

The following terms and conditions only apply to merchants if the contract is part of the operation of their trade, legal persons under public law or a public legal special fund.

#### 1. Acknowledgement of the terms and conditions of delivery, offer

The delivery shall be made exclusively on the basis of the following terms and conditions, which shall be deemed to be accepted by placing the order. Any terms and conditions of the orderer shall only be valid if IB-Verfahrens- und Anlagentechnik GmbH & Co. KG has expressly agreed to their validity. This approval requirement shall apply in all cases, for example even if IB carries out the delivery to the orderer without making any reservations knowing of the purchaser's general terms and conditions.

#### 2. Individual agreement

Individual agreements made with the buyer in specific cases (collateral arrangements, supplements and amendments) shall in all cases take precedence over these General Terms and Conditions of sale and delivery. The content of such agreements shall be governed by a written contract or written confirmation by IB, unless proven otherwise.

#### 3. Offer

The offers of IB shall be non-binding and subject to change. This shall also apply if IB has provided the orderer with catalogues, technical documentation (e.g. drawings, plans, calculations, cost estimates, references to DIN standards), other product descriptions or documents, also in electronic form, and/or IB has reserved ownership rights and copyrights to such documents. Offers with more extensive technical specifications shall be made in return for reimbursement of costs. IB reserves the title and copyright to cost estimates, drawings and other documents received by the orderer. They may only be made accessible to third parties with the approval of IB.

The order of the goods by the orderer shall be considered as a binding offer to contract. Unless stated otherwise in the order, IB shall be entitled to accept this contractual offer within four calendar weeks of its receipt by IB. Acceptance can either be declared in writing (e.g. by order confirmation) or by delivery of the goods to the orderer.

#### 4. Obligation to deliver and accept

4.1 Delivery periods shall commence upon receipt of all documents required for the performance of the principal; the instalment payment and the timely provision of materials, insofar as these have been agreed. With the notification of readiness for shipment, the delivery period shall be deemed to have been met if shipment is impossible through no fault of

IB. The delivery period shall be considered as merely agreed in an approximate fashion; it shall apply ex works. This shall be subject to accurate and timely supply by IB's own suppliers.

4.2 If IB is unable to meet binding delivery deadlines due to reasons for which IB is not responsible (non-availability of the performance), IB shall inform the orderer of this without delay and at the same time inform the orderer of the anticipated new delivery date. If the performance is not available even within the new delivery period, IB shall be entitled to rescind the contract in whole or in part; any consideration already paid by the orderer shall be reimbursed by IB without delay. A case of non-availability of performance in this sense shall be deemed to be, in particular, the failure of IB's supplier to deliver on time if IB has concluded a congruent covering transaction, neither IB nor IB's supplier is at fault or IB is not obliged to procure the goods in any specific case.

4.3 Events of *force majeure* shall entitle IB to postpone delivery for the duration of the hindrance plus a reasonable start-up period. The delivery period shall be extended to this extent. If it becomes unreasonable for IB to continue the contract due to events of *force majeure*, IB shall be entitled to rescind the contract in whole or in part with regard to the part not yet fulfilled. Events of *force majeure* shall include strikes, lawful lock-outs and other unforeseeable circumstances, e.g. operational disturbances, administrative intervention, delays in the delivery of essential raw materials and building materials, which make it impossible for IB to deliver on time despite reasonable efforts. IB must provide documentation of this. If IB reports events of such *force majeure*, the orderer may request IB to declare within two weeks whether IB intends to rescind the contract or to deliver within a reasonable grace period. If IB does not make such declaration, the orderer may rescind the unfulfilled part of the contract. IB shall inform the orderer immediately as soon as an event of *force majeure* occurs.

4.4 The occurrence of IB's default in delivery shall be determined by the provisions of law. In all cases, a warning from the orderer shall be necessary. If IB is in default of delivery, the orderer may demand lump-sum compensation for its default damage. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) of the delayed delivery for each completed calendar week of delay, though in total no more than 5% of the delivery value of the delayed goods. IB shall retain the right to furnish proof that the orderer has not incurred any damage or has only incurred lesser damage than the above lump sum.

4.5 In the case of orders placed by the orderer verbally or by phone, the risk for possible wrong deliveries shall generally be borne by the orderer.

#### 5. Delivery, transfer of risk, acceptance, default in acceptance

5.1 Delivery is ex works, which is also the place of performance for the delivery and any subsequent performance. This shall also apply to any subsequent improvement of defects in the goods. At the request and cost of the orderer, the goods shall be shipped to another destination (sale by delivery to a destination other than the place of performance). Unless agreed otherwise, IB shall be entitled to determine the type of shipment (particularly the transport company, route, packaging) itself.

