

General terms and conditions (status July 2005)

1. Scope of Validity

1.1 The terms and conditions hereinafter set out ("Conditions") apply in the latest version in force to all of our offers, sales and deliveries. The terms and conditions also apply to all of our future business transactions with purchaser.

1.2 Conflicting conditions of purchaser are not binding upon us. We hereby expressly object against any business conditions of purchaser. This also applies if purchaser objects in his purchase conditions the validity of our conditions and if we refrain from expressly rejecting once more. This also applies to all offers and orders.

1.3 Any conflicting conditions of purchaser are only binding upon us if we accept such conditions expressly in writing. Furthermore, our execution of purchaser's order shall not be deemed an acceptance of such conflicting terms and conditions of purchaser.

2. Offer

2.1 Our offers shall not be binding.

2.2 Any information contained in quotations and offers or other documents as for instance illustrations, drawings, etc. are only provisional unless we and purchaser have expressly agreed that the information shall be binding. Any information given in such document as well as the German Industrial Standard "DIN" shall not be construed as an agreement as to the fitness of the goods for a specific purpose. We reserve the title and any copyright in respect of all aforementioned documentation and all other documents that are provided to purchaser. Any such documentation may not be disclosed to a third party without our prior express consent in writing.

2.3 Oral collateral agreements as well as agreements as to the fitness of the goods for a specific purpose and alterations made after the conclusion of the contract shall only be binding upon us after our written confirmation of these agreements or alterations.

3. Order and Scope of Delivery

3.1 If purchaser's order shall be deemed to be an offer according to § 145 German Civil Code, we have the right to accept the said offer within 4 weeks.

3.2 The text of our confirmation of order is decisive for the content of the contract made and the nature and content of the order. Oral agreements are invalid unless confirmed in writing by us.

3.3 If no confirmation of order according to clause 3.2 of these conditions has been issued but we have provided an offer remaining open for a limited period which has been accepted in good time by purchaser, then the scope of delivery shall be determined by our offer.

4. Prices, alteration in prices

4.1 Subject to any other agreement our prices are quoted ex point of sale plus value added tax at a rate as from the time in force and – subject to clause 4.2 of these conditions – plus all additional costs for packaging.

4.2 In case of small orders below € 100.-- without value added tax we will charge an additional fee (handling fee) amounting to € 25.--, unless a joint handling with other orders is possible subject to our reasonable discretion. Delivery is ex works. Unless otherwise expressly agreed in these conditions, the INCOTERMS shall apply in their respective latest version in force.

4.3 All prices only apply in case of acceptance of complete packaging-units. In case of partial package quantity we are entitled to charge packaging costs amounting to € 7.50.

4.4 Price basis for our brass metal products is the quotation for MS 58 amounting to € 155.--. Should that quotation increase (c.f. daily press) we are – for each rise in quotation amounting to € 13.-- – entitled to charge an additional fee of 5 % of the purchase price.

4.5 We reserve the right to reasonably change our prices, in the event that after conclusion of the contract increases or reductions in our manufacturing costs occur, especially as a result of an alteration of material cost or labour cost under collective agreements. We shall satisfactorily show such increase or reduction in costs at purchaser's request.

5. Conditions of payment

5.1 Unless otherwise agreed in writing all of our invoices are due and payable upon receipt by purchaser and have to be made in cash without any deduction.

5.2 Purchaser shall be in default of payment after having received our reminder. Such reminder is not required in case there is an agreed due date for payment determined according to the calendar or the parties have agreed on a payment within a certain period of time after an event specified in the contract has occurred. In any case purchaser is in default of payment 30 days after the receipt of the invoice, at the latest, if the receipt of the invoice cannot be determined, 30 days after receipt of the goods.

5.3 Should purchaser be in default of payment, we shall be entitled to claim default interest at a rate of 8 % above the respective basic interest rate mentioned in § 288 German Civil Code. Any of our rights to claim further damages caused by the default in payment remains unaffected.

