

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. Applicability

- 1.1 All our offers, acceptances and order confirmations of customer orders, deliveries and services are subject to these General Terms and Conditions of Sale. They are an integral part of all contracts that we conclude with our contractual partners (also called “Customers” in the following) for the deliveries and services we offer. They also apply to all future offers, acceptances and order confirmations of customer orders, deliveries and services to the Customer, even if they are not the subject of a further separate agreement, unless and insofar as we expressly agree to other conditions in writing.
- 1.2 General terms and conditions of the Customer or third parties do not apply, even if we do not specifically object to their application separately. Even if we refer to correspondence which contains terms and conditions of the Customer or of a third party or makes mention of such, this does not indicate any agreement to the validity of such terms and conditions.

### 2. Offer and conclusion of contract

- 2.1 All our offers are subject to change and non-binding unless they are expressly designated as binding or refer to a fixed acceptance period. We can accept orders within fourteen days after receipt.
- 2.2 The legal relations between us and our Customers are solely governed by the written purchase contract, including these General Terms and Conditions of Sale. This fully reflects all agreements between the contracting parties on the object of the contract. Oral promises made by us before the conclusion of this contract are not legally binding and oral agreements between the contracting parties are to be replaced by a written contract, unless it is expressly stated therein that they will continue to be binding in each case.
- 2.3 Additions and amendments to the agreements made, including these General Terms and Conditions of Sale, shall only be effective in writing. With the exception of Managing Directors, our employees are not entitled to make any oral agreements deviating from this. To comply with the written form, transmission by fax is sufficient; otherwise transmission by means of telecommunications, in particular e-mail, is not sufficient.
- 2.4 Information provided by us on the object of the delivery or service (e.g. weights, dimensions, practical value, capacity, tolerances and technical data) as well as our representations of the same (e.g. drawings and illustrations) are only approximately applicable, unless the applicability for the contractually intended purpose requires precise conformity. These are not guaranteed characteristics but descriptions or designations of the delivery or service. Deviations or differences which are customary in the trade, which are the result of legal provisions or which represent technical improvements, as well as the replacement of components by parts of equivalent value, are permissible in so far as they do not detract from the applicability for the contractually intended purpose.
- 2.5 We retain the ownership or copyright for all offers and cost estimates issued by us as well as products, drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and resources made available to the Customer. Without our express consent, the Customer may not make these objects, or the content thereof, accessible to third parties or make them known to third parties, or have them used or reproduced, either by himself or by third

parties. At our request he must return these objects to us in their entirety and, where applicable, destroy any copies made of them, if they are no longer needed by him in the proper course of business or if negotiations do not result in the conclusion of a contract.

### 3. Price basis, price adjustment, packaging

- 3.1 Prices apply in euro and are subject to the statutory value added tax applicable on the invoice date ex works including packaging. Orders for which we have not expressly agreed fixed prices will be charged at the list prices applicable on the delivery date. Should the salaries or wages, material or energy costs change by the delivery dates we reserve the right to adjust prices accordingly if we have a contract for the performance of a continuing obligation with the customer or if delivery terms of more than 4 months after the conclusion of the contract have been agreed. Should the incidental costs included in the price such as packaging costs etc. increase after confirmation of the order or if such new costs are incurred, then the Customer shall bear the resulting additional costs. If a price adjustment is not possible or reasonable for one of the contractual partners, the disadvantaged party may withdraw from the contract. Any claims for compensation shall be subject to clause 10.
- 3.2 Within the framework of the obligation applicable to us in accordance with the Packaging Ordinance we will take back transport packaging, additional packaging and sales packaging; the packaging may be returned to us for disposal. We do not undertake further disposal services or participate in their costs.

### 4. Delivery terms, delivery dates, force majeure, partial delivery, damage caused by delay

- 4.1 Terms and deadlines announced by us in advance are always only approximate unless a fixed term or a fixed deadline is expressly promised or agreed. The Customer can only assert rights against us due to delayed or failed delivery when a reasonable deadline given to us of at least 14 days has passed. Delivery terms begin with the date of the order confirmation; however, not until all agreed and otherwise necessary requirements have been met by the Customer and all details pertaining to the execution have been clarified. If the Customer collects the delivery, there is compliance with the delivery term when the Customer has been notified of its readiness for pick-up. In so far as shipment has been agreed, delivery terms and delivery deadlines relate to the point of handover to the forwarding agent, freight carrier or other third party commissioned for the transport. In the event of later changes to the contract that could affect the delivery time this shall be extended accordingly unless special agreements pertaining to this have been made in writing.
- 4.2 The Vendor is not liable for impossibility of delivery or for delays in delivery in so far as these have been caused by force majeure or other events which were not foreseeable at the time of concluding the contract (e.g. operating disruptions of all kinds, difficulties in procuring materials or power, transport delays, strikes, lawful lockouts, workforce, energy or raw materials shortages, difficulties in procuring necessary official approvals, official measures or non-delivery, incorrect or late delivery by suppliers), for which we are not responsible. In so far as such events make it considerably more difficult or impossible for us provide the delivery or services and the obstacle is not merely of a temporary duration, we are entitled to withdraw from the contract. In case of obstacles of a temporary duration, the

