

1. General Provisions

- 1.1 These general terms and conditions shall apply unless the parties to the contract have expressly made an explicit agreement to the contrary in writing.
- 1.2 Any quotations submitted by DIETZEL GmbH. (hereinafter briefly referred to as DIETZEL) shall be subject to change without notice. The contract shall only come into force upon written confirmation or delivery. The documents part of the quotation such as illustrations, drawings, weights and measurements in particular shall only be considered to be approximate statements unless they were expressly referred to as binding. Statements as to properties, weights, volumes, capacities, colours, prices and similar specifications shall only become an integral part of the contract to the extent they were used in the catalogues, circulars, brochures, adverts, illustrations and price lists used by DIETZEL in the course of its business operations.
- 1.3 DIETZEL expressly reserves the right to implement changes in the design and shape of the subject matter of the contract based on technical progress without prior announcement.
- 1.4 Guarantees, collateral agreements and changes in and amendments to this agreement shall only be effective in writing. This requirement cannot be dispensed with.
- 1.5 Changes in the general terms and conditions of sale and delivery shall become legally effective at the beginning of next but one month following the month during which the customer was notified and shall henceforth apply to any current and future business transactions between the customer and DIETZEL unless a written objection filed by the customer was received by DIETZEL prior to that date.

2. Prices and Terms of Payment

- 2.1 Unless otherwise agreed, DIETZEL's prices shall be ex works or warehouse, excluding loading, excluding VAT. For orders with a net value below EUR 200.- we will impose a surcharge for quantities below minimum of EUR 15.-. Unless otherwise agreed, we will charge the prices applicable on the day of delivery.
- 2.2 The indicated prices are including packaging as usual in trade. Any other packaging which might be required shall be charged at the actual fee. If reusable packaging which is provided upon delivery is not returned in time franco one of DIETZEL's warehouses, it shall be invoiced.
- 2.3 Unless otherwise agreed, invoices shall be payable within thirty days from date of invoice without deductions. If the customer effects payment within fourteen days from date of invoice, DIETZEL shall grant the customer a 2 % cash discount. No cash discount shall be granted for invoices concerning repair and outwork. The ordering party shall not be entitled to a cash discount if the ordering party is in default of payment obligations to DIETZEL based on any other contracts.
- 2.4 At request, the customer shall effect payment in instalments to DIETZEL relative to progress in performance of the contract.
- 2.5 The customer shall not be entitled to offset any counter-claims or warranty claims which are in dispute or have not been declared in a final and absolute judgement. This shall also apply to the assertion of a right of retention by the customer.

3. Delay in Payment

- 3.1 If the customer is in delay with payment of an agreed sum or any other performances, DIETZEL shall have the following rights:
- the right to defer performance of its own obligations until the arrears were paid or any other performances were effected.
 - the right to implement a reasonable extension of the term of delivery.
 - the right to charge 8 % interest on arrears from the due date subject to assertion of higher actual damage due to delay in performance.
 - the right to rescind the contract after a reasonable period of grace has lapsed without results.
- 3.2 In any case, the customer shall be obliged to compensate DIETZEL for any costs incurred for demands for payment as well as any costs such as creditor protection association and collection agency costs and lawyer's fees incurred before institution of proceedings in particular.

4. Delivery and Performance

- 4.1 The term of delivery which must be expressly agreed shall start upon conclusion of the contract but, in any case, not before receipt of a down-payment which might have been agreed. One condition for DIETZEL respecting the term of delivery shall in any case be the performance of contractual obligations by the customer.
- 4.2 The term of delivery shall be deemed to have been observed if the subject of delivery was dispatched by DIETZEL to the customer or if notice of readiness for shipment was given to the customer by DIETZEL before expiry of the term of delivery. The term of delivery shall be prolonged correspondingly if changes or amendments are subsequently requested by the customer. This shall also apply if any impediments were to occur which had not been foreseeable upon execution to the extent such impediments are proven to influence the completion or delivery of the subject of performance such as, in particular, delays caused by force majeure, industrial strife, strikes, lock-outs, delays in the delivery of key raw

materials, materials or components. This shall also apply if the above-mentioned circumstances occur at one of DIETZEL's sub-suppliers. If the delivery cannot be effected due to the occurrence of such circumstances, DIETZEL shall be entitled to repudiate the contract. This shall not give rise to any customer claims whatsoever. This shall also apply if the afore mentioned circumstances have occurred during an unrelated delay in performance.

