

GENERAL TERMS AND CONDITIONS OF THE VEROPE AG (status quo: 10 July 2009)

1. Area of application

1.1

These General Terms of Business (hereinafter referred to as GTB) shall apply to all goods, services and offers of Verope AG, having its registered office in CH-6300 Zug, Switzerland (hereinafter referred to as the seller) except if they have been expressly changed in writing or excluded. Other general terms of business shall not be recognised or be contractually binding except with the express written agreement otherwise of the seller.

2. Conclusion of contracts, prices, packaging costs, shipment, transport insurance

2.1

Offers by the seller shall not be binding. The contract shall be deemed to have been concluded when the seller has, following an order and by the due date, if applicable, sent a written acceptance and confirmation of the order. If the seller has set a due date for acceptance when making a written binding offer, the contract shall be deemed to have been concluded if the buyer has sent a written acceptance before the expiry of the delay, if it is received within three days at the most after expiry of the delay.

2.2

The documentation supporting an offer, such as illustrations, drawings, weight and dimension details, performance and other descriptions of properties and other information concerning the contractual goods and services shall be binding only generally. The seller's catalogue is revised constantly. The right to change products is reserved. Particular properties of the goods to be delivered shall be deemed to be guaranteed only if expressly so agreed in writing. A reference simply to standards or agreed specifications or to the seller's catalogue of products shall serve only as a more detailed description of the goods or services and not as a guarantee of its properties.

2.3

All prices shall be ex works of the supplier designated by the seller exclusive of customs duties, fees, value added tax, turnover tax and the like and packaging (see number 3.1). Prices may be increased because of material or personnel cost increases. Unless agreed otherwise, the seller's choice of packaging shall be charged at cost.

2.4

Goods shall be delivered at the buyer's expense and risk. Transport insurance shall be concluded only at the special request and expense of the buyer.

3. Delivery, bearing of risk

3.1

Unless agreed otherwise in writing, delivery shall be ex works of the supplier designated by the seller (EXW Incoterms 2000 - see number 2.3). Clauses at variance shall be agreed and defined in terms of the relevant Incoterms of the International Chamber of Commerce in Paris.

3.2

Part-deliveries shall be allowed and paid proportionally.

3.3

For export contracts, the buyer shall assume the risk for delivery to the foreign customs jurisdiction and use there. Upon request, the buyer shall provide the relevant documentation.

3.4

Ownership and risks shall be transferred to the buyer at the time of delivery ex works of the supplier designated by the seller and upon acceptance, at the latest.

4. Time of delivery, delay

4.1

As a rule, specified delivery dates shall not be binding except if expressly so agreed in writing. The delivery period shall begin with the sending of the order confirmation but not, however, before provision of documentation, licences, approvals and other formalities to be procured by the buyer nor before payment of any agreed payments-on-account.

4.2

In case of a delay in delivery for which the seller is accountable, after the expiry of four weeks the buyer may demand compensation in the amount of 0.5% up to a maximum of 5% of the value of the delivery which cannot be used as foreseen because of the delay for each full week of the delay, under exclusion of further claims for demonstrable loss.

4.3

If the maximum amount of compensation under 4.2 has been attained, the buyer may, after setting a further reasonable due date and under threat of refusal of the delivery, declare the cancellation of the contract in relation to the delayed goods, if the seller does not complete delivery before that date. Number 7.5 shall apply accordingly.

4.4

Specifications and due dates shall be defined by the buyer to allow sufficient time for manufacture and delivery before the final acceptance date. If a delivery date is agreed in terms of units of time, such as weeks and months, it shall begin on the day the order confirmation is sent. Amendments to the contract which could affect the delivery period shall lead to it being extended commensurately. If the buyer is overdue in the fulfilment of a significant obligation under the contract, the seller shall have the right to extend the delivery period by the duration of the delay. Number 5 shall apply accordingly.

5. Acceptance, on-call orders

5.1

Even if deliveries have insignificant damage, they shall be accepted by the buyer, subject to the buyer's rights in relation to damaged goods. The buyer shall bear any costs for storage, insurance, protective measures and the like arising from delayed acceptance. The buyer shall pay at least 1% of the value of the delivery up to a maximum of 5% for each week of delay with no requirement for supporting documentation. The seller shall set the buyer a reasonable period for acceptance if the buyer does not accept the goods upon delivery. The right of the seller to demand the purchase price remains unaffected. After expiry of the period, the seller may give written notice of waiver of further performance and either claim compensation for the loss arising from non-performance or withdraw from the contract in part or in full and claim compensation.

5.2

Contracts to deliver with no fixed delivery dates, on call, shall be concluded only in exceptional cases and with express written agreement. The seller shall confirm the date after which delivery may be made. Unless expressly agreed otherwise, the goods shall be available for delivery for a period of a maximum of one year. The seller may make delivery after this period has elapsed. Calls shall be made at least two weeks in advance.

