

## **General Terms of Sale of**

**Stiefelmayer-Messtechnik GmbH & Co. KG**

**Stiefelmayer-Lasertechnik GmbH & Co. KG**

**Stiefelmayer-Spanntechnik GmbH & Co. KG**

**Stiefelmayer-Produktion GmbH & Co. KG**

### **General - Area of Validity**

1. Our General Terms of Sale (GTS) shall apply exclusively. We shall not recognise contrary conditions or conditions that diverge from our GTS imposed by the Client unless we have agreed in writing to their application.

2. Our GTS shall also apply to all future business with the Client without the need for renewed reference to our GTS.

### **Offers**

1. Our offers, including those made by our representatives, shall always be subject to confirmation. If the Client places an order with us, he shall be bound to his order for two weeks. All orders shall require our written confirmation to take legal effect.

2. We shall reserve the property rights, copyright and other rights to the documents that are part of our offer. The documents may only be made accessible to third parties with our consent.

### **Design – Production according to Drawing**

1. If we are commissioned with design, we shall be free to choose the solution within the framework of the general state of the art. If the Client would like a solution that is divergent from our proposal, he shall pay the resultant additional costs.

2. If the Client gives us drawings of the object to be produced, we shall be required only to implement the design according to the drawing.

## **Prices - Payment Conditions**

1. Our prices shall apply in EURO (€) ex works. Costs for packaging and transport and, in the case of deliveries abroad, customs and other charges, shall be borne by the Client.
2. The statutory amount of turnover tax shall be added to our prices. In the event of a change in turnover tax, we shall be entitled to adjust our prices accordingly.
3. If a delivery deadline of more than four months is agreed, we shall be entitled to adjust the prices accordingly due to any increases in costs for procurement, manufacture, delivery and assembly that may occur between conclusion of the contract and delivery.
4. Our invoices shall be due for payment upon receipt.
5. Any discount agreed shall only ever refer to our prices not including costs for packaging and transport. It shall presuppose the complete settlement of all due liabilities by the Client at the time of discounting.
6. If the Client is late in payment we shall be entitled to charge interest on arrears in the amount of 8 % above the base interest rate, and if the Client is a consumer, in the amount of 5 % above the base interest rate, per year. If we are in a position to demonstrate greater damage caused by delayed performance, we shall be entitled to assert these claims.
7. The Client shall be entitled to offset this against counterclaims only if these are undisputed or have been determined with legally binding effect.
8. If, after conclusion of the contract, we become aware of circumstances of a nature to raise justified doubts about the credit-worthiness of the Client

(dishonour of a cheque or bill of exchange, individual compulsory execution, making an application of insolvency), we shall be entitled to demand of the Client to choose either to pay the remuneration or to provide securities in the amount of the remuneration to be paid by the Client in instalments in return for our work. If the Client is not in a position to provide security within 14 days of receipt of a demand of this kind, we shall be entitled to withdraw from the contract. Otherwise, we shall be obliged for further work only gradually in return for payment of the remuneration or the provision of securities in the amount of the remuneration to be paid by the Client.

### **Passage of Risk - Acceptance**

1. Dispatch shall always be made on account of and at the risk of the Client. If dispatch is delayed for reasons for which the Client is responsible, the risk shall be transferred to the Client with the announcement of readiness for dispatch.

2. Performance by successive instalments shall be permitted and accountable if this is acceptable to the Client.

3. If there is to be acceptance, this shall be decisive for the passage of risk. It must be carried out without undue delay on the acceptance date, alternatively after our notification of readiness for acceptance. The Client may not refuse acceptance if there is no major defect.

### **Delivery Deadline**

1. An agreed delivery deadline shall commence after production of the documents, permits and approvals that may need to be provided by the Client and after receipt of an agreed deposit payment.

2. If the Client wants one of our services within a certain deadline, an express agreement is needed for this. We shall not be obliged to inspect material handed

over to us as to whether the Client has to adhere to a deadline or other obligations vis-à-vis third parties.

3. Agreed delivery deadlines shall be extended, even within a case of delayed delivery, in the event of force majeure, industrial disputes and disruptions to operations beyond our control. Agreed delivery deadlines shall be subject to the proviso that we receive deliveries from our suppliers on time. If this is not the case, they shall be extended accordingly.

4. In the case of changes to orders agreed between the Client and us after conclusion of the contract that have an impact on the delivery deadline, an agreed delivery deadline shall be extended by an appropriate length of time.

