

## General Terms and Conditions of Sale

Furnierwerk Schlautmann GmbH & Co. KG – Version: 17 September 2003

### 1. General Provisions

- 1.1 These Terms and Conditions apply to all current and future business relationships.
- 1.2 Deviating or supplementary terms and conditions or side agreements – even if known – shall not become part of the contract unless we agree to their applicability in writing. The same applies to agreements made with our representatives and agents.

### 2. Contract Conclusion

- 2.1 Our offers and prices are subject to confirmation.
- 2.2 We may accept the contract offer implied by the order within two weeks after we receive it. We may declare our acceptance in writing by means of an order confirmation or invoice or by delivering the goods to the buyer.
- 2.3 In the case of electronic orders, the confirmation of receipt does not represent a binding acceptance of the order. However, the confirmation of receipt may be combined with the declaration of acceptance.
- 2.4 The conclusion of the contract is conditional upon correct and timely delivery of the goods by our suppliers. This shall apply only in case we are not responsible for the non-delivery, especially in the event of a congruent cover transaction with our supplier.
- 2.5 *Force majeure*, labour disputes, unrest, official measures and other unforeseeable, inevitable and serious events shall exempt the parties from the performance obligations for the duration of the problem and to the extent of its effect. This shall also apply if these events occur at a time at which the affected party is already in default. The parties shall without delay provide the needed information within the scope of what can reasonably be expected and adapt their obligations to the changed circumstances in good faith.

### 3. Consideration/Payment

- 3.1 Unless expressly indicated otherwise, our prices are quoted in EUR, ex works. In the case of follow-up orders, the prices applicable on the agreed delivery date shall apply. As a matter of principle, shipments are made at the expense and at the risk of the buyer. In the case of delivery with our own vehicles, the transport costs according to the freight and carriage rates shall apply as confirmed by us.
- 3.2 Invoices are due for payment immediately, without any deductions. The buyer undertakes to pay the purchase price within 10 days of the receipt of the goods. After the end of this period, the buyer will be in arrears with his payment. While in arrears, the buyer shall pay interest of 8 percent above the base interest rate. We reserve the right to furnish evidence of and assert greater damages due to the default.
- 3.3 We may offset payments against other outstanding claims, if we wish to do so.
- 3.4 Cheques and bills of exchange (in case payment by bill of exchange has been agreed) are merely accepted as an undertaking to pay. Any discount and collection fees as well as interest shall be paid to us without delay.
- 3.5 Offsetting against counterclaims, retention of invoice amounts due and deduction of any kind are not permitted, except in the case of recognised or legally established claims of the buyer against us. The buyer may only exercise a right of retention if his counterclaim is based on the same contractual relationship.
- 3.6 We may grant credit to the extent we deem appropriate. Should the buyer fail to pay by the due date or should its financial situation deteriorate, all outstanding amounts shall be due immediately. Should we learn of circumstances that give us justified reason to doubt the buyer's ability to pay, we may deliver against cash on delivery, demand advance payment, request collateral or rescind the contract without any obligation on our part to pay damages. Our representatives are not authorised to collect money on our behalf, unless they have a written power of attorney that authorises them to do so.

### 4. Risk Transfer

- 4.1 The risk of accidental loss and accidental deterioration of the goods passes to the buyer upon handover, or, in the case of despatch, upon surrender of the goods to the forwarder, carrier or other third parties engaged for the execution of the despatch.
- 4.2 Default of acceptance by the buyer shall have the same effect as the handover.