5.2 The risk of accidental loss and deterioration of the goods shall pass to the orderer at the latest upon delivery. However, in the case of sale by delivery to a destination other than the place of performance, the risk of accidental loss and deterioration of the goods as well as the risk of delay shall pass upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Insofar as an acceptance is agreed, this shall be decisive for the transfer of risk. The statutory provisions of the law on contracts for work and services shall also apply accordingly to an agreed acceptance. The delivery and acceptance shall be the same if the buyer is in default in acceptance.

5.3 If the orderer is in default in acceptance, if the orderer fails to cooperate or if IB's delivery is delayed due to other reasons for which the orderer is responsible, IB shall be entitled to demand compensation for the resulting damage, including additional expenses (e.g. storage costs). For this purpose, IB shall charge a lump-sum compensation in the amount of 0.5% of the value of the goods per calendar week up to a maximum of 5% in the case of acceptance or 10% in the case of definitive non-acceptance, commencing on the delivery date or, in the absence of a delivery date, upon notification of the readiness of the goods for shipment.

Any documentation of higher damage and the claims of IB stipulated by law (in particular to reimbursement of additional expenses, reasonable compensation, termination) shall not be prejudiced hereby; however, the lump sum shall be credited towards any further monetary claims. The orderer shall retain the right to furnish proof that IB has not incurred any damage or has only incurred lesser damage than the above lump sum.

#### 6. Scope of delivery

IB's written order confirmation shall be decisive for the scope of delivery. This shall also apply to any protective equipment. The scope of delivery shall only be deemed to be technically clarified if the orderer has provided flawless article descriptions. Any costs arising from the modification of an article (deviating from the binding article designation or other corrections) shall be borne by the orderer if this makes subsequent work necessary.

The drawings, descriptions, etc. belonging to the order shall be binding on the orderer, but the orderer shall check them for any discrepancies and notify IB immediately in writing of any detected or suspected errors. The orderer shall remain solely responsible for the drawings, plans and calculations prepared by the orderer even if these are approved by IB.

## 7. Price

7.1 Unless stated otherwise in IB's order confirmation, prices shall be *ex works* and shall not include packaging or the statutory value added tax applicable on the invoice date.

7.2 The necessary packaging shall be charged separately. IB shall have no obligation to take back packaging.

7.3 Any customs duties, fees, taxes and other public charges shall be borne by the orderer. In the case of a sale by delivery to a destination other than the place of performance, the orderer shall bear the transport costs *ex works* and the costs of any transport insurance requested by the orderer.

7.4 The deduction of a cash discount shall require a separate written agreement.

## 8. Retention of title

8.1 IB shall retain title to the goods sold until all current and future claims of IB based on the purchase contract and all current business relations (secured claim) have been paid in full.

8.2 The goods subject to retention of title may not be pledged to third parties or transferred by way of security before full payment of the secured claims. The orderer shall inform IB immediately in writing if a petition is filed for the initiation of insolvency proceedings or if third parties take possession of the goods belonging to IB (e.g. attachments).

8.3 In the event of breach of contract on the part of the orderer, in particular if the due purchase price is not paid, IB shall be entitled to rescind the contract in accordance with the provisions of law or to demand the surrender of the goods on the basis of the title reservation. The surrender of the goods shall not at the same time entail the declaration of rescission; instead, IB shall be entitled to demand the surrender of the goods and to reserve the right to rescind the contract. If the orderer fails to pay the due purchase price, IB may only assert these rights if the orderer has previously been set a reasonable deadline for payment without success or if such a deadline is dispensable in accordance with the provisions of law.

8.4 Until revocation, the orderer shall be authorised pursuant to the Section 8.4 below to resell and/or process the goods that are subject to the title retention in the ordinary course of business.

In such event, the following provisions shall apply in addition:

a) The title reservation shall extend to the full value of the products resulting from the processing, mixing or combination of IB's goods, whereby IB shall be deemed to be the manufacturer. If the ownership rights of third parties remain in effect in the event of processing, mixing or combination with goods of third parties, IB shall acquire joint ownership in proportion to the invoice values of the processed, mixed or combined goods. Otherwise, this shall also apply to the resulting product as to the goods delivered under the title reservation.

b) The orderer hereby assigns to IB in advance by way of security all claims against third parties arising from the resale of the goods or the product in total or in the amount of IB's co-ownership share pursuant to the above paragraph. IB hereby accepts the assignment. The duties of the orderer mentioned in Section 8.2 shall also apply in consideration of the assigned claims.

c) In addition to IB, the orderer shall remain authorised to collect the claims. IB hereby agrees not to collect the claims as long as the orderer meets its payment obligations to IB, there is no defect in its performance capability and IB does not assert its title reservation by exercising its right pursuant to Section 8.3. If this is the case, however, IB may demand that the orderer inform IB of the assigned claims and the debtors thereof, provide all information necessary for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. Moreover, in such event, IB shall be entitled to revoke the orderer's authority to further sell and process the goods that are subject to the title retention.

d) If the realisable value of the securities exceeds IB's claims by more than 10%, IB shall release securities of IB's choice at the orderer's request.

