

**General Terms and Conditions of Sale
of Deharde GmbH,
of Deharde Bremen Grund und Besitz GmbH und
of Deharde GmbH Bremen Operations**



§ 1 Scope

(1) All the deliveries and all the other services we render for Customers are subject to these Terms and Conditions. They form an integral part of all offers and acceptances and shall have exclusive effect as far as no divergent rules are individually agreed. General terms and conditions of the Customer which are contrary to or divergent from ours are not accepted even where we - despite knowledge of the Customer's terms and conditions - perform our delivery or service without expressing reservation. These Terms and Conditions apply only where our Customer is an entrepreneur in the sense of section 310 paragraph 1 BGB (German Civil Code).

(2) These General Terms and Conditions shall also apply to any future transactions with the Customer.

§ 2 Offer and Conclusion of Contract

(1) Our offers are non-binding (so-called „invitatio ad offerendum“) unless they are - explicitly and in writing and with definition of a validity period - given as a binding offer. In the case of a non-binding offer a contract only comes into existence if we declare in writing the acceptance of the Customer's order or deliver the Goods. If we submit a binding offer we are entitled to revoke it until acceptance by the Customer.

(2) If the order of a Customer constitutes a binding offer he is bound by his offer for a two-week period, unless a different period is expressly stated or agreed upon.

§ 3 Provided records, Non-Disclosure

(1) We reserve our ownership and property rights with respect to all documents made available to the Customer in connection with the contract, e.g. construction documents, estimates and calculations, drawings, plans or other technical documentation. The customer is obligated to keep any documentation which may be disclosed to him confidential, to store it properly and, in particular, to make sure that it is not accessible to any third party. In the absence of a written approval by us such documents must not be reproduced, pledged, made accessible to third parties or made known otherwise. The documents may only be used for the purpose of the contract. Upon our request they have to be returned to us without undue delay.

(2) The Customer is furthermore obligated to keep secret any information having come to his knowledge in connection with the contract regarding our operating procedures and other operating data as well as all other trade and business secrets and any other information which we have an interest to keep confidential. Such information may not be made accessible to any third party without our written consent.

(3) The Customer agrees to pay a lump sum amount (contractual penalty) of €50,000.00 in any case of violation of the non-disclosure obligation.

§ 4 Prices and Payment

(1) Unless otherwise agreed in written form, our prices are quoted "net ex works", i.e. they do not include costs of packaging, applicable value-added tax, insurance, customs duties and taxes, costs of transportation etc.

(2) Cost estimates are non-binding. Should it become apparent that the actual remuneration will considerably exceed the estimated one, we will notify the Customer without undue delay. The Customer is then entitled to cancel the contract.

(3) We are entitled to reasonable down-payments. Furthermore, we are entitled to demand advance payment or provision of security if the Customer defaults in payment or if circumstances become apparent after the conclusion of the contract which raise doubts as to the Customer's solvency.

(4) Payment of the remuneration has to be made exclusively to the bank account designated overleaf. The deduction of a cash discount is only admissible if specifically agreed in written form.

(5) The Customer is in debtor's delay if he fails to settle invoice amounts within 14 days upon receipt of the invoice by the Customer. The foregoing does not affect legal provisions putting the Customer in debtor's delay at an even earlier point of time.

(6) In cases of an unforeseeable extraordinary price increase, e.g. due to currency fluctuations and hikes of prices for raw material, we are entitled to pass on the price increase to the Customer. If the price increase exceeds 15 per cent of the initial net price the Customer may reject the increase in price. In such a case we are entitled to rescind the contract.

(7) If the Customer is in debtor's delay our claim bears interest at the average interest rate charged by German banks for open overdraft credits. The Customer may prove that his delay caused substantially less or no damage at all. We reserve the right to claim additional compensation for actual damages beyond the interest defined above. The legal rules on the minimum interest rate remain unaffected.

§ 5 Set-Off and Rights of Retention

The Customer is only entitled to an offset if his counterclaim either has been confirmed by a final judgement or is undisputed. The Customer may only exercise a right of retention insofar as his counterclaim is based on the same contract.