- 4.3 If it is impossible to ship goods ready for shipment without DIETZEL being responsible for this inability to ship or if the customer refuses to take delivery of the goods, DIETZEL shall be entitled to store the goods at the customer's expense. In this case, delivery shall be deemed to have been effected upon delivery to the warehouse. This shall, however, be without prejudice to the agreed terms of payment.

5. Passage of Risks

- 5.1 Unless otherwise agreed, the goods shall be deemed to have been sold „ex works“ (readiness for collection). DIETZEL shall effect delivery excluding insurance and duties unpaid ex works. Part deliveries shall be allowed, unless otherwise agreed.
- 5.2 The risk of accidental perishing of a chattel and damage shall pass to the customer upon dispatch of the delivery parts at the latest even if part deliveries are effected and other items are included in DIETZEL's scope of performance such as consignment fees or delivery and installation.
- 5.3 Otherwise, the INCOTERMS as amended on the day of execution of the contract shall apply.

6. Reservation of Ownership and Assignment

- 6.1 DIETZEL reserves the proprietary right to the object of purchase until complete performance of all financial obligations by the customer.
- 6.2 The customer shall be entitled to sell the reserved goods in its ordinary course of business as long as it is not in delay with payment. It shall not be entitled to dispose of the reserved goods any other way (such as by chattel mortgage, assignment by way of pledge). The customer's claims to payment of the purchasing price or compensation for work arising from resale of the reserved goods shall be assigned to DIETZEL up to the amount of DIETZEL's claim to the customer.
- 6.3 In case of a delay in payment, the risk of cessation of payments or in the event of execution upon the customer's assets, DIETZEL shall be entitled to dismantle the reserved goods and/or otherwise require them to be returned. This shall not, however, be considered to be a repudiation of the contract. The customer is required to return property.
- 6.4 DIETZEL must promptly be informed if the reserved goods are assigned by way of pledge or if the reserved goods are affected any other way by third parties. The customer shall bear any costs incurred for such third-party attachment.
- 6.5 The customer expressly consents to DIETZEL's right to assign any claims to the customer to third parties for any purpose whatsoever. Any prohibition to assign which might be applicable shall only become legally effective if this was explicitly agreed between the parties to the contract in each specific case.
- 7.1 **Returned Goods**
- 7.1 Goods can only be returned if this was expressly agreed in writing beforehand. Goods must be returned franco warehouse specified by DIETZEL. The goods must be as good as new and packed in their original packaging. In any case, DIETZEL shall charge a reasonable manipulation fee.

8. Warranty

- 8.1 DIETZEL shall assume warranty for the accordance of the delivered goods with the order and for the fitness of the goods for normal use. It is expressly stated that indications as to the properties, weight, volume, capacity, colour, prices and any other specifications shall only become an integral part of the contract if these statements were used in the catalogues, circulars, brochures, adverts, illustrations and price lists used by DIETZEL in its ordinary course of business. Public statements on DIETZEL products by parties other than DIETZEL shall not be decisive for the evaluation of the integral parts of the contract.
- 8.2 DIETZEL shall only assume a warranty obligation for defects which are based on a design defect, faulty material or execution and even then only if such defects are noticed over a period of twelve months of common use from the passage of risks and/or the date of delivery:
- a) Within the first six months, DIETZEL undertakes, at its absolute discretion, to rectify defects or replace parts in defective goods which turn out to be unfit for use or only suitable for considerably limited use due to a circumstance which occurred before the passage of risks such as, in particular, faulty construction, faulty material or faulty execution free of charge excluding incidental expenses (such as, in particular, travelling time costs, labour costs or transport costs and the like). DIETZEL reserves title to the replaced components. The customer must prove that the defect already existed at the time of delivery within the first six months after delivery.
- b) Six months after performance, DIETZEL shall assume a guarantee for, at its absolute discretion, either repairing or replacing defective objects by objects free of defects for another six months if it can be proven that the defective goods are not fit for use or are only suitable for considerably limited use due to a manufacturing defect, faulty material or design. Any incidental expenses such as travelling time

expenses, labour costs or transport costs in particular, shall be borne by the customer. DIETZEL excludes liability for any other warranty claims such as, in particular, the right of rescission of sale or reduction in price (even in the event of failure of the rectification of defects and/or repeated delivery) as well as claims for damages on any legal basis whatsoever.