6. Payment and late payment

6.1

Unless agreed otherwise, all payments shall be made in advance or by the issue of an irrevocable confirmed letter of credit at least three weeks prior to the delivery date. The standard directives and practices for documentary credits of the International Chamber of Commerce in Paris shall apply. Unless agreed otherwise in writing, all payments shall be made in Swiss francs or Euro with no deduction of charges for the seller. Bills of exchange and cheques shall be accepted only for completion of performance.

6.2

If payment is not made in good time, the seller shall have the right to charge interest at 4% above the private discount rate from the due date. The seller may also waive performance of the contract. If the buyer is in delay of payment of the purchase price, the seller may give written notice of a reasonable period for the completion of the contract. If payment is not made before the expiry of this period but at the latest within one month of the due date, the seller may give written notice of waiver of the overdue payment and either claim compensation for the loss arising from non-performance or withdraw from the contract in part or in full and claim compensation as well as the return of the goods supplied.

6.3

Creditworthiness, late payment. If particular circumstances give rise to justified doubts as to the creditworthiness of the buyer, all debts arising from the business relationship shall become due immediately and the seller shall have the right to require delivery against payment-in-advance or payment-in-advance of release for manufacture. This shall also apply if the buyer is in delay of payment under any other contract. If part-payments have been agreed and the buyer is in delay of payment of an amount of more than 10% of the outstanding purchase price, the whole of the outstanding amount shall become due immediately.

7. Responsibility for conformity of the goods with the contract

7.1

Duty of examination and complaint

The buyer shall examine the goods immediately upon receipt. The examination shall be made in accordance with recognised technical regulations. The buyer shall lose the right to claim non-conformity with the contract if the buyer does not inform the seller with a precise description in writing immediately the buyer becomes or should have become aware of the non-conformity. The buyer shall procure all the necessary evidence after discussion with the seller.

7.2

Handling and storage

The buyer shall be obliged to provide evidence of the careful handling and orderly, dry storage of the goods.

7.3

Re-working, replacement

If the goods do not conform to the contract, the seller may, even if the defects are significant, freely elect to restore conformity through re-working or replacement within four weeks of being requested to do so by the buyer. With the agreement of the seller, the re-working may be carried out by the buyer at the contractually agreed place of delivery. The seller shall be informed if the place of delivery is not the registered office of the buyer. Otherwise no additional costs arising from this shall be assumed by the seller. The buyer shall be obliged to collaborate to a reasonable extent in the re-working following the instructions of the seller and under reimbursement of costs.

7.4

Price reduction, cancellation of contract

If the seller does not remedy a non-conformity in accordance with number 7.3 through re-working or replacement, the buyer may reduce the purchase price commensurately. If the non-conformity is significant, the buyer may set a due date for completion and demand the cancellation of the contract if it passes without completion.

7.5

Exclusion of compensation for further non-conformities

If not regulated by numbers 4.2, 4.3 and 7.1 to 7.4, the seller shall not be responsible for non-conformities and losses and shall not be liable for compensation. This shall apply to all losses arising from non-conformities including loss of production, loss of profits or other indirect losses arising not from the object of the contract, such as consequential losses. The seller shall be liable only for illegal intent or gross negligence or under product liability legislation.

7.6

Normal commercial variances, constructive changes

Variances in respect of quantities, dimensions, weights and the like shall be tolerated within normal commercial limits. The right to equivalent constructive changes and product modifications is reserved.

7.7

Observation of the seller's instructions

Instructions from the seller in respect of further processing or the uses of the contracted products shall be observed by the buyer or claims for non-conformity shall not be recognised.

7.8

If the buyer provides parts or materials for processing or as aids to the processing of an order, then, unless expressly agreed otherwise, no technical inspection for obvious defects shall be carried out on receipt of them.

8. Quality tolerances, tools, plans, sales documentation

8.1

Quality tolerances up to 3% shall be accepted for standard articles in the seller's catalogue and up to 10% for special customer-specific parts.

8.2

The return of manufacturing jigs and tools provided by the buyer to the seller for the production of the order which are significantly modified by the seller cannot be reclaimed by the buyer. The seller shall have the right to dispose of such jigs and tools and tools manufactured for the production of special customer-specific parts as it sees fit and without payment one year after completion of the most recent order. This shall also apply to an invoiced part-contribution to tooling costs. The seller shall retain all rights to materials not provided by the buyer, even if the buyer has assumed their acquisition costs.

8.3

All rights to tools, drawings, drafts and plans, in particular patents, copyrights and invention rights shall remain the property of the seller. All sales documentation, such as catalogues, sample books and price lists provided to the buyer shall remain the property of the seller and shall be returned upon request (see number 2.2).

9. Responsibility for ancillary duties

The seller shall be responsible for performance of contractual or pre-contractual ancillary duties only under the conditions in numbers 4, 7 and 11.

10. Non-delivery

If delivery becomes impossible for the seller in full or in part, the buyer and the seller may give written notice of the cancellation of the contract in relation to the undelivered part of it. Numbers 7.5 and 13 shall apply accordingly.