5. In addition to the work, the Client may demand compensation for any damages incurred by any delay to the work; in the case of minor negligence this entitlement shall be limited to a maximum of 5 % of the agreed remuneration.

### **Reservation of Title**

1. We shall reserve the title to the goods supplied by us until complete payment of the purchase price and all subsidiary claims.

2. If the Client is an entrepreneur we shall reserve the title to the goods supplied by us until settlement of all existing and future claims against the Client resulting from the business connection.

3. In the case of seizure, other interventions by third parties or a change of ownership of the object being purchased, the Client shall inform us of this in writing without undue delay. Enforcement agents or third parties shall be notified of our property.

If the third party is not in a position to reimburse us the court and out-of-court costs for implementing the removal of the intervention and of re-procuring the objecting being purchased, the Client shall be liable for the loss incurred by us.

4. If in individual cases the Client is entitled to sell on in standard business transactions the goods acquired from us, he shall already make over to us all demands in the amount of the final invoice sum including turnover tax that he accrues vis-à-vis his purchasers from the selling on. The Client shall remain entitled to collect these demands even after making over. Our authority to collect the demands ourselves shall remain unaffected by this. However, we shall undertake not to collect the demands provided that the Client meets his obligations to pay us resulting from the revenue received, in particular if he is not in arrears and no application to open insolvency proceedings has been made or payments have not been suspended. However, if this is not the case, we may demand that the Client notifies us of the demands that have been made over and their debtors, gives us all of the information needed for collection, hands over the associated documents and informs the debtors (third parties) of the making over.

5. The processing or reshaping by the Client of the object being purchased shall always be done for us. If the object being purchased is processed with other objects that do not belong to us, we shall acquire shared ownership of the new object in the proportion of the value of the object being purchased in relation to the other processed objects at the time of processing.

If the object being purchased is irretrievably mixed with other objects that do not belong to us, we shall acquire shared ownership of the new object in the proportion of the value of the object being purchased in relation to the other mixed objects. The Client shall hold shared ownership for us.

6. We shall undertake to release the securities due to us upon the request of the Client if the realisable value of our securities exceeds the demands to be secured

by more than 50 %. The selection of the securities to be released shall be incumbent on us.

### **Warranty**

1. We shall provide a warranty subject to the proviso of the statutory provision unless arranged otherwise below.

2. Without undue delay the Client shall examine the deliveries of goods and work provided by us for compliance with the contract, lack of defects and completeness and, if there are divergences or defects, inform us of them without undue delay. If the Client does not inform us, our goods or work shall be deemed to have been approved unless there is a defect that was not noticeable during the examination. If such a defect appears later, the Client must inform us of it after discovery without undue delay; otherwise our goods or work shall be deemed to have been approved, even with respect to this defect. If our goods or work are deemed to have been approved, the Client shall also be barred from asserting rights of recourse pursuant to Articles 437 ff. and 478 of the German Civil Code (BGB).

3. Irrespective of Article 275 (2) and (3) of the German Civil Code, we may refuse the type of subsequent performance chosen by the Client if it is possible only with disproportionate costs. In this case, the Client's entitlement to subsequent performance shall be limited to the other type of subsequent performance; our right to refuse this also if it is only possible with disproportionate costs shall remain unaffected.

4. Minor defects shall in no way entitle the Client to withdraw from the contract.

5. If we note that a defect to the object supplied by us and claimed by the Client is due to the flaws in an object provided by one of our suppliers, we shall inform the Client of this in writing and make over our guarantees and rights of recourse

vis-à-vis the supplier to the Client. In this case, the Client may assert guarantee claims and rights of recourse against us only if he has demonstrably asserted guarantee claims or rights of recourse against our supplier previously without success.

6. If we find out that a defect claimed by the Client does not actually exist or that the object supplied has been changed in a way not approved by us, resulting in damage, or the damage is due to incorrect use or wear, the Client shall be required to reimburse us the costs of the attempt to remedy the costs for working time and materials as well as travel expenses. We charge € 90.00 per man hour, plus turnover tax at the applicable statutory rate. We reserve the right to claim higher costs. The Client shall be entitled to prove that we have incurred no or only minor damage.

7. Warranty claims by the Client shall expire in one year or, if the Client is a consumer, in two years. Expiry shall commence upon delivery of goods or, in the case of goods being improved, processed or serviced, upon acceptance by the factory. The Client's rights of recourse against us pursuant to Articles 437 ff. and 478 of the German Civil Code shall expire pursuant to Article 479 of the German Civil Code. If we erect a building or a plant, whose success lies in providing planning or monitoring services for the same, the warranty claims shall expire pursuant to Article 634a of the Civil Code in five years, starting with acceptance of the plant.

