

General Terms and Conditions

I. General, Conclusion of Contract.

1. Our delivery and payment conditions are binding and officially acknowledged by the customer when placing an order. They shall also apply to future transactions, even if no explicit reference is made to them, but the Purchaser has received them together with an order confirmed by us. If the order is placed at variance with our delivery and payment terms, even in this case only our delivery and payment terms will be binding to us, even though we may not have expressly objected. Different terms are only binding when expressly acknowledged by us in writing.
2. It shall be agreed that our terms of sale and delivery below stated are binding , even if at variance with the Purchaser's terms and conditions of purchase.
3. Our offers are not-binding and without obligation. Oral agreements of any kind including confirmation, commitment, and assurances on behalf of our staff in connection with the conclusion of contract shall only be binding if they have been confirmed by us in writing.
4. Our statements have to be in writing.
5. The commercial clauses used in these Terms and Conditions of Sale have to be interpreted according to the Incoterms 2000.

II. Prices and Payment Terms.

1. Unless otherwise specified in the order confirmation, our prices are quoted ex works and do not include packaging material and VAT. Insurance and other shipping costs will be charged to the Purchaser.
2. The following payment terms shall apply to our deliveries, unless otherwise agreed upon: The invoice is payable within 14 days after issue date as shown on the invoice without discount. If the Purchaser delays payment or fails to pay at all, we shall charge interests amounting to 8% above the respective valid basic rate of interest. The Purchaser will be in default of payment at the latest 10 days after payment has become due regardless of whether we have sent a reminder. The Purchaser shall retain or set off any counterclaims only in so far as his claims are acknowledged, undisputed, or legally binding.
3. If the Purchaser defaults any liabilities, we shall be authorized to make due any and all of our non statute-barred accounts receivable resulting from the same legal relationship.
4. The Seller shall be entitled to assign claims arising from this business.

III. Contents and Scope of Delivery.

1. Any deviations in terms of dimensions or quality shall be permissible within the limits of DIN standards or if subject to special agreements, those in weight to the extent of common practice. In case of order-related production, short deliveries with a quantity loss of 20% with order quantities up to 500 kg, of 15% up to 1,000 kg, and of 10% above 1,000 kg are possible. In case of deliveries ex warehouse, short deliveries of up to 10% are possible. Variations of this extent are not considered defects as to quality within the meaning of § 434 BGB (German Civil Code). Short deliveries that go beyond that shall remain unaffected in conformity with the requirements as per § 377 HGB (German Commercial Code) (§ 7). In the event of deliveries larger than the contracted quantity (excess delivery), they shall be considered accepted if the Purchaser does not immediately give notice after delivery or within 14 days after discovery. § 377 HGB (German Commercial Code) shall be applied accordingly (§ 7).
2. Weight shall be determined on our calibrated scales and shall be decisive for invoicing. The weight is demonstrated by presentation of the weighing protocol.

3. The technical information, figures, drawings, measurement and weight data specified in internet, brochures, offers, and other print matter are solely used for the purpose of product description and represent not-binding average values. They do not represent quality information and shall not give guarantee with regard to quality or endurance unless expressly declared as such.

IV. Delivery Times - Consequences of Delay.

1. Should the Purchaser fail to fulfil contractual obligations – including obligations to co-operate and secondary obligations – as opening of a letter of credit, furnishing domestic or foreign certificates, effecting advance payments or similar in time, we shall be entitled to adequately delay our delivery times - without prejudice to our rights arising from the Purchaser's delay - in compliance with the requirements of our production flow.
2. Delivery shall be made ex works. The moment of dispatch ex works shall be decisive for determining our compliance with delivery periods or dates. In the event that, for reasons not attributable to us, the goods cannot be dispatched in time, the delivery times shall be considered met at the day on which the goods have been notified to be ready for dispatch.
3. With regard to deadlines and delivery dates not expressly referred to as fixed in the confirmation of the order, the Purchaser may set us a reasonable additional period of time for delivery at the earliest one week after such deadline has expired. We may be deemed in delay only after the expiration of such additional period.
4. Partial deliveries shall be permitted to a reasonable extent.
5. In the case of force majeure or other events beyond our control which shall considerably complicate a delivery or make it even impossible, such as interruptions of operation, occurring at our and/or our suppliers' premises (e.g. fire, machinery breakdown, shortage of raw materials or power shortage), transport delay, strikes, official measures as well as non-delivery, incorrect or delayed delivery by the suppliers, in particular with regard to the receipt of essential operating materials or primary materials, we are entitled to postpone delivery or performance under the respective contract, whereas in the event of temporary obstacles solely by the duration of the hindrance plus a reasonable start-up period. We shall immediately inform the Purchaser of any important hindrance and its estimated duration. If the Purchaser cannot reasonably be expected to accept the delay, after consultation with the Seller, he shall be entitled to withdraw from the contract by immediate written declaration insofar we have not partially fulfilled the same.
6. If we delay delivery, the Purchaser shall be entitled to withdraw from the contract after expiration of a reasonable additional period agreed upon in writing. In principle, the Purchaser's right of withdrawal applies exclusively to the non fulfilled part of the contract. In the event that the Purchaser may not be able to use part deliveries without the rest of delivery, he shall be entitled to withdraw from the entire contract.
7. In case of a delay in delivery we shall be held responsible for the damage resulting therefrom proven by the Purchaser providing that the Purchaser communicates us the estimated amount of the damage caused by the delay after having been informed of the duration of such delay. In the event that the estimated amount of damage exceeds 20% of the value of the quantity subject to delay in delivery, the Purchaser shall be obliged to make efforts towards a covering

