

## **General Conditions of Sale**

**Häfner & Krullmann GmbH**  
**33818 Leopoldshöhe**  
**1 November 2002**

### **1. Scope of Application**

All supplies and the services associated with them shall be provided exclusively on the basis of these General Conditions of Sale. References made by Buyer to his general terms and conditions are hereby rejected. Seller's General Conditions of Sale shall also apply to all future business. Deviation from these General Conditions of Sale require the explicit written approval of the Seller.

### **2. Offer and Acceptance**

Seller's quotations are not binding offers but must be seen as invitations to Buyer to submit a binding offer. The contract is concluded by Buyer's order (offer) and Seller's acceptance. In case the acceptance differs from the offer, such acceptance constitutes a new non-binding offer of Seller.

### **3. Product quality, specimens and samples; guarantees**

#### **3.1**

Unless otherwise agreed, the quality of the goods is determined by Seller's product specifications.

#### **3.2**

The properties of specimens and samples are binding only insofar as they have been explicitly agreed to define the quality of the goods.

#### **3.3**

Quality and shelf-life data as well as other data constitute a guarantee only if they have been agreed and designated as such.

### **4. Advice**

Any advice rendered by Seller is given to the best of his knowledge. Any advice and information with respect to suitability and application of the goods shall not relieve Buyer from undertaking his own investigations and tests.

### **5. Prices**

If Seller's prices or Seller's terms of payment are generally altered between the date of contract and dispatch, Seller may apply the price or the terms of payment in effect on the date of dispatch. In the event of a price increase, Buyer is entitled to withdraw from the contract by giving notice to Seller within 14 days after notification of the price increase.

### **6. Delivery**

Delivery shall be effected as agreed in the contract. General Commercial Terms shall be interpreted in accordance with the INCOTERMS in force on the date the contract is concluded.

### **7. Damage in Transit**

Notice of claims arising out of damage in transit must be lodged by Buyer directly with the carrier within the period specified in the contract of carriage and Seller shall be provided with a copy thereof.

### **8. Compliance with legal requirements**

Unless specifically agreed otherwise, Buyer is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the goods.

## **9. Delay in Payment**

### **9.1**

Failure to pay the purchase price by the due date constitutes a fundamental breach of contractual obligations.

### **9.2**

In the event of a default in payment by Buyer, Seller is entitled to charge interest on the amount outstanding at the rate of 8 percentage points above the base interest rate announced by the German Federal Bank at the time payment is due if the amount is invoiced in euros, or, if invoiced in any other currency, at the rate of 8 percentage points above the discount rate of the main banking institution of the country of the invoiced currency at the time the payment is due.

## **10. Buyer's rights regarding defective goods**

### **10.1**

Seller must be notified of any defects discovered during routine inspection within four weeks of receipt of the goods; other defects must be notified within four weeks after they are discovered. Notification must be in writing and must precisely describe the nature and extent of the defects.

### **10.2**

If the goods are defective and Buyer has duly notified Seller in accordance with item 10.1, Buyer has its statutory rights, provided that:

- a) Seller has the right to choose whether to remedy the defect or supply Buyer with non-defective replacement goods.
- b) Seller may make two attempts according to lit. a) above. Should these fail or be unacceptable to Buyer, Buyer may either withdraw from the contract or demand a reduction in the purchase price.
- c) With regard to claims for compensation and reimbursement of expenses on a defect, item 11 applies.

### **10.3**

Buyer's claims for defective goods are subject to a period of limitation of one year from receipt of the goods. In the following cases the legal periods of limitation apply instead of the one-year period:

- a) liability for wilful misconduct, Company's head office: 33818 Leopoldshoehe, Germany, Registered at the Local Court in Lemgo, Company Registration No. HRB 377
- b) fraudulent concealment of a defect,
- c) claims against Seller relating to the defectiveness of goods that when applied to a construction in the ordinary manner caused it to be defective,
- d) claims for damage to life, body and health caused by Seller's negligent breach of duty, or by wilful or negligent breach of duty on the part of Seller's legal representative or vicarious agent,
- e) claims for other damage caused by Seller's gross negligent breach of duty, or by wilful or gross negligent breach of duty on the part of Seller's legal representative or vicarious agent,
- f) in the event of a Buyer's recourse claim based on consumer goods purchasing regulations.

## **11. Liability**

Seller shall be generally liable for damages in accordance with the law. In the event of a simple negligent violation of fundamental contractual obligations, however, Seller's liability shall be limited to compensation for typical, foreseeable losses. In the event of a simple negligent violation of non-fundamental contractual obligations, Seller shall not be liable. The foregoing limitations on liability do not apply to damage to life, body and health.

## **12. Set off**

Buyer may only set off claims from Seller against an undisputed or adjudicated counterclaim.

## **13. Security**

If there are reasonable doubts as to Buyer's ability to pay, especially if payments are in arrears, Seller may, subject to further claims, revoke credit periods and make further deliveries dependent on advance payments or other security.

## **14. Retention of Title**

### **14.1**

The goods shall remain the property of the Seller until the purchase price has been paid in full.

### **14.2**

Seller may reclaim the goods on account of the retention of title even if he has not yet withdrawn from the contract.

## **15. Force Majeure**

Any incident or circumstances beyond the Seller's control, such as natural occurrences, war, strikes, lock-outs, shortages of raw materials and energy, obstruction of transportation, breakdown of manufacturing equipment, fire, explosion, or acts of government, shall relieve Seller from his obligations under this contract to the extent Seller is prevented from performing such obligations. The same applies to the extent such incident or circumstance renders the contractual performance commercially useless for Seller over a long period or occurs with suppliers of Seller. If the aforementioned occurrences last for a period of more than 3 months, Seller is entitled to withdraw from the contract without the Buyer having any right to compensation.

## **16. Place of payment**

Regardless of the place of delivery of goods or documents, the place of payment shall be Seller's place of business.

## **17. Communication**

Any notice or other communication required to be received by a party is only effective at the moment it reaches this party. If a time limit has to be observed, the notice or other communication has to reach the recipient party within such time limit.

## **18. Jurisdiction**

Any dispute arising out of or in connection with this contract shall be heard, at Seller's option, at the court having jurisdiction over Seller's principal place of business or Buyer's principal place of business.

## **19. Applicable law**

The contractual relationship shall be governed by the law applicable at the place of Seller's head office, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG), irrespective of whether Buyer's place of business is in a CISG state or not.

## **20. Contract Language**

If these General Conditions of Sale are made known to Buyer in another language, in addition to the language in which the sales contract has been concluded (Contract Language), this is merely done for Buyer's convenience. In case of differences of interpretation, the version in the Contract Language shall be binding.