

Sales and Delivery Conditions of SABEU Kunststoffwerk Northeim GmbH

1 January 2003

1. Scope of Conditions /Conclusion of a Contract

- 1.1 The following conditions apply to all supplies and services provided by us upon any order placed by a businessperson. Businessperson in the sense of these Sales and Delivery conditions shall be any natural person or legal entity or partnership capable of holding rights acting within the scope of their professional or self-employed activity when concluding a legal transaction. Any deviations from the following conditions shall only be accepted if they are confirmed by us in writing. Otherwise, acceptance without reservation of our deliveries shall imply acceptance of our delivery conditions. Customer acknowledgments with conflicting conditions are hereby rejected.
- 1.2 An order shall only be considered to be accepted if it is confirmed by us in writing. The same applies to later amendments to the order. Additional agreements shall only be valid if confirmed in writing.
- 1.3 We reserve without restrictions the right of ownership and utilization of copyright to estimates, drawings and other documents; these may only be made available to third parties upon our prior written consent. In the event that no order is placed, drawings and other documents appurtenant to offers shall be returned to us without delay upon request. The same applies to documents belonging to the customer. These may, however, be made available to those third parties to whom we have been authorized to transfer deliveries or services.

2. Prices

- 2.1 Our prices shall apply in accordance with the price lists in force at the time or in our offer; they shall be quoted ex works and shall not include freight, packing, postage, insurance and other shipping charges, unless expressly agreed to the contrary. The prices shall not include value added tax (VAT). The VAT in force on the day of delivery shall be paid in addition to the price.
- 2.2 Packing shall be charged at cost price. Additional charges for fast or express freight as well as charges for bulk goods shall be borne by the customer. In the event that complete packages are not accepted, a supplementary charge für sub-dividing shall be made.
- 2.3 Extra costs which arise due to subsequent changes to the order shall be charged to the customer.
- 2.4 Sketches, drawings, specimen prints, samples and similar preparatory work for printing orders, carried out at the request of the customer shall be charged even if no order is placed afterwards.

3. Payment

- 3.1 Payment shall be made within 30 calendar days from date of the invoice without discount.

- 3.2 Bills of exchange shall only be accepted after special agreement and as payment without allowance for discount. Discounting and expenses shall be borne by the customer. These shall be paid by the customer immediately following presentation of the invoice. In the event that we discount bills of exchange, we accept no responsibility for the prompt presentation, protesting, notification and returning of such bills of exchange, unless there has been wilful misconduct or gross negligence on our part or on the part of a person employed by us in the performance of our obligation.
- 3.3 For specially manufactured orders or the provision of unusual products or other preparatory work we shall be entitled to demand payment in advance.
- 3.4 The customer shall only be entitled to set off against our claim for payment an undisputed or legally proven claim; a customer who is a merchant within the meaning of the HGB (Commercial Code), shall not have a right of retention or offset. However, the rights in accordance with Para. 320 BGB (German Civil Code) shall remain, as long and insofar as we have not fulfilled our obligations under a given warranty.
- 3.5 Unless expressly agreed to the contrary, all payments shall be made in Euro.

4. Delayed Payment

- 4.1 In the event that after the conclusion of the contract a deterioration of the customer's financial situation occurs or becomes known to us thus endangering the performance of our claim for payment, we shall be entitled to demand payment in advance and immediate payment of all outstanding invoices as well as invoices not yet due, to withhold goods not yet delivered and to stop work on orders still in process.
We shall also be entitled to these rights in the event that the customer has not effected payment despite a reminder constituting delay.
- 4.2 For delayed payments, interest for default shall be charged. The interest rate shall be 8 percentage points above the base interest rate set by Para. 247 BGB (German Civil Code). This shall not exclude the enforcement of a claim for further damages caused by the default.