purchase, as the case may be, to use alternative supply sources that we have identified and to withdraw from the contract for the quantity involved; we shall refund the evidenced extra costs of the covering purchase and the evidenced default damages in the interim period. Otherwise, our liability for evidenced default damage is limited to 50% of the value of the quantity affected by the delivery delay.

8. If the Purchaser comes in default of acceptance or does not comply with his duties, we shall be entitled to claim the damage occurred including any extra costs. In the event of default of acceptance apply the statutory provisions.

V. Transfer of Risk.

The risk shall pass to the Purchaser at the latest upon dispatch of the goods. This applies also to part deliveries, or if we shall have agreed to perform other services, e.g. shipping costs or delivery.

If, for reasons for which the Purchaser is responsible, dispatch of the goods was delayed, the risk shall pass to the Purchaser from the day the goods were notified ready for dispatch. However, we shall be obliged, upon request and at the Purchaser's expense to provide insurance coverage.

VI. Retention of Title.

1. All goods delivered shall remain our property (goods in which title is retained) until all accounts receivable from the Purchaser are settled. This shall also apply to future and conditional claims as well as to account balance claims.
2. With regard to machining and processing of the goods in which title is retained we shall be deemed to be manufacturer within the meaning of § 950 BGB (German Civil Code) without any obligation on our part deriving therefrom. If the goods in which title is retained are processed, combined and mixed with other goods by the Purchaser, we shall have joint title to the resultant merchandise, proportionally in the amount of the invoiced value of the goods in which title is retained. If by such combining, mixing or processing our title ceases to exist, the Purchaser shall hereby assign to us the proprietary/prospective rights to which the Purchaser is entitled in the new products, proportionally in the amount of the invoiced value of the goods. In such case, the Purchaser shall keep the new products in custody for us free of charge. In proportion to our co-ownership rights, the new products shall be deemed to be goods in which title is retained as defined under clause (1).
3. Goods in which title is retained may only be resold by the Purchaser in the normal course of his business at normal terms and conditions as long as he is not in default, always provided that he shall retain title on the products sold by him and the claims from the resale shall be assigned to us proportionally to the amount of the invoiced goods (including VAT if applicable) resulting from the resale to his customers or third parties, that is independent of whether such goods have been processed or not. The Purchaser remains entitled to collect such claims even after such assignment. Our right to collect such claims ourselves, remains unaffected hereby. We, however, shall commit ourselves not to collect the claims as long as the Purchaser meets his payment obligations, does not delay payment and in particular, has not filed for insolvency or is unable to pay his debts as specified under II (3). If such is the case, we may demand that the Purchaser makes the assigned claims and their debtors known to us, provides all information needed for collection, hands over all corresponding documents and notifies the debtors (third parties) of the assignment. Use of the goods in which title is retained to perform contracts for works or contracts for works and materials shall also be

deemed to constitute resale.

4. The Purchaser must notify us immediately in writing of a levy of execution or any other impairment of the rights by third parties to allow us to file third party actions against execution.
5. The Purchaser shall under no circumstances be authorized to further assign claims, nor does our direct debit authorization constitute such an authority.
This does not apply to assignments made through old-line factoring which shall be notified to us and were the factoring proceeds exceed the value of our secured claim. Our claims shall become due for payment immediately upon crediting of the factoring proceeds.
6. If the value of the existing collateral's exceeds the secured accounts receivable by more than 20% in total, we shall be obliged, at Purchaser's request, to release collateral's in the appropriate value; in case of different kinds of collateral we are free to choose which to release.
7. If the Purchaser defaults in payment or fails to honor a bill of exchange, we shall be entitled to claim restitution of the goods in which title is retained and, at our discretion, if required to enter the premises of the Purchaser. The same applies, if it becomes evident after the conclusion of the contract that payment resulting from this contract or from other contracts is jeopardised by the lack of the Purchaser's ability to pay. Restitution of the goods shall not constitute withdrawal from the contract; the statutory regulations of the German Insolvency Act shall remain unaffected.