5.4 We shall accept bills of exchange or cheques but always provided that where payment is made by means of bill of exchange or cheques or any other negotiable or not negotiable instrument, we shall not be deemed to have received payment until the bill of exchange or cheque or the other negotiable instrument or not negotiable instrument has been honoured notwithstanding that we may have negotiated such instrument and received value therefore. Purchaser shall bear any costs of any kind arising therewith, especially any banking-, discount- and collecting fees and taxes. Payments by bills of exchange or cheques or any other negotiable or not negotiable instruments shall only be deemed to have been made after we are finally entitled to dispose of the amount paid. We are under no obligation to properly present, protest, notify or return the bill of exchange or cheque or any other negotiable or not negotiable instrument. Purchaser is obliged to effect payment of the outstanding debts or the balance of such outstanding debts without delay in case a bill of exchange or cheque or any other negotiable or not negotiable instrument has not been honoured in time. In no event shall discount be given in case of payment by means of bill of exchange.

5.5 We can request that payment shall be made by an irrevocable confirmed letter of credit without charges for the account of the beneficiary which shall be opened through a German bank of our choice in our favour, allowing partial shipments, and one third (1/3) of which shall be immediately payable after the opening of the letter of credit upon first demand and the remaining two thirds (2/3) upon presentation of the documents.

5.6 Payments shall only be deemed to have been made after we are finally entitled to dispose of the amount paid.

6. Retention of Payment, Set-Off

6.1 Purchaser is only entitled to a right of retention of payment as far as such right arises under the same contract.

6.2 Any set-off of purchaser with his claims as against our claims is not allowed except in so far as such claims of purchaser are undisputed or subject-matter of a final and conclusive judgment of a competent court.

7. Delivery

7.1 We cannot comply with an accurate number of items in case of custom-made products. We therefore reserve in any case the right of over- or under-deliveries not exceeding 10 %.

7.2 Partial deliveries are permissible.

7.3 Dates and periods of delivery are only provisional and not binding upon us unless expressly and bindingly agreed in writing.

7.4 The delivery period commences upon the date of the confirmation of order and shall be deemed to be met if upon its expiry we have arranged for the delivery of the goods and after notification of purchaser that the goods are ready for dispatch.

7.5 The delivery period can only be observed if all documents to be supplied by purchaser, necessary permits and releases, especially concerning plans, are received in time and if agreed terms of payment and other obligations of purchaser are fulfilled. Unless these conditions are fulfilled in time, the delivery period shall be extended appropriately; this shall not apply where we are responsible for the delay.

7.6 The delivery period is subject to unforeseeable events that are beyond our control, especially in case of force majeure, business disruption, industrial disputes, especially strike and lockout, war, mobilisation, riots and problems with the material and energy supply. Should such events influence the performance of the contract in due time, the delivery period shall be extended adequately.

7.7 Modifications or additions requested by purchaser subsequent to the conclusion of the contract, which render delivery on the agreed date impossible, shall lead to a postponement of the delivery date corresponding to the period of time which is requested for making these modifications and additions.

7.8 We are entitled to refuse dispatch and delivery of goods until purchaser has paid all outstanding debts concerning previous deliveries. If, after conclusion of the contract, we learn of adverse circumstances with respect to the creditworthiness of purchaser or if we have reasonable doubts as to the solvency of purchaser, we are entitled to refuse the dispatch and delivery or to request an advance payment or a security before delivery. If purchaser does not effect any advance payment or does not provide a security within a reasonable period of time set by us, we are entitled to repudiate the contract.

8. Delay

8.1 If we are in delay of delivery, purchaser, provided that he is able to submit prima facie evidence for the existence of a damage caused by delay, is entitled to a compensation for each full week of delay amounting to 0,5 %, but in no case more than a total of 5 % of the price of the part of the delivery, which cannot purposively be used due to the delay of delivery.

8.2 Purchaser's claims for damages caused by delay of delivery as well as claims for damages in lieu of performance, exceeding the compensation specified in Clause 8.1 of these Conditions, shall be excluded in all cases of delayed delivery, even upon expiry of a time limit set for delivery. The above shall not apply in case of compulsory liability owing to intent, gross negligence, injury of life, body or health. Purchaser shall only be entitled to repudiate the contract according to the compulsory provisions as far as we are responsible for the delay of delivery. The aforementioned provisions shall not imply a change in the burden of proof to the detriment of purchaser.

8.3 Purchaser shall upon our request declare within an appropriate period of time whether he repudiates the contract due to the delay of delivery or whether he requests delivery.

8.4 If dispatch or shipment is delayed at purchaser's request by more than one month after notice of the readiness for dispatch, purchaser may be charged, for every month commenced, storage costs of 0,5 % of the price of the items of the deliveries, but in no case more than a total of 5 %. The parties to the contract may prove that higher or, as the case may be, lower storage costs have been incurred. However, we shall be entitled to set an appropriate time limit for the acceptance of the goods: after fruitless expiry of such time limit, we shall be entitled to dispose otherwise of the goods or to deliver the goods to purchaser within an adequately extended delivery period.

