

## **General Conditions of Sale of Triple F - Kabel nach Mass e. K.**

### **Clause 1 Scope**

- (1) The present Conditions of Sale apply exclusively to entrepreneurs, legal persons under public law, and special funds under public law pursuant to Art. 310 (1) BGB (German Civil Code). We shall recognise contrary or other conditions of the customer at variance with our Conditions of Sale only if we expressly consent in writing to the validity of same.
- (2) The present Conditions of Sale shall also apply to all future business conducted with the customer constituting legal transactions of a similar kind.

### **Clause 2 Offer and conclusion of contract**

If a purchase order is to be regarded as an offer pursuant to Article 145 BGB, we can accept same within two weeks.

### **Clause 3 Surrendered documents**

We reserve ownership of and copyright in all documents, such as costings, drawings etc., surrendered to the customer in connection with the placing of an order. Such documents are not to be made accessible to third parties unless we expressly grant the customer our written consent for said purpose. If we do not accept the customer's offer within the time limit set forth in Clause 2, such documents are to be returned to us without undue delay.

### **Clause 4 Prices and payment**

- (1) Save as agreed to the contrary in writing, our prices shall apply ex works, excluding packaging and subject to value-added tax in the applicable amount as revised from time to time. Packaging costs are to be billed separately.
- (2) The purchase price is to be paid exclusively by crediting our nominated bank account. The deduction of a discount shall be allowed only subject to written special agreement.
- (3) Save as otherwise agreed, the purchase price shall be payable within 20 days of the invoice date. Interest on arrears shall be charged in the amount of 8 % above the relevant benchmark rate p.a.. The right to assert a claim for a greater loss caused by default shall be reserved.
- (4) Unless fixed pricing is agreed, the right to make reasonable price adjustments because of changes in wage, material or selling costs shall be reserved for deliveries made 3 months or more after the contract was concluded.

### **Clause 5 Offsetting and retention rights**

The customer shall be entitled to offset only if his counter-claims are non-appealable or uncontested. The customer shall be authorised to exercise a right of retention only if his counter-claim arises from the same contractual relationship.

### **Clause 6 Delivery period**

- (1) The start of the delivery period indicated by us shall be subject to the condition precedent of the timely and proper fulfilment of the customer's obligations. The defence of non-performance of the contract shall be reserved.
- (2) If the customer is in default of acceptance or culpably infringes other cooperation obligations, we shall be entitled to demand compensation for the loss thereby incurred, including any additional expenses. The right to assert further claims shall be reserved. If the preceding conditions are satisfied, the risk of accidental destruction and accidental

deterioration of the purchased goods shall pass to the customer when he fails to accept delivery or meet a payment obligation timely.

#### **Clause 7 Transfer of risk in case of shipping**

If the goods are shipped to the customer at his request, the risk of accidental destruction and accidental deterioration of the purchased goods shall pass to the customer upon the dispatch of the goods to same, but no later than upon the goods leaving the works. This shall apply irrespective of whether the goods are shipped from the place of performance, and irrespective of the party bearing the freight charges.

#### **Clause 8 Retention of title**

(1) We shall retain title to the supplied goods until all receivables arising from the supply contract have been paid in full. This shall also apply to all future deliveries, even if we do not expressly invoke the present provision each time. We shall be entitled to take back the purchased goods if the customer behaves contrary to the contract.

(2) The customer shall be entitled to resell in the normal course of business the goods that are subject to retention of title. The customer now assigns to us the receivables from the buyer arising from the resale of the goods that are subject to retention of title, in the amount of the total invoice amount agreed with us (including value-added tax). This assignment shall apply irrespective of whether the purchased goods have been resold with or without processing. The customer remains authorised to collect the receivables even after the assignment. Our authority to collect the receivables ourselves shall remain unaffected thereby. We shall refrain from collecting the receivables, however, as long as the customer meets his payment obligations from the revenues received, is not in default of payment, and, in particular, an application has not been filed to initiate insolvency proceedings, and payments have not been suspended.

#### **Clause 9 Warranty, complaint in respect of defects, recourse**

(1) Warranty rights of the customer are subject to the condition precedent that the customer has properly fulfilled its investigation and complaint obligations pursuant to Art. 377 HGB (German Commercial Code).

(2) Claims in respect of defects shall become statute-barred 12 months after delivery to our customer of the goods supplied by us. The preceding provisions shall not apply if the law imposes longer time limits. Our consent is to be obtained before any goods are returned.

(3) If, despite all the care applied, the supplied goods are defective, and the defect already existed at the time of risk transfer, we shall, at our discretion, either repair the goods or supply replacement goods, provided that the complaint was made within the time limit. In any event, we are to be given the opportunity to perform subsequently within a reasonable time limit. Recourse claims shall remain unaffected by the preceding provision without limitation.

(4) If the subsequent performance fails, the customer can – without prejudice to any compensation claims – rescind the contract or reduce the remuneration.

(5) Claims in respect of defects shall not exist in case of an only insignificant variance from the agreed quality, an only insignificant impairment of usefulness, natural wear and tear, or damage arising after the transfer of risk from incorrect or negligent treatment, overloading, unsuitable operating resources, defective construction works, unsuitable foundation soil, or exceptional external influences not envisaged by the contract. If the goods are modified by the customer or third parties, or if the goods are processed, claims for defects shall likewise not exist in respect of such goods or the consequences arising from same.

(6) Claims of the customer concerning necessary expenses arising for the purposes of subsequent performance, in particular shipping, travel, labour and material costs, shall be excluded if the expenses increase because the goods we supplied have subsequently been moved to a place that is not the customer's place of business.

(7) Recourse claims of the customer against us shall exist only if the customer has not made any agreements with his customer exceeding the claims for defects pursuant to imperative provisions of law. As regards the scope of the customer's right of recourse against the supplier, paragraph 6 shall additionally apply mutatis mutandis.

**Clause 10 Liability in case of delay in delivery**

We shall be liable in case of delay in delivery, unless brought about through intent or gross negligence, only for the demonstrated loss, not for loss of profits. The liability shall be limited in such cases, however, to a total amount not exceeding 15 % of the value of the goods supplied.

**Clause 11 Other provisions**

(1) The present contract and all legal relations between the parties shall be governed by the law of the Federal Republic of Germany, ousting the UN Sales Convention (CISG).

(2) The place of performance and exclusive venue for all disputes arising from the present contract shall be our place of business, save as otherwise provided by the order confirmation.

(3) All agreements made between the parties for the purpose of performing the present contract are recorded in writing in the present contract.

(4) If individual provisions of the present contract are or become invalid, or contain an omission, the other provisions shall remain unaffected thereby. The parties undertake to replace the invalid provision with a legally admissible provision corresponding closest to the economic purpose of the invalid provision or making good the omission.

August 2, 2010