

# General Terms and Conditions of Business WDI AG valid from 01. August 2007

## I. General

The terms and conditions of delivery and payment set out below shall govern the entire business relationship with our customers. The buyer shall recognise these terms and conditions as binding, not only in respect of this contract, but also in the event of any future business transactions, in the version valid at the given time. Any agreement reached which is in derogation of these terms and conditions shall require our written confirmation. The general terms and conditions of business of the buyer shall herewith be opposed.

## II. Delivery

- Our offers may be subject to change without notice.
- Deliveries shall be made in accordance with our operational circumstances. We offer no guarantee that we will meet a delivery date. Should the buyer default on payments to us, we shall be entitled, without special notice and with no obligation to compensate any loss that arises, to withhold deliveries until all payment arrears have been settled in full.
- If we are prevented from fulfilling a contract within the agreed time because of disruptions affecting our company or our suppliers, e.g. due to acts of God, transport disruptions, strikes, and lock-outs, the delivery time shall be extended appropriately. The buyer may only withdraw from the contract if, after the expiration of the new extended delivery time, he notifies us in writing of a reasonable extended deadline. If we do not meet the new extended deadline, any withdrawal from the contract must be made in writing.
- If it is impossible for us to fulfil the contract for the reasons named in paragraph 3, we shall be exempt from our duty to supply. We shall notify the buyer immediately of this impossibility. Claims for compensation by the buyer for default or failure to perform shall not be allowed. We shall be entitled to make part deliveries.

## III. Prices

The prices indicated are net and apply to deliveries ex the seller's works. All price details given by WDI AG, including those given in the order confirmation, may be subject to change without notice. If, owing to price increases by his suppliers, the seller in turn has to increase considerably prices for his buyer, the buyer shall be entitled, if necessary, to withdraw in this respect. This shall only apply in cases where the seller is able to release himself from his obligation to buy from his supplier.

## IV. Payment

- Our invoices shall, in principle, be paid within 30 days of the invoice date. However, we may make delivery conditional upon immediate payment.
- If the time set for payment is exceeded, we shall be entitled, without providing a special reminder, to charge interest at 8% above the applicable base rate of the European Central Bank (ECB), but at least 10% per annum.
- We shall reserve the right to decide on the acceptance of bills of exchange and cheques on a case-by-case basis. This shall be done for the purpose of payment only. A credit note may only be issued subject to the customary reservations. We shall charge the discount and collection fees normally charged by banks for bills of exchange. We shall not assume a guarantee for timely collection or timely protest.
- If a bill of exchange or cheque is not honoured within the specified time or if there is a default on payment or the buyer otherwise finds himself in circumstances which, in our opinion, no longer justify the granting of a specific payment time, we may insist that the entire outstanding amount be

paid immediately, even if there are bills of exchange or cheques available for this.

- The buyer's right of retention shall be precluded. A set-off shall only be permitted if we have acknowledged the counter claims in writing.

## V. Reservation of title

- The goods shall remain our property until all amounts owed by the buyer, including any arising in future, for whatever the legal reason (including bills of exchange, cheques, assignment, surety, claims for compensation and similar) are paid. This shall also include contingent receivables.
- The buyer may only sell the goods subject to reservation in the proper course of business, to be precise, against cash payment or subject to reservation of title; the buyer shall not be entitled to other disposals and, in particular, shall not be entitled to pledge or transfer ownership.
- To safeguard our claims - for whatever the legal reason (see section V./1.) - the buyer shall, even now, assign to us from his receivables arising from deliveries which include the goods subject to reservation, the amount, together with all ancillary rights, which corresponds with our invoice price, including VAT, for the goods subject to reservation.
- If the receivables of the buyer resulting from resale are contained in a current account, the buyer shall herewith also assign to us, now, his receivables from the current account in respect of his customer, to be precise, in the amount (including VAT) which we have charged him for the resold goods subject to reservation.
- Until revoked, the buyer shall be entitled to collect the receivables assigned to us. If we make our entire claim pursuant to section IV./5. due immediately, the buyer undertakes, at our request, to inform the debtor of the assignment in writing, to provide us with all information, to submit and forward documentation to us and/or grant access to his accounting records to enable us to establish the assigned receivables pursuant to section V./3.
- If we assert our claims pursuant to section IV./5., the buyer is to grant us access to the goods subject to reservation, send us a precise list of the goods subject to reservation, sort the goods for us, and, at our request, hand them over to us.
- Should the value of this security exceed the amount of our claim by more than 20%, we may choose to release the security at the request of the buyer.
- The buyer is required to inform us in writing immediately of access by third parties to the goods subject to reservation or to the receivables assigned to us, and to support us in any way in any intervention. The buyer shall bear the costs of this.
- The buyer shall not have a right of retention.
- Extended right of ownership: if the delivered goods are linked to a movable item in such a way that it becomes a constituent part of an item, the party ordering shall transfer proportionate co-ownership of the new item to the supplier.

