

## I Offer, Conclusion of Contract

1 Orders and deliveries shall be subject to the following terms and conditions. They apply throughout the duration of the business relationship and are deemed acknowledged by the Purchaser when placing the order, however no later than upon receipt of the first delivery / service. We herewith contradict any amendments communicated by phone or orally and/or deviating conditions of the Purchaser. They shall require our written confirmation to become binding upon us.

2 Our offers are not binding. Orders are deemed accepted if so confirmed by us in writing. If deliveries / services are provided immediately without being confirmed, the invoice shall be deemed to also constitute the confirmation of the order. Orders referring to serial sizes are subject to confirmation within two weeks' time. For individual designs, this period is extended by any time required to settle all details concerning technical data and delivery periods for our own supplies.

3 In the case of special tools, excess or short deliveries of up to 10%, but in no case less than one piece, are permissible. The invoice will be based on the individual delivery.

4 All details regarding weight, dimensions, performance, and/or other technical data contained in our documents are approximate only, unless otherwise expressly referred to as binding.

5 We reserve the right to effect changes with respect to the construction and design of the Goods, provided that this does not result in an unreasonable change for the Purchaser.

## II Delivery and Prices

1 Delivery is ex works, excluding packaging, for the account and the risk of the Purchaser. We reserve the right to charge a processing fee for orders under € 250.

2 Our prices apply exclusive of VAT at then applicable rate.

3 Delivery periods communicated are not binding and depend on the timely and correct receipt of our own supplies. Delivery periods shall be extended by a reasonable period of time in the event of circumstances such as industrial action, particularly strike and lock-out, or the occurrence of unforeseen hindrances beyond the Supplier's control. The aforementioned circumstances shall also be deemed to be beyond our control if they occur during an existing delay. In significant cases, we shall inform the Purchaser of the commencement and end of such hindrances as soon as possible.

4 If, in exceptional cases, binding delivery periods have actually been agreed, the following shall apply: In the event that the Purchaser incurs damage as a result of our delay, the Purchaser may claim a lump-sum compensation for delay. It shall amount to 0.5 per cent for every full week of delay up to a maximum of 5 per cent of the value of those parts of the overall delivery that cannot be used in time or in accordance with the contract as a result of the delay.

## III Payment, Default in Payment

1 Payment shall be made in cash without any discount within 30 days as of the invoice date or within 14 days with a 2 per cent discount. Agents shall not have the right to collect payments.

2 Bills of exchange are accepted only if so specifically agreed, if discount fees are reimbursed and if they can be honoured.

3 In the case of late payment, interest will be added in the amount of 8 percentage points above the then applicable basic interest rate. Late payment shall entitle us to withdraw from the contract without notice. In the case of late payment of one particular invoice, any claims we have with respect to the business with the Purchaser shall fall due immediately.

## IV Stand-by Delivery

1 Unless otherwise agreed, the Purchaser shall take delivery of stand-by deliveries that require our confirmation within a period of one year as of the order date.

## V Reservation of Title

1 We reserve the title to the Goods until all monies due from the delivery contract have been received, including payment for any agreed ancillary services. The Purchaser herewith assigns by way of security any of its claims resulting from a resale of goods subject to our retention of title, including each and any resulting ancillary claim or claims. The Purchaser shall be entitled to collect the assigned claims for as long as it complies with its payment obligations. We shall become the owner of any new item resulting from the processing of retained goods (Goods subject to a retention of title). When retained goods are processed, combined or mixed with other items, we will acquire co-ownership in proportion to the value of the retained goods.

2 In order to identify such claim as our claim, the Purchaser is obliged to record each purchase price claimed under a resale of

retained goods from a third party in a register that can be verified any time.

3 The reservation of title shall continue to exist even after our claim relating to the retained goods supplied has been credited to a current account and the final balance has been drawn and accepted.

4 The Purchaser shall sell on retained goods only subject to an own reservation of title.

5 Factoring of or attaching a security interest or similar right to the retained goods and/or the assigned claims is not permitted.

6 Upon request, the Purchaser shall communicate to us any debtors related to the assigned claims and any details necessary for their collection and make available to us any pertaining documentation. We are entitled to inform debtors of the assignment.

7 The Purchaser shall notify us forthwith of a pledge or other encumbrance by a third party with respect to Goods supplied. All costs incurred by us that relate to such pledge shall be borne by the Purchaser.

8 We shall be entitled to take back the Goods supplied under a reservation of title where the Purchaser is in breach of the contract and puts at risk our interest in a timely receipt of the payment and/or in its security, including without limitation, if the Purchaser is guilty of late payment in aggravated circumstances, or, in the case of less serious circumstances (including late payment), when we have first warned the Purchaser, requesting it to comply and prove compliance with the contract within a grace period set, but to no avail. The Purchaser is also obliged to pay the costs incurred for taking back the Goods and putting them to further use.

9 If a petition for insolvency or similar is filed, we shall be entitled to withdraw from the contract and demand that the Goods be returned immediately.

## VI Notification of Defects

1 Recognizable, apparent defects must be notified without undue delay and in writing, but in no case later than within a period of 8 (eight) days after the delivery has been received.

2 If the notification of defect is justified, payments can only be withheld to a reasonable extent, taking into account the defect in question.