- 8.3 The customer shall only be entitled to claim relief based on its warranty rights if DIETZEL was promptly notified of the defects which have occurred in writing. In this case, DIETZEL shall have the following options if the defects can be rectified by DIETZEL based on the applicable provisions:
- a) it can rectify defects in defective goods at the customer's premises;
- b) it can ask the customer to send the defective goods or components to it for rectifying the defects;
- c) it can replace the defective goods or components. If it is impossible to rectify the defects or if it would be disproportionately expensive to rectify the defects, DIETZEL shall also be entitled to grant a reasonable reduction in the price.
- 8.4 If the defective goods or components are returned for rectification of defects or replacement, the customer shall bear both the costs and risk of transportation.
- 8.5 The defective goods or components replaced pursuant to these provisions shall exclusively be placed at DIETZEL's disposal. DIETZEL's warranty obligations shall only apply to defects which have occurred subject to observance of the prescribed operating conditions and in the course of use common in trade. The customer must provide evidence. In particular, DIETZEL shall not assume warranty for defects which were caused due to improper installation by the customer or its agents, improper maintenance, improper repair or modifications by third parties which were not approved by DIETZEL in writing as well as common wear and tear.
- 8.6 DIETZEL's liability based on the special right of recourse shall in any case expire two years from DIETZEL's performance and the scope of liability shall be limited to the effect that the customer is only indemnified for any warranty costs which might be incurred by the customer to the amount of the actually agreed DIETZEL sales price of the defective goods minus any cash discounts or other discounts which might have been granted.
- 8.7 DIETZEL shall not assume liability for defects in excess of the afore mentioned provisions.

9. Liability

- 9.1 DIETZEL shall not assume liability for personal injury, for damage to goods which do not constitute a subject matter of the contract as well as for any other damage and lost profit unless it turns out in this individual case that this was caused by DIETZEL with gross negligence.
- 9.2 The goods delivered by DIETZEL are safe to the extent specified in the provisions for approval, operating instructions, DIETZEL instructions on how to use the object of purchase such as, in particular, with a view to any inspections which might be required and other warnings which might have been given. If sub-section 8.1 does not apply, DIETZEL's liability for slightly negligent damage shall in any case be limited to 5 % of the volume of the order.
- 9.3 Unless otherwise agreed, this stipulation shall exclude liability on the part of DIETZEL vis-à-vis the customer for production downtime, lost profits, loss of use, lost contracts or any other economic or indirect consequential damage.
- 9.4 The customer assumes liability and costs for all disputes arising from infringements of property rights which result from the manufacture and delivery of a customized production for DIETZEL. The customer especially assumes professional and court fees for actions based on the infringement of existing patents, trademarks, designs and copyright of third parties and will hold harmless and indemnify DIETZEL in this respect.

10. Data Protection

- 10.1 DIETZEL shall be entitled to store, transmit, revise or delete personal data concerning the customer in the course of its ordinary business.
- 10.2 The parties undertake to keep any information obtained within the framework of their business relations strictly confidential and refrain from disclosing it to third parties.

11. Place of Jurisdiction, Applicable Law,

Place of Performance

- 11.1 The court which has jurisdiction as regards the subject matter at the registered office of DIETZEL GmbH. in Vienna shall be the place of jurisdiction for any disputes which might arise directly or indirectly from the contract. Regardless of this agreement, DIETZEL shall be entitled to invoke a court competent for the other party to the contract.
- 11.2 The remainder of this contract shall continue to be binding even if individual provisions of this contract may be or become legally invalid. This shall not apply if it would constitute an unreasonable hardship for either of the parties to continue to be bound by the terms of this contract.
- 11.3 This contract shall be governed by Austrian substantive law. Both parties have mutually agreed to exclude application of the United Nations Convention on Contracts for the International Sale of Goods.
- 11.4 The registered office of DIETZEL GmbH. in Vienna shall constitute the place of delivery and place of payment even if it is agreed to effect delivery to any other location.