

**General Terms and Conditions of Sale of the Company Klaus Raiser GmbH & Co. KG  
for Welded Parts and Machine Components**

**I. Scope of Application**

1.

Our General Terms and Conditions of Sale shall apply to all - also future - legal relations between the parties concluding the contract. Deviating agreements shall only be valid, if we have acknowledged them in writing.

2.

Contrary or conflicting General Terms and Conditions of Business of the contractual partner - hereinafter referred to as "Buyer" - shall not place us under any obligation, even if we do not expressly object to them.

3.

Our Terms and Conditions of Sale apply only in relation to entrepreneurs within the meaning of section 310, subsection 1 of the German Civil Code [BGB].

4.

If a stipulation in our General Terms and Conditions of Sale is or becomes ineffective, this shall not affect the effectiveness of any of the other stipulations.

**II. Offer/Offer Documents**

1.

Our offers shall be subject to change without notice, except where otherwise ensues from the offer.

2.

We shall have a period of 6 weeks within which to accept purchase orders. The time limit shall commence upon receipt of the purchase order.

3.

Our written acknowledgement of the order shall be authoritative for the scope of the delivery or service. Promises of features, as well as additions or collateral agreements shall only be effective in writing.

4.

Our sales employees shall not be authorised to make verbal collateral agreements, or give promises, which go beyond the scope of the written contract.

### **III. Prices/Payment Terms**

1.

Except where otherwise ensues from the acknowledgement of the order, our prices shall apply "ex works", excluding dispatch costs, customs duty, packaging and the like. Value-added tax shall be added at the respective valid rate.

2.

We reserve the right to change our prices commensurately with any cost reductions or cost increases occurring after the conclusion of the contract, particularly by reason of collective agreements, changes in the price of materials or currency fluctuations. These shall be proven to the Buyer on request.

3.

Deduction of a cash discount shall require special written agreement.

Except where otherwise ensues from the acknowledgement of the order, the purchase price shall be due and payable net (without any deduction) within 10 days of the invoice date. In the case of deliveries made by instalments, sub-invoices shall be issued. The periods for payment shall run separately for each sub-invoice.

The statutory provisions concerning default in payment shall apply.

4.

We shall accept bills of exchange or cheques on account of performance according to special agreement, but not in lieu of performance. Our receivable shall only be satisfied on the day when we have the equivalent value at our disposal without having to reckon with charge-back claims. Collecting, discounting and bill of exchange charges, as well as interest shall always be chargeable to the Buyer and be due and payable immediately.

5.

The Buyer shall only be entitled to set off with a receivable which is uncontested or has been determined with legal finality. The Buyer shall only be entitled to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

### **IV. Delivery Period**

1.

Particulars concerning periods for delivery shall not be binding, unless the date for delivery has been expressly guaranteed as "binding" by way of exception.

2.

The period for delivery shall commence on the day when the order is acknowledged, but not prior to submission of the documents, approvals and releases required to be obtained by the Buyer, nor prior to receipt of any agreed payment, opening of any letter of credit required to be provided or furnishing of proof that any agreed provision of security has been effected.

3.

The period for delivery shall be complied with, if the goods have left the Eberdingen works or the Hochdorf/Enz works within the period for delivery.

4.

Upon the occurrence of unforeseen impediments which lie beyond our will and which we have been unable to avert despite having exercised the standard of diligence required under the circumstances of the case, regardless of whether such impediments occur at our business establishment or at that of one of our sub-suppliers, for example force majeure (e.g. war or natural disasters), delays in delivery of essential raw materials or other circumstances not imputable to us, we shall be entitled to wholly or partly rescind the supply contract or extend the delivery period by the duration of the impediment. We shall be entitled to the same rights in the event of strike or lockout at our business establishment or at that of any of our sub-suppliers. We shall communicate such circumstances to our customers without undue delay.

5.

In the event of default in delivery, the Buyer shall be entitled to rescind the contract after a reasonable grace period has expired to no avail. If it becomes impossible for us to perform, the Buyer shall also be entitled to this right without a grace period. A reasonable grace period is deemed to be a period of at least 14 days or, in the case of custom-made products, at least 1 month.

