

General Terms and Conditions of Business - Terms of Delivery and Payment of the Firm Meilhaus Electronic GmbH

February 2010

Preliminary Note

These General Terms and Conditions of Business are formulated according to German legal understanding; the terms used in them are taken from German understanding of language and law. If, in an individual case the English legal understanding of the following provisions should differ from the German legal understanding, the German legal understanding shall solely prevail.

I. Scope of Application

All of our current and future deliveries and services are exclusively made/rendered on the basis of these General Terms of Delivery and Payment. Any terms and conditions of our customers diverging from our Terms of Delivery and Payment shall not be valid and are hereby expressly rejected.

II. Offer, Order, Conclusion of Contract

1.) The product details set forth in our catalogue or on our homepage, our price lists, our price and product information communicated to our customers orally, electronically or in writing do not constitute legally binding offers, but only a request made to our customers for submitting offers.

2.) An order placed with us by a customer is a binding offer. A contract with the customer only comes about when we accept such offer by means of a written confirmation of the order. As a matter of principle, we only accept orders from a minimum order value of 50.00 on.

3.) We generally accept orders with the proviso that we receive delivery from our suppliers in time.

4.) Any binding arrangement agreed upon with us, in particular also additions to or alterations of contracts or collateral agreements to contracts must be made in writing to become effective; in case of electronic transmission, it shall be sufficient to state the full name of the sender instead of a signature.

III. Prices

1.) The price applicable to the conclusion of the contract shall be the net price stated in our confirmation of the order plus value-added tax at the rate in force on the day of consignment. The price is understood ex place of consignment Puchheim.

2.) The individual prices published on our price list are not binding.

3.) If, due to fluctuations in the exchange rate, our purchase price of the goods ordered should change by more than 3 % compared with the price in force on the day of the confirmation of the order, we shall be entitled to make a respective price adjustment. In such a case, the customer can cancel the order by written notice within a period of 8 days from the receipt of the written price adjustment.

IV. Delivery, Place and Time of Performance, Consignment, Passing of Risk

1.) Except as may be otherwise agreed upon, the sale is always made ex our warehouse in Puchheim; this applies also when we undertake to deliver/consign the goods.

2.) The time of delivery stated in our confirmations of orders only indicates the expected date of delivery and is expressly subject to the proviso that we receive delivery from our suppliers in time.

3.) The risk passes to the customer at the moment the goods are handed over to the forwarding agent, carrier or other persons entrusted with the forwarding. The means of transport used shall be chosen by us.

4.) The purchase price includes neither costs of freight and packaging nor costs of a special packaging that may be required. These costs are charged to the customer separately.

5.) Insurance against damage in transit of any kind shall only be effected at the express request of the customer, charging the amounts disbursed to the customer.

6.) We are entitled to make partial deliveries at any time; the customer cannot reject any partial deliveries or partial services.

V. Force Majeure, Right of Exceptional Termination for Lack of Creditworthiness

1.) In an event of force majeure (§ 275 BGB - Civil Code), we are entitled to defer the delivery for the period of the impediment plus a reasonable start-up period or, in case of a presumably lasting impediment, to withdraw from the contract completely or in part with regard to the part of the contract that has not been performed yet. In such a case, the customer can require us to state whether we will withdraw from the contract or deliver within a reasonable period of time. If we do not make a respective statement, the customer can withdraw from the contract.

2.) Without prejudice to the legal rights of rescission, we shall be entitled to rescind the contract in particular if the customer has given incorrect information with regard to facts concerning its creditworthiness, if it suspends payments, if it has made a declaration in lieu of an oath or if there has been filed an application for the institution of insolvency proceedings against its assets.

VI. Payment

1.) Except as may be otherwise agreed upon, our invoices shall be due for payment immediately upon receipt of the goods. Irrespective of the above, we generally grant the customer a term of payment of 30 days without affecting the maturity of the claim. We reserve, however, the right to make deliveries only against immediate payment or by cash on delivery in individual cases, in particular in case of initial orders.

2.) In case of a delay in payment, we charge default interest according to § 288 BGB (Civil Code) to the customer. This shall not affect an assertion of further damages. Also in case of a subsequent extension of terms of payment, interest shall be incurred until the date of payment, unless otherwise agreed in writing.