## VII Warranty

1 The warranty period for movable items supplied by us that, contrary to their usual type of use, have been used for a building and have caused the defectiveness of such building, is one year as of the delivery date or, if in exceptional cases acceptance is required, as of the acceptance date.

2 We shall, at our discretion, either remove the defect or supply a non-defective item if Goods supplied by us contain a defect for which we are responsible, provided that it was already present at the time when the risk passed. Our liability with respect to expenditure necessary to remove or replace items, including without limitation costs for transport, travel, work and materials remains governed by the provisions of Art. 545 para. 2 BGB (*German Civil Code*).

3 Upon unsuccessful expiry of an appropriate grace period set, or if no grace period is legally required or if repair or replacement endeavours incumbent on us fail, then immediately, the Purchaser may refer to such failure and withdraw from the contract or notify us and reduce the consideration due, provided that the statutory requirements for withdrawal / reduction are fulfilled. Additional claims for damages and/or compensation of useless expenditure on the part of the Purchaser incurred in connection with defects are subject to the limitations imposed by Art. VIII. All other claims related to defects, based on whatever legal reason, are herewith excluded.

4 The Purchaser shall reimburse us for any additional costs incurred in connection with repair and replacement under warranty that are attributable to unauthorized previous modifications, effected by the Purchaser or a third party upon the Purchaser's request, of the goods supplied relating to a type of use that was not apparent to us when concluding the contract, thereby making repair and/or replacement significantly more difficult or entirely impossible. The same shall apply in the case of an unjustified notification of defect by the Purchaser, unless the Purchaser's notification must have seemed justified in the light of its reasonable and careful assessment.

5 In the case of the delivery of used items, claims of the Purchaser based on defect shall be limited to the payment of damages and apply only to the extent that the requirements according to Art. VIII. (2) without lit. (b) or the requirements of Art. VIII. (3) have been fulfilled.

6 The above provisions do not imply a reversal of the statutory burden of proof.

## VIII Damages

1 Liability for damages, irrespective of the underlying legal reason, including without limitation impossibility, default, defective or incorrect delivery, breach of contract, non-compliance with obligations in the course of contract negotiations, and tort shall be limited as specified in the present Art. VIII, provided that the assessment requires negligence. This applies *mutatis mutandis* to any claim for compensation of useless expenditure pursuant to Sec. 284 BGB.

2 We shall be liable, irrespective of the underlying reason, without exception for intent or gross negligence on the part of our legal representatives or agents. In the case of slight negligence we shall be liable only

(a) in the case of injury to life, limb or health; or

(b) in the case of damage resulting from non-compliance with a major contractual responsibility (i.e., a duty whose fulfillment itself is a prerequisite for the execution of the contract in a proper way and without any major defects; furthermore, information and protection obligations and the duty to exercise proper care (i) to enable the Purchaser to use the Goods as provided for in the contract without major defects and/or (ii) aiming at the protection of life and limb of the Purchaser and its employees as well as preventing major damage to occur to property of the Purchaser which the Purchaser is reasonably entitled to rely on); in such a case, our liability shall be limited to compensation of the foreseeable, typically occurring type of damage.

3 Limitations of liability resulting from the application of Nos. 1 and 2 above do not apply to the extent that we have fraudulently concealed a defect or promised a guarantee (in particular, a guarantee relating to the quality of our services or Goods); the exclusion further applies to claims pursuant to the German Product Liability Act (*Produkthaftungsgesetz*).

4 Art. VII.6. shall apply *mutatis mutandis*.

## IX Right of the Supplier to withdraw from the Contract

1 If an order that is based on a draft or drawing provided by the Purchaser cannot be implemented because of missing technical or technological requirements (e.g. design faults), we will be entitled to withdraw from the contract in whole or in part. The Purchaser is not entitled to claim damages with respect to such withdrawal.

## X Industrial Property Rights

1 We reserve full property and copyrights with respect to any of our pictures, sketches and drawings. Any use, access, imitation or duplication shall require our express consent.

2 The Purchaser shall be fully and solely responsible for own documents, plans, models and similar data to be provided. The Purchaser shall be liable that design drawings provided do not infringe third-party property rights. Other than in the case of intent or gross negligence on our part or the part of our executives, we have no obligation towards the Purchaser to verify whether the making of an offer based on design drawings provided by the Purchaser might infringe on third-party property rights. The Purchaser shall indemnify us and hold us harmless with respect to claims asserted by a third party.

3 Operational resources made for the production of the Goods shall remain our property and are not included in the delivery, even if they are invoiced in whole or in part.

## XI Place of performance and venue

1 The venue shall be the court competent at our place of business. We shall, however, be entitled to bring an action against the Purchaser at its main place of business.

2 The laws of the Federal Republic of Germany alone shall govern this contractual relationship.

## XII Miscellaneous

1 We expressly declare our readiness to negotiate contractual content deviating from the terms and conditions stipulated above.

2 The ineffectiveness of individual contract provisions does not affect the validity of the remaining contract. If a provision is ineffective, it will be replaced by the statutory admissible limit.

3 We store Purchaser data collected from the business relationship by electronic means.

## Karl Bruckner GmbH

Präzisionswerkzeugfabrik, Weinstadt

As of: March 2011