

GENERAL TERMS AND CONDITIONS OF SALES

for the

companies of the Willi Elbe Group

Applicable to all companies of the Willi Elbe Group (WET) for the conduct of business with companies,
legal persons under public law and public law special funds

§ 1 Miscellaneous.

- (1) For deliveries and services of WET these general sales conditions apply, unless a different arrangement has been explicitly agreed. Terms and conditions of the customer that contradict these sales conditions apply only insofar as WET has expressly agreed in writing.
- (2) The assignment of claims against WET to third parties is excluded. § 354 a HGB remains unaffected.
- (3) The delivery, resale and disposal of goods and services and any related technology or documentation may be subject to the German, EU and US export control laws and possibly the export control laws of other countries. Resale to embargoed countries or to prohibited persons or to people who make military use the supplies and services for NBC weapons or nuclear technology is subject to approval. The customer declares with his order conformity with such laws and regulations and that the goods and services are not supplied directly or indirectly to countries that prohibit or restrict the import of these goods. The customer declares he will obtain all approvals necessary for export or import.

§ 2 Conclusion of contract, order, product properties.

- (1) The WET offers are not binding, they shall only be regarded as a request to the customer to make WET a corresponding purchase offer.
- (2) Contracts are only concluded through an order of the customer according to § 145 BGB and the acceptance by WET. Substantially, the order must meet the requirements of § 3. If acceptance by WET deviates from the order, this is considered a new non-binding offer by WET.

The acceptance of the offer takes place in principle through confirmation of order. In the context of an existing business relationship, the order is also accepted in as far as WET does not contradict the order referred to in paragraph 2 in writing within 10 working days.

- (3) All information about the products of WET, particularly in the illustrations, drawings, weight, dimensions and technical data in the offers and printed material from WET, are to be regarded as approximate average values. They are without additional express agreements not a guarantee of quality or durability, but are descriptions or designations of the product.
- (4) Order confirmations, other conclusions and delivery instructions as well as their amendments and supplements are to be made in writing and accepted by WET.
- (5) Oral agreements of any kind – including subsequent amendments and supplements to these conditions – are only valid if confirmed in writing by WET.
- (6) The written form is also valid through remote data transmission (RDT), emails or faxes. For the transmission through RDT and email a signature is not necessary.

§ 3 Orders, scheduling.

- (1) The order needs to include the following specifications:
 - the WET part number,
 - the quantity to be delivered,
 - the delivery date,
 - as well as the price according to § 5 including the material surcharge to be paid if necessary.

- (2) In case of a framework order (recurring order for a particular serial item), partial delivery calls (delivery call-offs) are stipulated in the scope of order and schedule planning (also “planning”). The delivery call-offs are timed in connection with the conclusion of the contract or by subsequent agreements. Delivery call-offs need to include agreements on time and quantity.
- (3) Subsequent amendments of the delivery call-offs shall be made in writing between the parties according to § 2 para. 4 and they require approval by WET. Differences between the plans and the actual amount ordered may not exceed or fall below 15% (“the relevant shortfall” or “relevant excess”). This also applies to the corresponding annual plans, §§ 5 para. 2 and 6, para. 2 of these conditions of sale apply.

§ 4 Information, advice.

Information and advice in the context of deliveries and services by WET shall be provided based on the former experience of WET. The values, and especially also service details, contained therein are average values established in tests under normal laboratory conditions. WET cannot assume any commitment for exact compliance with the values and possibilities of application. § 10 of these conditions shall apply to any liability.

§ 5 Prices, orders, payments, price adjustments.

- (1) WET delivers in every order exclusively at the prices listed in § 2 para. 2 (hereinafter also “agreed price”). Additional services will be charged separately.
- (2) In the context of framework order WET can claim from the customer the agreed price for all delivery schedules, where a material and production release has been issued (§ 6 para. 1); moreover, in the case of the shortfall of planning by more than 15% (according to § 3 para. 3), all the **costs directly attributable to the relevant shortfall** – including those already incurred for performance of the contract or calculated for the procurement of

materials and tooling (WZK), development costs (EW) as well as accumulating labour costs - are to be paid. The contribution amount is to be checked for plausibility in writing by WET based on the number of units delivered compared to the agreed quantity.

