

General Conditions of Business and Sale of GFC AntriebsSysteme GmbH (hereinafter GFC)

§ 1 Validity of the conditions

- (1) The deliveries, services, and quotations of the seller are exclusively based on these conditions of business and sale unless agreed otherwise (individual agreements).

The general conditions of business and sale shall therefore also apply to all future business relationships even if they have not been expressly agreed once again. On receipt of the corresponding goods or services at the latest, these conditions shall be considered as accepted. Counterstatements on the part of the buyer while referring to their own conditions of business and sale shall herewith be dismissed.

- (2) All agreements concluded between the seller and the buyer within the framework of this contract shall be made in writing.

§ 2 Quotation and conclusion of the contract

- (1) All quotations by GFC shall be subject to confirmation and non-binding. Declarations of acceptance and all orders require the written confirmation by GFC.
- (2) Drawings, illustrations, dimensions, weights, or any other performance data shall only be binding if this has been expressly agreed in writing.
- (3) GFC employees shall not be authorised to make any verbal guarantees or grant any warranties beyond the contents of the written contract.

§3 Prices

- (1) Unless stated otherwise, GFC shall be bound by the prices contained in their quotations according to the usual time limit for quotations. Otherwise, the prices indicated by GFC in their order acknowledgement plus the applicable statutory turnover tax shall be binding.

Additional deliveries and services shall be invoiced separately.

- (2) Unless agreed otherwise, the prices are fob ex warehouse including standard packaging.

§ 4 Delivery and performance time

- (1) Delivery dates or periods which may both be agreed as binding and non-binding require written confirmation.
- (2) GFC shall not be held liable for any delay in delivery and performance which can be attributed to force majeure and events temporarily delaying the delivery or making a delivery impossible, in particular strikes, lock-outs, official directives, etc. even if these events should occur with suppliers of GFC or subcontractors of the latter. This shall apply even if binding delivery periods or dates have been agreed. GFC shall then be entitled to postpone the delivery or service by the duration of the delay plus an additional starting time or to cancel the contract as a whole or in part due to the requirements of the agreement which have not yet been met.
- (3) Should the delay last longer than three months, the buyer shall be entitled – after granting a reasonable extension – to cancel that part of the agreement which has not yet been fulfilled. Should the delivery time be extended or GFC be exempt from their obligation, the buyer shall not be entitled to derive any claims for damages. GFC can only claim the circumstances above if the buyer has been notified immediately.
- (4) Should the non-observance of delivery periods and dates agreed as binding fall into the

responsibility of GFC or should GFC fall behind schedule, the buyer shall be entitled to claim damages for the delay amounting to 0.5 % for each full week of the delay, but not more than a maximum of 5 % of the invoice value of the deliveries and performances affected by the delay.

Any further claims shall be excluded unless the delay can be attributed to gross negligence on the part of GFC.

- (5) GFC shall be entitled to perform deliveries and services in instalments unless a part delivery or performance should not be in the interest of the buyer.
- (6) The observance of the delivery and performance commitments on the part of GFC shall be based on a timely and proper fulfilment of the buyer's obligations.
- (7) Should the buyer be put into default due to delayed acceptance, GFC shall be entitled to claim the compensation for the incurred damage; as soon as the buyer is put into acceptance default, the risk of accidental deterioration or loss shall be transferred to the buyer.

§ 5 Transfer of risk

The risk shall be transferred to the buyer as soon as the shipment has been transferred to the party performing the transport or has left the warehouse of the buyer for shipment. Should the shipment be delayed upon request of the buyer or should the latter not collect the goods within 24 hours if collection has been agreed beforehand, the risk shall be transferred to the buyer after it has been signalled that the goods are ready for shipment.

§ 6 Rights of the buyer derived from defects

- (1) The products shall be delivered free from any manufacturing or material defects; the statute of limitation for the enforcement of claims arising from defects is one year starting from the

delivery of the products.

- (2) Should operation or maintenance instructions by GFC not be heeded, products be modified, parts be exchanged, or consumables be used which do not meet the requirements of the original specification, any claims derived from defects of the products shall be cancelled unless the buyer disproves the corresponding substantial claim that one of these events should have caused the defect.
- (3) The buyer shall immediately, but however within one week from receipt of the goods at the latest, notify the head of the GFC after-sales service in writing of any defect. GFC shall be immediately notified in writing of any defects which could not be detected within this period even after thoroughly checking the goods.
- (4) Should the buyer advise that the products have a defect, GFC shall be entitled to request at their own discretion, that
 - a) the defective part or device shall be sent for repair and then be returned to GFC;
 - b) the buyer shall have the defective part or device ready and that a GFC service technician shall be sent to the buyer to perform the repair.

Should the buyer demand to have the reworking tasks performed at a special place at their discretion, GFC may meet this obligation; replaced parts shall not be invoiced, whereas labour time and travel expenses shall be charged at GFC standard rates.

- (5) If the reworking fails after a reasonably granted period, the buyer shall either, at their own discretion, be entitled to demand a reduction of the remuneration or to cancel the contract.
- (6) Liability for normal wear shall be excluded.
- (7) Claims for defects against GFC shall only be due to direct buyers and may not be acquired.

§ 7 Spare parts

GFC shall provide spare parts for five years as from the delivery of a gear unit at the spare part prices currently valid.

