

General Terms and Conditions for Sale and Delivery

1. Order Placement, Conflicting Provisions

1.1 CAT supplies all goods and provides all services exclusively subject to the following terms and conditions and those specific conditions of which Purchaser has been notified.

1.2 Purchaser's general terms and conditions do not apply unless expressly confirmed by CAT in writing. Neither the failure to object to Purchaser's general terms and conditions nor the supply of goods or provision of services shall be construed as a consent to other general terms and conditions than the CAT General Terms and Conditions for Sale and Delivery.

1.3 Future legal transactions in the same or similar business fields with the Purchaser are also based on these General Terms and Conditions for Sale and Delivery.

2. Offer, Quotation

2.1 CAT's offer is subject to change without notice, unless otherwise provided for in the order confirmation.

2.2 Order confirmations must be signed by persons having the authority to represent CAT in accordance with the Commercial Register entry or as evidenced by a power of attorney to be binding.

2.3 We reserve all proprietary rights and copyrights to illustrations, drawings, and other material made available to Purchaser. This material shall not be used for any other purposes than those specified by CAT and shall not be made available to third parties. In particular, this applies to any written records that are designated as "confidential". Purchaser shall obtain CAT's express written consent prior to any transfer of this information.

3. Prices

3.1 All prices are quoted ex works excluding packaging.

3.2 CAT reserves the right to adjust its prices if after the executions of this Agreement cost increases or decreases occur in particular because of collective bargaining agreements or raw material price changes. Upon request, we shall provide evidence thereof to Purchaser.

4. Delivery

4.1 Compliance with the agreed upon delivery periods or dates is conditioned upon the timely receipt of all material, required approvals and releases, in particular of plans, to be made available by Purchaser as well as compliance with the agreed upon terms of payment and other obligations on the part of Purchaser. If these conditions precedent are not fulfilled the delivery periods shall be extended for a reasonable time period. This provision shall not apply if we are responsible for the delay.

4.2 Force majeure, labor unrest, riots, government actions, failure of CAT's suppliers to make delivery and other unforeseeable, unavoidable, material events release the parties from their contractual duties during the time the interruptions persist and for the duration of this event. The same applies, if these events occur at a time during which the party affected is in default. The party affected shall provide the other party immediately with the necessary information to the extent this can be reasonably expected and shall adjust its obligations to the changed conditions in good faith.

4.3 Purchaser's claims to damages vis-à-vis CAT based on default are excluded in any and all cases of delayed shipments or services, including after the expiration of a grace period that has been granted. This shall not apply to the extent that CAT is liable for personal injury. This provision does not change the burden of proof to the disadvantage of Purchaser. The statutory right to rescind the agreement remains unaffected, provided, however, that Purchaser may only rescind the agreement in accordance with the statutory provisions to the extent that CAT is responsible for the delayed shipment.

4.4 Partial deliveries are allowed. In case of delay of a partial delivery, CAT does not accept hereof any claims regarding the already delivered goods, unless the delivered goods on its own have no interest for the Purchaser.

4.5 CAT makes deliveries ex works, unless the parties agree otherwise in a specific case. The risk of loss passes to Purchaser at the time Purchaser is notified of the readiness for shipment, but no later than at the time when the goods leave the shipping plant. This provision shall also apply, if CAT is responsible for the shipment of the goods. CAT shall take out a transport damage insurance at Purchaser's cost, if the parties specifically agree upon such an insurance policy.

4.6 In case of default of acceptance or any other obligation to cooperate, for which the Purchaser is responsible, CAT has the right to claim for additional expenditure for the damage caused. Additional claims remain under reservation. If the above mentioned case applies, the danger of loss or aggravation of the goods by chance is passed to the Purchaser as soon as there is default of acceptance.

5. Supplies Obtained by CAT

CAT has the right to postpone delivery and/or cancel CAT's delivery obligations, if CAT is unable to obtain the adequate supplies in a timely manner for reasons for which CAT is not responsible.

6. Liability for Material Defects

6.1 Purchaser shall inspect the goods immediately and notify CAT of any defects in writing. CAT shall be notified of any hidden defects in writing immediately after their discovery.

6.2 Purchaser shall not process the goods Purchaser has complained about until the complaint has been settled. CAT shall be given the opportunity to inspect the defective goods. Unless otherwise provided, the goods Purchaser has complained about shall be sent to CAT upon CAT's request.