- (3) Adjustments to the agreed price will take place upon exceeding the delivery quantity (5, para. 4), upon variations in material price between the time of the order and the time of delivery (§ 5 para. 5), as well as in agreed deviations of the delivery date and the quantity to be delivered within 10 working days before the agreed date (§ 6 para. 2).
- (4) An adaptation of the agreed price takes place in the case of exceeding the delivery quantity by more than 15% (in annual contracts on an annual basis) if the increased quantity delivered by WET incurs additional costs (purchases for new devices or tools or machines). Checking the need for purchases is the responsibility of WET at its sole discretion. Necessary purchases determined are to be paid as a lump sum. The need for purchases must be made plausible in writing by WET.
- (5) An adaptation of the agreed price has also to take place in the case of deviations of more than 3% - between the material price at the time of the order and the price at the time of delivery. As far as framework orders or single orders are made on the basis of annual contracts, the adjustments are to be made at the end of the year, otherwise periodically. The adjustment of the agreed purchase price must be based on the agreed or customary reference value (market value or other published values) on the basis of the difference between the two dates. Alterations to the price in orders require the written approval of WET.
- (6) All prices are net prices without VAT that the customer has to pay at the statutory rate.
- (7) The Customer shall bear additional freight costs, packaging costs in excess of standard packaging, public taxes (including withholding tax) and duties.
- (8) The deduction of discount requires special written agreement.

- (9) Unless the order confirmation states otherwise, the net purchase price (without deduction) is payable within 30 days of the invoice date. If the customer is in default of payment, WET is entitled to claim statutory default interest rates.
- (10) The customer can only apply set-off rights if his counter-claims have been legally established, undisputed or recognised by WET. He also has the right of retention insofar as his counter claim is based on the same contractual relationship.

§ 6 Delivery periods, deadlines, material and production release.

- (1) Periods of delivery shall be deemed accepted only with the explicit written approval of WET. Delivery deadlines start with the acceptance of the order pursuant to § 2 para. 2, but not prior to precise clarification of all details of the order including provision of the necessary certificates. Unless otherwise agreed, the material release has to take place 4 months before the date of delivery, and production release 2 months before the date of delivery by the customer. The aforementioned deadline begins at the earliest with the acceptance of the order pursuant to § 2 para. 2.
- (2) In the case of deviations and adaptations of the delivery date and the quantity to be delivered within 10 working days of the agreed delivery date (in the case of previous positive checking by WET) the purchase price agreed is increased to meet the increased production costs - in particular the additional labour costs (including the costs for night shift and weekend work). These costs have to be made plausible by WET in writing.
- (3) The deadline is regarded as complied with in the timely notification of readiness, if the goods through no fault of WET cannot be dispatched on time.
- (4) For dates and deadlines that are not expressly stated in the order confirmation or in any other subsequent agreement as fixed, the customer can grant towards WET two weeks after the expiry a reasonable period for delivery/service. Only after this deadline may WET be considered to be in default.

- (5) Deadlines and dates may be postponed without prejudice to the rights of WET through default of the customer by the period by which the customer fails to meet its obligations to WET. In the event of a breach of duty by WET, WET is liable for damages only in accordance with §§ 9, 10 of these conditions.
- (6) The customer is entitled to rescind the contract after two unsuccessful written grace periods, unless the hindrance is merely temporary, and the delay in delivery is reasonable for the customer.
- (7) If the customer has a contractual or statutory right of rescission and if WET sets the customer a reasonable period to comply, the right of withdrawal is cancelled if the rescission is not declared before the end of the period.

§ 7 Shipment, transfer of risk.

- (1) Transportation, packaging, transfer of risk and customs clearance are agreed by each of the parties to be the INCOTERMS clauses - especially the so-called INCOTERM dispatch clauses.
- (2) In principle, transportation takes place in fixed lot sizes in goods carriers provided by the customer. If the customer does not provide goods carriers, he is obliged to define the goods carriers or the type of packaging. As far as the provision is omitted by the customer, WET is not in default. By notification of readiness for shipment and fruitless expiry of the request to determine the goods carrier or the type of packaging, the customer is in default of acceptance in accordance with this paragraph 5.
- (3) If there is no separate agreement, WET delivers according to FCA Incoterm 2010 or a corresponding clause of this clause in the future.
- (4) By delivery to the forwarder the risk of deterioration and destruction of the delivered goods is transferred to the purchaser. The transfer to the forwarder is documented by a corresponding signature of the person authorised by the carrier.

