

TERMS AND CONDITIONS OF DELIVERY AND PAYMENT (VERSION 12/2009)
(Translation of the German "Lieferungs- und Zahlungsbedingungen". In case of discrepancies, the German version shall prevail.)

1. General Terms

- 1.1 All deliveries and services by Seller ("Deliveries") performed in business with companies, public entities and separate estates governed by public law shall be exclusively subject to these Terms and Conditions of Delivery and Payment.
- 1.2 Any additional provisions or provisions that deviate from these Terms and Conditions or from legal regulations shall only be binding on Seller after Seller's express written confirmation. Neither a failure to object thereto nor the performance of deliveries and services shall be considered acceptance of Buyer's general terms and conditions.
- 1.3 Any changes to these Terms and Conditions require Seller's express written consent to be effective.
- 1.4 The agreement entered into between Seller and Buyer on the basis of these Terms and Conditions shall remain in force even if individual provisions are or become partially or completely void or enforceable. However, this shall not apply if adhering to the agreement would present an unreasonable hardship for Seller or Buyer due to such ineffectiveness.

2. Prices

- 2.1 All prices are in EURO plus VAT applicable at the time of invoicing, unless agreed upon otherwise. The prices apply to deliveries ex works excluding packaging (see item 5.3), freight, allowances, insurance and other incidental costs.
- 2.2 Prices are subject to change.
- 2.3 In cases where goods are to be delivered to other Member States of the European Community, Buyer is required to provide Seller before shipping with its VAT ID number to be used in the transaction, as well as with the description of Buyer's industry.

3. Payment Terms

- 3.1 Invoices shall be paid within 30 days from the date of invoice.
- 3.2 Delays in payment shall entitle Seller to charge interest for late payment according to the applicable legal provisions, but at a minimum of 10% per annum.
- 3.2 Buyer shall not have the right to withhold payment or offset payment against any counterclaims. However, Buyer shall have the right to withhold payment or offset against counterclaims that are uncontested by Seller or non-appealably ruled by a court of law.
- 3.3 In case of late payment or if Seller's receivables are jeopardized as a result of a deterioration in Buyer's credit standing, Seller shall be entitled to request immediate settlement of all receivables under the contract – regardless of the maturity dates of any bills of exchange – or to request securities. In these cases, Seller shall further be entitled to request advance payment or additional securities for outstanding deliveries.
- 3.4 Seller can offset all receivables owed to him against Buyer against any receivables owed to Buyer against Seller. Seller is entitled to offset Buyer's payments to older debt first. Where expenses and interest have already accrued, Seller shall be entitled to offset payment first against expenses, then against interest, and finally against the actual performance.

4. Delivery

- 4.1 Seller's deliveries shall be "ex works" unless expressly agreed to otherwise. For the interpretation of trade terms, Incoterms shall apply in their valid form at the time of execution of the contract.
- 4.2 The agreed-upon delivery dates require that all technical questions have been clarified and that Buyer has complied with its duties to participate, notify and provide information.
- 4.3 Lead times and delivery dates are deemed complied with if the deliveries have been dispatched ex works or if readiness for dispatch has been communicated. If a down-payment or prepayment has been agreed upon, the agreed-to lead time shall not start until the entire down-payment or prepayment has been received. If a down-payment or prepayment is late, an agreed-to delivery date will be postponed automatically by two (2) weeks from the date of receipt of all prepayments that were due by the delivery date, or if prepayment was agreed upon, receipt of the full amount. Unless agreed upon otherwise, all down-payments or the full amount, if prepayment was agreed to, are due at the latest two (2) weeks before the agreed-upon delivery date or the begin of the lead time.
- 4.4 In the event of force majeure, actions in the course of industrial disputes (in particular strikes or lockouts) or major disruptions of operations that are not temporary and not the fault of Seller, the lead time or delivery date shall be extended accordingly. Buyer shall negotiate with Seller on a modification of the contract. If a modification of the contract is not economically feasible, Seller and Buyer shall have the right to rescind the contract.
- 4.5 Any deliveries made by Seller are subject to Seller receiving timely and complete deliveries.
- 4.6 In the event of delivery delays, Seller's liability shall be governed by the legal regulations, with the following provisions: Buyer's damage due to delays shall be limited to 0.5% of the net order value for each full week of delay, not to exceed

5% of the net order value. This limit shall not apply if Seller acted with intent or gross negligence, or if Seller is responsible for death, bodily or health injury due to Seller's fault. Notwithstanding other legal regulations, Buyer shall have the right of rescission only if the delays in delivery are Seller's fault. The aforementioned provisions shall not change the burden of proof.