§ 6 Export and Import Permits

(1) Our deliveries and services are designed only for use and location within the delivery country named by the Customer. We point out that an export by the Customer is subject to the export provisions of the Federal Republic of Germany or such other delivery country as the Customer may have named respectively.

(2) The Customer must check export provisions and potential limitations on his own responsibility (e.g. concerning German provisions: at the Federal Office of Economics and Export Control, BAFA, in Eschborn; concerning US provisions: at the US Department of Commerce, OEA, Washington D.C. 20230).

§ 7 Customer's General Duty and Obligation to Co-operate

(1) The Customer is obliged to provide all kind of cooperation owed by him under the contract or otherwise required from him in good faith. He is in particular obliged to lay all the foundations which are necessary to enable us to execute the contractual services. He is obliged to procure all necessary information, documents and data upon request. The customer is obliged to arrange for a qualified contact person and to ensure the latter's availability in terms of time.

(2) All additional costs accruing from a delay in necessary cooperation are to be borne by the Customer.

(3) The Customer is obliged to obtain the necessary permissions. We are entitled to set an adequate time limit for acts of co-operation owed by the Customer. Upon fruitless expiry of such period we are entitled to rescind the contract.

§ 8 Delivery, Delivery Date

(1) Provided that it is reasonably acceptable to the Customer, we are entitled to delivery in parts.

(2) Provided that we have timely concluded a congruent supply contract, our dates of delivery are subject to punctual and correct supply to ourselves.

(3) Our delivery obligation shall be suspended in events of force majeure (being defined as circumstances or incidents

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which (i) had not been foreseen, (ii) were not caused through any fault of ours, and (iii) could not have been prevented by measures which were to be expected from a diligent businessman in our position; such events including e.g. war, disruptions of operation, disruptions of traffic, strikes, lock-outs, disruptions of shipment, governmental decrees etc.). Where due to the extent of the suspension a party cannot be

expected to adhere to the contract, it shall be entitled to rescind the contract.

(4) The delivery periods will automatically be extended by adequate extra periods if the Customer does not co-operate in a timely manner.

(5) The Customer shall notify us in writing if he wishes the Goods to be insured during shipment. The costs of such insurance shall be borne by the Customer.

(6) If the Customer defaults in the acceptance of deliveries or other services or violates his duty to cooperate, we shall be entitled to damages and reimbursement for additional costs. Furthermore, we shall be entitled to set an adequate grace period and – upon fruitless expiry – to charge a storage fee in the amount of 0.5 per cent of the price of the respective goods for each month during which – or during part of which – the default in the acceptance persists, such fees, however, not to exceed a total of 10 per cent. This does not exclude either party's right to demonstrate and plead that the actual amount of storage costs and other damages is higher or lower. Furthergoing legal rights and claims of ours are reserved. If the afore-mentioned conditions are met the risk of accidental loss or deterioration of the goods shall pass to the Customer at the time he defaults in acceptance of the Goods or falls in debtor's delay regarding cooperation owed by him.

§ 9 Passing of Risk in case of Shipment, Disclaimer of Warranty for Assistance in Loading

(1) The risk of accidental loss or deterioration of the Goods shall pass to the Customer when the Goods are handed over to the carrier for loading; if we provide the shipment ourselves the risk shall pass when loading starts, at the latest, at the Good's leaving the factory/ storage facility. This applies irrespective of whether the shipment is carried out from the place of fulfillment or by whom the shipment costs are to be borne.

(2) If, at the Customer's request or due to other reasons originating in his sphere, the delivery is made later than at the first possible date of delivery, the risk passes to the Customer upon our notice of readiness for shipment.

(3) Should our employees support the carrier and the Customer respectively in the loading although the loading does not fall within our contractual obligations, then our employees qualify as agents of the carrier or the Customer respectively. In such a case any liability on our part for possible damages occurring in the loading is excluded.

§ 10 Retention of Title

(1) We reserve the right to the title of the Goods delivered until full payment of all claims arising from the contract. This applies as well to all future transactions, even without explicit reference to this provision.