5. Delivery and Acceptance

- 5.1 Only the written confirmation of an order shall be authoritative for the content and scope of the supplies and services.
- 5.2 Delivery dates shall only be binding if they are expressly confirmed by us. Otherwise, information on delivery times and dates shall be given as an indication only. The period stipulated for delivery shall not start; however, before the receipt of the necessary documents, authorizations or clearances to be provided by the customer or before the receipt of any agreed down payment. The delivery dates confirmed by us will be kept to as far as is possible. Delays in deliveries do not give the right to claim for contractual penalties.
- 5.3 In the event that we come in default with our contractual duties, we shall be granted a reasonable extension. Only in the event that special circumstances - considering the mutual interests of the parties - justify an immediate withdrawal from the contract, an extension shall be superfluous. Otherwise, the customer shall only be entitled to withdraw from the contract after we failed to perform within the extended period. Compensation for the damage caused by the delay shall be limited to the amount of the order value (own work excluding previous work and materials), unless the damage was caused by willful misconduct or gross negligence on our part or on the part of other persons employed by

us in the performance of our obligation. A claim for delivery shall be excluded in the cases mentioned in this paragraph.

- 5.4 Interruptions in production - whether in our factory or in that of one of our subcontractors - including strikes, shutouts, war, riots and all other circumstances beyond the control of the parties which prevent one party from fulfilling his contractual obligation shall not give the right to terminate the contractual relationship. The principles governing the abolition of the contractual basis shall not be affected by this provision.
- 5.5 Unless expressly agreed to the contrary, delivery shall be executed ex works at the risk and costs of the customer from a manufacturing plant of our choice. Unless agreed to the contrary, we shall determine the route and method of dispatch. We shall only be liable for shortcomings in the performance of delivery, if such shortcomings are due to willful misconduct or gross negligence on our part or on the part of other persons employed by us in the performance of our obligation.
- 5.6 In the event that the customer responsible for collection - or the customer for on-call orders - fails to collect the goods, although the period stipulated for delivery has ended and he has been informed that the goods are available, we shall then be entitled to put the goods in store at the cost and the risk of the customer or to demand payment of such costs in the event that we store the goods on our own premises. In the event that the delay in collection exceeds two weeks, we shall then be entitled to withdraw from the contract and to demand damages, if the customer cannot prove that the failure to collect was caused by reasons beyond his control. In the event that the customer has no excuse for the failure to collect, we shall then be entitled to withdraw from the contract without the customer having any right to claim damages.
- 5.7 We are not obliged to take back faultless products. In the event that we accept the return of faultless products, we shall be entitled to charge extra costs for bookings, examination of goods a.o. accordingly. Special or custom-made products shall not be returnable unless otherwise provided for in Provision 7 of these conditions. In the event of a return of faultless products, the customer shall bear the risk of an accidental destruction or an accidental deterioration of the ordered product.
- 5.8 The products delivered shall have the essential attributes stipulated in the confirmation of the order and the quality assurance agreements, or, respectively, shall correspond to the technical specifications enclosed.

6. Retention of Title

- 6.1 We retain the right of ownership of the goods supplied until full payment of the purchase price. For goods which the customer obtains from us as part of his professional or self-employed activities, we retain the right of ownership until all our claims against the customer arising from the business relationship, including future claims arising from current or subsequently concluded contracts, are settled. This shall even apply in the event that individual or all of our claims have been included in a current invoice and the balance has been struck and confirmed.
- 6.2 In the event of an infringement of important contractual obligations by the customer, especially in the event of delayed payments, we shall be entitled to reclaim the goods after a reminder and the customer shall be obliged to hand them over. In the event that we take back or seize the goods this does not imply - insofar as the hire-purchase law does not apply - a withdrawal from the contract unless we expressly declare it in writing. In the event of seizures or other actions by third parties the customer shall inform us of the identity of the seized article in writing and provide us at the same time with a report of the seizure and an affidavit referring to the identity of the seized article.