terms for deliveries and services will be extended or the delivery and completion deadlines will be postponed by the period of the obstruction plus a reasonable extra period for resuming work. In so far as it is not reasonable for the Customer to accept the supply or service as a result of the delay, he may withdraw from the contract by immediately notifying us in writing.

4.3 Contracts with companies are concluded subject to the reservation that our suppliers supply us correctly and on time. This only applies when we are not responsible for the incorrect delivery or non-delivery, in particular where a congruent covering transaction has been entered into with our suppliers.

4.4 We are only entitled to make partial deliveries if the partial deliveries can be used by the Customer in the context of the contractually intended purpose, the delivery of the rest of the goods ordered is assured and the Customer does not incur any considerable extra expense or additional costs, unless we declare that we are prepared to accept these costs.

4.5 If we fall behind with a delivery or service or if a delivery or service is impossible for whatever reason, then our liability is limited to compensation in accordance with clause 10 of these General Terms and Conditions of Sale.

## 5. Place of performance, dispatch, packaging, transfer of risks, acceptance

5.1 The place of performance for all obligations arising out of the contractual relation is 42799 Leichlingen, Germany unless specified otherwise. If we also owe the installation, then the place of performance is the place where the installation is to take place.

5.2 All goods are dispatched at the expense and risk of the Customer. The method of shipment is at our due discretion although we will consider special customer wishes as far as possible.

5.3 At the latest, the risk is transferred to the Customer with the handover of the object of delivery to the forwarding agent, freight carrier or other third party entrusted with the shipment. The commencement of the loading process is decisive. This also applies if partial deliveries are made or we have assumed other services (e.g. shipment or installation). If shipment or handover is delayed due to circumstances caused by the Customer, the risk shall be transferred to the Customer on the day when the object of delivery is ready for dispatch and we have notified the Customer of this.

5.4 Storage costs after the transfer of risk shall be borne by the Customer. In case of storage by us, the storage costs amount to 0.25% of the invoice amount of the objects of delivery to be stored per week of elapsed time. We reserve the right to claim for additional or lower storage costs.

5.5 At the request of the Customer we are prepared to conclude transport insurance for the Customer at the Customer's expense. Breakages proven to result from our goods deliveries must be reported to us immediately after receipt of the goods delivery.

5.6 Insofar as approval of the goods is specified, the object of the sale is considered accepted when the delivery and – if we also owe installation – the installation is complete, we have notified the Customer of this with reference to the deemed

acceptance in accordance with clause 5.3 and have called on him to accept, if 12 working days have passed since the delivery or installation or the Customer has started using the object of the sale (e.g. the supplied equipment has been put into operation and in this case six working days have passed since the delivery or installation) or the Customer fails to accept the delivery within this period because of a reason other than a defect notified to us, which makes the object of the sale impossible to use or greatly impairs its use.

## 6. Properties

Deviations that are customary in the trade or minor, technically unavoidable deviations to quality, colour or other properties of the delivery items and technical innovations that do not affect the function or performance of the delivery items are not a cause for complaint if a specific condition for the delivery items has not been agreed and the delivery item is suitable for the use assumed in the contract or customary use. A condition shall only be deemed to be agreed if we expressly guarantee such details in writing.

## 7. Payment terms, set-off, retention

7.1 Unless expressly agreed otherwise our invoices are payable within ten days of the invoice date, [net without deductions].

7.2 All amounts receivable become due immediately if the payment terms are not adhered to, the Customer encounters financial difficulties or we become aware of circumstances that are generally likely to diminish the Customer's creditworthiness, for example if he stops his payments or there is an application for insolvency proceedings to be opened over his assets or if bills of exchange or cheques are not honoured. We are then also entitled to only supply outstanding deliveries and services against payment in advance or provision of a security or, for all contracts not yet fulfilled by the Customer - after setting a reasonable time limit - to demand compensation instead of the service or compensation for wasted expenditure. The right to terminate remains unaffected by this. In addition, we can forbid the resale and processing of the goods supplied and demand their return or the transfer of the indirect possession of the goods supplied at the expense of the Customer. In such cases the Customer already grants us permission to enter his premises and retrieve the goods delivered.