## VI. Execution of the contract by subsidiaries/affiliates

The seller may allow affiliated companies to enter into the contract with the buyer in his place. The seller shall only do so after consent has been received from the buyer. If an affiliate enters into a contract with the seller, the general terms and conditions of business shall continue to apply to this contractual relationship in its entirety.

## VII. Packaging, dispatch and the transfer of risk

- We shall deliver our goods in professional packaging as standard for the industry.

- Goods shall be dispatched at the expense of the buyer. At the buyer's request, consignments shall be insured by the seller in his name and at his expense.
- The selection of the transport route and means of transport shall be at the discretion of the seller.
- The transport risk shall be transferred to the buyer as soon as the consignment has been handed over to the person or agency carrying out the transport operation, or as soon as it has left the seller's warehouse for the purpose of dispatch. If dispatch is delayed at the buyer's request, or if it is impossible through no fault of the seller, the risk shall be transferred to the buyer as soon as notice has been received that the seller is ready to dispatch.
- At the request of the buyer, the consignment shall, where possible, be insured at his expense against the risks designated by him.

## VIII. Liability for defects

- The goods shall be delivered in the manner and condition standard for us at the time of delivery.
- The statutory warranty period shall apply. For parts which we do not manufacture ourselves we shall only be subsidiarily liable in the second instance after our respective supplier/manufacturer. The buyer shall assert his claims in respect of this third party/these third parties first.
- We shall assign to the buyer the warranty claims due to us against third parties. We undertake to hand over to the buyer all documentation and information required for the buyer to take action against third parties.
- Defects are to be reported in writing as soon as they have been detected and no later than two weeks after delivery. Complaints regarding short or incorrect deliveries are to be made in writing within seven days of the arrival of the consignment at the buyer's premises. Late complaints cannot be taken into consideration.
- We shall only be liable for defects which can be proved to have been caused by delivery and manufacturing errors.
- The warranty period shall not apply if changes to the goods delivered are made by another party or if the buyer fails to comply immediately with our request to return the damaged item.
- In the event of justified warranty claims, the seller is to choose whether to replace the defective items free of charge or repair them or refund the sales price. If the seller decides to repair or replace the defective items, he is to be allowed a reasonable time in which to do so.
- All other claims, in particular claims for compensation of any type, including claims for compensation for losses which are incurred not by the item itself but as a result of its use, uselessness or indirectly in another way, shall be precluded.
- The goods which are the subject of the complaint must be sent to us in professional packaging.

## IX. Limitation of liability

- We shall not be liable for default on delivery caused by our suppliers.
- We shall not be liable for default on delivery or for whole or partial non-delivery on account of any unforeseeable events that are beyond our control or that of our suppliers.

## X. Export provisions

We wish to point out that the export of products subject to the embargo provisions pursuant to the Foreign Trade and Payments of the Federal Republic of Germany

[*Aussenwirtschaftsgesetz*], Cocom guidelines and the American import and export control provisions shall be subject to the consent of the relevant authority.

The use of goods identified for embargo shall be approved by the competent authority for the Federal Republic only. Re-export without export approval is prohibited. The ordering party shall be responsible for compliance with the relevant provisions.

## XI. Effectiveness

Should some of these provisions - for whatever reason - no longer apply, the effectiveness of the other provisions shall not be affected as a result. The law of the Federal Republic of Germany shall apply exclusively.

## XII. Place of jurisdiction

Insofar as the buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, Pinneberg shall be the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship.

The law of the Federal Republic of Germany shall govern these terms and conditions of business and all the legal relations between the seller and buyer.

## Supplier declaration pursuant to (EEC) Regulation No. 3351/83

The components and systems supplied by us do not meet (EEC) Regulation No. 3351/83. "NO CERTIFICATE OF ORIGIN".