6.3 All samples of the goods made available to Purchaser are supplied for its orientation or information. Irrespective of these samples, CAT shall have the right to make shipments within customary tolerances.

6.4 In case of material defects, CAT shall, in its discretion, remove the defect or supply goods free of any defects, to the extent that the material defect existed at the time of the passage of the risk. If CAT fails to re-

perform the contract, Purchaser may reduce the contract price or rescind the agreement, irrespective of any claims for damages under §9. Purchaser's claims related to expenses incurred at the time of re-performance, in particular, transportation, travel, labour and material expenses, are excluded to the extent that additional expenses are incurred due to the fact that the supplies were moved to another location outside of Purchaser's site, unless this re-location is in compliance with their intended use.

6.5 Purchaser's statutory rights of recourse in accordance with §§ 478, 479 BGB shall only exist to the extent that Purchaser has not entered into any agreements with its clients beyond the statutory claims involving defects. Purchaser's right to recourse against CAT are limited to the contract amount.

6.6 The statute of limitations for material defects shall be 12 months, starting at the time of passage of the ownership and risk. If the goods supplied by CAT are installed in a machine, the claims shall be statutorily barred after 12 (twelve) months from commissioning, but no later than fifteen (15) months from delivery.

7. Payment Terms

7.1 Unless otherwise provided, CAT's invoices for shipments are payable within 15 days from the date of invoice, for services immediately upon receipt of invoice, without any deduction or charges. Purchaser may not offset claims, unless its counterclaims have been finally adjudicated or recognised by CAT. Purchaser may only exercise its right to withhold payment to the extent that its counterclaim is based on the same agreement.

7.2 If the parties agree on a cash discount for short-term payment, this discount shall be deducted from the net invoice amount excluding incidental costs. In any event, this discount may only be deducted, if all other claims arising from the business relationship that are older than 15 days (cf. par. 7.1) have been settled.

7.3 Notwithstanding a conflicting provision of Purchaser, CAT shall have the right to specify the order in which the claims will be settled, if more than one invoice is outstanding.

8. Retention of Title

8.1 CAT reserves title to all goods supplied until all existing claims from the business relationship between CAT and Purchaser have been settled ("Retained Goods"). If insolvency proceedings against the assets of Purchaser are instituted, CAT reserves the right to rescind the agreement. If Purchaser violates its contractual duties, in particular, if Purchaser is in default with its payments, CAT may rescind the agreement and repossess the goods that were supplied. Purchaser is obligated to surrender the goods. CAT may repossess the goods or assert its claims to retained goods without being required to rescind the agreement, and such actions or the attachment of the retained goods shall not constitute the rescission of the agreement unless CAT has expressly declared its intent to rescind.

8.2 Purchaser shall store the retained goods separately and identify them accordingly. Purchaser shall handle the retained goods with due care, in particular, it shall insure the replacement value of the goods against fire, water damage, or theft at its expense. To the extent maintenance and inspection tasks are required, Purchaser shall carry out these tasks in due time at its expense.

8.3 In the case of an attachment, seizure, or other third party decree or invention, Purchaser shall notify us immediately.

8.4 Purchaser may resell the retained goods in its normal course of business, but Purchaser agrees to assign all claims Purchaser may have against its customers or third parties in the amount of the invoice total of CAT's claims to CAT, irrespective of the fact whether the retained goods have been resold without or after further processing. Notwithstanding the assignment, Purchaser shall have the right to collect the claims, but CAT's right to collect the claims shall remain unaffected. However, CAT agrees not to collect the claim as long as Purchaser honours its payment obligations using the proceeds collected, it is not in default with its payments, no insolvency proceedings have been instituted, and Purchaser has not suspended its payments. In these cases CAT may request Purchaser to disclose the assigned claims and their debtors to CAT, to provide all information required for the collection of the claim, to provide all related records and to notify the debtors (third parties) of the assignment.

8.5 Purchaser processes or transforms the retained goods without creating any obligations for CAT. If Purchaser combines, mixes, or processes the goods to which CAT reserves title, CAT acquires ownership rights in the new object pro-rata to the value of the retained goods (invoice total) to the other processed, combined, or mixed items at the time of processing, combining, or mixture. In addition, the same provisions shall apply to any objects created by processing or combining goods to which CAT reserves title. If mixing is carried out in such a manner that Purchaser's object constitutes the main object, the parties agree that Purchaser grants CAT pro-rata ownership rights. Purchaser shall hold the thus created exclusive or joint property in custody on behalf of CAT.