3.) All of our claims shall become immediately due when the customer fails to observe any contractual arrangements, in particular those concerning payments, or when any facts reducing the customer's creditworthiness have come to our knowledge. In such a case, we shall be entitled to make/render any outstanding deliveries/services only against advance payment and shall be entitled to securities for our claims as usual according to type and scope, even if they are conditional or limited in time. Apart from that, we can, in such a case, prohibit a resale and a machining or processing of any goods delivered that are still subject to reservation of title (cf. section VII. below).

4.) Any set-off or any exercise of rights of retention is only permissible with regard to claims of the customer against us that are undisputed or have become res judicata.

VII. Reservation of Title

1.) As a matter of principle, the customer only acquires ownership of the goods delivered upon complete payment of all claims resulting from this contract as well as from our business relationship, in particular also those from respective current balances of claims.

2.) A machining or processing is always made for us as a manufacturing within the meaning of § 950 BGB (Civil Code), without obliging us. Machined or processed goods are regarded as reserved goods within the meaning of section 1.) above. In case of a processing, combination or mixing of the reserved goods by the customer with goods of a different origin into a new item or mixed goods, we shall be entitled to co-ownership of it, namely in the ratio of the invoice value of the reserved goods to the total value of the new item or mixed goods. The co-ownership share is regarded as reserved goods within the meaning of section 1.) above.

3.) If the reserved goods are connected or mixed with other items and if the item owned by the customer is to be regarded as principal item within the meaning of § 947 Subsec. 2 BGB (Civil Code), the customer already now assigns its co-ownership share to us, namely in the ratio of the invoice value of our reserved goods to the total value of the new principal item. The co-ownership share assigned is regarded as reserved goods within the meaning of section 1.) above.

4.) The customer is obliged to keep the reserved goods for us, exercising the due care of a prudent businessman. At our request, we must be granted access to the reserved goods at any time for the purpose of stocktaking and appropriate marking of the reserved goods. In case of an attachment or any other encroachment on our rights, the customer must immediately inform us, stating all details required for enabling us to take all measures legally available to us against such encroachment on our rights.

5.) The customer is only entitled to sell the reserved goods in the ordinary course of business on its normal conditions, agreeing a reservation of title, subject to the condition that its claims from such resale pass to us

according to the items below. The customer is not entitled to any other disposal of the reserved goods.

6.) Already now, the customer's claims from a resale of the reserved goods, also within the scope of contracts for work or contracts for work and materials, are assigned to us together with all ancillary rights. We accept such assignment. They shall serve as a security for us to the same extent as the reserved goods.

7.) If the reserved goods are sold by the customer together with other goods not purchased from us, the assignment of the claims from resale shall only apply to the amount of the invoice value of our reserved goods, but with priority. In a sale of goods in which we hold co-ownership rights according to items 2.) and 3.) above, the assignment of the claims shall be applicable to the amount of the co-ownership share.

8.) The customer shall be entitled to collect claims from the resale according to items 6.) and 7.) above until this right is revoked by us, which revocation shall be permissible any time. At our request, the customer must give us the names of the debtors of the assigned claims so that we can disclose the assignment and collect the assigned claims ourselves.

9.) If the value of existing securities altogether exceeds the claims by more than 20 %, we shall be obliged to release securities at our choice to such an extent at the customer's request.

VIII. Notice of Defects/Warranty

1.) For a period of 1 year from the delivery of the goods, we warrant that they are free from defects. Any defects caused by wear and tear as well as any defects in the goods caused by improper use, mounting, etc. of the goods are not covered by the above warranty.

2.) Any public statements, promotion or advertising made by the manufacturer do not form a contractual description of quality with regard to the goods delivered by us.

3.) We do not make any guarantees within the meaning of § 443 BGB (Civil Code), unless expressly otherwise agreed in writing.

4.) Immediately upon receipt, the customer must check the goods delivered and give notice of any obvious defects, differences in quantity or wrong delivery without any delay; in addition, § 377 HGB - Commercial Code shall apply.

5.) In case of a justified notice of defect, we will remedy the defect (subsequent performance) at our choice by either rectifying the defect or delivering a replacement. In case of a failure of subsequent performance, the customer can generally demand, at its choice, a reduction of the purchase price or a rescission of the contract. In case of an only minor lack of conformity with the contract, in particular in case of only minor defects, the customer does not have a right of rescission.

6.) All items complained about as defective shall be sent to us, freight paid. Any consignments sent unpaid will be rejected. In case of a justified notice of defect, we will reimburse the customer for the freight costs.