9. Dispatch and Passing of Risk

9.1 Unless expressly otherwise agreed in writing, purchaser has to bear the costs of dispatch, transport and transport insurance. We select the way and type of dispatch at our own discretion.

9.2 Risk of accidental loss or deterioration of the goods shall pass to purchaser upon the moment in which the goods have left our premises. This also applies in case of deliveries free of all charges. We assume no liability for damage, breakage or loss of the goods during transport.

9.3 Purchaser has no right to reject delivery of the goods on the ground of minor discrepancies of the agreed quality or minor interferences in the application.

10. Retention of Title

10.1 All delivered goods remain our property until all existing claims of whatever legal ground we have against purchaser at the moment of the conclusion of the contract are paid in full. Where payment is made by means of bill of exchange, cheque or other negotiable or not negotiable instrument, we shall not be deemed to have received payment for the purpose of this provision until the bill of exchange, cheque or other negotiable or not negotiable instrument has been honoured notwithstanding that we may have negotiated it. The title in the goods as well as any other right under this provision of the Conditions shall remain valid and effective until we are totally released from any contingent liability which we undertook in the interest of purchaser in particular such liabilities as aforesaid resulting from the negotiation of negotiable instruments. In case of a current account the reservation of title shall be deemed as collateral for the balance of account in our favour and if a balance is struck and confirmed, this shall not effect the retention of title.

10.2 Purchaser may process and use for manufacturing the delivered goods in the course of his usual business. Purchaser will process and use for manufacturing the delivered goods for and on behalf of us; no obligations for us shall arise from such processing or use in manufacturing. In case of manufacturing, assembly, amalgamation or mixing of the delivered goods with other goods which we have not delivered, we shall acquire a co-ownership share of the new device in a ratio of the invoice value of the delivered goods to the value of the other manufactured goods at the moment of the manufacturing, assembly, amalgamation or mixing. In the event that purchaser acquires sole ownership of the new device, purchaser now transfers in advance a co-ownership share of the new device to us corresponding the aforementioned ratio and commits itself to store such device free of charge for us.

10.3 In the event that purchaser sells the delivered goods or the new device in which we have acquired a co-ownership share according to Clause 10.2 of these Conditions solely or together with goods not owned by us, purchaser now hereby assigns in advance his claims arising from a further

sale with all ancillary rights amounting to the value of the delivered goods. We hereby accept the assignment. In the event that we hold a co-ownership share on the sold device, the aforementioned assignment applies to the claims corresponding to the value of our co-ownership share. We hereby authorize purchaser, subject to revocation, to collect the debt assigned to us. In case purchaser is put in default, purchaser shall disclose to us the full name and address of the debtors of the assigned claims. Purchaser is moreover obliged to notify the assignment to the debtors. In such case we are also entitled to notify the assignment to the respective debtors and to collect debts.

10.4 Should purchaser be in breach of contract, in particular be in default of payment or in violation of his obligation of due care of the delivered goods, we shall be entitled to retake and permanently retain possession of the delivered goods subsequent to our reminder and the fruitless expiry of a final time limit. In such case purchaser is obliged to deliver possession of the delivered goods. Neither the execution of our right to retake possession of the delivered goods nor any execution or distress levied upon the delivered goods by us shall be regarded as an implied repudiation of the contract unless we expressly declare such repudiation. Purchaser hereby irrevocably authorizes us or our duly authorized agents to enter purchaser's premises to execute our right to retake.

10.5 Purchaser may solely sell the delivered goods in the course of his usual and proper business and provided that the transfer of the claims assigned to us according to the aforementioned is effective and valid. Purchaser shall not be entitled to any further disposal or transaction regarding the delivered goods. This applies especially to delivered goods' pledge or transfer by way of security.

10.6 Should any execution or distress be levied upon the delivered goods, purchaser shall without delay notify us thereof – even if we are only co-owner of the delivered goods – and deliver to us any documentation required in order to object against such execution or distress.

10.7 Purchaser must insure the delivered goods at his own expense against fire and theft. Purchaser hereby assigns to us any claims against the insurer with regard to the delivered goods and we hereby accept such assignment.

