

**General Terms and Conditions of Sale, Delivery and  
Payment of Messrs. Armaturenwerk Hötensleben  
GmbH effective 05/2008**

**I. Validity / Quotations**

1. These General Conditions of Sale apply to all – also to future – contracts or other services. They have been put up in all our conference rooms, where they are clearly visible to everyone. Conditions of the buyer will not put us under any obligation, even if we do not object upon their receipt. This particularly applies in case we confirm the order of our customer for organizational reasons on forms of his own.
2. Our offers are without engagement. Agreements, in particular oral collateral agreements, promises, guarantees or other assurances of our sales personnel will not be binding until confirmed by us in writing.
3. Documents accompanying our quotations, such as drawings, illustrations, technical data, references to standards as well as information in promotional material do not represent quality descriptions, assurances of characteristics or guarantees unless expressly described as such in writing.
4. Deviations of the object of supply from quotations, samples and previous deliveries are admissible in accordance with the respective DIN EN standards for iron and steel or other relevant, technical standards.
5. Samples or specimens of the buyer presented for the purpose of order placement will be carefully examined. A guarantee of a correct recognition of the sample in all – and in particular in physical – respects is excluded. Deviations with regard to quality, characteristics and dimensions cannot be excluded. Therefore, the buyer is required to carefully check the goods for their suitability for the desired purpose before use.

**II. Prices**

1. Unless agreed differently, our prices are to be understood ex works/warehouse Hötensleben excluding transport and packing, excluding any applicable VAT.
2. If the material is delivered in packed condition, we will charge the packing at cost; within the legal requirements we will take back the packing material delivered by us, provided same is returned by the customer carriage prepaid within a reasonable time period (max. 14 days). There will be no refund for returned packing material.

**III. Payment and offset**

1. Our invoices are due net within 30 days after invoice date. Invoices totaling less than 50 EUR (Euros), as well as invoices for setup, repairs, or proportional costs for molds or toolings become due immediately and without deduction. Payments within the period allowed for settlement has to be effected in such a way as to ensure that the amount due will be at our disposal latest on the due date. We reserve the right to charge a minimum order value and to deliver in usual production or packing units. By principle, delivery to unknown customers will be effected against advance payment or collect only.
2. Counterclaims disputed by us or not asserted by a court order do not entitle the buyer to retention or set-off.
3. Upon exceeding the credit period, latest upon default of payment, while reserving all other rights, we are entitled to charge interest at the rate of the bank's debit interest including all related costs of a similar account current debit or – at our choice – at the legal rate of 8% above the respective basic interest rate of the German Bundesbank. We reserve the right to make further claims for damages caused by default.
4. If, after conclusion of the contract, it becomes evident that our monetary claim is jeopardized by lack of performance of the buyer, we are entitled to the rights of Paragraph 321 BGB (German Civil Code – uncertainty defense). In that case we are entitled to accelerate maturity of all not statute-barred claims receivable of the customer from the current business relationship and to revoke the direct-debit mandate as stated in V/7. Further, upon default of the customer, we are entitled to demand the return of the good after a reasonable grace period. In addition, we are entitled to forbid a resale or further processing of the delivered goods. Taking back the goods cannot be construed as a rescission from the contract. All these legal consequences can be averted by the customer by effecting payment or by providing securities covering the jeopardized amount. The prescriptions of the insolvency regulations will not be touched by the above regulations.
5. Any cash discount awarded can only be applied to the invoice value excluding freight and requires the full settlement of all matured debts of the customer on the date the cash discount is applied.

**IV. Delivery times**

1. Delivery times and dates are considered kept, if the delivery or partial delivery has been shipped or picked up within the agreed delivery time.
2. Authoritative statement of the agreement delivery time is our order confirmation. Adherence to the delivery time requires the timely receipt of all documents to be supplied by the customer, the required permits, clearances, a timely clarification and approval of the drawings, the fulfillment of agreed payment terms and the meeting of other obligations. If these conditions are not met on time, the delivery time will be adequately extended.
3. Our obligation to deliver is subject to correct and timely receipt of supplies from your sub-suppliers, unless the incorrect and late supply is due reasons caused by us.
4. In case of import or export transactions, we are not liable for the issuance of required import or export licenses by the relevant authorities or institutions. The customer is required to provide and procure all necessary documents and information to obtain the necessary import and export licenses. The customer himself is further obliged to procure all

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necessary permissions and certifications to meet his requirements to us. In case of nonfeasance, we reserve the right, after a reasonable grace period, to withdraw from the contract or to claim damages for reasons of failure to perform.

5. In case we are in default, the customer may, upon expiry of a reasonable grace period set by us, withdraw from the contract, provided the goods have not yet been shipped by the expiry date of the grace period. Entitlement for compensation for reasons of default and non-performance are governed by clause VIII of these conditions.

