conditions reserved by the seller when the reserved goods were delivered.

b) The purchaser shall hereby already assign to the seller claims to the purchase price to which the seller is entitled vis-à-vis its customers from the resale, regardless of whether the reserved goods are sold without or after processing or whether they are sold to one or more customers.

c) If the reserved goods are sold with other items not belonging to the seller, the assignment of the claims arising from the resale shall only apply in the amount of the value of the reserved goods at the time of delivery for the purpose of the fulfilment of the resale.

d) If the reserved goods are resold after processing, in particular after processing with other items not belonging to the seller, the assignment shall only take place in the amount of the value of the reserved goods at the time of processing.

e) If the purchase price agreed between the purchaser and its customer is lower than the value of all the goods which are the subject of the contract with the customer, the claim arising from the resale shall be assigned to the seller only in the amount which corresponds to the proportion of the value of the reserved goods compared with the value of the third-party goods at the time of delivery for the purpose of the fulfilment of the resale.

f) If the reserved goods are used by the purchaser to fulfil a contract for work and labour or for work and materials, the purchaser shall hereby already assign the claims arising from these contracts to the seller to the same extent as is agreed with respect to the purchase price claims under b) to e). The provision under a) applies analogously.

g) The assignment of the claims shall provisionally be a silent one, i.e. it shall not be disclosed to the customers. Until further notice, the purchaser shall be authorised to collect the claims, but is not entitled to otherwise dispose of them, e.g. through assignment. The seller has the right to revoke the authorization to collect the claims and to collect the claims itself. The seller shall, however, refrain from doing so as long as the purchaser duly complies with its payment obligations. At the request of the seller, the purchaser shall

inform its customers of the assignment. Furthermore, it is obliged to inform the seller, at the latter's request, of the names of the customers and the amount of the assigned claims and to provide the seller with all the information required to assert the assigned claims.

The purchaser is, however, only entitled and authorised to resell the reserved goods if it is ensured that the claim from the sale agreement is transferred to the seller in accordance with the provisions of para. 4. The purchaser is not entitled to any other dispositions of the reserved goods. The reservation of title according to the agreements above shall continue to apply even if individual claims of the seller are included in a current invoice and the balance has been drawn and recognised. Upon full payment of all the seller's claims arising from the business relationship, the assigned claims shall pass to the purchaser in addition to the seller's ownership of the reserved goods. The seller shall undertake to release the security that it holds according to the above provisions at its discretion insofar as the value of the unsold reserved goods and the assigned claims exceeds the claims to which the seller is entitled vis-à-vis the purchaser by 25%, but with the proviso that - with the exception of deliveries in the real current account relationship - such release shall only be effected for those deliveries or substitute values which have themselves been paid for in full. The purchaser shall be obliged to insure the goods appropriately against all typical risks, including but not limited to fire, burglary, and water hazards, and to handle them with due care. The purchaser is also obliged to inform the seller, in writing and without undue delay, about any seizure of the goods and/or the assigned claims by third parties or of other claims which third parties assert with regard to the goods. In the case of seizures, the seller shall at the same time be sent a copy of the seizure report and an affirmation in lieu of an oath stating that the reservation of title agreed in these terms and conditions still applies and that the seized goods belong to the goods which are subject to the reservation of title agreed herein; if claims are seized, a declaration shall be given in lieu of an oath that the seizure relates to claims arising from the sale of the reserved goods. The purchaser shall be obliged to inform the conditional seller, at any time at the latter's request, about the whereabouts of the goods supplied subject to retention of title and about the claims resulting from the resale. The costs incurred due to the assertion of the rights of the conditional seller shall be borne by the purchaser.