10.8 Purchaser who is resident in a foreign country shall do any act required by law or otherwise to make our retention of title and our rights under Clause 10 of these Conditions valid and effective.

10.9 Should the value of the delivered goods be more than 150 % in excess of all sums due from the purchaser to us then we shall be obliged to release such goods and to transfer title in these goods to purchaser.

11. Defects as to Quality

We shall be liable for defects as to quality, any failure to comply with any particular agreement or guarantee as to the fitness of the goods for a specific purpose or the durability of the goods, for any over-delivery, under-delivery or aliud-delivery ("Defect") as follows:

11.1 All parts or services where a Defect becomes apparent within the limitation period shall, at our discretion, be repaired, replaced or redelivered free of charge irrespective of the hours of operation elapsed, provided that the reason for the Defect had already existed at the time when the risk passed.

11.2 Claims based on Defects are subject to a limitation period of 12 months. This provision shall not apply where longer periods are prescribed by law according to Sec. 438 para. 1 No. 2 (buildings and things used for a building), Sect. 479 para. 1 (right of recourse), and Sec. 634a para. 1. No. 2 (defects of a building) German Civil Code ("BGB"), as well as in cases of injury of life, body or health, or where we intentionally or grossly negligently fail to fulfil our obligation or fraudulently conceal a Defect. The legal provisions regarding suspension of expiration ("Ablaufhemmung"), suspension ("Hemmung") and recommencement of limitation periods remain unaffected.

11.3 Written notice of apparent Defects must be given without delay at the latest 14 days from the receipt of the goods. Written notice of hidden Defects must be given without delay, at the latest 14 days from the discovery of such Defects. Claims based on Defects shall be excluded, should purchaser fail to give written notice of such Defects within the aforementioned period of time.

11.4 In case of notification of a Defect, purchaser may withhold payments to a reasonable extent taking into account the Defect occurred. Purchaser, however, may withhold payments only if the subject-matter of the notification of the Defect occurred is justified beyond doubt. Unjustified notifications of Defect shall entitle us to have our expenses reimbursed by purchaser.

11.5 We shall first be given the opportunity to supplement our performance ("Nacherfüllung") within a reasonable period of time.

11.6 If supplementary performance is unsuccessful, purchaser shall be entitled to repudiate the contract or reduce the remuneration, irrespective of any claims for damages he may have according to Clause 14 of these Conditions.

11.7 There shall be no claims based on Defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usefulness, of usual wear and tear or damage arising after the transfer of risk from faulty or negligent handling, excessive strain, unsuitable equipment, defective workmanship, inappropriate foundation soil or from particular external influences not assumed under the contract, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by purchaser or third parties and the consequences thereof shall be likewise excluded.

11.8 Purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel and transport, labour, and material, to the extent that expenses are increased because the subject-matter of the deliveries was subsequently brought to another location than purchaser's branch office, unless doing so is in conformity with the intended use of the deliveries.

11.9 Purchaser's right of recourse against us pursuant to Sec. 478 BGB is limited to cases where purchaser has not concluded an agreement with his customers exceeding the scope of the statutory provisions governing claims based on Defects. Moreover, Clause 11.8 of these Conditions shall apply mutatis mutandis to the scope of the right of recourse purchaser has against us pursuant to Sec. 478 para. 2 BGB.

11.10 Furthermore, the provisions of Clause 14 of these Conditions (Other Claims for Damages) shall apply in respect of claims of damages. Any other claims of purchaser against us or our agents or any such claims exceeding the claims provided for in Clause 11 of these Conditions, based on a Defect, shall be excluded.

11.11 Any return shipment of the goods by purchaser is in any event subject to our written approval. In case of such approval, the Goods have to be returned to our business premises at Gottlieb-Daimler-Straße 11, 71394 Kernen. Redeliveries not owing to our default are as a matter of principle only accepted upon prior agreement. The handling expenses are calculated according to the time and effort for examination, disassembling and re-storage.

12. Industrial Property Rights and Copyright; Defects in Title

12.1 Unless otherwise agreed, we shall provide the deliveries free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the place of destination. If a third party asserts a justified claim against purchaser based on an

infringement of an IPR with respect to the deliveries made by us and then used in conformity with the contract, we shall be liable to purchaser within the time period stipulated in Clause 11.2 of these Conditions and according to the following Clauses 12.2 to 12.9 of these Conditions.