Default in delivery shall be deemed equivalent to impossibility, if default in delivery persists for longer than 1 month or, in the case of custom-made products, for longer than 6 weeks.

Claims to compensatory damages (including any consequential losses) are, without prejudice to subsection 6, excluded. The same applies to compensation for expenditures.

6.

The exclusion of liability provided for under subsection 5 shall not apply, in so far as an exclusion or limitation of liability is agreed upon for losses arising from injury to life, body or health as a result of an intentional or negligent breach of duty on the part of the user or as a result of an intentional or negligent breach of duty on the part of a statutory representative or vicarious assistant of the user. Nor shall the exclusion of liability apply, in so far as an exclusion or limitation of liability is agreed upon for other losses arising as a result of an intentional or grossly negligent breach of duty on the part of a statutory representative or vicarious assistant of the user.

In so far as we culpably breach a material contractual duty or a cardinal duty, liability shall not be excluded. Rather, it shall be limited to foreseeable losses typical of the contract.

The above shall apply mutatis mutandis to cases of compensation for expenditures.

7.

In so far as a commercial transaction where time is of the essence has been agreed upon, the limitations of liability arising from subsections 5 and 6 shall not apply. The same shall apply, if the Buyer is able to assert that, as a result of default imputable to us, it no longer has any interest in performance of the contract.

8.

If the Buyer defaults on taking delivery or breaches co-operation duties, we shall be entitled to demand compensation for the loss incurred, including any extra expenditures. In this case, the risk of accidental destruction or accidental deterioration of the purchased item shall also pass to the Buyer at the time the Buyer enters into default on taking delivery.

## **V. Passage of Risk/Packaging Costs/Insurance**

1.

The risk of accidental destruction or accidental deterioration shall pass to the Buyer at the time the purchased item is handed over to the forwarder or carrier, but no later than at the time it leaves our premises. The Incoterms 2000 clause "ex works" (German version) shall apply.

2.

If hand-over is delayed due to a circumstance imputable to the Buyer or at the Buyer's instruction, the risk shall pass to the Buyer from the day of notification of readiness for dispatch. If the Buyer expressly requests so in writing, we shall be obliged to insure, at the Buyer's expense, the goods stored on our premises. This shall also apply in cases where a date for delivery has not been expressly agreed upon, with the proviso that the risk shall pass to the Buyer 7 calendar days after notification of readiness for dispatch.

3.

If the Buyer so wishes, we shall effect transportation insurance for the delivery. The costs arising in this respect shall be borne by the Buyer.

4.

No transportation packaging or any other packaging under the Packaging Regulation [Verpackungsverordnung] shall be taken back, except for EURO pallets and EURO skeleton containers. The Buyer shall be obliged to take care of disposal of the packaging at its own expense.

5.

The Buyer shall, without prejudice to its rights arising from sections 433 et seq. of the German Civil Code, take receipt of items delivered even if they display insubstantial defects.

## **VI. Retention of Title**

1.

Until full payment of the purchase price, including all incidental receivables, and until payment of all other receivables arising from the business relationship, the goods delivered shall remain our property. Until such time, the Buyer shall not be entitled to pledge the goods to third parties or transfer title thereto as security. The Buyer shall hold in safekeeping for us, free of charge, the goods which are under retention of title.

2.

If the goods under retention of title are processed, combined or mixed with other goods by the Buyer, we shall obtain joint title to the new item in the ratio of the invoiced value of the goods under retention of title in relation to the item as a whole. The rights of joint title ensuing thereunder shall be deemed to be goods under retention of title within the meaning of no. 1.

3.

The Buyer shall be entitled to sell the goods under retention of title in the proper course of selling, provided that the Buyer is not in arrears with our purchase price receivables.

4.

The Buyer assign to us here and now all receivables accruing to it against third parties from on-selling the goods which are under retention of title. If the goods under retention of title are sold after having been processed, combined or mixed, the assignment of the receivable arising from on-selling shall only apply up to the sum of the

value of the goods under retention of title invoiced to the Buyer by the Seller. This shall apply even if the goods under retention of title are on-sold together with other goods which likewise do not belong to the Seller.