7.3 The Customer can only offset his own claims against our receivables if his claims are undisputed or have been established by a court of law. He may only exercise a right of retention if his counterclaim is based on the same contractual relationship.

## 8. Warranty, defects

8.1 For customers who are entrepreneurs, the warranty period for new delivery items is one year from delivery of the goods, with the exception of the rights and legal interests described in paragraph 309 No. 7 a) and b) of the German Civil Code (BGB). This shall not apply if longer periods are prescribed by law pursuant to paragraphs 438 subsection 1 no. 2 (buildings and objects for buildings), 445 lit. b) (right of recourse) and 634a subsection 1 no. 2 (construction defects) of the German Civil Code (BGB) or in cases of intent, gross negligence, a guarantee or fraudulent concealment of a defect. The statutory limitation periods for the right of recourse according to paragraph 478 of the German Civil Code (BGB) remain unaffected.

- 8.2 The items supplied are to be carefully inspected immediately after their delivery to the Customer or to the third party specified by him. They are considered to have been approved if no written notice of defects is received by us with respect to apparent defects or other defects which were identifiable during an immediate, careful inspection within seven working days after delivery of the item supplied, or otherwise within seven working days of the discovery of the defect from the earlier time when the defect was apparent for the Customer during normal use of the item supplied without closer inspection, in the way specified in clause 2.3. At our request, the item of supply to which the complaint relates is to be sent back to us carriage paid. If the customer's complaint is justified, we will reimburse the costs of the cheapest method of dispatch; this does not apply if the costs rise because the object of delivery is located somewhere other than the intended place of use.
- 8.3 Defects that occur during the warranty period for defects and are given notice of in good time shall be remedied by us with a choice of a replacement delivery or rectification of the defects. This obligation also includes the expenses necessary for the chosen type of subsequent performance in accordance with paragraph 439 subsection 2 and 3 of the German Civil Code (BGB). If the customer has a justifiable complaint about the replacement delivery then the buyer is entitled to reduce the price or withdraw from the contract. Besides the withdrawal he is not entitled to any compensation for the damage due to the defect. If the Customer chooses compensation after subsequent fulfilment has failed, the Customer shall keep the goods if this is reasonable for him. The compensation shall be limited to the difference between the purchase price and the value of the defective object. This shall not apply if the contract violation was malicious on our part.
- 8.4 Recourse claims of the Customer against us according to paragraphs 445 lit. a, 478 of the German Civil Code (BGB) only exist insofar as the Customer has not made any agreements with his customers going beyond the statutory claims for defects.
- 8.5 In case of defects in components from other manufacturers, which we cannot remedy for reasons of licensing law or for factual reasons, then we may choose to make the warranty claims against the manufacturer and supplier for the Customer's account or assign them to the Customer. Warranty claims against us only apply for defects of this kind subject to the other requirements being satisfied and in accordance with these General Terms and Conditions of Sale if the legal enforcement of the above-mentioned claims against the manufacturer and supplier was unsuccessful or is futile, for example, because of insolvency. During the period of the legal dispute the period of limitation is suspended as regards the Customer's warranty claims in this matter against us.
- 8.6 The warranty becomes invalid if the Customer modifies the item supplied without our consent or allows this to be done by third parties and the remedying of the defect is made impossible or unreasonably difficult because of this. In each case the Customer must bear the additional costs of remedying defects caused by the modification.
- 8.7 A supply of used items agreed in individual cases with the Customer is done under exclusion of any warranty for defects.

## 9. Property rights

- 9.1 In accordance with the provisions in this section we vouch that the item supplied is free of third party industrial property rights or copyrights. Each contracting partner will immediately inform the other contracting partner in writing in the event that claims are made against him due to the infringement of such rights.
- 9.2 In the event that the item supplied infringes a third party industrial property right or copyright then we may choose at our expense to either alter or exchange the item supplied in such a way that it no longer infringes any third party rights, but so that the item supplied continues to fulfil its contractually agreed functions, or procure the right of use for the Customer by concluding a licence contract. If we do not manage to do this within an appropriate period, the Customer is entitled to withdraw from the contract or reduce the purchase price appropriately. Any claims for damages by the Customer are subject to the limitations in clause 10 of these General Terms and Conditions of Sale.
- 9.3 In case of infringements of products from other manufacturers supplied by us we may choose to make claims against the manufacturer and previous supplier on the account of the Customer or to assign these claims to the Customer. Claims against us only apply in these cases in accordance with this section if the legal enforcement of the above-mentioned claims against the manufacturer and supplier was unsuccessful or is futile, for example, because of insolvency.