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5 Delivery period. The delivery period shall commence with the final determination of all the technical and commercial requirements for the execution and following receipt of any agreed advance payment. If a delivery time is agreed as binding, it shall be deemed to have been complied with when the delivery item is dispatched or, if we are unable to dispatch the goods through no fault of our own, upon notification of the readiness for dispatch. The delivery time shall be extended appropriately in case of unforeseen or non-culpable hindrances occurring at our company or at our suppliers insofar as they have an influence on the completion or delivery of the object of the delivery. We are also entitled to these rights in the event of strikes or lockouts. We shall inform the purchaser of such hindrances. The agreed delivery deadlines shall also be extended by the period during which the purchaser remains in default of its obligations arising from the same or another contract. If the purchaser incurs damage or loss as a result of a delay which occurred through our negligence, the purchaser shall be entitled to request delay compensation, excluding any further claims. This compensation amounts to 0.5 percent for every full week of delay, but at the most to a total of 5 percent of the value of the delivery concerned. The seller's liability is limited to intentional and grossly negligent conduct.

If the dispatch or the handover is delayed at the request of the purchaser or due to negligence on its part, the purchaser shall be charged for the costs caused by the storage, including any transport to the storage facility, from the day following notification of the readiness for shipment or the unsuccessful handover attempt, unless the purchaser carries out the storage and transport itself. In this case, the commencement of storage or transport to the storage facility or transport for the account of the purchaser shall be deemed the passage of risk. The seller shall not be liable for damage, defects or other deterioration due to storage or due to transport to the storage facility. Reimbursement of the costs of storage and transport shall be due immediately; it is not necessary to give prior warning, make a request or specify a deadline. However, after the setting of and unsuccessful expiration of a reasonable time limit, we shall be entitled to otherwise dispose of the delivery item and supply the purchaser within a reasonably extended time period. Observance of the term of delivery is subject to the purchaser fulfilling its contractual obligations.

6 Passage of risk, transport and packaging. Without prejudice to the provisions regarding delay in delivery caused by the purchaser, the transport shall take place for the account and at the risk of the seller. The seller shall also choose the means of transport. The risk passes to the purchaser when the items are surrendered to the purchaser. This also applies to part deliveries. If the purchaser demands different shipment (means of transport/transport route) to that selected by the seller, the risk shall already pass to the transport person or transport company to be designated by the purchaser upon handover. Any additional costs incurred shall be borne by the purchaser. The purchaser shall then immediately inspect the delivery in order to ascertain whether it is free of defects or transit damage, and shall notify the seller of any discovered defects or transit damage without undue delay. If the purchaser omits to carry out the inspection or notification, the delivery shall be deemed approved. In this case, the seller shall be released from all obligations to provide a warranty or to pay damages. The purchaser is then no longer entitled to any warranty rights. If a defect was not discernible on inspection and if a defect only becomes apparent at a later date, the purchaser must report this defect immediately after its discovery. If it fails to do so, the delivery is also deemed approved. The provision of section 377 of the German Commercial

Code (HGB) is an integral part of these terms and conditions. The obligations concerning immediate inspection and immediate notification shall apply even if a different delivery or a different delivery quantity is effected, unless the delivery deviates to such an extent from the contractual agreement that the seller has to consider that approval is excluded. Duly delivered goods are excluded from any possible return.

7 Liability for defects of delivery. We shall be liable for defects of delivery, including the absence of expressly assured characteristics, as follows to the exclusion of any further claims:

The right of the purchaser to assert warranty claims shall become statute-barred after 12 months from the time of the passing of risk. The seller shall initially be given the opportunity to effect subsequent performance prior to the assertion of any other warranty claims. The purchaser may only assert other claims if the subsequent performance has failed. This is only to be assumed if the purchaser cannot be reasonably expected to accept further subsequent performance by the seller. The obligation of immediate inspection and immediate notification shall also apply to all subsequent performance carried out. The seller may refuse to carry out subsequent performance if this is impossible or unreasonable or causes disproportionate costs. The subsequent performance shall be rendered either through replacement or repair. The type of subsequent performance shall be at the discretion of the seller. In the event of a replacement, the seller reserves the right to supply an item which corresponds to the defective item in terms of type and quality, especially age and level of wear and tear, instead of a new item. Should the seller deliver a new item, the right to assert compensation for use, including the wear and tear for the defective delivery, shall be reserved. In the case of a repair, the warranty period shall be calculated according to the deadline for the original delivery. In the case of a replacement, the warranty period shall also be a maximum of one year. Whether a replacement is applicable is determined according to the circumstances of the individual case and especially does not depend on the value or scope of the replacement. The execution of subsequent performance does not imply acknowledgement.