- (5) If the customer is in default of acceptance, WET is entitled to demand reimbursement of expenses incurred; with the occurrence of the delay in acceptance, the risk of accidental deterioration and accidental loss is transferred to the customer.
- (6) The customer is responsible for inspections of incoming goods. WET carries out only visual inspection of the deliveries and limits itself, moreover, to identification and review of the subject matters of a contract to be intact.

§ 8 Retention of title.

- (1) WET retains title to the delivered goods until receipt of all payments from the delivery contract. In the event of a breach of contract by the customer, especially in case of payment default, WET is entitled to take back the delivered goods. Taking back the goods delivered by WET is not a cancellation of the contract, unless WET has expressly declared this in writing. The seizure of the goods supplied by WET always means a withdrawal from the contract. WET is entitled upon taking back the goods to their utilisation, the proceeds will be deducted from the liabilities of the customer - less reasonable costs.
- (2) If third parties take a seizure or other interventions, the customer shall immediately notify WET in writing so that WET can make initiate legal proceedings pursuant to § 771 of the Code of Civil Procedure. If the third party is not able to refund to WET the judicial and extra-judicial costs of action under § 771 ZPO, the customer is liable for the loss incurred WET.
- (3) The customer is entitled to sell the delivered goods in the ordinary course of business. If the goods are sold by the customer together with other goods not supplied by WET for a total price, then the assignment of the receivables from the sale takes place to the amount of the invoice value of the reserved goods sold by WET.

§ 9 Warranty.

- (1) Faulty goods need to be sent back to WET for inspection in the original or equivalent packaging. In case of justified and timely complaint, WET remedies the deficiencies in the way of remedy of choice by WET through eliminating the defect or delivery of conforming goods; thereby WET bears only the costs for the purpose of subsequent delivery. Where a return is not possible, all additional measures require notification and approval by WET.
- (2) WET is entitled to refuse subsequent performance in accordance with the statutory provisions. The remedy can also be refused if the client has not sent the rejected goods to WET upon a corresponding request.
- (3) The customer may rescind the contract or demand a reduction of the remuneration in accordance with statutory provisions, but at the earliest after expiry of two reasonable deadlines set by the customer to provide a remedy, unless the time limit for subsequent performance can be waived under the statutory provisions. In case of cancellation, the customer is liable through intent and negligence for any deterioration, destruction or loss of use.
- (4) In the case of fraudulent concealment of a defect or in the event that a guarantee of quality within the meaning of § 444 BGB (declaration by the seller that the item delivered with transfer of risk has a certain property and that the seller will be strictly held responsible for all consequences of this defect) the client's rights are governed exclusively by the statutory provisions.
- (5) The provisions of § 10 apply for any damages or compensation claims of the customer.
- (6) To the extent that limits for deviations have not been expressly agreed, industry standard deviations are allowed in each case.
- (7) A warranty for defects in the delivered goods, which are caused by normal wear and tear is excluded. For goods that are sold as degraded or used goods, the buyer shall have no claim in respect of defects.

- (8) If operating or maintenance instructions set by WET are not followed by the customer, if changes are made to the goods or services, parts are replaced or consumables are used which do not meet the original specifications, any warranty becomes invalid, unless the customer proves that the defect resulted from another cause.
- (9) Complaints are to be made by the customer if they are business people, in writing or by fax.
- (10) The limitation period for warranty claims for merchants is 12 months. This does not apply to claims for damages of customers that are based on damages of body or health due to a defect for which WET is responsible or based on intent or gross negligence of WET. In other respects, the statutory regulations shall apply.

§ 10 Liability, limitation of liability.

- (1) In the event of a breach of duty, in the case of incorrect delivery or tort, WET is liable for compensation and reimbursement of expenses - subject to further contractual or statutory liability requirements - only in the case of intent, gross negligence or slightly negligent breach of a significant contractual obligation (contractual duty, the breach of which risks fulfilment of the purpose of the contract). However, the liability of WET is limited in the case of a slightly negligent breach of a material contractual obligation foreseeable at the time the contract was concluded contract damages. In the case of a negligent violation of insignificant contractual obligations the liability of WET is excluded.
- (2) For delay damages WET is liable for slight negligence only to the amount of up to 5% of the agreed purchase price with WET.
- (3) The exclusions and limitations of liability contained in paragraphs 1 and 2 shall not apply in the case of the provision of a guarantee for the quality of the object (see § 2 para. 3), in the case of fraudulent concealment of a defect, in the case of damage resulting from injury to life, limb or health, and in the case of strict liability under the Product Liability Act.