## 9. Terms of payment

9.1 Unless agreed otherwise, all invoices shall be payable upon receipt of the invoice without any deductions. If the agreed payment date is exceeded, interest shall be charged at the current rate of 9.5% above the respective base interest rate, unless IB can document higher debit interest. We reserve the right to refuse cheques or bills of exchange. Cheques and rediscountable bills of exchange shall only be accepted on account of performance; all costs associated with this shall be borne by the orderer. Wage/assembly work and services shall not be eligible for cash discounts.

9.2 If IB is aware of an unfavourable financial situation of the orderer before or after delivery of the goods, IB shall be entitled to demand a sufficient security. In addition, IB shall be entitled to demand payment for any outstanding

deliveries and, after a reasonable grace period, to rescind the contract or to demand damage compensation claims for non-performance, to prohibit the orderer from reselling the goods, to prohibit the orderer from reselling the goods [sic] and to recover any unpaid goods at the orderer's cost.

9.3 Any right of retention and set-off on the part of the orderer with counterclaims shall be excluded.

## 10. Warranty

10.1 The basis for IB's liability for defects shall above all be the agreements made concerning the features of the goods. All product descriptions contained in the contract and the manufacturer's information contained therein, which have become the subject of the individual contract, shall be deemed to be an agreement on the features of the goods. The reference to technical standards shall serve to describe the performance.

10.2 The provisions of law shall apply to all rights of the orderer in the event of material defects and defects of title (including wrong and deficient deliveries as well as improper assembly or faulty assembly instructions), unless stipulated otherwise below. In all events, the special provisions of law shall not be prejudiced in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier recourse pursuant to § 478 of the German Civil Code (BGB)). Claims based on supplier recourse shall be excluded if the defective goods have been further processed by the orderer or another contractor, e.g. by incorporation into another product.

10.3 If the features have not been agreed upon, the provisions of law shall apply to determine whether a defect is present or not (§ 434 (1), Sentences 2 and 3 of the German Civil Code (BGB)). IB shall assume no liability for public statements or statements by third parties (e.g. advertising statements) of which IB has not been made aware by the orderer as being decisive for its purchase.

10.4 The orderer's defect claims presuppose that the orderer has fulfilled the duties stipulated by law to examine and protest defects (§§ 377 and 381 of the German Commercial Code (HGB)). In the case of goods which are intended for installation or other further processing, an inspection must in all cases be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at any later point in time, IB shall be notified of this in writing without delay. In any case, obvious defects are to be reported in writing within four working days of delivery and defects that are not visible during inspection are to be reported in writing within the same period of time after their discovery. If the orderer fails to carry out the proper inspection and/or report defects, IB shall not be liable for unnoticed defects or defects not notified in due time or not notified properly in accordance with the provisions of law.

10.5 If the delivered goods are defective, IB may initially choose whether IB shall render a subsequent performance to remedy the defect or replace the defective item. The right of IB to refuse the subsequent performance under the prerequisites prescribed by law shall not be prejudiced hereby.

10.6 IB shall be entitled to make the subsequent performance owed dependent on the orderer paying the due purchase price. However, the orderer shall be entitled to retain a reasonable part of the purchase price proportionate to the defect.

10.7 The orderer must provide IB the time and opportunity necessary for the owed subsequent performance; in particular, the orderer must provide the protested goods for inspection purposes. In the event of a replacement delivery, the orderer shall return the defective item to IB in accordance with the provisions of law. Subsequent performance shall not encompass the removal or the reinstallation of the defective item if IB was not originally obliged to install it.

10.8 IB shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, carriage, labour and material costs and, if applicable, dismantling and installation costs, in accordance with the provisions of law if a defect is actually present. Otherwise, IB may demand reimbursement from the orderer of the costs arising from the unjustified demand to remedy defects (in particular inspection and transport costs), unless the lack of defects was not recognisable for the orderer.