11. Force majeure

11.1

Neither party shall be responsible for non-performance of its duties if the non-performance is caused by circumstances beyond its control and, in particular, if the cause is one of the following: fire, natural catastrophe, war, seizure, export ban, embargo or other official measures, general scarcity of raw materials, restrictions on the consumption of energy and labour disputes or if contractual non-conformity by a subcontractor is caused by one of these reasons.

11.2

Both parties may give written notice of the cancellation of the contract if its performance is hindered for more than six months for the causes in number 11.1.

12. Other responsibilities of the seller

Unless expressly stated in these GTB, all further contractual or legal claims against the seller, in particular for cancellation of the contract, relief from or compensation for losses of any kind, even for those not arising from the object of the contract itself, such as consequential losses shall be excluded. Number 7.5, sentences 3 and 4 shall apply accordingly.

13. Time limitation

All claims of the buyer for contractual non-conformity shall lapse six months after the transfer of risk (see number 3). The liability of the seller shall be restricted to non-conformities arising within this period.

14. Retention of ownership

14.1

All goods supplied shall remain in the ownership of the seller until all debts arising from the business relationship have been paid in full. This shall also apply if individual or all debts due to the seller have been incorporated into an open invoice and the balance has been drawn and acknowledged. If the effectiveness of the retention of ownership in the country concerned subject to special provisions or legislation, the buyer shall be responsible for compliance with them. The buyer shall have the right to sell on the goods in the normal course of business on condition that the debts arising from the further sale shall be ceded to the seller as follows: the buyer shall immediately cede all debts, including ancillary rights, due to the buyer from the acquirer or third parties arising from the further sale, regardless of whether the relevant goods are sold on before or after processing. The buyer shall have the right to collect these debts even after their cession. The right of the seller to collect the debts shall remain unaffected. The seller shall be obliged not to collect the debts as long as the buyer meets its payment obligations on a timely basis. The seller may require that the buyer informs it of the debts ceded to it and the debtors, provides all the details necessary to collect the debts, hands over the necessary documentation and informs the debtors of the cession. If the goods are sold on in conjunction with other goods that do not belong to the seller, the debt owed to the buyer by the acquirer shall be deemed to be ceded in the amount of the purchase price agreed between the seller and the buyer.

14.2

The buyer shall provide assistance to the seller in all measures necessary to protect the seller's rights of ownership in the relevant country. The buyer shall inform the seller immediately risks to the seller's ownership arise. This shall apply in particular to decisions of third parties or official measures.

14.3

The seller shall have the right to take back goods subject to its retention of ownership if the conduct of the buyer does not conform with the contract, in particular if payments are overdue.

14.4

The buyer shall take out insurance at its own expense to cover the goods supplied against theft, fire and water damage and other risks for the period until payment has been made in full.

14.5

The seller shall, upon request, release securities of its own choice if the value of the securities exceeds the value of the debts to be secured by more than 10%.

14.6

If the goods subject to retention of ownership are combined, processed or converted, even together with products not belonging to the seller, the seller shall acquire co-ownership in the new products in the proportion of the invoice value of the goods subject to retention of ownership bears to the total value of the new product at the time of combination, processing or conversion. Numbers 14.1 to 14.5 shall also apply to the new product.

15. Other matters

15.1

The seller shall have the right to assign its rights and duties to subsidiaries and/or business partners and to assign its claims to the purchase price to its banks.

15.2

Amendments, additions and side-agreements to these GTB or to contracts shall be made in writing.

15.3

A contract concluded on the basis of these GTB shall remain otherwise binding even if individual conditions become ineffective.

15.4

The buyer shall have the right of set-off or retention only in respect of legally binding debts.

15.5

Trademarks, trade names, marketing and commercial protection rights of the seller. The buyer may use or register the trademarks, trade names and other marks and protection rights of the manufacturer or the seller only with prior written agreement and only in the interests of the seller.

15.6

Commercial protection rights of third parties

The buyer shall be responsible that the protection rights of third parties are not breached by its instructions in relation to shapes, dimensions, colours, weights and the like. The buyer shall hold the seller free from all claims by third parties for breach of the protection rights mentioned above, including court and out-of-court costs and, upon request, provide assistance in any legal disputes.

16. Compliance with the law

Observance and compliance with the relevant legal requirements for foreign trade, such as import licences and currency transfer approvals and other laws applying outside Switzerland shall be the responsibility of the buyer.

17. Place of performance, applicable law and place of jurisdiction

17.1

The place of performance for payments by the buyer is 6300 Zug, Switzerland and for deliveries by the seller the works of the producer designated by the seller.

17.2

These GTB and all contracts concluded under them shall be subject to the applicable law of Switzerland. The United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11.04.1980 is expressly excluded.

17.3

All disputes arising from or in connection with contracts concluded on the basis of these GTB shall be decided by the ordinary courts having jurisdiction over the registered office of the seller.

17.4

In any case, the seller shall also have the right to call upon the courts having jurisdiction over the registered office of the buyer. In such a case, the jurisdiction under number 17.3 shall be waived.