- (4) All claims for damages against WET, irrespective of the legal basis shall expire no later than one year after delivery of the goods to the forwarded instructed by the customer, in the case of tortious liability from knowledge or grossly negligent ignorance of the underlying changes in the right to claim and the person liable to pay compensation to the extent that customers are merchants. The provisions of this paragraph shall not apply in the case of intentional or gross negligence and in the cases mentioned in § 10 para. 3.
- (5) If the customer is an intermediary seller of the goods sent to him and the final purchaser of the goods is a consumer, the statutory provisions apply to the limitation of any right of recourse of customers against WET.
- (6) Upon delivery of software WET is responsible for the loss or alteration of data furnished by the program, only to the extent that would be unavoidable if the customer's backup duty had been fulfilled at adequate intervals, but at least daily

§ 11 Industrial property rights, copyrights.

- (1) If claims are made against the customer for infringement of an intellectual property right or a copyright because he uses the delivery/services of WET in the contractually agreed manner, WET is obliged to procure for the customer the right of continued use. The prerequisite is that the customer informs WET in writing immediately of such claims against a third party and WET reserves the right to any protective and extra-judicial measures. If under these conditions WET is not able to continue using the goods/services of WET on reasonable commercial terms, it is hereby agreed that WET at its choice either modifies or replaces the goods/services or replaces them to correct the defect or takes back the goods/services and refunds the purchase price paid to WET, minus an amount accounting for the age of the goods/services.
- (2) Further claims for patent or copyright violations are not provided to the customer, unless essential contractual obligations have been violated and a violation of other contractual obligations took place was either intentional or

grossly negligent. WET has no obligations under this paragraph 1, if legal violations are caused through use of the goods/ services by WET not in the contractually agreed manner or along with other goods/services than those of WET.

§ 12 Documents and Confidentiality.

- (1) All commercial or technical information made accessible by WET (including features which might be derived from submitted objects, documents or software and any other knowledge or experience), if and when they are not evidenced to be publicly known are to be kept secret from third parties and may be made available in the supplier's business only to such persons, the use thereof for the purpose of delivery to WET is necessary and they are also obligated to maintain confidentiality; they remain the exclusive property of WET. Without the prior written consent of WET this information must not – except for deliveries to WET – be reproduced or used commercially. At the request of WET, all information coming from WET (eventually including any copies or records) and loaned items are to be returned promptly and fully to WET or destroyed.

WET reserves all rights to such information (including copyrights and the right to file for industrial property rights such as patents, utility models, semiconductor protection, etc.). As far as WET was given access to this by third parties, this title also applies to these third parties.

- (2) Products which were made using documents drafted by WET such as drawings, models and the like, or according to confidential information or tools from or corresponding tools made, may neither be used by the supplier or be offered or delivered to third parties. This shall also apply mutatis mutandis to print orders from WET.

§ 13 Compliance.

- (1) The customer is obliged to comply with the relevant legal regulations in handling staff, protection of the environment and safety at work; he also undertakes independent of existing legal regulations to maintain a certain

quality standard and to comply with specific behaviour when dealing with employees; these include the prohibition of child and forced labour, the order of the limitation of working hours, the prohibition of physical or mental punishment, compliance with minimum standards in the field of health and safety at work, to permit the formation of trade unions, to prohibit discrimination as well as to make efforts to reduce activities which have any adverse effects on human health and the environment. WET complies with the above requirements and is certified according to ISO 14001.

- (2) In the event that the customer repeatedly and/or in spite of notification behaves illegally and cannot prove that the violation of the law was remedied to the extent possible and appropriate measures have been taken to prevent future violations of the law, WET reserves the right to withdraw from or terminate without notice existing contracts.

§ 14 Place of jurisdiction, place of performance.

- (1) Jurisdiction is, if the customer is a merchant, the place of business of the WET company; however, WET is entitled to sue the customer at the court of his place of business.
- (2) Provided that the order or the order confirmation states nothing to the contrary, the place of business of the WET company supplying the subject matter of the contract is the place of performance.

§ 15 General provisions.

- (1) If any provision of these conditions and any further agreements will be or become invalid, the validity of the remaining provisions shall not be affected. The contracting parties are obligated to replace the invalid provision by another which is as close as possible for attaining the same economic effect.
- (2) The contractual relationship is governed by German law, excluding conflict of laws and the UN Sales Convention (CISG).