VII. Claims based on Defect.

1. The goods are in conformity with the contract if they do not or do not significantly deviate from the agreed specification at the time of passing the risk; contract conformity and absence of defects concerning our goods are determined exclusively in accordance with the express agreement on quality and quantity of the goods ordered. Liability for a specific use or purpose or specific suitability is assumed only to the extent to which this is expressly agreed; otherwise the risk of suitability and use lies exclusively with the Purchaser. We are not liable for any deterioration, loss or improper treatment of the goods after the risk has been passed.
2. Contents of the agreed specification and any expressly agreed purpose do not constitute a guarantee; the granting of a guarantee requires a written agreement.
3. The Purchaser has to examine goods upon receipt without delay. Claims based on defects exist only if defects are reported without delay in writing at latest on the sixth day after receipt of the goods; concealed defects are to be notified without delay no later than on the sixth day after their discovery. After an agreed acceptance has taken place, any complaint about defects which should have been discovered in the course of the acceptance procedures is excluded.
4. In the event of complaints about defects, the Purchaser has to give us an opportunity to examine the goods alleged to be defective without delay; upon our request the goods alleged to be defective or a sample of the same must be available to us at our expense. In the event that complaints are unjustified, we reserve the right to charge the freight and transshipment costs as well as the costs of examination.
5. In case of sales of downgraded materials – e.g. so called II-a material – the Purchaser shall have no warranty rights concerning such defects which were either indicated by us or which one would normally expect with goods of this quality.
6. In the event of justified complaints, we shall be entitled to set the nature of subsequent performance (replacement delivery, after-working) taking the nature of the defect and Buyer's justified interests into account. If we fail to restore contract conformity within a reasonable period of time, the Purchaser may set us a reasonable deadline for

compliance;

if the deadline expires without compliance having been effected, the Purchaser may either reduce the selling price or withdraw from the contract; there shall be no further claims. § 8 remains unaffected hereby.

7. In the event that there is a legal defect, we shall have the right to restore contract conformity by eliminating the legal defect within two weeks upon Purchaser's receipt of goods. Besides item 6 Clause 2 shall apply mutatis mutandis.
8. The warranty period for defective deliveries ends – except in case of intent – one year after Purchaser's receipt of the respective product. Irrespective of the aforesaid, the statutory warranty periods shall apply in the case of goods that were used in line with their regular purpose for building construction and that caused that buildings structural defect; in case of repair or replacement deliveries, the warranty period does not start again.
9. The Purchaser's rights of recourse against us based on § 478 BGB (German Civil Code) are limited to the statutory scope of any third party claims asserted against the Purchaser and shall be contingent on the Purchaser fulfilling its duty to notify us in compliance with § 377 HGB (German Commercial Code).

VIII. General Restrictions of Liability and Limitation Period.

1. Our liability for violation of contractual or extra-contractual obligations, including the phase of contract negotiations as well as for tortious acts - including our responsibility for managerial staff and any other person employed in performing our obligations - shall be restricted to damages caused by wrongful intent and gross negligence and shall in no case exceed the foreseeable losses and contract specific typical damage. The liability shall also exclude any claims based on defect and consequential damage.
2. The aforesaid restrictions shall not apply in the case of culpable violation of fundamental contractual obligations where violation of such obligations endangers the attainment of the contractual purpose, it shall neither pertain to damages to life, limb or health caused by our fault nor in cases where we guaranteed certain characteristics of the sold goods. Nor shall such clause affect our statutory liability under the Product Liability Act. Any statutory rules regarding the burden of proof shall remain unaffected by the aforesaid.
3. The aforesaid liability restriction shall not apply in the event of intent or gross negligence of contractual obligations, it shall neither pertain to damages to life, limb or health caused by our fault nor to any recourse claims as per §§ 478, 479 BGB (German Civil Code).
4. The statutory provisions governing limitation periods shall apply.

IX. Validity of Contract and Privacy Statement.

1. When individual provisions of these General Terms and Conditions are or will become invalid, the invalidity shall be limited to such provision. In this event, the statutory provisions shall apply instead. The provision of concern contained in these General Terms of Sale and Delivery shall in no case be substituted by the Terms and Conditions of the Purchaser.
2. Any alteration or supplements to the contract shall become effective only upon our written approval; this also applies to a deviation from the contractual written form requirement itself.
3. We shall be entitled to process and to save the data obtained from the supplier in connection with the business relationship - even if it comes from third parties - in the sense of the Federal Data Security Act, and to have it processed and saved by third parties commissioned by us.

V. Applicable Law and Legal Venue.

1. This contract is subject to the law of the Federal Republic of Germany exclusively.
The UN Purchasing Rights as well as any interstate agreements are precluded, even after implementation into German Law .
2. The place of jurisdiction shall be - at our choice - either the seller's or the Purchaser's seat.

In case of doubt, the German version of these Terms and Conditions shall prevail.

BRUKER-SPALECK GmbH, June 2007