5.

The Buyer shall remain empowered to collect receivables even after the assignment. The power to collect may be curtailed by us, if we have a justified interest in doing so, or be revoked by us for good cause, particularly in the event of default in payment. We may demand that the Buyer make known to us the receivables assigned to it and their debtors, provide all particulars essential for collecting the receivables, hand over pertinent documents and disclose to its debtor the assignment.

6.

In so far as the realisable value of the security interests to which we are entitled under the above stipulations exceeds by 20 % or more the receivable to be secured, we shall be obliged, at the Buyer's request, to release security interests of our choosing to this extent.

7.

The Buyer consents here and now that the persons whom we entrust with assigning the goods which are under retention of title may, for this purpose, enter or access the land and/or building on which or in which the items are located, in order to take possession of the goods which are under retention of title.

8.

The Buyer shall, without undue delay, notify us of every seizure, compulsory execution or other form of intervention by a third party which impairs our rights of title. The Buyer shall bear the cost of the measures for eliminating the third-party intervention, particularly any intervention proceedings.

## **VII. Warranty and Liability**

1.

If a defect imputable to us is present, we shall be entitled, at our option, to remedy the defect or deliver a replacement. The prerequisite for this is that the defect must not be insubstantial. In the case of remedying of a defect, we shall be obliged to bear the transportation cost, labour cost and cost of materials, except where these costs increase as a result of the delivered goods having been transported to a place other than the place of performance.

If one or both types of supplementary performance are impossible or disproportionate, we shall have a right of refusal in this respect.

We shall be entitled to refuse supplementary performance until such time as the Buyer meets its payment obligations in relation to us to an extent which is commensurate with the defect-free part of the performance.

2.

If remedying of a defect or delivery of a replacement is not effected within a reasonable period, taking account of our delivery possibilities, or if remedying of a defect or delivery of a replacement fails, the Buyer shall be entitled to demand reduction of the remuneration (abatement) or rescind the contract.

3.

The prerequisite for the Buyer's defect-related rights is that the Buyer must have properly met its examination and complaint-lodging obligation which it is required to heed in accordance with section 377 of the German Commercial Code [HGB].

4.

Except where otherwise ensues below (subsection 6), further claims of the Buyer on whatever legal basis (particularly claims arising from breach of principal or incidental contractual duties, compensation for expenditures, except for compensation for expenditures under section 439 II of the German Civil Code, tortious acts or other forms of tort liability) are excluded. This particularly applies to damage or losses which have not arisen on the delivered item itself, claims to compensation for lost profit and claims not resulting from defectiveness of the item purchased.

5.

The above stipulations shall also apply in the case of delivery of a different item or a smaller quantity.

6.

The exclusion of liability provided for in subsection 4 shall not apply, in so far as an exclusion or limitation of liability is agreed upon for losses arising from injury to life, body or health as a result of an intentional or negligent breach of duty on the part of the user or as a result of an intentional or negligent breach of duty on the part of a statutory representative or vicarious assistant of the user. Nor shall it apply, in so far as an exclusion or limitation of liability is agreed upon for other losses arising as a result of an intentional or grossly negligent breach of duty on the part of a statutory representative or vicarious assistant of the user.

In so far as we culpably breach a material contractual duty or a "cardinal duty", liability shall not be excluded. Rather, it shall be limited to foreseeable losses typical of the contract. Liability beyond the foregoing is excluded in accordance with subsection 4.

Furthermore, the exclusion of liability shall not apply in cases where we are liable under the Product Liability Act [Produkthaftungsgesetz] for personal injury or property damage to privately used items in the case of faults in the item delivered.

Nor shall the exclusion of liability apply in cases where a guarantee has been assumed or a feature has been promised, if a defect covered by this specifically triggers our liability.

The above shall apply mutatis mutandis to cases of compensation for expenditures.

7.

We shall assume no warranty for damage or losses attributable to unsuitable or improper use, incorrect assembly by the Buyer or a third party, normal wear and tear or incorrect or negligent handling or which are attributable to alterations or reinstatement works effected by the Buyer or a third party improperly or without our prior approval.

8.