5. Shipment and Transfer of Risk

- 5.1 Shipments shall be made ex works at Buyer's risk and expense. This shall also apply if and to the extent a shipment is made using Seller's means of transportation. Transportation insurance shall be purchased by Seller only at Buyer's request and expense. The risk of accidental destruction or deterioration of the goods shall be transferred to Buyer at the time when the goods are received by the freight forwarder, the railroad company, but no later than when the goods leave Seller's warehouse, or, for drop shipments, the production plant.
- 5.2 If shipment is delayed because of circumstances due to Buyer's fault, the risk shall transfer to Buyer upon receipt of the notice that the deliveries are ready for dispatch.
- 5.3 One-way packaging will be charged separately. Other packaging materials (containers, box pallets, etc.) shall remain the property of Seller and must be returned to Seller immediately at Buyer's risk and expense.
- 5.4 To the extent reasonable, Buyer shall be permitted to make under-, over- or partial deliveries.

6. Retention of Title

- 6.1 The goods supplied shall remain Seller's property ("Retention of Title Goods") until all claims, in particular including any outstanding balances arising from the business relationship with Buyer, have been satisfied.
- 6.2 Treatment and processing of the Retention of Title Goods by Seller as the manufacturer shall be pursuant to Section 950 of the BGB (German Civil Code). If Buyer processes Retention of Title Goods with other goods, Seller shall be entitled to joint ownership in the new goods, corresponding to the ratio of the invoice value of the Retention of Title Goods to the invoice value of the other goods used. If Retention of Title Goods are combined or mixed with other goods to form a uniform good, Seller shall be entitled to joint ownership of this good, corresponding to the ratio of the invoice value of the Retention of Title Goods to the invoice value of the other goods used. If one of the other goods is considered the main item, Buyer shall be required to transfer to Seller an appropriate proportion of joint ownership of this main item, corresponding to the ratio of the invoice value of the Retention of Title Goods to the invoice value of the other goods used. Any reference to the invoice value in this item 6 shall refer to the total invoice value including value added tax. The same rules that apply to Retention of Title Goods shall apply to the goods that are the result of processing, combining or mixing with Retention of Title Goods.
- 6.3 Buyer shall be allowed to sell or otherwise use the Retention of Title Goods in the framework of ordinary business transactions. Any other disposal of Retention of Title Goods, in particular pledging and transferring ownership by way of security, is not permitted. Seller may revoke the right to sell the Retention of Title Goods if Buyer is in arrears with payments arising from the business relationship with Seller, or if Buyer has disposed of Retention of Title Goods outside of ordinary business transactions; the same shall apply if Buyer's financial situation deteriorates significantly, if a bankruptcy proceeding is started over Buyer or Buyer's assets and in the event of protested bills or checks. In these cases, Seller shall also have the right to prohibit the processing of the Retention of Title Goods and rescind the contract. After rescinding the contract, Seller shall further be entitled to take possession of the Retention of Title Goods, to enter Buyer's premises for that purpose, and to request relevant information.
- 6.4 Buyer's claims resulting from a resale of the Retention of Title Goods shall hereby be assigned to Seller. In case of resale of the Retention of Title Goods by Buyer together with other goods not supplied by Seller, the assignment of claims from the resale shall only be applicable to the amount of the invoice value of said goods as indicated by Seller. In case of joint ownership, the assignment shall only cover the claim amount corresponding to Seller's portion of the joint ownership as per item 6.2.
- 6.5 Buyer shall only be authorized to collect the assigned claims within usual business transactions and subject to revocation. Seller shall only exercise this right to revocation if Buyer does not fulfill its financial obligations to Seller or in the event of other circumstances jeopardizing Seller's claims as a result of a deterioration of Buyer's credit standing. In case of revocation, Buyer shall – at Seller's request – inform its customers immediately of the assignment to Seller and to give Seller all the information and documentation required for such collection, and to provide him with a document confirming the assignment.
- 6.6 Buyer shall inform Seller promptly of any executed or threatened seizures by third parties regarding the Retention of Title Goods or the assigned claims.