§ 8 Retention of title

- (1) Until all claims have been met (including all current account reservations) which are and shall be due to GFC now or in the future on any legal grounds, GFC shall be granted the following guarantees which GFC shall release upon request at their discretion should the value of the guarantees exceed the claims by more than 20 %.
- (2) The goods shall remain the property of GFC. Processing and remodelling shall always be made for GFC as the manufacturer, however without any obligations for the latter. Should the (joint) ownership of GFC expire due to combination with another part, it has already been agreed that the (joint) ownership of the buyer shall be transferred to GFC according to the respective value share (invoice value). The buyer shall keep the (joint) property of GFC free of charge. Goods on which GFC has a title of (joint) ownership are called hereinafter conditional commodities.
- (3) The buyer shall be entitled to process and sell the conditional commodities during the ordinary course of business, unless they have been put into default. Mortgages or assignments as securities shall not be permitted. For reasons of safety, the buyer shall already fully transfer all claims arising from the resale or any other legal grounds (insurance, deliberate act) with regard to the conditional commodities (including all current account reservations) to GFC. GFC revocably authorises the buyer to collect the money assigned to GFC on their account in the buyer's name. This debit authorisation may only be revoked if the buyer does not duly meet their payments.
- (4) Should third parties gain access to the conditional commodities and in particular debit recoveries, the buyer shall advise of GFC's ownership title and immediately notify GFC to ensure that they may assert their title. Should the third party not be in a position to indemnify GFC for the judicial or extra judicial costs incurred in this matter, the buyer shall be held liable.

- (5) In case of breach of contract on the part of the buyer, in particular in the case of delayed payments, GFC shall be entitled to withdraw from the contract and to recover the conditional commodities.

§ 9 Payments

- (1) Unless agreed otherwise, invoices by GFC shall be paid within 14 days after issuing the invoice without any deduction. Although provided otherwise by the buyer, GFC shall be entitled to off set payments on the part of the buyer against their older debts and shall advise the buyer how the payments have been off set. If costs or interests are already incurred, GFC shall be entitled to off set the payment first against the costs, then against the interest and finally against the main performance.
- (2) A payment shall not be considered as effected unless GFC can dispose of the amount. In case of cheques, the payment shall not be considered as effected until the cheque has been cashed.
- (3) Should the buyer fall behind schedule, GFC shall be entitled to claim interest which exceeds the base interest rate by 8 percent as lump sum damages.

The damages shall be reduced should the buyer furnish proof of a minor strain on the resources; proof of major damage by GFC shall not be permitted.

- (4) Should GFC become aware of circumstances which cast doubt on the credit standing of the buyer, in particular if the latter does not cash a cheque or suspends payments, or should GFC become aware of other circumstances which cast doubt on the credit standing of the buyer, GFC shall be entitled to set a due date for the entire remaining debts even if they have accepted cheques beforehand. Should this be the case, GFC shall be entitled to claim advance payments or securities.
- (5) The buyer shall only be entitled to off set, retain or reduce the amount, even if notices of

defects or compensating claims have been put forward, if the compensating claims have been determined as legally enforceable and undisputed. However, the buyer shall also be entitled to retain payments should compensating claims arise from the same contract.

§ 10 Design changes

GFC shall reserve the right to perform design changes at any time; they shall however not be obliged to perform changes of this kind on products which have already been delivered.

§ 11 Patents

- (1) GFC shall exempt the buyer and their customers from claims arising from the infringement of copyrights, trademarks or patents, unless the design for one of the goods to be delivered comes from the buyer.

The indemnity obligation on the part of GFC shall be limited to foreseeable damage.

An additional prerequisite for the indemnity is that GFC shall exclusively institute all legal proceedings and that the claimed infringement may exclusively be attributed to the design of the GFC goods supplied without any combination or use with other products.

- (2) GFC shall be entitled to discharge themselves from the obligations assumed in section I by either
 - a) providing the licenses required with regard to the allegedly infringed patents

or

- b) providing the buyer with modified goods or modified parts thereof, which will eliminate the allegation of infringement with regard to the goods supplied, should the product or parts thereof causing the infringement be exchanged.

§ 12

Confidentiality

Unless expressly agreed otherwise in writing, the information GFC obtains in combination with orders shall be considered as non-confidential.

§ 13 Liability

- (1) Claims for damages shall, independent of the type of breach of duty and including acts of tort, be excluded, unless wilful or gross negligence was implied.
- (2) Should essential contractual obligations be violated, GFC shall be held liable for any type of negligence, however only to the amount of the foreseeable damage. GFC cannot be held liable for any claims on lost profits or saved expenses arising from claims for damages by third parties as well as from indirect or consequential damage, unless a characteristic warranted by GFC is intended to protect the buyer against damage of this type.
- (3) The limitations and exclusions of liability in section 1 or 2 shall not apply to claims arising from fraudulent behaviour on the part of the buyer as well as to a liability for guaranteed characteristics, claims in accordance with the Product Liability Act or damage incurred from lethal injuries, bodily harm or damage to health.
- (4) Insofar as the liability of the buyer is excluded or limited, this shall also apply to staff, employees, representatives and vicarious agents of the buyer.

§ 14 Applicable law, court of jurisdiction, separability clause

- (1) The present conditions of business and sale and all legal relationships between GFC and the buyer shall be governed by the law of the Federal Republic of Germany. The provisions of the United Nations Convention on Contracts for the International Sales of Goods shall not be applicable.
- (2) If the buyer is a merchant, a legal entity or a special fund under public law, Dresden shall be the exclusive court of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. However, GFC shall be entitled to institute legal proceedings at the buyer's registered office.
- (3) Should one of the provisions in these conditions of business and sale or one provision within the framework of any other agreement be or become void, the validity of all other provisions or agreements shall not be affected.