### 5. Reservation of Title

- 5.1 We reserve the title to the goods ("goods subject to reservation of title") until all claims from the current business relationship are fully settled. Should the value of all collateral furnished to us exceed the amount of all collateralised claims by more than 20 percent, we will, at the request of the buyer, release the respective portion of the collateral.
- 5.2 The goods subject to reservation of title or the respective vested right shall not be pledged or assigned as collateral.
- 5.3 The buyer shall without delay inform us of any third-party access to the goods subject to reservation of title, e.g. by way of seizure, or any damage or destruction of the goods subject to reservation of title. The same applies to any change in possession of the goods subject to reservation of title.
- 5.4 The buyer proactively assigns the claims from the resale of the goods subject to reservation of title to us, regardless of whether the goods subject to reservation of title are sold without or after processing, mixing or combination and whether they are sold to one or several customers.
- 5.5 If a good reason exists, including but not limited to payment delays, discontinuation of payment, institution of insolvency proceedings, bill protest or similar justified implications of the buyer's inability to pay, we may revoke the authority to collect payments which has been granted to the buyer. Moreover, after prior warning that we will disclose the assignment as collateral or that we will utilise the assigned claims, we may, after granting a reasonable period, disclose the assignment as collateral, utilise the assigned claims and request the buyer to disclose the assignment as collateral to the customer.
- 5.6 The processing, alteration or combination of the goods by the buyer always takes place on our behalf and by order of us. In the case of processing or combination with items that do not belong to us, we shall become co-owners of the new goods in the ratio of the value of the goods subject to reservation of title to the other processed items. The same shall apply if the goods are mixed with other items that do not belong to us.
- 5.7 If the buyer becomes the sole owner of the new item, the parties agree that the buyer shall grant us co-ownership of the new item that results from the processing, alteration or combination in the ratio of the value of the goods subject to reservation of title to the other processed, altered or combined goods at the time of the processing, alteration or combination.
- 5.8 With regard to the sale of the new item, the buyer hereby proactively assigns his claim from the resale against the customer along with all ancillary rights to us as collateral; this does not necessitate any further special declarations. However, the assignment shall only apply up to the amount that corresponds to the value of the processed, altered or combined goods subject to reservation of title as invoiced by us. The share of the claims that have been assigned to us shall be settled preferentially.

5.9 If the buyer combines the goods subject to reservation of title with land or movables, the buyer will be deemed to have assigned the claim due to the buyer as consideration for the combination along with all ancillary rights to us as collateral in the amount of the ratio of the value of the combined goods subject to reservation of title to the other combined goods at the time of the combination; this does not necessitate any further special declarations.

## **6. Claims of the Buyer in the Event of Defects**

- 6.1 Claims in the event of defects shall first be limited to elimination of the defect or replacement (supplementary performance), whichever we may deem appropriate.
- 6.2 Should the supplementary performance fail, the buyer may, as a matter of principle, request reduction of the consideration or cancellation of the contract (withdrawal) at the buyer's discretion. However, the buyer shall not have any right of rescission in the event of minor contractual breaches, including but not limited to minor defects.
- 6.3 Obvious defects must be reported to us in writing within a period of one week from the receipt of the goods; otherwise, no claims can be asserted. To comply with the deadline, timely despatch is sufficient. The buyer shall have the full burden of proof for all conditions for claims, especially for the defect itself, for the time of detection of the defect and for the timeliness of the defect report.
- 6.4 If the buyer decides to rescind the contract due to a defect in title or quality following a failed supplementary performance attempt, the buyer cannot additionally claim any damages for the defect.  
If the buyer claims damages after failed supplementary performance, the buyer shall keep the goods, provided that the buyer can reasonably be expected to do so. The damages shall be limited to the difference between the purchase price and the value of the defective goods. This shall not apply if we maliciously caused the breach of contract.
- 6.5 Claims of the buyer for defects shall expire one year after the delivery of the goods.
- 6.6 As a matter of principle, the properties of the goods are determined solely by our product description. Public statements, recommendations or advertising do not constitute any contractual specification of properties of the goods.
- 6.7 We do not give the buyer any guarantees in the legal meaning.

## **7. Limitation of Liability**

- 7.1 In the case of slightly negligent breaches of obligations, our liability shall be limited to the direct average damage that is foreseeable for the type of our goods and that is typical for this contract. This shall also apply in the event of slightly negligent breaches of obligations by our legal representatives or agents.  
We shall not be liable for the breach of minor contractual obligations by way of minor negligence.
- 7.2 The aforesaid limitation of liability does not affect product liability claims of the buyer. Moreover, the limitation of liability does not apply in the event of injury to body and health or death of the buyer for which we are responsible.
- 7.3 Claims of the buyer for damages due to defects shall expire after one year from the delivery of the goods. This shall not apply if we are guilty of gross negligence or in the event of injury to body and health or death of the buyer for which we are responsible.

## **8. Miscellaneous**

- 8.1 The laws of the Federal Republic of Germany shall apply. The UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 and other international agreements shall not apply.
- 8.2 The courts at the location of our registered office shall have exclusive jurisdiction both locally and internationally. Moreover, we may file action in any other court of jurisdiction.
- 8.3 Should individual provisions be invalid, the remaining parts of the contract shall nevertheless remain binding. Should any provision be fully or partially invalid, the parties shall without delay endeavour to achieve the economic result aimed at with the invalid provision in another, legally permissible way.