### **V. Retention of title**

1. All deliveries are effected with retention of title in accordance with Paragraph 449 BGB (German Civil Code) with the following amendments:
2. All goods delivered remain our property (conditional goods) until all claims from the business relation, regardless of the legal grounds, including future or conditional claims, have been settled.
3. The customer is obliged to insure conditional goods against all insurable risks (in particular against fire, water, thunderstorm, theft, vandalism, legal liability, etc.). He transfers his claims from these insurance contracts in advance to us. We accept this transfer.
4. For us as manufacturers in accordance with paragraph 950 BGB (German Civil Code), any modification or processing of the conditional goods is effected for us without obligation for us. The processed goods are considered conditional goods in accordance with clause V/2. In case of processing, combining or mixing the conditional goods with other goods by the customer, we are entitled to a co-ownership in the new goods of a value equivalent to the ratio of the invoice value of the conditional goods and the invoice value of the other goods used in the production of the new goods. In case our ownership ceases to exist due to combination or mixing, the customer transfers to us his rights in the new product or object in advance to the extent of the invoice value of the conditional goods, and stores them for us without charge. The resulting co-ownership rights are considered to be conditional goods in accordance with clause V/2.
5. The customer may sell conditional goods in customary business transactions and at his standard conditions of delivery and sale only as long as he is not in default and provided his receivables from the resale are transferred to us in accordance with the below clauses V/6 and V/8. The customer is not authorized to dispose of the conditional goods in any other way, including pawning or charging lien.
6. Receivables of the customer from the resale of the conditional goods are transferred to us in advance. We accept this transfer. The transferred receivables serve as security to the same extent as the conditional goods. If the conditional goods are sold together with other goods not sold by us, the transfer of the receivables from the resale only extends to the amount of the resale value of the conditional goods in question. In case of a resale of goods in which we have a co-ownership in accordance with clause V/4, the transfer of the receivables extends to the amount of such a co-ownership.
7. Up to our revocation, which is admissible at any time, the customer is entitled to collect receivables from the resale. We will invoke our right of revocation in such cases as mentioned in clause III/4 only. Upon our demand, the customer is obliged to immediately inform his customers and clients of the transfer of rights to us, to provide us all information necessary for the collection of the receivables and to hand over the respective documents. We are entitled to inform the debtors of the transfer of rights in the name of the customer.
8. The customer is obliged to inform us without delay and in writing of a pawning or any other disadvantage by third parties of the conditional goods or the receivables transferred to us in advance and to hand over the documents necessary for an intervention.
9. If the value of the existing securities exceeds the secured receivables by more than 50 percent in total, we are in this respect obliged to release securities of our choice upon request of the customer. With the full payment of all open payments of the customer from our business relationship, the ownership in the conditional goods, as well as the transferred receivables is transferred to the customer.

### **VI. Execution and deliveries**

1. By handing over the goods to a carrier or freight forwarder, latest, however, upon leaving our works / warehouse – or in case of drop shipments – of the works responsible for delivery, the risks of all transactions, including Franco and Franco domicile deliveries, are transferred to the customer. The obligation to unload and the related costs are the responsibility of the customer. We do not accept any liability for the most economic type of shipment.
2. We are entitled to effect partial shipments to a reasonable extent. In case of custom-ordered goods, short orders or overshoots of up to 10% are admissible.
3. In case of make-and-take orders, we are entitled to produce or have produced the entire order in one lot. Later changes after placement of the order cannot be taken into consideration, unless it was expressly agreed. Call-up orders (dates and quantities) can only be observed within our capacities for delivery and production, unless different fixed agreements were made. If the goods are not called up as per contract, we are entitled to invoice same after expiry of a reasonable grace period.
4. If we expressly agreed to take back correctly delivered goods, we are entitled, without any separate notification, to issue a credit note in the amount of the invoice value less an amount of up to 20%, unless the customer provides proof

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that costs and lost profit are considerably less than the lump sum deducted. The minimum amount charged at present time for administrative costs is 25 EUR (Euros). We reserve the right of further deductions for decrease in value. Return shipments have to be effected free of charge to us. Blanks or special manufactures, as well as goods with an expiry date will not be accepted.

5. By applying paragraph 10, section 2, page 3 of the Act Governing the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment (Electrical and Electronic Equipment Act), it is considered as agreed that the customer assumes the obligations that could possibly be attributed to us according to paragraph 10, section 2 Electrical and Electronic Equipment Act and will be responsible for the return and disposal of the appliances listed in paragraph 3 of the Electrical and Electronic Equipment Act of other users than private households, delivered by us.