- 6.7 If the value of the securities furnished to Seller exceeds the total of Seller's claims by more than 10%, Seller shall, at the request of Buyer, release the exceeding securities at Seller's discretion.
- 6.8 In addition to title to the Delivery, Seller shall retain the rights to any property rights, registered utility models and designs, patents, trademarks, copyrights, personal or other protective rights, in particular in any images, drawings and other documentation, designs, design drafts, templates, working documents, moulds, copyrights, know-how and calculations, as well as software that Seller has provided to Buyer in physical or electronic form.

7. Defects

- 7.1 Buyer shall examine the goods received for defects immediately upon their arrival. Buyer shall note any visible defects on the goods, incorrect or incomplete shipments, quantity and dimensional deviations, as well as transportation and packaging damage on the way bill immediately upon receipt of the goods, and notify Seller in writing immediately, but no later than 7 days from the date of delivery. If Buyer does not notify Seller of defects within this time period, the goods shall be deemed free from defect and approved pursuant to the contract.
- 7.2 Any defects that cannot be detected by thorough inspection within this time frame shall be communicated to Seller in writing immediately upon detection. If Buyer does not notify Seller of defects immediately, the goods shall be deemed free from defect and approved pursuant to the contract.
- 7.3 If a good shows a material defect at the time of risk transfer, Buyer shall have the right to request, under the prerequisites foreseen by law, rework or replacement delivery ("Supplemental Performance") at Seller's discretion. If the rework or replacement shipment fails, Buyer may request a price reduction or rescind the contract, as long as the other required legal prerequisites have been met.
- 7.4 There shall be no claims to damages due to material defects if and to the extent that Seller's liability is excluded or limited according to item 10.
- 7.5 The agreed-upon characteristics pursuant to Section 434 (1) 1 BGB (German Civil Code) result from the product specifications agreed on between Seller and Buyer, in particular, from the drawings agreed on as binding. Seller shall be required to perform application-specific tests (especially so-called field tests) only if there is a related agreement. If no such agreement was made, Buyer shall be responsible for such tests as needed.
- 7.6 There shall be no claims for defects for natural wear and tear, or defects that occur after the transfer of risk due to improper or negligent treatment, excessive wear, unsuitable supplies, deficient installation, improper modifications, or due to external causes outside of Seller's area of responsibility.
- 7.8 Any further claims or claims other than those covered in item 7 by Buyer against Seller due to a material defect shall be excluded.
- 7.9 Any Supplemental Performance and/or any payment by Seller to Buyer because of goods claimed by Buyer to be defective shall in principle be deemed to be a good will gesture without acknowledgement of a legal obligation and without precedent for future cases.
- 7.10 For legal defects and property rights, the provisions of item 9 shall apply, except for legal defects for which item 9.4 refers to item 7.

8. Company Recourse

- 8.1 Any claims against Seller on the basis of company recourse pursuant to Sections 478, 479 BGB (German Civil Code) regarding defects in a shipment caused by Buyer or by a third party installing defective products from a third party or by improper processing of Seller's delivery shall be precluded.
- 8.2 Buyer shall not have the right to any claims against Seller under company recourse, in particular, claims to reimbursement of expenses, if and to the extent these were established by contractual agreements with its customer that exceed the legal claims, either by their nature or amount.
- 8.3 Within the framework of company recourse, Buyer will not be entitled to damages if and as far as Seller's liability is excluded or limited according to item 10.