Claims to supplementary performance, compensatory damages and/or compensation for expenditures shall be barred by limitation one year after delivery of the item purchased.

This shall not apply in the case of an item which is designed to be incorporated into a building and has caused such a building to be defective. In this case, barring by limitation shall not occur until after 5 years.

Claims to abatement and exercise of a right of rescission shall be excluded, in so far as the claim to supplementary performance has become barred by limitation.

In the case of sentence 3, however, the Buyer may refuse to pay the purchase price in so far as it would be entitled thereto by reason of rescission or abatement. In cases where rescission is excluded and the Buyer subsequently refuses to pay, we shall be entitled to rescind the contract.

9.

Claims arising from manufacturer recourse shall remain unaffected by this section.

### **VIII. Liability for Incidental Duties**

If the Buyer is unable to use the delivered item in conformity with the contract through our fault as a result of omitted or incorrect execution of proposals made, or advice given, prior to or after the conclusion of the contract, or as a result of omitted or incorrect execution of other incidental contractual duties, or if damage or losses arise as a result thereof, the provisions in nos. VII and IX shall apply mutatis mutandis, with exclusion of further claims of the Buyer.

### **IX. Rescission by the Buyer, Other Forms of Liability on Our Part**

1.

The following provisions apply to breaches of duty outside of liability for defects. They are not intended to exclude or limit the statutory right of rescission.

Likewise, statutory or contractual claims to which we are entitled are to be neither excluded nor limited.

2.

The Buyer shall be entitled to rescind the contract, if the performance as a whole becomes definitively impossible. The same applies to inability to perform.

The Buyer shall also be entitled to rescind the whole contract, if, in cases where items of the same kind are ordered, execution of part of the delivery - in terms of the number - becomes impossible for reasons imputable to us and the Buyer has no interest in partial performance. If this is not the case, the Buyer shall be entitled to a corresponding abatement of the consideration. The right of rescission shall not apply in cases of immaterial breach of duty.

3.

If performance is delayed and, following substantiation of default, the Buyer grants us a reasonable period within which to perform and this grace period is not complied with, the Buyer shall be entitled to rescind. In the case of partial default in performance, subsection 1, sentence 2 shall apply mutatis mutandis.

If, prior to delivery, the Buyer demands a different form of execution in respect of the delivery item, running of the period for delivery shall be interrupted until the day when execution is agreed upon and shall, where applicable, be extended by the period necessary for the other form of execution.

4.

Rescission shall be excluded, if the Buyer is solely or most predominantly responsible for the circumstance entitling the Buyer to rescind or if a circumstance imputable to us occurs during a period when the Buyer is in default on taking delivery.

In the event of impossibility, we shall, in the aforesaid cases, retain our claim to the consideration in accordance with section 326, subsection 2 of the German Civil Code.

5.

Further claims of the Buyer on whatever legal basis (particularly claims arising from culpa in contrahendo, breach of principal or incidental contractual duties, compensation for expenditures, tortious acts or other forms of tort liability) are excluded. This particularly applies to damage or losses which have not arisen on the delivered item itself, claims to compensation for lost profit and claims not resulting from defectiveness of the item purchased.

This shall not apply, in so far as the damage or loss is caused by intent or gross negligence on our part, on the part of our statutory representatives or on the part of our vicarious assistants. Nor shall this apply, in so far as losses arising from culpable injury to life, body or health are concerned.

Likewise, liability shall not be excluded in cases where a guarantee has been assumed, in so far as a defect covered by this specifically triggers our liability.

In so far as we culpably breach a material contractual duty or a "cardinal duty", liability shall not be excluded. Rather, it shall be limited to foreseeable losses typical of the contract

## **X. Place of Performance and Place of Jurisdiction**

1.

The place of performance for both parties' obligations arising from all legal relations is Eberdingen.

2.

The legal relationship between the Buyer and us shall be governed by the law of the Federal Republic of Germany. The UN Sales Law (CISG) is expressly excluded.

3.

The place of jurisdiction in the case of all disputes ensuing from the contractual relationship is Eberdingen. We shall also be entitled to bring an action at the Buyer's principal domicile.