

1. Preamble

These General Terms and Conditions are applicable unless the contractual parties have explicitly agreed otherwise in writing.

2. Concluding Agreements

- 2.1 An agreement shall be deemed to have been concluded when, after receiving an order, the vendor sends a written declaration of acceptance, possibly within a time period set by the purchaser.
- 2.2 If the vendor sets a period of acceptance when issuing a written offer, an agreement shall be deemed to have been concluded when the purchaser sends a written declaration of acceptance before the set period elapses. This only applies, however, if said declaration of acceptance is received within one week after the end of the set period at the latest.

3. Drawings and Documentation

- 3.1 The information about weight, dimensions, capacity, prices, services and similar items which is included in catalogs, brochures, newsletters, advertisements and illustrations is only approximate. Such information is only binding if the agreement explicitly makes reference thereto.
- 3.2 If requested by the purchaser the vendor shall provide instructions and drawings free of charge at the beginning of the warranty period (cf. Cipher 9) which include sufficient detailed information to enable the purchaser to assemble the delivery item, take it into service and use it as well as to maintain all the parts (including maintenance repairs). Said instructions and drawings shall become the purchaser's property, but the vendor can stipulate that they be treated confidentially.

4. Packaging

Unless otherwise agreed the prices stated in binding offers and in the agreement include necessary packaging or required protection in order to prevent damage to the delivery item under normal transport conditions on the way to the point of destination which is specified in the agreement.

5. Inspection of Acceptance

The purchaser is obliged to accept the purchased item which has been delivered under the terms of the agreement. Acceptance cannot be refused based on minor defects. Acceptance is deemed to have taken place if the purchaser does not accept the purchased item within an appropriate period set by the vendor although the purchaser is obliged to do so.

6. Place of Fulfillment, Transfer of Risk and Dispatch Costs

- 6.1 Subject to CIPHER 7.6 the time when risk shall be transferred is determined pursuant to the international rules of the chamber of commerce for interpreting commercial terms (Incoterms 2010) in the version applicable when the agreement is concluded.
- 6.2 The purchased item shall be sold "ex works" if the agreement does not specify the type of sale.
- 6.3 If the purchaser requests the vendor to dispatch the purchased item to a different place than the place of fulfillment, the risk is transferred to the purchaser when the vendor has delivered the delivery item to the haulage company or another person who has been stipulated to execute the transport.
- 6.4 The purchaser shall bear the costs of acceptance and transport of the item to another place than the place of fulfillment.

7. Delivery Period

- 7.1 Unless otherwise agreed the delivery period shall begin at the latest time below:
 - a) Date when the agreement was concluded pursuant to CIPHER 2;
 - b) Date when the vendor becomes aware that a required import license has been issued;
 - c) Date when the vendor receives a contractual payment installment.
- 7.2 If the delivery is delayed by circumstances described in CIPHER 10 or by the purchaser's action or failure to act, the delivery period shall be extended appropriately in accordance with the situation. This shall also apply – irrespective of the case stated in CIPHER 7.5 – should the cause of the delay occur after the end of the contractually agreed delivery period.
- 7.3 If a binding delivery period is foreseen in the agreement but the vendor does not execute the delivery within the agreed period (or extended period pursuant to CIPHER 7.2), the purchaser can request a reduction of 0.5 % of the contractual price for each week of the delay provided that it directs this request to the vendor in writing within an appropriate period; this does not apply, however, if the purchaser did not incur any damage from the situation. The reduction is calculated for each full week of delay from the contractual time of delivery onwards, but it may not exceed a maximum amount of 5 % of the contractual price. It shall be offset with the payments which the purchaser has to make as of delivery. Subject to CIPHER 7.4 this price reduction excludes any other obligation by the vendor to pay compensation based on a delay in delivery.
- 7.4 If the purchaser was entitled to request the maximum amount of the price reduction stated in CIPHER 7.3 with respect to part of the delivery (or had the purchaser been entitled to such right if it had requested a price reduction pursuant to this regulation), the purchaser can set a final period for the vendor to make the delivery in writing; such period must take appropriate account of the current delay in delivery. If the vendor fails for any reason to do everything within its power to fulfill its obligation to make the delivery within this period, the purchaser can withdraw from the agreement with respect to said part of the delivery by making a simple written declaration (without involving any court) and then request compensation from the vendor for damage incurred due to the part of the delivery not being fulfilled; such compensation is restricted to a maximum amount of 5 % of the contractual price.
- 7.5 If the purchaser does not accept the delivery at the contractually agreed time, it still has to make the payments which are associated with the delivery as if the delivery had been made. The vendor must provide for the storage of the delivery item at the purchaser's expense and risk. If requested by the purchaser the vendor must insure the delivery item at the purchaser's expense. If the delay in accepting the delivery is due to circumstances foreseen in CIPHER 10 and if the vendor can store the delivery item on its premises without its operation being adversely affected, the costs of storage shall not be invoiced to the purchaser.
- 7.6 If the delay in acceptance is not due to circumstances foreseen in CIPHER 10, the vendor can request the purchaser in writing to accept the delivery within an appropriate period. If the purchaser does not comply with this request, the vendor can withdraw from the agreement with respect to the part of the delivery which has not been accepted by making a simple written declaration (without involving any court) and then request the full contractual price from the purchaser.