12.2 We shall choose whether to acquire, at our own expense, the right to use the IPR with respect to the deliveries concerned or whether to modify the deliveries such that they no longer infringe the IPR or replace them. If this is not reasonably possible for us, purchaser may repudiate the contract or reduce the remuneration pursuant to the applicable statutory provisions.

12.3 Our liability to pay damages shall be governed by Clause 14 of these Conditions.

12.4 Our above obligations shall only apply if purchaser immediately notifies us or any such claim asserted by the third party in writing, does not concede the existence of an infringement and leaves any protective measures and settlement negotiations to our discretion. If purchaser stops using the deliveries in order to reduce the damage or for other good reason, he shall be obliged to notify the third party that no acknowledgment of the alleged infringement may be inferred from the fact that the use has been discontinued.

12.5 Claims of purchaser shall be excluded if he is himself responsible for the infringement of an IPR.

12.6 Claims of purchaser shall also be excluded if the infringement of the IPR is caused by specifications made by purchaser or owing to a type of use not foreseeable by us or to the deliveries being modified by purchaser or being used together with products not provided by us.

12.7 In addition, with respect to purchaser's claims pursuant to Clause 12.2 of these Conditions Clauses 11.4, 11.5 and 11.9 shall apply mutatis mutandis in the event of an infringement of an IPR.

12.8 Where other defects in title occur, Clause 11 of these Conditions shall apply mutatis mutandis.

12.9 Any other claims of purchaser against us or our agents or any such claims exceeding the claims provided for in Clause 12 of these Conditions, based on a defect in title, shall be excluded.

13. Impossibility of Performance; Adaptation of Contract

13.1 To the extent that deliveries are impossible to be carried out, purchaser shall be entitled to claim damages, unless we are not responsible for the impossibility. Purchaser's claim for damages shall, however, be limited to an amount of 10 % of the value of the part of the deliveries which, due to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of compulsory liability based on intent, gross negligence or injury of life, body or health; this does not imply a change in the burden of proof to the detriment of purchaser. Purchaser's right to repudiate the contract shall remain unaffected.

13.2 Where unforeseeable events within the meaning of Clause 7.6 of these Conditions substantially change the economic importance or the contents of the deliveries or considerably affect our business, the contract shall be adapted taking into account the principles of reasonableness and good faith. Where doing so is economically unreasonable, we shall have the right to repudiate the contract. If we intend to exercise our right to repudiate the contract, we shall notify purchaser thereof without undue delay after having realised the repercussions of the event; this shall also apply even where an extension of the delivery period had previously been agreed with purchaser.

14. Other Claims for Damages

14.1 Any claims for damages and reimbursement of expenses purchaser may have (hereinafter referred to as "Claims for Damages"), based on whatever legal reason, including infringement of duties arising in connection with the contract or tort, shall be excluded.

14.2 The above shall not apply in case of mandatory liability, e.g. under the German Product Liability Act ("Produkthaftungsgesetz"), in case of intent, gross negligence, injury of life, body or health, or breach of a condition which goes to the roots of the contract ("wesentliche Vertragspflichten"). However, Claims for Damages arising from a breach of a condition which goes to the roots of the contract shall be limited to the foreseeable damage which is intrinsic to the contract, unless caused by intent or gross negligence or based on liability for injury of life, body or health. The above provision does not imply a change in the burden of proof to the detriment of purchaser.

14.3 To the extent that purchaser has a valid Claim for Damages according to Clause 14 of these Conditions, he shall be time-barred upon expiration of the limitation period applicable to Defects pursuant to Clause 11.2 of these Conditions. In case of claims for damages under the German Product Liability Act, the statutory provisions governing limitation periods shall apply.

15. Measurement

We reserve our right to technically modify the products offered in our catalogue, especially to modify measurements and erroneous specifications.

16. Place of Performance and Venue

16.1 Place of performance for any actual or future claims under the business relationship with purchaser, especially claims for payment against purchaser or claims for delivery against us, is the place of our business seat, i.e. Kernen (Reims-Murr-Kreis).

16.2 If purchaser is a merchant, exclusive venue and jurisdiction for all disputes arising directly or indirectly out of the contract shall be the place of our business seat. However, we may also bring an action at purchaser's place of business or at any other statutory venue.

17. Applicable Law

These Conditions and the entire legal relations existing in connection with this contract between us and purchaser shall be governed by German substantive law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).