### **VII. Liability for defects**

1. Upon receipt and before use, the customer is obliged to check the delivered goods for flawless condition and in every respect for its suitability for the intended use. Due to different requirements and individual conditions in the use of the products we cannot accept any liability for the suitability of the goods for the intended uses of the customer, unless we expressly confirmed the suitability in writing. Customary and technically unavoidable deviations of a chemical and physical nature are expressly reserved. Complaints about obvious or recognizable defects, in particular with respect to weight, quantity, dimensions, shapes and exterior condition of the goods have to be made immediately and in writing upon receipt of the goods, and have to be received by us latest within 10 days. Defects, caused by improper treatment or storage by the customer cannot be considered. After processing and sale, claims for damages are excluded.
2. In case of rightful, timely complaints, we are entitled to choose between repair of the defect and delivery of a flawless object (supplementary performance). To rectify flaws the customer has to grant us the necessary time and opportunity according to equitable discretion. In case of failure or the refusal of supplementary performance, the customer is entitled to reduce the purchasing price or, after setting a reasonable grace period and its unsuccessful expiry to withdraw from the contract. If the defect is of a minor nature, the customer is entitled to a price reduction only. A claim for damages or reimbursement of costs is excluded, unless we acted deliberately or grossly negligent.
3. As long as the customer does not offer us the possibility to verify the defect, particularly, if he does not, upon our request, put the goods complained about or samples of same at our disposal, he cannot refer to flaws of the goods.
4. We will only cover expenses in connection with a supplementary performance, if, in the individual case, we are responsible for same due to faults of our own or within our obligations of warranty. In any case, such costs have to be in relation to the original sales price. Expenses that are caused by the fact that the goods sold were transferred to a location different from the seat or the subsidiary of the customer will not be borne by us.
5. In accordance with clause VIII, any further claims are excluded. This particularly refers to damages other than the goods themselves (consequential damages). Our liability with regards to the lack of guaranteed characteristics is governed by clause VIII as well.
6. Information on technical data of the goods is given within the usual tolerances (DIN / EN or other relevant technical standards on iron and steel). We will not accept any guarantee for a particular function of any installations of which goods delivered by us form a part, unless we expressly provided consultancy services and, in addition, confirmed in writing that our consultancy service is binding.

In all cases, the customer remains obliged to check the suitability for the desired function himself. We cannot accept any guarantee for characteristics or technical data of our goods, if, in the design or manufacture of installations where goods delivered by us are to be integrated, insufficient consideration is given to the characteristics of the goods delivered by us and thus deviations result. We do not offer any time guarantees on the service life of materials and, in particular, of wear parts.

### **VIII. General limitations of liability**

1. For violations of contractual or non-contractual obligations, in particular due to impossibility, default, fault prior to the conclusion of the contract and prohibited acts, we only accept liability – including our managers and other vicarious agents – in cases of intent and gross negligence limited to damages predictable at the time of contract conclusion and typical for the contract.
2. These limitations do not apply in case of culpable violation of important obligations of the contract insofar as the fulfillment of the purpose of the contract is jeopardized, in case of mandatory liability as prescribed by the Product Liability Act, in case of the loss of life, bodily injury or health impairment, nor in case of fraudulent concealment of the defect or if we guaranteed its absence. The rules on the burden of proof remain untouched.
3. Unless agreed differently, one year following the delivery of the goods, contractual claims arising from or in connection with the delivery of goods, fall under the statute of limitation. This time period also applies to such goods that, due to their usual type of use were employed in the construction of a building and caused its defectiveness, unless such a use was previously agreed in writing. Our liability for intentional or grossly negligent violations of our obligations, as well as the statutory limitation of legal recourse remains unaffected. In case of supplementary performance, the time period of the statute of limitation will not start anew.

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4. Claims for recourse of the customer of the type described in paragraph 478 BGB (German Civil Code) are excluded, if the customer did not meet or only belatedly met his obligation to advise of the defect in accordance with paragraph 377 HGB (German Commercial Code) The seller will reimburse such necessary and proven costs of supplementary performance that the customer has suffered because of the claims of his customer.
5. Our liability will not cover – except in case of intent – such damages that could not have been typically expected in this specific business transaction or are not typical for this type of contract. This also applies to such damages against which the customer has taken out insurance or which normally could have been insured against.

**IX. Copyrights**

1. We reserve the copyright of estimates, drafts, drawings and other documents; they may be disclosed to third parties with our authorization only. Drawings and documents attached to quotations have to be returned upon our request.
2. Insofar as we delivered objects based on drawings, models, samples or other documents supplied by the customer, the customer guarantees that no property rights of third parties are infringed. In case third parties, by referring to property rights, prohibit us in particular the production and delivery of such objects, we are entitled – without any obligation to verify the actual or legal situation – to stop any further activity and to claim damages from the customer in case he is at fault. In addition, the customer is obliged to indemnify us from all claims of third parties in this connection.

**X. Test parts, molds, toolings**

1. If the customer is obliged to provide parts for the execution of the order, they have to be delivered Franco production facility in the agreed quantity, otherwise in a sufficient quantity with a reasonable surplus for possible rejects, free of charge and without any defects. In case of non-compliance, any resulting costs and all other consequences have to be borne by the customer.
2. The preparation of test parts, including the costs for molds and toolings have to be borne by the customer.

**XI. Place of performance, place of venue and applicable law**

1. Place of performance for delivery and payment is Hötensleben. Place of venue for merchants is Braunschweig. We are entitled to sue the customer at his place of venue as well.
2. For all provisions of contract between the customer and us, and in addition to these conditions, the laws of the German Federal Republic will apply. The applicability of the Convention on Contracts for the International Sale of Goods (CISG) dated 11.04.1980 is excluded.