

## Conditions of Purchase

Mai 2011

### 1. Preamble

Contracts between us and yourselves will be made on the following conditions without exception. Your terms of sale and delivery will not, in all, be a term of this contract, even then, when they are not expressly opposed by us. This also applies in the case, that it is your express wish to deliver items solely on your terms.

### 2. Purchase Orders / Making the Contract

- 2.1 Our purchase orders and agreements are only then mutually binding, when they are given by us in writing or have been confirmed in writing, complete with order number, after being issued by word of mouth or on the telephone.
- 2.2 If your written confirmation of our order is not received by us without delay - 14 days after being placed at the latest - on our order duplicate, we have the right to cancel our order free of charge.
- 2.3 No rights can be derived from pledges, information, consultations etc. given by word of mouth or on the telephone, independent of whether they were given before or after the contract was made, except in the case of gross negligence on our part. Such declarations, by word of mouth, are only binding, if they have been confirmed by us in writing or if there is proof that we have renounced the written form.
- 2.4 Our order number must be specified in all correspondence, on all invoices and on all shipping documents.

### 3. Delivery / Delay

- 3.1 The agreed delivery and performance dates are binding. Delivery dates are understood to be the date, upon which your delivery arrives on our premises or at an address specified by ourselves (supply). If you are behind schedule with a delivery / performance (hereinafter collectively referred to as delivery), we reserve the right to enforce damages, of 0.2% of the value of the agreed delivery, for each calendar day delayed - up to a maximum total of 5%. This also applies in the event of us cancelling the contract.

We reserve the right to enforce damages for delay at such time as final payment is due.

Our legal rights remain unaffected in the event of a delay.

- 3.2 Notwithstanding other rights and after a reasonable period of grace set by us, we also have the right to commission a third party to perform deliveries not rendered by yourselves, at your expense.

If documentation is required for this, which you have in your possession, you are obliged to hand this over to us without delay.

Insofar as deliveries by a third party are delayed by industrial property rights, you are obliged to acquire exemption from such property rights without delay.

Any third party claim regarding non-performance of contract already in existence up to rescission or placement of order shall be discharged by you in all cases.

- 3.3 All deliveries must be accompanied by a delivery note, which must include our order number and order position.
- 3.4 The costs incurred as a consequence of incorrect, incomplete or overdue shipping documents will be borne by yourselves.
- 3.5 Advance and part deliveries are only permissible with our previous agreement.
- 3.6 All deliveries must be correctly packaged and delivered free of charge to the factory or delivery address (in accordance with Incoterms 2010 Carriage-Free / DAP Schenefeld or point of destination).

- 3.7 In accordance with packaging regulations, you are legally obliged to take back the delivery item's packaging. The cost of return transport and the re-cycling / disposal of packaging, which does not comply with the legal requirements, will be borne by yourselves.
4. Notification Obligation
- You will notify us immediately if delays in delivery are foreseen; this notification has no influence on any claims we may have against you.
5. Release from Acceptance
- Insofar as it is impossible to accept the item of delivery, due to industrial action or an act of god, we will be released from our obligation of accepting delivery on time during this period.
6. Terms of Payment
- 6.1 Payment will be made in currencies of our choice.
- 6.2 The term of payment begins with delivery, at the earliest when an orderly, duplicate invoice has been received but not however prior to the delivery deadline.
- If a term of payment has not been agreed, payment will be made to the 25<sup>th</sup> of the month after the bill was received with a deduction of 3% discount or after 90 days net.
- 6.3 If no reminder is issued, we will not be deemed to be in default of payment.
- 6.4 Reservation of ownership can only be exercised if the contract has been previously cancelled.
7. Assignment
- 7.1 Claims may only be assigned with our express, written consent. If you as the processor have purchased materials, which you deliver to us, under extended reservation of ownership, our consent to assignment in advance is herewith deemed to be granted.
- 7.2 Your contractual obligations may only be fulfilled by a third party, delegated by yourselves, with our previous, written consent.
8. Guarantee
- 8.1 You guarantee, that all deliveries conform with contractual agreements, the regulations of the employers liability insurance corporation responsible for us, the directive governing technical equipment (Equipment Safety Directive), equipment usage directive, each in their most recent amendment state, accident prevention and environmental protection regulations, regulations and guidelines, e.g. governing identification of hazardous materials and procedures, VDE regulations in the amendment state applicable at the time of delivery and state of the art.
- 8.2 The term of guarantee is 36 months, commencing upon the date of commissioning or technical final acceptance of the delivery by us.
- For deliveries, for which neither commissioning nor technical final acceptance is not foreseen, the term of guarantee will be 36 months, commencing upon the date of delivery.
- 8.3 For deliveries, which are resold by us, the term of guarantee commences upon the date of commissioning or technical final acceptance by our customer.
- For deliveries, for which neither commissioning nor technical final acceptance is not foreseen, the above mentioned term of guarantee will commence upon the date of delivery.
- The term of guarantee will however elapse 48 months at the latest after delivery to the place of delivery specified by us.
- 8.4 If the delivery is defective, we have the right, within the term of guarantee chosen by us, to raise statutory guarantee claims.