## 10. Liability for compensation due to culpability

- 10.1 Our liability for compensation, for whatever legal reason, but in particular due to impossibility, delay, defective or incorrect delivery, contractual infringement, infringement of obligations during contract negotiation and action in tort is, in so far as there is culpability, limited in accordance with this clause.
- 10.2 We are not liable in the event of simple negligence by our organs, legal representatives, employees or other vicarious agents, in so far as this does not amount to an infringement of cardinal contractual obligations. Cardinal obligations are timely delivery and installation of the item supplied free of significant defects and duties of consultation, protection and care, which enable the Customer to use the item supplied in accordance with the contract or which serve the purpose of protecting the life and limb of the Customer's personnel or the Customer's property against significant damage.
- 10.3 In so far as we are liable for damages on these grounds, this liability is limited to damage which we foresaw as a possible consequence of a contractual infringement when concluding the contract or which, by applying due care and attention, we should have foreseen. Furthermore, indirect damage and consequential damage resulting from defects in the item supplied are only subject to compensation in so far as such damage is typically to be expected when using the item supplied as intended.
- 10.4 In the event of liability for simple negligence, our obligation to compensate property damage and resulting pecuniary damages is limited to a maximum sum of €100,000 per claim and double this sum for all such cases in an insurance year, even if this concerns infringement of cardinal contractual obligations.

For the business liability risk a maximum compensation lump sum of €10,000,000.00 applies to personal injury and property damage per claim and double this amount for all insurance claims in an insurance year.

For the products liability risk the maximum lump sum of €10,000,000.00 applies to personal injury and property damage per claim and double this amount for all insurance claims in an insurance year.

For the extended product liability risk the maximum compensation is €511,292.00 per claim and double this amount for all insurance claims in an insurance year within the scope of the property damage insurance sum in accordance with the preceding section.

- 10.5 The above liability exclusions and limitations apply to the same extent in favour of the organs, legal representatives, employees and other vicarious agents of our company.
- 10.6 In so far as we provide technical information or act as an adviser and this information or advice is not part of the contractually agreed scope of services owed, this is done free of charge and with the exclusion of any liability.
- 10.7 The limitations of this section do not apply to our liability due to wilful actions, for guaranteed product characteristics, to injury to life, limb or health or according to the product liability law.

## 11. Retention of title

- 11.1 Until all claims that we are entitled to from the Customer now or in future for any legal reason have been fulfilled, including any outstanding current account balances, the following securities shall be granted to us which we shall release on request at our discretion on condition that the value of the securities exceeds our claims by more than 30% on a sustained basis. The securities shall remain in place in particular until we have been released from all liabilities on bills, for example within the framework of any cheque and bill of exchange procedures (which we only accept on the basis of express written agreements).
- 11.2 The goods supplied by us shall remain our sole property. Installation, processing and alteration are always carried out for us as the manufacturer; however, without obligation for us. If the goods supplied by us are combined or connected with other objects, the Customer shall already transfer his ownership or co-ownership rights for the combined or new object to us in proportion of the value of the goods retained to the other processed goods at the time of processing and shall store them where they can be separated from other goods as our trustee with the diligence of a prudent businessman. The same shall apply to the event that our goods are combined or connected with other objects. The ownership or co-ownership for us arising on account of installation, working, processing or combining also constitutes retained goods as defined by these terms and conditions.
- 11.3 The Customer may only sell, work, process or combine goods subject to retention of title with goods originating elsewhere within the normal course of business. The goods may only be disposed of by means of sale and this is only permitted on condition that the customer's receivables from the sales transaction in accordance with clause 9.4 are assigned to us. The Customer is not authorised to dispose of the retained goods in any other way; he may neither pledge them nor assign them as security. Influence exerted by third parties, in particular garnishment, must be reported to us without delay.