8. We shall exclude any warranty in the case of supply of used goods.

### **Compensation - Withdrawal**

1. If we violate an obligation or if we do not perform the work due - or not as owed - the Client may demand compensation for the resultant damage incurred, respecting the statutory provisions.

2. If we do not perform due work - or not according to the contract - the Client may withdraw from the contract, respecting the statutory provisions. If we have already provided a part of the work, the Client may withdraw from the entire contract if he is not interested in the part of the work.

3. The Client may not withdraw from the contract if our violation of the obligation is minor.

4. Irrespective of the statutory provisions, we shall be entitled to withdraw from the contract if

- a) the Client acts contrary to the contract and the violation of the obligation is serious,
- b) the Client has provided false information about his credit-worthiness or
- c) the work that we owe is not available. In this case, we shall undertake to inform the Client of unavailability without undue delay and to reimburse counterclaims by the Client without undue delay.

### **Rights of Third Parties**

1. If a third party contends to the Client that one of our services violates his rights, the Client shall inform us without undue delay and in writing and shall give us the opportunity to avert the contended claims.

2. If the Client hands over drawings, models or samples to us for the manufacture of products, he shall guarantee to us that they are free of the protected rights of third parties. If third parties assert protected rights to us, the Client shall exempt us at the first request. In this case, we shall continue to be entitled to stop manufacture and delivery of the products concerned without further examination of the legal situation.

## **Liability**

1. We shall be liable for all damage deliberately or negligently caused by us or our managerial staff.

2. We shall also be liable for the culpable violation of major contractual obligations if a violation of them jeopardises achievement of the contractual purpose.

3. We shall also be liable if we maliciously fail to disclose a defect or have given the Client a guarantee for the properties of the object or the plant.

4. We shall also be liable for damage from injuries to life, limb or health due to a culpable violation of an obligation by us or due to a culpable violation of an obligation by one of our legal representatives or one of our vicarious agents.

5. Otherwise, all claims for damages against us, in particular due to delay or violation of an obligation as well as claims outside the contract, also due to lost profits, missed savings, lost advantages of use, failed expenditure, immediate damage and follow-up damage are excluded.

6. Furthermore, the level of any claims for damages shall be limited to the foreseeable damage at the conclusion of the contract; claims that arise as a consequence of realisation of excess risks that we cannot foresee may not be asserted.

This limit shall not apply if we maliciously fail to disclose to the Client a defect or have given the Client a guarantee for the properties of the object or the plant.

This limit shall also not apply where it deals with damage from injuries to life, limb or health due to a culpable violation of an obligation by us or due to a culpable

violation of an obligation by one of our legal representatives or one of our vicarious agents.

7. Our statutory liability due to an injury to health or life and pursuant to the Act on Liability for Faulty Products (Product Liability Act) shall remain unaffected by the clauses above.

### **Confidentiality**

The Client shall undertake to keep secret all of the company secrets revealed within the context of the contractual relationship without restriction and not to reveal them to third parties. All information about our company relationships shall be deemed as company secrets provided that we have not published them ourselves. These obligations shall remain in force beyond the term of the contract.

### **Novelty Protection**

The exchange of information of any kind between the Parties shall in no way justify damage to novelty pursuant to Article 3 Patent Act, Article 54 of the European Patent Convention and corresponding provisions of the patent acts of other countries.

### **References**

We shall be entitled to name the Client as a reference customer.

### **Jurisdiction - Place of Performance - Choice of Law**

1. The place of jurisdiction shall be Stuttgart.
2. The contractual place of performance is Denkendorf.

3. Only German law shall apply to all legal relations between the Client and us. The United Nations Convention on the International Sale of Goods (CISG) shall not apply.

**Miscellaneous - Severability**

1. No oral collateral arrangements have been made.

2. If one provision in this contract, a provision included in it in the future or a provision of these general terms and conditions are wholly or partially ineffective or if they cannot be implemented or if they subsequently lost their effect or cannot be implemented or if a loophole emerges, this shall not affect the validity of the other provisions. In this case, the Contracting Partners shall agree on application of the statutory provisions instead of the ineffective provision or the provision that cannot be implemented or on closing the loophole.

As of 09<sup>th</sup> of January, 2007