IX. Damages

1.) As far as we are legally or contractually liable for damages, we shall only be liable for grossly negligent or intentional fault on part of our legal representative, our staff members and/or our vicarious agents, unless it is a case of breach of an essential contractual duty the fulfilment of which is a condition sine qua non for the performance of the contract. Such claims for damages, however, are limited in any case to compensation for the foreseeable direct damage that is typical of the contract.

2.) In case we are legally liable for damages from injury to life, body or health as well as for claims of the customer under product liability law, item 1.) above shall not be applicable.

3.) Claims for damages of the customer shall become statute-barred after 1 year from the receipt of the goods. This shall not be applicable if we can be blamed for fraudulent intent.

X. Supplier's Statement on the Preference Origin of Goods

We are not obliged to make supplier's statements according to Regulation (EC) No. 1207/2001. If respective statements are made by us in an individual case at the customer's request, that will not be connected with a warranty liability.

XI. Additional provisions applicable to the delivery of software

1.) The software delivered by us (whether together with other products or as a stand-alone product) and the related user manual is legally protected. Any copyright, patent, trademark, and other proprietary rights in and to the software delivered to or otherwise made available for use by the client hereunder are owned by Meilhaus exclusively. To the extent such rights are owned by third parties, Meilhaus has been granted appropriate exploitation rights.

2.) The purchaser is responsible on its own to verify prior to entering into the contract whether the software meets his requirements and needs; such verification may be performed without acquiring a license.

3.) The client shall be authorized to permanently use the software for its own purposes within its own business operations (non-exclusive right of use) to the extent required for the use contemplated by the contract. If and to the extent necessary for safe operations, the client shall be authorized to make backup copies of the software. The foregoing fully describes the rights of use granted to the client. Client shall in particular not be authorized to make the software available to any third party or to redevelop, modify, translate, or reproduce the software.

4.) The license to use the software is deemed granted upon its delivery, and acceptance of the delivery shall include acceptance of the terms and conditions to which the software is subject. In the event of a breach of such terms and conditions of the software by the client and client's failure to rectify such breach after having been notified by us to do so, we shall be entitled to request return of the software and any parts or copies.

5.) Software warranty

In addition to the provisions contained in section VIII of these General Terms & Conditions of Business, the following shall apply with regard to software:

5.1) Based on the current state of technology, software by its nature will in no case be completely free of errors. In case of any material defects, the instruction on how to work around the impact of the defect shall also be deemed sufficient rectification, provided the software's functionality is not impaired.

5.2) We do not warrant that the program functions meet the client's requirements or that the same cooperate as selected by the client.

5.3) The client is responsible to ensure by making appropriate backup copies of the data that no loss of data occurs in connection with the use of the software. Any liability for the replacement or loss of data shall be excluded.

XII. Proprietary rights

1.) If and to the extent our client suffers any third party's claims for the infringement of proprietary rights or copyrights and such infringement is attributable to us, we shall defend the client against all such claims on our own expense and shall indemnify the client against any payment obligations in connection with the purported infringement that have been finally awarded or entered into by means of a settlement agreed to by us. A pre-requisition for such indemnification shall be that the client promptly notifies us in writing of any such claims made against the client as well as of any litigation subsequent thereto, that the client authorizes us to independently manage and settle any such claims and/or litigation, and that the client reasonably assists in resolving such matters.

2.) We shall be entitled at our option:

- To procure the client with the right to continue using the product;
- To replace or modify the product in such manner that it does no longer infringe upon the rights of third parties;
- If we are unable to do the foregoing in an economically reasonable manner, to take back the product and refund the client with the value thereof, reduced in accordance with the principles of reasonable wear and tear.

3.) The above stated remedies shall constitute client's exclusive remedies with respect to the infringement of proprietary rights.

XIII. Place of Jurisdiction

In case our contractual partner is a merchant, the following shall apply:

1.) The place of jurisdiction, also for actions in proceedings based on/relating to documentary evidence, bills and cheques, shall be the registered seat of our company. However, we are also entitled to sue the customer at its competent place of jurisdiction.

2.) This agreement is subject to the laws of the Federal Republic of Germany, excluding the provisions of the UN Sales Convention.

XIV. Other Provisions

If any individual provisions of the contract with the customer, including these General Terms and Conditions of Business, should be or become ineffective in part or as a whole, this shall not affect the validity of the remaining provisions and of the contract as a whole. The partially or completely invalid provision shall be replaced by a provision the economic result of which comes as close as possible to that of the invalid provision.

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