- 8.5 If the scope of repair required is unacceptable to us, we have the right of choice between raising a statutory guarantee claim or demanding a gratuitous replacement delivery.
- 8.6 If you do not respond to our request, to repair a defective delivery, within a reasonable period of time, we have the right to take the necessary steps to either rectify the fault ourselves or have the fault rectified by a third party. The cost of such repair work will be borne by yourselves. Insofar as appointing a date is dispensable, we have the right to do so, without appointing a date.

Measures necessary to remedy small faults or to prevent excessively large damage or to maintain the operational safety, can be taken by us, our customers or a third party without prior agreement. The cost of such repairs will be borne by yourselves. You will be informed immediately of the cause, nature and extent of such measures

Your guarantee obligations will not be affected by this.

- 8.7 Expiry of the guarantee will be suspended for the period of time between reporting the fault and its rectification. The guarantee period, for parts which have been repaired or replaced, re-commences on the date upon which the delivery is restored to its contractually agreed, trouble-free state of use.
- 8.8 The fact that we have accepted and used the delivery or approved drawings or other documentation does not constitute relinquishment of our right of claim.
- 8.9 The cost of all deliveries to be made by yourselves, due guarantee claims (including return transport, travel and labour charges), will be free of charge to ourselves.
- 8.10 In the event, that there is no divergent agreement, the delivery is deemed to have been inspected without delay, if the inspection is carried out within 10 days of arrival.

We have fulfilled our obligation to report defects without delay, if these are reported to you within 14 days of discovery.

## 9. Product Liability

- 9.1 If claim is laid against us due to infringement of governmental safety regulations or due to a defective product, in the sense of national or international product liability legislation, the cause of which lies in your delivery, we have the right to demand compensation from you, insofar as it is occasioned by the product(s) delivered by yourselves.

- 9.2 You are obliged - where possible - to identify items of delivery, free of charge, in such a manner, that they are permanently recognisable as being your products. Exceptions will be agreed in individual contracts.

- 9.3 You are obliged to perform state of the art quality assurance of a suitable nature and scope and to provide verification of this upon demand.

You are obliged to sign a quality assurance agreement with ourselves, insofar as we deem this to be necessary.

- 9.4 You are obliged to take out adequate insurance cover against all product liability risks and to produce the insurance policy, for scrutiny, upon demand.

## 10. Third Party Industrial Property Rights

- 10.1 You guarantee, that deliveries are free of third party industrial property rights and are obliged to bear the damages and costs, incurred by us due to non-compliance with this guarantee pledge or from being prohibited from using the delivery by a third party.

- 10.2 If use of the delivery nevertheless infringes third party industrial property rights, we have the right to apply for a license from the legal owners of the industrial property rights, at your expense.

- 10.3 Claims for shortcomings in law expire by limitation 10 years after delivery.

## 11. Technical Documents

- 11.1 All drawings and other technical documents entrusted to you, to assist in producing deliveries, remain our property and must be returned to us without request or delay when the contract has reached fulfilment

11.2 Such documents shall only be used within the scope authorised by us and shall not be copied or made accessible to third parties without our previous, written consent.

12. **Secrecy / Advertising**

12.1 Our orders and all commercial and technical details relating to such orders must be treated by you as trade secrets.

12.2 References to business connections with us shall only be used in your advertising with our previous, written consent.

13. **Legal Domicile and Governing Law**

13.1 The legal domicile is Pinneberg. We do however have the right to enforce our claims at your general legal domicile.

13.2 The Law of the Federal Republic of Germany, under exclusion of the United Nations agreement on contracts pertaining to the international sale of goods (CISG) will apply to the mutual legal relationship

INTERSCHALT maritime systems AG