

**GENERAL TERMS AND CONDITIONS OF SALE OF THE
LANNEWEHR & THOMSEN GMBH & Co. KG,
SCHWACHHAUSER HEERSTRASSE 339, 28211 BREMEN**

§ 1 Application

- (1) These terms and conditions of sale shall apply exclusively. Differing or contrary terms shall not apply except if expressly agreed upon in writing.
- (2) The object(s) and services to be supplied under these General Conditions is (are) hereinafter referred to as the Product.
- (3) These terms and conditions of sale shall also govern all future transactions between the parties and shall also apply if we perform delivery despite our knowledge of differing or contrary terms.
- (4) These terms and conditions of sale shall only apply vis à vis merchants, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

§ 2 Offer, Acceptance

Insofar as the order constitutes an offer within the meaning of § 145 BGB we are entitled to accept the offer within two weeks.

§ 3 Drawings and Descriptions

- (1) All drawings and technical documents relating to the Product or its manufacture submitted by one party to the other, prior or subsequent to the formation of the contract, shall remain the property of the submitting party.
- (2) Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

§ 4 Prices, Payment

- (1) Prices are ex works (INCOTERMS 2000), exclusive of the respective statutory VAT and exclusive of costs for packaging, except as otherwise expressly agreed upon.

- (2) The purchase price is due and payable net within 30 days from the date of the invoice. From the due date interest in the amount of 8% above the respective base interest rate p. a. shall accrue. We reserve all rights to claim further damages for delay.
- (3) Whatever the means of payment used, payment shall not be deemed to have been effected before the Supplier's account has been fully and irrevocably credited.

§ 5 Offset, Retainer

The purchaser shall be entitled to offset only insofar as the purchaser's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement. The purchaser is entitled to claim retainer rights only to the extent such rights are based on the same transaction.

§6 Delivery

- (1) Any agreed trade term shall be construed in accordance with the INCOTERMS in force at the formation of the contract. If no trade term is specifically agreed, the delivery shall be ex works (EXW).
- (2) Delivery is conditioned upon timely and proper performance of all duties of the purchaser. Defences based on non-performance of the contract are reserved.
- (3) In case of default in acceptance or other breach of duties to cooperate by the purchaser we are entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the Product passes to the purchaser at the time of such default or breach of duty to cooperate.

§ 7 Passing of Risk, Shipment

If, in the case of delivery Ex works, the Supplier, at the request of the Purchaser, undertakes to send the Product to its destination, the risk will pass not later than when the Product is handed over to the first carrier. Partial shipments shall be permitted unless otherwise agreed.

§ 8 Delay

(1) Except in case of a delay caused by Force Majeure or by any act or omission on the part of the Purchaser, the Purchaser is entitled to liquidated damages from the date on which delivery should have taken place. The liquidated damages shall be payable at a rate of 0,5 % of the purchase price for each completed week of delay. The liquidated damages shall not exceed 7,5 % of the purchase price.

(2) If only part of the Product is delayed, the liquidated damages shall be calculated on that part of the purchase price which is attributable to such part of the products as cannot in consequence of the delay be used as intended by the parties.

(3) Liquidated damages are the only remedies available to the Purchaser in case of delay on the part of the Supplier. All other claims against the Supplier based on such delay shall be excluded, except where the Supplier has been guilty of gross negligence.

§ 9 Retention of Title

(1) The Product shall remain the property of the Supplier until paid for in full to the extent that such retention of title is valid under the applicable law.

(2) The purchaser shall at the request of the supplier assist him in taking any measures necessary to protect the Supplier's title to the Product in the country concerned.

§ 10 Warranty

(1) Precondition for any warranty claim of the purchaser is the purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code).

(2) Warranty claims shall be time-barred after 12 months of the passage of risk.

(3) In case of non-conformity of the goods the purchaser is entitled to alternative performance in the form of remedy of the defect or delivery of conforming goods. If such

alternative performance has failed, the purchaser is entitled to reduce the purchase price or to withdraw from the contract.

- (4) The Supplier is not liable for defects arising out of materials provided, or a design stipulated or specified by the purchaser. The supplier is liable only for defects which appear under the conditions of operation provided for in the contract and under proper use of the Product.
- (5) The Supplier's liability does not cover defects which are caused by faulty maintenance, incorrect erection or faulty repair by the Purchaser, or by alterations carried out without the Supplier's liability does not cover normal wear and tear or deterioration.

§ 11 Liability

- (1) Save as otherwise stated in these General Conditions there shall be no liability for either party toward the other party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever.
- (2) The said exclusion of liability shall not apply in the case of intent or gross negligence under or if the Supplier negligently causes damage to life, body or health. Furthermore, the exclusion of liability shall not apply in cases of negligent breach of an obligation which goes to the root of the contract ("wesentliche Vertragspflicht"). An obligation goes to the root of the contract, if its performance is a condition for the proper performance of the contract and if the contractual partner as a rule trusts and may legitimately trust in its performance.
- (3) In the case of a slightly negligent breach of an obligation which goes to the root of the contract, the Supplier shall be liable only for reasonably foreseeable damage which is intrinsic to the contract. Nor shall the exclusion of liability apply in the cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects of the Product causing death or personal injury, or damage to items of property used privately. Neither does the said exclusion apply in the case of damage attributable to fraudulent concealment or despite guarantees.

§ 12 Force Majeure

(1) Either Party shall be entitled to suspend performance of his obligations under this Agreement to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: Industrial disputes and any other circumstance beyond the control of the Parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this clause. A circumstance referred to in this clause whether occurring prior to or after the formation of this Agreement shall give a right to suspension only if its effect on the performance of this Agreement could not be foreseen at the time of the formation of this Agreement.

(2) The Party claiming to be affected by Force Majeure shall notify the other Party in writing without delay on the intervention and on the cessation of such circumstance. If Force Majeure prevents the Purchaser from fulfilling his obligations, he shall compensate the Supplier for expenses incurred in securing and protecting the product.

(3) Regardless of what might otherwise follow from this Agreement, either Party shall be entitled to terminate this Agreement by notice in writing to the other party if performance is suspended due to Force Majeure for more than six months.

§ 13 Applicable law, Jurisdiction

(1) This contract shall be governed by the laws of the Federal Republic of Germany (excluding the Convention on Contracts for the International Sale of Goods).

(2) Place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Bremen.