9. Industrial Property Rights and Copyrights; Legal Defects

- 9.1 Unless agreed otherwise, goods shall be free from intellectual property rights such as trademarks and patents, registered utility models and designs, as well as copyrights, of third parties ("property rights") only to the extent that they exist in the country of the delivery place. If a third party makes justified claims against Buyer on the grounds of property right infringements through deliveries made by Seller and used according to the contract, Seller shall be liable to Buyer as follows:
- a) At Seller's choice, Seller shall obtain a right to use the shipments concerned, modify the shipments so they do no longer infringe the property rights, or replace them. If this fails, Buyer shall have – not withstanding other rights - the right to rescission or a price reduction as foreseen by the applicable laws.
- b) For claims for damages, the provisions of item 7.4 shall apply accordingly.
- c) Any rights pursuant to item 9.1 a) shall exist only if Buyer notifies Seller immediately in writing of claims made by third parties, if Buyer does not acknowledge any infringement, and if Seller retains the rights to all actions of defense and settlement. If Buyer discontinues use of deliveries for reasons of damage control or other important reasons, Buyer agrees to notify the third party that a discontinuation of use does not constitute an acknowledgement of a property right infringement.

- 9.2 Any claims made by Buyer shall be excluded if the property rights infringement is Buyer's fault, in particular, where manufacture was based on Buyer's design or drawings.
- 9.3 Likewise, claims by Buyer shall be excluded if the property rights infringement was caused by special Buyer specifications, by usage that Seller could not anticipate, or if it is caused by Buyer modifying the shipment or using it together with products not supplied by Seller.
- 9.4 For all other legal defects, the provisions of item 7 shall apply.

10. Claims for Damages

- 10.1 Claims for damages and reimbursement made by Buyer ("Claims for Damages"), regardless of their legal grounds, in particular due to non-performance of duties from the contractual relationship and torts, shall be excluded; this shall apply, in particular, but not exclusively, to claims for damages due to lost revenues or profit, financing expenses or damage due to production stop or production decrease.
- 10.2 The exclusion of liability pursuant to item 10.1 shall not apply if liability is required
- Pursuant to the German Product Liability Act;
 - In the event of intent, or gross negligence by Seller;
 - Due to culpable violation of life, body or health;
 - In the event of breach of material contractual duties; i.e., duties on whose performance Buyer regularly relies and reasonably can rely. However, in cases of slight negligence, liability shall be limited to reimbursement for typical, foreseeable damage, unless it has been caused by intent or gross negligence, or due to violation of life, body, or health.
- 10.3 To the extent that Seller's liability is excluded or limited, this shall also apply to the related personal liability of Seller's employees, agents and legal representatives.
- 10.4 Any Claims for Damages other than provided for in this item 10 shall be excluded, regardless of their legal grounds. This shall not affect item 4.6 in the event of delivery delays.
- 10.5 The aforementioned provisions shall not change the burden of proof to Buyer's disadvantage.

11. Statute of Limitations

- 11.1 The statute of limitations for claims and rights due to defective deliveries – regardless of their legal grounds – is one year from the start of the legal statute of limitations. In deviation of the aforementioned, the legal statute of limitations shall apply
- In the case of Section 438 (1) 1 BGB (rights in rem of third parties); Section 438 (1) 2 BGB (buildings), in the case of recourse sought pursuant to Section 479 (1) BGB, and if Seller acted with malicious intent;
 - As well as in the event of claims for damages, also due to a culpable violation of life, body, or health, claims according to the Product Liability Act, as well as of grossly negligent or intentional breach of duties by Seller.
- 11.2 With the exception of explicit acknowledgment of a claim, the statute of limitations will not re-start after Supplemental Performance.
- 11.3 For any other claims by Buyer against Seller, the regular statute of limitations will be reduced to two years from the start of the legal statute of limitations.

12. Place of Performance and Venue

- 12.1 The place of performance for delivery and payment is Koblenz/Rhine. The place of supplemental performance is the place of performance for the respective delivery.
- 12.2 The venue for all lawsuits arising from the contractual relationship is Koblenz/Rhine. Seller shall also have the right to initiate legal proceedings at Buyer's place of business.
- 12.3 The material law of the Federal Republic of Germany shall apply to all contractual relationships between Buyer and Seller, excluding the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG).

STABILUS GmbH, Koblenz