- 6.3 The customer shall be entitled to sell the goods in the ordinary course of business on condition that the claims from the resale are passed over to us as follows:

The customer shall assign to us as of now all claims, together with all accessory rights which accrue to him from the resale against the buyer or against third parties, irrespective of whether the goods delivered by us under retention of title are resold without or after further processing. The customer shall be entitled to collect these debts even after the assignment of the claims to us. Our right to collect the debts ourselves shall not be affected by this. However, we shall undertake not to collect the claims as long as the customer duly meets his payment obligations.

We shall be entitled to demand from the customer to inform us of the assigned claims, together with the name of the debtor, to provide all details necessary for their collection including the relevant documents, and to advise the debtor of the assignment.

In the event that the goods are resold along with other goods which do not belong to us, the claim assigned to us against the buyer shall be the delivery price agreed between us and the customer.

- 6.4 The treatment and processing of the goods delivered by us under retention of title shall be considered to be carried out for us as the manufacturer of the goods within the meaning of Para. 950 BGB (German Civil Code) without constructing an obligation on our part. The processed goods shall be considered goods delivered by us under retention of title within the meaning of these conditions. In the event that the goods delivered by us under retention of title are worked up or mixed inseparably with other items not belonging to us, we shall acquire joint ownership of the new product at the ratio of the invoiced value of the goods delivered by us under retention of title to the invoiced value of the other items used at the time of the processing or mixing. The joint ownership rights created by this shall be considered to be goods delivered by us under retention of title within the meaning of these conditions.

In the event that our goods are combined or inseparably mixed with other separate items to form a single unit and such unit is regarded as the principal product, customer shall transfer partial ownership to us if the principal product belongs to him. Outside of this, the same rules shall apply to the product resulting from the processing, combining or mixing that apply to goods delivered by us under retention of title.

- 6.5 We shall undertake to release at our discretion any sureties provided to us to cover our claims, as soon as these sureties exceed the claims to be secured by more than 25 %.

7. Complaints and Liability

- 7.1 In the event of a defect of our product our liability shall be limited to the following:

- a) The customer shall immediately examine the goods received upon arrival for quantity and quality. Obvious defects must be claimed within one week in writing.
- b) The customer shall examine the primary and intermediate products sent for correction in any case. The risk for any defects shall be transferred to the customer with the release of the product by the production department, unless the defect occurred or could only be detected during the finishing process following the release by the production department. The same rule shall apply to all other release statements for further manufacture by the customer.

- 7.2 Complaints of hidden defects which cannot be found during the immediate examination of the goods, can only be enforced against us if the complaint reaches our offices within 12 months of the receipt of the goods. This rule shall not apply in the event that the hidden defect was caused by willful misconduct of gross negligence on our part or on the part of other persons employed by us in the performance of our obligation.

- 7.3 In the event of legitimate complaints, the customer shall have the choice between repair and replacement of the goods. However, we shall be entitled to remedy the defects in the way not chosen by the customer if the remedy chosen by the customer can only be performed at disproportionately high costs. In the event of a failure, refusal or unacceptability of the remedy, the customer shall be entitled to either rescind the contract or to abate the agreed price. In the event that the defect was caused by willful misconduct or gross negligence on our part or on the part of other persons employed by us in the performance of our obligation, the customer shall be entitled to damages for non-performance or reimbursement of useless expenditures. Para. 361 BGB (German Civil Code) shall not be effected by this provision. Any other liability, in particular compensation claims for consequential damage and claims for financial loss such as loss of profit shall be excluded. This rule shall not apply in the event that the damage was caused by willful misconduct or gross negligence on our part or on the part of other persons employed by us in the performance of our obligation or in the event that the breach of our duties resulted in another persons death, bodily harm or health damage.
- 7.4 In the event that the order concerns job processing or additional treatment of articles, we shall not be liable for any impairment caused to the product to be processed or receiving additional treatment unless such impairment or damage was caused by willful misconduct or gross negligence on our part or on the part of other persons employed by us in the performance of our obligation.
- 7.5 In the event that only a part of the goods supplied are found to be defective this shall not be a legitimate reason for rejection of the entire delivery unless the partial delivery is of no use to the customer.
- 7.6 Minor deviations from the original in reproduction cannot be objected to. As long as the usual trade or industrial tolerances are adhered to, a right to warranty claims shall not be granted.
- 7.7 In the event that the defect is due to the quality of the materials used we shall be entitled to assign to the customer our claim against the sub-contractor. In this event, we stand surety insofar as such claims do not exist because of our own negligence or such claims are unenforceable.
- 7.8 In the event that the defect is due to the quality of materials,
- a) which have been supplied by the customer, or
 - b) which have been purchased by us from the customer for production, or
 - c) which have been used upon express instruction of the customer,
- we shall not be liable.
- 7.9 Deviations in quantity of the goods delivered by no more than 10 % are customary in trade and cannot be objected to. The quantity delivered shall be invoiced.
- 7.10 Liability shall be excluded for damages resulting from the following:
- unsuitable or improper use
 - faulty assembly by the customer or third parties despite proper and clear assembly instructions
 - faulty operation by the customer or third parties
 - natural wear and tear
 - faulty or careless handling
 - unsuitable equipment
 - substitute materials
 - chemical, electro-chemical or electrical effects, unless these effects can be attributed to negligence on the part of the supplier.