(2) The Customer is obliged to treat all Goods under Retention of Title with due care and to insure them adequately against the usual risks (theft, fire, water damage, etc.). Customer has to carry out necessary maintenance and repair at his own expense and without undue delay.

(3) For the duration of the retention of title, the Customer may not pledge or transfer by way of security any Goods under Retention of Title. The Customer may resell such Goods in the ordinary course of business only and only provided that the Customer is not in default, has not filed for insolvency nor

is under a duty to file for insolvency, and only subject to the additional condition that the Customer either receives payment from the purchaser or reserves title to the Goods until receipt of payment from the purchaser. The Customer hereby assigns to us all claims arising from such resale of Goods under Retention of Title. With respect to such Goods under Retention of Title, which we own only jointly with others, the Customer's assignment of the claims from the resale shall be limited to the fraction of our co-ownership share in the

respective Goods under Retention of Title. We hereby accept the Customer's afore-mentioned assignment. We give the Customer the revocable authorization to collect the claims despite their assignment to us for the Customer's own account and on its own behalf. We reserve the right to revoke this authorization and to collect such claims directly from the purchaser, if and when the Customer defaults on its payment obligations or his financial circumstances deteriorate significantly, in particular when he has filed for insolvency or is obligated to do so. In the event of a revocation of the authorization the Customer is obligated to submit to us all information and documentation necessary to enforce the claim and to assist us with the enforcement as well as to inform the third party upon our request of the assignment.

(4) In the event of any breach of contract committed by the Customer we shall be entitled to rescind the agreement and to demand the delivered Goods to be returned.

(5) The Customer shall notify us without undue delay, should any Goods under Retention of Title be affected by an order of attachment, seizure or other judicial order or by impairment or other interference by third parties, and he has to provide us with all information and records necessary for an intervention. The Customer is liable for all costs, which accrue from efforts to remove the interference, such as in particular third party proceedings (Drittwiderspruchsklage), to the extent that compensation for these costs cannot be obtained from the creditor who initiated the interference.

(6) Any processing or alteration of the Goods by the Customer are deemed to be made on our behalf and account for us as producer. In this event the Customer's expectant right in the Goods survives as expectant right in the processed Goods. If the Customer processes Goods under Retention of Title combining them with other Goods not owned by us so to form new products, then we shall automatically acquire co-ownership shares in the new products (Section 947 sub-section 1 of the German Civil Code (BGB)) - in relation of the invoice values - at the time of the processing - of on the one hand the processed Goods under Retention of Title and on the other hand the other processed Goods.

§ 11 Acceptance

The Customer is obligated to accept performed work upon its completion. Complaints must be notified to us without undue delay and in full. Acceptance of the work is deemed given ten (10) days upon completion unless the Customer states within this period in written form the reasons for the refusal.

§ 12 Warranty for Defects and Notification of Defects

(1) The Customer is obligated to carry out a due inspection of the Goods and to notify defects without undue delay. The provisions on inspection and notification contained in Sections 377 et seq. of the German Commercial Code (HGB) shall apply accordingly to contracts for work services as well as to contracts dealing with the supply of Goods to be produced or manufactured by the supplier. In case of an obvious damage in transit the Customer has to report it immediately to the carrier and to make the letter give a signed acknowledgement. Any defect which can be discovered by due inspection, must be notified to us without undue delay, at the latest five working days upon receipt of the Goods, and any hidden defect must be notified to us immediately after its discovery; failure to notify defects in due time is deemed as acceptance.

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(2) The limitation period for claims based on defects is twelve (12) months upon delivery or acceptance respectively. The afore-mentioned provision does not apply where section 438 sub-section 1 no. 2 of the German Civil Code (BGB) - buildings and goods for buildings -, section 479 sub-section 1 of the German Civil Code (BGB) - Recourse claims - and section 634a sub-section 1 of the German Civil Code (BGB) - building defects - mandatorily provide for longer periods. The Customer must obtain our prior approval before returning goods to us.

(3) We are not responsible for defects resulting from defective parts supplied by third parties, unless we have assumed a guarantee in this respect or the defect of the part supplied by the third party can be discovered by due inspection. We are not obligated to carry out quality checks of parts supplied by third parties.