- 11.4 All Customer claims arising from the resale of goods to which we retain the title are already transferred to us with the conclusion of the relevant contract, regardless of whether the goods are sold without or following working, processing or combining and whether they are sold to one or several buyers. In the event that the retained goods are sold together with goods that do not belong to us, the counterclaim shall be deemed assigned to us to the amount of the proportion of co-ownership that we have acquired in accordance with clause 11.2. In accordance with clause 11.2 the full amount of the claim to which the Customer is entitled based on the invoice values (including any share of profit etc.) is therefore always proportionately transferred to us. All ancillary rights and security rights from the sale including bills of exchange, cheques and rights to the payment of credit proceeds are also transferred from the time that they arise. This also applies with regard to any balance claims, including the final balance, if claims from a resale by the customer are taken into an existing current account relationship with his buyers. The Customer may collect the claims assigned. We can revoke this authority if the Customer fails to fulfil an obligation toward us on time or in the event of breach of the obligations laid down in clause 11. In this case we reserve the right to inform the Customer's buyers of this assignment and to collect the receivables ourselves. The Customer's right of collection shall cease automatically if he stops his payments, in the event of compulsory enforcement against him, if he is required to disclose his financial assets by a court, if insolvency proceedings over his assets have been instituted or if he is endeavouring to achieve an out-of-court settlement. At our request the Customer shall notify the debtors of the assigned receivables about the assignment, disclose the debtors and the sums they owe to us and hand out to us all documents that we need to assert the claim that has been assigned.

- 11.5 In the event of breach of obligation, especially the obligations specified in clause 11 or in the event of default, in addition to other rights, we are entitled to take back the goods. After taking them back we must declare to the Customer within a reasonable period whether we are withdrawing from the contract and claiming damages. We are entitled to utilise goods that have been taken back by selling them on the open market to offset them against our receivables. If we withdraw from the contract we can claim flat rate damages of 25% of the net purchase price unless the Customer proves that no or much lower damage was incurred. We can also assert claims for further damages.

## 12. Installation and assembly

The following applies if we are liable for installation and/or assembly:

- 12.1 The Customer shall provide at his own expense and in good time:
  - All earthworks, bedding work, construction, scaffolding, plastering, painting and other subsidiary work that is not related to the installation of BÄRO lamps, luminaires or equipment including any construction materials required. Energy, water and gas including all the necessary connections up to the place of use including general lighting, provision of the wiring needed for the installation and sufficient electric capacity (volts, watts).
- 12.2 Prior to the start of the installation work, without being requested the Customer shall provide the necessary information concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data. Furthermore, the parts

needed to start the work must be available on site and all bricklaying, carpentry and other preparatory work must be sufficiently advanced before the installation starts so that the installation or assembly work can begin as soon as the personnel provided by us arrive and continued without interruption.

- 12.3 If our work is delayed by circumstances for which we are not responsible, the Customer shall additionally bear reasonable costs incurred for waiting.
- 12.4 We are not liable for work done by the personnel provided by us or other vicarious agents if the work in question has been arranged by customers. Otherwise, the liability of the personnel or other vicarious agents provided by us is based on clause 10.
- 12.5 Payment of the assembly work is based on our applicable price lists. Travel expenses, preparatory costs and any costs for transporting hand tools shall be paid for separately.
13. Foreign business, applicable law, place of fulfilment, place of jurisdiction, further conditions, partial invalidity
- 13.1 The terms and conditions also apply in their entirety to foreign business. Should individual provisions be unenforceable on account of binding regulations in foreign law despite the following choice of law clause, the Customer undertakes to assist in ensuring that our position is the same as if our terms and conditions were effective and enforceable. The business relationships and the entire legal relations between the Customer and ourselves shall be governed solely by the law of the Federal Republic of Germany. The application of the uniform law governing the international purchase of moveable items and the conclusion of international sales agreements for moveable items is excluded.
- 13.2 If both parties to the contract are general merchants, then the exclusive place of jurisdiction shall be Leverkusen for all disputes arising indirectly or directly from the contract. However, we are also entitled to take legal action against the customer at any other place of jurisdiction applicable to him. If the Customer is not a general merchant, a legal entity of public law or a public-law special fund but has a general place of jurisdiction in Germany, this agreement pertaining to the court of jurisdiction applies in the event that following conclusion of the contract the Customer moves his registered office or customary place of abode away from the Federal Republic of Germany or his registered office or customary place of abode is unknown when an action is filed, for the assertion of claims by way of legal dunning proceedings.
- 13.3 Should individual provisions of these terms and conditions become invalid, this shall not affect the validity of the other provisions. Any invalid stipulation or gaps/omissions shall be deemed to be replaced by a valid stipulation which is as close as possible to the economic and commercial meaning implied in the invalid stipulation or, in the case of a gap/omission, which corresponds most closely to the spirit and purpose of the stipulation.