The seller will not give a warranty resulting from any of the following causes:

Unsuitable or improper use, defective installation, natural wear and tear, defective or negligent handling, unsuitable equipment/materials, substitute materials, chemical, electrochemical or electrical influences, unless they are attributable to intentional or grossly negligent conduct on the part of the seller. In case of doubt regarding installation instructions, the purchaser shall check with the seller to make sure they are correct prior to installation.

The purchaser shall provide the necessary time and opportunity to carry out all the repairs and substitute deliveries that appear necessary at our reasonable discretion by agreement with us, otherwise we shall be released from the liability for defects. Only in urgent cases involving a risk to the safety of operations or in order to avert disproportionately high loss or damage, of which we must be notified immediately, or if we default on remedying the defect, the purchaser shall be entitled to remedy the defect itself or have it remedied by third parties and to demand that we reimburse it for the expenditure required.

Of the costs directly incurred as a result of the repairs or replacement delivery, we shall - provided that the complaint proves justified - bear the costs of the replacement part including shipment as well as the reasonable costs of dismantling and installation, and, if this can be reasonably demanded, depending on the case in question, the costs of any necessary provision of its fitters and helpers. The purchaser shall bear the remainder of the costs. Liability for

the resulting consequences shall be cancelled due to any improper modifications or repair work carried out by the purchaser or third parties without our prior approval. Other claims by the purchaser, especially a claim to the reimbursement of damage or loss not occurring to the delivery item itself are excluded unless they are based on intent or gross negligence. This does not apply if the consequential damage relates to damage to health or physical injury.

In the event that the purchaser resells the delivered item and has to take back the item as a result of defectiveness, the purchaser shall be entitled to warranty rights as have been agreed in these General Terms of Delivery and Payment. However, the purchaser shall only be entitled to recourse if the purchaser has resold the item to a private consumer (hereinafter referred to as end user). If the obligation for immediate inspection or immediate notification of defects is breached, the right of recourse by the purchaser against the seller is excluded. In this respect reference is made to the obligations agreed in these General Terms of Delivery and Payment.

The recourse by the purchaser against the seller is also excluded if the purchaser has agreed a right of withdrawal or cancellation with the end user or has taken back the item voluntarily or as a goodwill gesture. This also applies if the item supplied by the seller was not new or the purchaser and end user concluded a quality agreement which provided for special conditions in the drafting of the contract between the purchaser and end user due to the defectiveness of the delivery, and the end user therefore knew that the delivery was defective.

A right of recourse by the purchaser against the seller shall also not apply if the defect occurred due to unsuitable or improper use, defective installation, natural wear and tear, defective or negligent handling, unsuitable equipment/materials, substitute materials, chemical, electrochemical or electrical influences and the circumstances for this lie within the sphere of influence of the purchaser, unless the seller has acted intentionally or with gross negligence.

The recourse of the purchaser against the seller is subject to the purchaser having informed the seller when the risk was transferred in the relationship with the end user.

The seller shall bear the costs incurred as a result of the recourse if it is responsible for the defect.

8 Place of performance, place of jurisdiction. The place of performance for both parties is Weener. The place of jurisdiction for all claims and any disputes arising from this contractual relationship is Leer/Ostfriesland.

9 Severability. Should individual parts of these terms and conditions prove to be invalid, the validity of the remaining provisions shall not be affected thereby.

WILDEBOER BAUTEILE GMBH