

# General Terms and Conditions of Trade

AS OF JANUARY 2013

## 1 Conclusion

1.1 Our deliveries take place based exclusively on the following terms and conditions. Purchasing conditions of the customer are herewith expressly null and void. They still do not obligate us, even if we do not yet again negate them as null and void upon entering the contract. These terms and conditions of sale apply with the receipt of goods at the latest.

1.2 Oral agreements and amendments to the contract, particularly of these conditions, are binding for us only by written confirmation.

1.3 The provisions of the German Civil Code (BGB) pertaining to commercial transactions between registered merchants apply as being stipulated to, also if the customer is not a registered businessman in terms of the German Civil Code.

## 2 Delivery Deadlines

2.1 Deadlines and dates for delivery are considered as having been met through timely reporting of readiness to ship, if dispatch is impossible for us through no fault of our own.

2.2 Claims for compensatory damages for non-compliance with delivery dates and delivery are excluded.

2.3 The customer cannot refuse partial deliveries. Every partial delivery applies with respect to the obligation to make payment as a special order.

## 3 Terms and Conditions of Delivery

3.1 Disruption of business operations, and events of force majeure, entitle us to a reasonable extension of the delivery deadline, or absolve us from the obligation to deliver, in case the fulfilment thereof has become unreasonable by reason of these circumstances. This also applies for other, unforeseen cases, which fundamentally impede the delivery or make it impossible.

## 4 Shipping and Acceptance

4.1 We deliver by normal freight to the desired station, to the extent that the underlying value of the order exceeds €1,000 net.

4.2 The weights determined at the departure station are decisive.

4.3 With the handing over of the goods to the freight forwarder or carrier, the transport risk transfers to the customer, including that of confiscation in every case, e.g., also with FOB and CIF orders.

4.4 Upon dispatch, the goods are considered as delivered in accordance with the contract, in cases in which the customer has accepted the goods or has not performed the stipulated acceptance fully or in terms of time.

## 5 Notice of Defects and Warranty

5.1 The customer is to file complaints and objections on account of obvious defects in writing without delay, that is, no later than within one week after receipt of the goods. Defects that are not obvious are to be noted immediately after discovery. In both cases, the respectively valid, shortest statutory guarantee deadline for defect liability for contracts for labour and materials as the maximum limit of liability in terms of time applies as stipulated. The customer will make available to us, together with the notice of complaint, a sample of the goods complained of.

5.2 Our goods are manufactured with the greatest care in accordance with all the most recent state-of-the-art technical know-how. In the event that, despite No. 5.1, entitled claims to a guarantee take place, first we will have possibility of reworking (repairs or substitute delivery). After two unsuccessful attempts, our customer has the right, according to his own choice, to return the goods complained of (change) or to a claim for reduction of the price

(rollback). Liability for eligible, verified damages resulting from defect remains limited to costs related to damages and direct assembling and disassembling costs; liability for direct and indirect actual losses is expressly excluded.

5.3 Liability under our or other, terms and conditions applies generally only for unaltered parts, manufactured and delivered by us. If changes are performed by the customer (e.g., fitting component for hose lines are used other than those manufactured or prescribed by us), our liability is thereby reduced to damages -- with No. 5.2 in mind -- which unambiguously and demonstrably have arisen on the used product through our portion of the delivery.

## 6 Reservation of Title of Property

6.1 Until payment of all debts, regardless of whichever legal basis, our goods, even if payments are made of particularly designated debts, remain our property (reserved goods). For running invoices, the property under reservation of title is considered as security for the balance of the debt owed to us.

6.2 In the ordinary and proper course of business, and as long as the customer is not in arrears, he may resell the goods under reservation of title pursuant to his normal terms and conditions of business. The customer's claims from this resale are already assigned to us and serve as security in the amount of the value of the respectively disposed of goods under reservation of title goods. The customer is entitled to collect these claims until our revocation at any time, but however may not dispose of these by assignment to third parties.

6.3 The customer is entitled to resell the goods under reservation of title only in such a manner that a claim for disposal arises in money form. He is obligated, upon our demand, to disclose the assignment to his purchase for the purposes of payment to us. We are entitled to the proceeds collected by the customer and it is to be paid to us. Release clause: apart from that, we obligate ourselves to release the security to which we are entitled upon the buyer's demand, insofar as its value exceeds the claims to be secured, as far as these are not yet settled, by more than 20%.

6.4 The customer must inform us without delay of distraint, attachment or levy by third parties against the goods under reservation of title or against our claims, as well as of other adverse effects on our rights.

6.5 With payments by check or bill of exchange, the reservation of title is extinguished only after redemption of the bill by the presenter/ accepting party.

## 7 Prices and Terms and Conditions of Payment

7.1 We charge the prices valid on the day of delivery.

7.2 For orders of more than €1,000 net, the delivery is made to the desired station freight paid without calculation of packaging costs for normal packaging; this also applies to partial deliveries represented by us. Costs caused by rush and express shipments are to be paid by the customer.

7.3 Payment is to take place, net, 30 days after the date of invoice, without right of offset or to withhold and/or retention. A 2% discount for early payment is granted for payment after 8 days. If the customer has claims against us, our claims will become due with the maturity of this obligation, to the extent that this point in time lies before that of our claim. We accept a bill of exchange only by reason of express, previous stipulation. The discount rates and expenses with respect to this are debited additionally to our expenditures. Payments by check are considered as rendered

only with credit to our account; payment by bill of exchange only after it has been redeemed by the accepting party. If the payment deadline is exceeded, interest in the amount of 4% beyond the respective discount rate will be calculated. Any possible subsequent improvement work has, in accordance with Section 5.2, no effective valuation date for the invoice and therefore effects no postponement of payment.

7.4 If the customer is delayed in payment, or if circumstances become known to us which considerably diminish his creditworthiness, all claims become due, including those of bills of exchange that have come in. In these cases, we can bar the resale of the reserved goods and demand their return at the customer's expense. Further, we are then entitled to carry out still-outstanding delivery only after prepayment or the posted of collateral security, or, after a reasonable deadline, to withdraw from further performance of the contract and to demand compensatory damages for non-performance.

## **8 Court of Jurisdiction and Applicable Law**

The court of competent jurisdiction for both contracting parties, also for lawsuits concerning checks and bills of exchange, is Beckum. We are also entitled to select any other justified court of jurisdiction place to file suit. The law of the Federal Republic of Germany applies.

## **9 Severability Clause**

In the event that parts of this contract of terms and conditions do not correspond to the law of General Business Terms and Conditions or other applicable or utilised legal rules, all other parts remain valid. Apart from that, it is to be so construed that with what is stated here, the parties' intentions will be fulfilled to the greatest extent possible.