(4) Should a product delivered by us have a defect which defect existed already when the passing of risk took place and provided that this defect is notified to us in due time, we are obliged to remedy the defect, - at our option - either by repair or by replacement of the defective product. The Customer shall always give us the opportunity to remedy the defect within reasonable time. In the event of repair we are entitled to use either new parts or reconditioned parts.

(5) Should the remedy of a defect be impossible, or should it be denied, should it be unreasonable or should it fail, the Customer is - notwithstanding possible rights to compensation for damages - entitled to rescind the contract or decrease the purchase price. The remedy of a defect cannot be considered as failed before at least two attempts have been made. Only after having given us the opportunity to remedy a defect in compliance with the foregoing rules, the Customer is entitled to remedy the defect himself and to demand from us reimbursement of the expenses necessarily accrued thereby according to Section 637 of the German Civil Code. Rights to compensation for damages are subject to the additional requirements stipulated in section 13 of these Terms and Conditions.

(6) Claims for defects do not exist in case of insignificant divergence from the agreed quality, insignificant impairment of usability, regular abrasion and wear as well as damage occurring after the passing of risk due to incorrect or careless use, excessive strain, unsuitable operating materials, defective construction work, improper soil or unusual external circumstances which had not been contemplated in the contract.

(7) The Customer's claims for reimbursement of the expenses which are necessary to remedy a defect, such as in particular costs of transport, travel, work and materials, are excluded insofar as those expenses are increased due to the fact that the Goods delivered by us were moved to a location other than the Customer's establishment, unless this transport is part of the use that had been contemplated in the contract.

(8) In case of fraudulent concealment of the defect or where we have given a guarantee for the quality of Goods (Section 444 of the German Civil Code), the Customer's rights are without modification those defined in the law.

§ 13 Right to rescind, Claims for Damages

(1) The right to rescind the contract is granted pursuant to the legal provisions, but subject to the additional provision that a breach of duty - other than a defect - shall only entitle the Customer to rescind the contract, if we are responsible for such breach.

(2) In addition to the other preconditions, liability on our part for compensation of damages shall presuppose malicious intent or at least gross negligence. We shall only be liable for normal negligence ("einfache Fahrlässigkeit") where a key duty has been violated - key duty being defined as duty which

is essential for the implementation of the contract so that the Customer can regularly expect its proper observation. All other claims for damages of any kind on any basis are expressly excluded, e.g. liability for default on negotiation and/or conclusion of contract.

(3) Should we become liable for normal negligence pursuant to sub-section 2 above, then our liability shall be restricted to such damages as - based on the circumstances known by us when the contract was concluded - had to be taken into consideration as a typical scenario.

(4) Furthermore, liability for negligent conduct is limited per incident to the amount of the insurance sum of our public liability insurance.

(5) The afore-mentioned exclusions and restrictions of liability apply neither insofar as we have given a guarantee, nor where we are liable under the German Product Liability Act (Produkthaftungsgesetz), nor to damages to life, bodily integrity or health.

(6) The afore-mentioned exclusions and restrictions of liability do also apply to our employees, auxiliary persons ("Erfüllungsgehilfen") and to any third party somehow involved by us in the implementation of the contract.

§ 14 Final Provisions

(1) All agreements between the parties, including these General Terms and Conditions, shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.

(2) The place of performance for all obligations arising under any agreements between the parties, including these General Terms and Conditions shall be VAREL. Any disputes arising between the parties shall be exclusively heard and resolved by the courts of competent jurisdiction for VAREL.

(3) Changes of or amendments to this agreement and any supplementary stipulations, including the written form requirement set forth in this clause, must be in writing. There are no verbal side agreements.

(4) Should any provisions of the agreement, including these General Terms and Conditions, be or become invalid, whether in whole or in part, then the validity of the remaining provisions shall remain unaffected thereby. Any invalid provision or invalid part of a provision shall be replaced by such valid provision as most closely approximates the commercial intent and purpose of the original provision.

Varel, Date: June 2008