7.11 The supplier certifies that the goods delivered fulfil the legal requirements valid in Germany regarding product safety and product liability.

8. Safekeeping, Insurance

8.1 Patterns, drawings, raw materials, print media, tools and other re-usable items as well as semifinished and finished products shall only be held in safekeeping beyond the conclusion of the business relationship after prior agreement and against an extra fee. We shall only be liable for defects caused by willful misconduct or gross negligence on our part or on the part of other persons employed by us in the performance of our obligation

8.2 In the event that the objects described above are provided by the customer, they shall be handled carefully until they are returned. . We shall only be liable for defects caused by willful misconduct or gross negligence on our part or on the part of other persons employed by us in the performance of our obligation.

8.3 In the event that the above-mentioned objects have to be insured, the customer shall take out his own insurance.

9. Equipment and Copyright

9.1 Equipment, tools and other patterns developed and made by us for the performance of the order shall remain our property even in the event that a part of the costs have been charged.

9.2 The customer shall carry sole responsibility for ensuring that in carrying out his orders the rights of third parties, in particular copyrights, patents or designs are not infringed. The customer shall exempt us from any and all claims by third parties with regard to such infringement of rights.

10. Imprinting

10.1 We shall be entitled to indicate the name of our company in an appropriate manner on the contractual products. The customer shall only be entitled to refuse to give his consent in the event that he has a vested interest in it.

11. Place of Performance, Jurisdiction, Validity

11.1 The place of performance shall be Northeim.

11.2 In the event that the customer is a merchant, a corporate body with public law rights, or a public law entity, the Municipal Court of Northeim (Amtsgericht Northeim) or the District Court of Göttingen (Landgericht Göttingen), respectively, depending on subject matter jurisdiction, shall be exclusively competent for any and all claims and disputes arising out of or in connection with the contractual relationship, including summary-bill enforcement and summary proceedings. The same shall be true in the event that the customer has no place of general jurisdiction within the Federal Republic of Germany or moves his domicile or habitual residence out of this territory after the conclusion of the contract or in the event that the customer's domicile or habitual residence is unknown at the time when the legal action is brought.

- 11.3 The invalidity of one or more provisions in these sales end delivery conditions shall not affect the validity of the remaining provisions.
- 11.4 The parties shall undertake to replace the invalid provision with another valid provision which meets or comes closest to the intended purpose.

12. Miscellaneous

- 12.1 The contractual relationship shall be governed by German Law. The UN-Convention on the International Sale of Goods (CISG) shall not be applicable.
- 12.2 We shall have the right within the scope of the commercial relationship to process personal details entrusted to us for the purpose of defining our order, i.e. to store, transmit, update and cancel.