8. Payment

- 8.1 The payments must be made pursuant to the agreed payment conditions.
- 8.2 The payment installments made by the purchaser shall be credited against the delivery price; they do not constitute a penalty which would entitle the agreement to be dissolved.
- 8.3 If the delivery item was delivered before all the payments which the purchaser owes pursuant to the agreement were made, the delivery item shall remain the vendor's property until full payment has been made as long as this is permitted pursuant to the law in whose scope of application the delivery item is located. If such law does not permit the reservation of title but allows the vendor to reserve other rights to the delivery item, the vendor can exercise all such rights. The purchaser is obliged to cooperate with respect to measures which the vendor wishes to take to protect its right of ownership or another right to the delivery item in lieu of ownership.
- 8.4 The vendor cannot request a payment which is dependent on the fulfillment of its own obligation before such obligation has been fulfilled unless the non-fulfillment is based on action by the purchaser or its failure to act.
- 8.5 If the purchaser is in arrears with its payments, the vendor can postpone fulfillment of its own obligations until the back-payments have been made unless the unpaid payments are based on action by the vendor or its failure to act.
- 8.6 If the purchaser is in arrears with its payments as a result of circumstances foreseen in CIPHER 10, the vendor cannot request default interest.
- 8.7 If the purchaser is in arrears with its payments, the vendor can in all other cases request default interest from the purchaser at a rate of three percent (3 %) above the respectively valid EURIBOR rate as of maturity based on a written declaration directed to the purchaser with an appropriate notice period. If the purchaser does not pay the amount owed within a period of two months, the vendor can withdraw from the agreement by making a simple written declaration (without involving any court) and request the full contractual price.

9. Warranty

- 9.1 The vendor is obliged under the terms of the following provisions to remedy any defect which adversely affects the serviceability and which is based on a flaw in construction, material or design.
- 9.2 This obligation only exists for such defects which are discovered during the warranty period, i.e. a period of twelve months as of the transfer of risk. Risk is transferred in accordance with CIPHER 6.
- 9.3 Different periods can be specified in the agreement for individual explicitly stated parts of the delivery item (irrespective of whether they were manufactured by the vendor or not).
- 9.4 The purchaser can only make reference to this CIPHER 9 if it notifies the vendor of the defects which it has discovered in writing and without undue delay. The purchaser must give the vendor every opportunity to ascertain and eliminate said defects.
- 9.5 Upon receipt of said notification the vendor must remedy the defect as soon as possible and – apart from the cases stated in CIPHER 9.6 – at its own expense. Unless the defect requires repairs to be carried out where the delivery item is located, the purchaser must send the defective parts to the vendor for repair or replacement. In such a

case the vendor's warranty obligation with respect to the defective part shall be deemed to have been fulfilled when the vendor sends the correctly repaired part back to the purchaser or delivers a replacement.