10.9 The orderer's right to undertake the work itself shall not apply if IB would be entitled to refuse the corresponding subsequent performance in accordance with the provisions of law.

10.10. If the subsequent performance fails or if a reasonable period to be established by the orderer for the subsequent performance has expired unsuccessfully or can be dispensed with in accordance with the provisions of law, the orderer may rescind the purchase contract or reduce the purchase price. No rescission right shall exist, however, in the case of minor defects.

10.11. Claims of the orderer to damage compensation or reimbursement of futile expenses shall only be valid in accordance with the liability provisions in Section 14 below, even in the case of defects, and shall otherwise be excluded.

## 11. Assembly

For the installation of machinery and systems, the special terms and conditions for the provision of assembly personnel, assembly terms and conditions and assembly cost rates of IB shall be considered as agreed.

## 12. Provision of materials

If materials are supplied by the orderer, they are to be delivered in due time and in flawless condition at the orderer's cost and risk with an appropriate quantity surcharge of at least 5%.

## 13. Acceptance

After the completion ready for operation, a test run of at least two hours must be carried out. During this time the orderer must satisfy itself of the functioning.

## 14. Liability

14.1 Unless provided otherwise in these General Terms and Conditions of Sale and Delivery including the following provisions, IB shall be liable for any breach of contractual and non-contractual duties in accordance with the provisions of law.

14.2 IB shall be liable for damage compensation, irrespective of the legal ground, within the framework of liability based on fault in cases of intentional action and gross negligence. In the event of simple negligence, IB shall be liable, subject to statutory limitations of liability (e.g. due care in its own affairs; minor breaches of duty), only - for damages resulting from injury to life, limb or health;  
- for damage resulting from the breach of a material contractual duties (a duty whose fulfilment initially enables the proper performance of the contract and on whose compliance the contracting partner regularly relies and may rely); in this case, however, IB's liability shall be limited to compensation of the foreseeable, typically occurring damage.

14.3 The limitations of liability resulting from Section 14.2 above shall also apply in the event of breaches of duty by or to persons for whose negligence IB is responsible in accordance with the provisions of law. They shall not apply if IB has fraudulently concealed a defect or has assumed a guarantee for the features of the goods and for claims of the orderer in accordance with the Product Liability Act.

14.4 The orderer may only rescind or terminate the contract due to a breach of duty which does not consist of a defect if IB is responsible for the breach of duty. Any free right of termination by the orderer (e.g. pursuant to §§ 650 and 648 of the German Civil Code (BGB)) is hereby excluded. The requirements and consequences stipulated by law shall apply in all other respects.

## 15. Limitation of claims

15.1 At variance with § 438(1) of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects in title shall be one year from delivery. If an acceptance is agreed, the limitation period shall commence running upon the acceptance.

15.2 The above limitation period in the law of sale shall also apply to contractual and non-contractual damage compensation claims of the orderer based on a defect in the goods, unless the application of the standard limitation period stipulated by law (§§ 195 and 199 of the German Civil Code (BGB)) would lead to a shorter limitation period in any specific case. Damage compensation claims of the buyer pursuant to the first indent of Section 14.2 and the Product Liability Act, however, shall lapse exclusively in accordance with the limitation periods established by law.

## 16. Guarantee

Unless agreed otherwise, excluded from the guarantee shall be all claims, components or parts that are subject to wear and tear such as belts, straps, chains, etc. and all mechanical elements which are subject to natural wear and tear due to abrasion and corrosion or material deformation; in particular, if they are worn or destroyed due to improper handling, incorrect adjustment, use due to inadequate maintenance or other faults. The guarantee period shall end 6 months after delivery, unless agreed otherwise.

## 17. Place of performance, choice of law and jurisdiction

17.1 Detmold is agreed as the place of jurisdiction.

17.2 Detmold shall be the place of performance for all obligations, claims, etc. arising from this Agreement.

17.3 These General Terms and Conditions and the contractual relationship between IB and the orderer shall be governed by the law of the Federal Republic of Germany, to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

## 17.4 The choice of law referred to above in Section

17.1 shall apply in the event that the purchaser is a merchant in the terms of the German Commercial Code, a legal entity under public law or a special fund under public law. This shall also apply if the orderer is an entrepreneur in the terms of § 14 of the German Civil Code (BGB).

17.5 However, IB shall in all cases also be entitled to bring an action at the place of performance of the delivery obligation pursuant to these General Terms and Conditions of Sale and Delivery or at the general place of jurisdiction of the orderer. Any priority provisions of law, particularly regarding exclusive responsibilities, shall not be prejudiced hereby.