8.6 If the value of the security interests granted to CAT exceeds CAT's claims by more than 20%, CAT shall release in its discretion the exceeding security interests at Purchaser's request.

8.7 If and to the extent the registration and/or compliance with other requirements is a condition precedent for the validity of the retention of title, Purchaser shall immediately take all necessary measures at its expense and give all required notices. If and to the extent the governing law does not permit any provisions regarding the retention of title, Purchaser shall provide other reasonable collateral if Purchaser intends to make use of a credit.

9. Other Claims to Damages

9.1 Claims for damages by Purchaser, regardless of the legal cause, in particular, claims arising from a violation of obligations and from tort, are excluded.

9.2 This shall not apply to the extent that the parties are subject to statutory liability, e.g., pursuant to the Product Liability Act, or in case of wilful misconduct or gross negligence, or in case of death, personal injury or health related damages, or for the violation of a material duty. Claims for damages related to the violation of a material duty are limited to the typical, foreseeable damages, unless the damages have been caused by wilful misconduct or gross negligence, or in case of death, personal injury or health related damages. This provision does not change the burden of proof to the disadvantage of Purchaser.

9.3 To the extent that Purchaser is entitled to claims for damages under this § 9, these shall become statutorily barred upon the expiration of the statute of limitations set forth, in § 6.6, unless otherwise provided by mandatory statutory provisions.

9.4 To the extent that CAT's liability for damages is excluded or limited, this also applies to the personal liability for damages caused by CAT's employees, representatives, or vicarious agents.

10. Third Party rights

10.1 If a third party asserts justified claims against Purchaser that are based on the violation of an industrial property right or copyright ("protected rights") by any product that has been supplied by CAT and is being used in accordance with the agreement, CAT shall be liable to Purchaser as follows:

10.1.1 CAT shall in its discretion and at its expense either acquire the right to use for the product, change the product in such a manner that the protected right is not violated, or replace the product. If CAT cannot reasonably be expected to do so, CAT shall take back the products and refund the purchase price.

10.1.2 The obligations set forth above shall only exist to the extent that Purchaser immediately notifies CAT in writing of any claims asserted by third parties, does not recognise the violation, and that CAT shall be in charge of all measures required for the defence or settlement of the claim. If Purchaser discontinues the use of the products in an attempt to reduce damages or for any other amicable reason, Purchaser shall inform the third party that the discontinued use does not imply that Purchaser recognises the violation of a protected right.

10.2 Purchaser's claims shall be excluded to the extent that it is responsible for the violation of a protected right or to the extent that the violation of protected rights was caused by Purchaser's specifications, by a kind of application that was not foreseeable for CAT, or by the fact the product was changed by Purchaser or used in combination with products that were not supplied by CAT.

10.3 In any of the cases referred to in par. 10.2, Purchaser shall hold CAT harmless from and against all third party claims.

10.4 Any further claims against CAT are excluded, provided, however, that § 9 (Liability) and Purchaser's right to rescind the agreement shall remain unaffected.

10.5 In case any other defects of title should exist, the provisions set forth in § 6 shall apply accordingly.

11. Assembly and Repairs

11.1 The present General Terms and Conditions shall apply to assembly and repairs as appropriate.

11.2 The provision of engineers, technicians, etc. shall be invoiced separately.

11.3 Customer shall take all measures required for the immediate deployment of the personnel made available by CAT. In case of delays all resulting costs for waiting time and additional travel shall be borne by Customer, even if the parties agreed to make the personnel available free of charge.

12. Governing Law, Place of Performance, Jurisdiction

12.1 Venue shall be Mannheim, Germany. CAT reserves the right to institute legal proceeding against Purchaser at Purchaser's venue.

12.2 This Agreement and the legal relationship between Purchaser and CAT shall be governed exclusively by the substantive law of the Federal Republic of Germany, excluding the conflict of laws rules. The UN Convention on the International Sale of Goods (CISG) shall not apply. The delivery clauses shall be interpreted and construed based on the INCOTERMS 2000.

13. Severability

If any provision of this agreement should become invalid, this does not affect the validity of the remaining provisions.

14. Data Storage

CAT stores data in accordance with the applicable Data Protection Acts.