- 9.6 Unless otherwise agreed the purchaser shall at its own expense and risk assume the transport of the defective parts, the repaired parts or replacement parts between where the delivery item is located and one of the following locations:
- a) the port from where the vendor sent the delivery item if the agreement was concluded FOB, FAS, CIF or CFR;
 - b) the border of the country from where the vendor sent the delivery item in all other cases.
- 9.7 If the repairs are to be carried out where the delivery item is located pursuant to Cipher 9.5, the special provisions to be agreed by the parties shall also apply regarding the presence of the vendor's representatives.
- 9.8 The defective parts which are replaced pursuant to this regulation shall be placed at the vendor's disposal.
- 9.9 If the vendor refuses to fulfill its obligation or if it does not act with the required haste despite receiving a reminder, the purchaser can have the necessary repairs carried out at the vendor's expense and risk; a precondition for this, however, is that it proceeds with the required caution.
- 9.10 The vendor's warranty obligation does not cover defects which are due to material supplied by the purchaser or construction or design which the purchaser stipulated.
- 9.11 The vendor's warranty obligation only applies to defects which occur under contractually foreseen operating conditions and during proper use. It does not apply to defects where the cause only occurs after risk has been transferred. It particularly does not apply to defects which are based on the following: inferior maintenance, poor assembly by the purchaser, modifications without the vendor's written consent, poorly executed repairs by the purchaser, normal wear and tear.
- 9.12 The vendor does not assume any further liability than stipulated in this Cipher 9 after the transfer of risk (Cipher 6), not even for defects where the cause occurred before the transfer of risk. It is explicitly agreed that the vendor does not have to pay compensation to the purchaser for personal injury, damage to items which are not contractual delivery items or for lost profit unless the purchaser was grossly negligent in the individual situation.
- 9.13 Gross negligence is not present in every lack of care or skill; instead gross negligence only exists if the vendor disregards serious consequences resulting from action or the failure to act which it should normally have foreseen if paying professional attention or if the vendor deliberately disregards the consequences of its action.

10. Grounds for Exoneration

- 10.1 The following circumstances are considered grounds for exoneration if they occur after the agreement was concluded and hinder its fulfillment: industrial disputes and all circumstances independent of the will of the parties, such as, e.g. fire, mobilization, confiscation, embargo, prohibition of foreign exchange transfer, war, revolt, lack of means of transport, general shortage of supply goods, restriction of energy consumption.
- 10.2 The party which makes reference to one of the above circumstances must notify the other party of its occurrence and its termination in writing and without undue delay.
- 10.3 If amicable agreement cannot be achieved, it is incumbent on the arbitration court to decide which party was hindered in fulfilling its obligations; this party must then bear the entire costs. If this obligation is incumbent on the purchaser but it has already paid more to the vendor before the agreement was dissolved than the amount of the vendor's expenditure, the purchaser is entitled to a refund of the excess amount. Should the arbitration court decide that both parties were prevented from fulfilling their obligations, the costs shall be distributed as appears just while taking all the circumstances of the case into account.
- 10.4 "Costs" in the sense of this provision shall mean reasonable and actual expenditure; each party must insure that its loss remains as low as possible; if a delivery has been made to the purchaser, however, the vendor's expenditure shall be the part of the contractual price corresponding to said delivery.

11. Restricting Compensation

- 11.1 If a party is obliged to pay compensation, such compensation may only amount to the damage which was foreseeable for the party obliged to pay compensation when the agreement was concluded.
- 11.2 The party which makes reference to the agreement not being fulfilled is obliged to do everything to minimize the damage incurred, provided that it does not incur any unreasonable costs or disadvantages thereby. The non-fulfilling party can otherwise request a reduction of the compensation based on such failure.

12. Dissolving the Agreement

The dissolution of the agreement for whatever reason does not cause the parties' rights to be lost which came into existence during the term of the agreement until it was dissolved.

13. Arbitration Court, Applicable Law, Court of Venue

- 13.1 All disputes resulting from the agreement shall be finally settled according to the rules of settlement and arbitration of the International Chamber of Commerce by three arbitration judges appointed pursuant to said rules.
- 13.2 The agreement is subject to the vendor's applicable law unless the parties agree otherwise.
- 13.3 The arbitration judges shall only make a decision at their discretion if the parties have explicitly agreed to this.
- 13.4 The court of venue is Bonn, Germany.

Valid from November 1, 2010

End of the General Terms and Conditions of Delivery