

# General Terms and Conditions of WARNER LEWIS GmbH

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(hereinafter referred to as: WARNER LEWIS) valid from: 18 August 2011

The following Terms of Business are exclusively relevant for all contracts of sale and contracts for work and services with commercial customers, Special Funds under public law and public corporations. This is also the case if the Terms of the customer conflict wholly or partly with them.

## § 1 Quotation and offers

Quotations and offers are given entirely without engagement. They are, unless otherwise agreed to in writing, valid for a period of sixty days from the date of reception, which is supposed to be three days after dispatch.

## § 2 Supply and delivery

Unless otherwise agreed to in writing WARNER LEWIS delivers ex works. Delivery times count from the date on which the order acknowledgement has been dispatched, or, earliest, from the time the final execution (technical details) has been clarified with and confirmed by the purchaser. The note of dispatch or collection readiness is authoritative for the observance of the delivery date or time for delivery.

Part delivery is also permissible in an extent that can be reasonably expected. This will be invoiced separately.

Goods are shipped entirely at purchaser's risk and for his account or, where applicable, for account and at the risk of the consignee, irrespective of whether WARNER LEWIS has acted on behalf of the purchaser or consignee by prepaying shipping costs. The goods will only be covered for "goods in transit" risks if specific instructions have been given in writing, the costs for insurance will be charged.

Unless otherwise agreed to in writing WARNER LEWIS is allowed to choose the mode and route of shipping.

All risks concerning the goods will automatically be transferred to the purchaser when the goods leave the work or warehouse, or if they are otherwise put at the disposal of the purchaser.

Packaging will be charged for at cost, and packing materials are not returnable. Acceptance of packed goods by commercial carrier shall be considered sufficient of adequate packing.

Acts of God, industrial action, riots, measures of authorities, default of delivery by suppliers of WARNER LEWIS and similar serious circumstances, which are unforeseen or beyond anybody's control discharge the parties to the contract from the liability for the period of the default and in the extent of their effect. This is also the case if the circumstances occur in a time when the parties to the contract concerned are in default. In case of delay in delivery because of one of the above mentioned circumstances, the delivery date will be lengthened to an adequate extent.

In case it can be foreseen that the goods will not be delivered within the quoted delivery period, WARNER LEWIS will inform the purchaser in writing without undue delay stating the reasons; if possible, they will quote the expected date of delivery.

In case of delay in delivery WARNER LEWIS will be liable only for damage caused intentionally or by gross negligence, unless the delivery period has been individually settled in writing.

## § 3 Prices

All prices quoted are EURO. Other currencies have to be confirmed by writing by WARNER LEWIS. Prices are "ex works" or "ex warehouse", exclusive of packing, local delivery freights, duties or other charges in connection with delivery, unless WARNER LEWIS has agreed to anything else in writing.

In cases where WARNER LEWIS agrees to invoice in a currency other than EURO, WARNER LEWIS reserves the right for adjustment in connection with currency fluctuation.

All prices quoted are based upon the economic factors prevailing at the time the offer and quotation is made. The economic factors communicated to the purchaser or otherwise known form an inherent basis of the contract within the meaning of the law. This shall especially apply to goods manufactured or purchased by WARNER LEWIS abroad and it includes transactions based upon "Foreign Currency" which may be subject to fluctuations.

However, when necessary, the prices ruling on the date of delivery shall be the basis for the final invoice. It is incumbent on WARNER LEWIS to substantiate the extra charge.

## § 4 Warranty and guarantee

Claims for warranty which are not quoted in an acceptance report signed by both parties will only be taken into consideration by WARNER LEWIS if they have been made in writing and have reached WARNER LEWIS within 14 days after receipt of the goods, at the latest. The warranty period for goods and other services of WARNER LEWIS will be 12 months. The parts which are subject to normal wear and tear (such as seals, filter cartridges) are not subject to warranty. It is incumbent on the purchaser to prove that the default was already there before passing of risk and that it has been assessed and notified in due time.

Justified claims for warranty will be reworked by WARNER LEWIS at their opinion: the faulty goods will be repaired or replaced by WARNER LEWIS, free of charge.

In case of a slightly negligent neglect of duty by WARNER LEWIS which does not consist in a material defect or a minor defect without impairment of work, no rescission or compensation delivery will be accepted.

Such a free replacement, repair or rework shall be considered by the parties as WARNER LEWIS having discharged its liabilities in respect of the claim for a faultless delivery, unless anything else has been agreed to. After failure of a first removal of defects or compensation delivery WARNER LEWIS shall have a second chance within 30 days after receipt of the notice of defect or within a longer period of time set by the purchaser.

In case that the purchaser sets a time limit, which has to exceed 30 days, he shall declare after the expiration of this time and within two more weeks if he wants to withdraw from the contract or still demands the completion of the contract. If such a punctual declaration is overdue, his claim for performance will expire. Nevertheless, there will be no longer a claim for damages because of material defect in case of withdrawal.

In case that the purchaser chooses compensation after the last fulfillment has failed, the goods will remain at the purchaser's, unless this cannot be reasonably expected of him. The compensation confines itself onto the difference between purchase price and value of the defective goods, unless WARNER LEWIS has fraudulently violated the contract.

WARNER LEWIS will not accept claims for damages, unless intent or gross negligence of WARNER LEWIS has been proved or the damage is a personal injury or is caused by a violation of a primary duty of the contract. In case that a contractual collateral duty has not been violated deliberately or with gross negligence, compensation can be claimed instead of performance only if the damage of the purchaser is higher than 10 % of the price of the performance.

The parties to the contract can set off of claims only if these have not been contested or have already become res judicata. The removal of defects can be rejected if the purchaser does not fulfill his own essential covenants with respect of which advance performance devolves on him or if he is unable to pay after the defect has been removed. The latter will be refutably supposed in case of delay of payment of more than 5.000 EUR regarding the same or another business of the contracting parties.

Guarantees going beyond the legal warranty are only valid in written form. This is also the case for warranted characteristics.

## § 5 Terms and conditions of payment

Invoices are due to payment "net" and within 30 days from the date of the invoice. In case of a payment within 14 days the invoiced amount will be reduced by a discount of 2 % if nothing to the contrary has been agreed to in writing. Cheques are credited to the customer's account subject to final bank credit to WARNER LEWIS. WARNER LEWIS will not accept notes payable unless acceptance of such instrument has been specifically agreed to in writing. All expenses relating to notes payable are to be borne by the drawer.

For orders of a value in excess of 10.000 EURO 1/3 of the total order value will be due upon receipt of WARNER LEWIS' order acknowledgment, 1/3 when goods are ready for shipment, 1/3 within 30 days after date of shipment/invoicing.

In case that the purchaser exceeds the previously agreed terms of payment by 60 days, WARNER LEWIS reserves the right to slow down, interrupt or even discontinue production, supplies or deliveries, against any outstanding order, to charge penal interest, or to withdraw from the contract. In cases of withdrawal from the contract by WARNER LEWIS the purchaser will be charged with all costs incurred by WARNER LEWIS deducting expenses thus saved by WARNER LEWIS up to the time of withdrawal.

## § 6 Retention of title

Until all claims resulting from the business relation with WARNER LEWIS have not been satisfied WARNER LEWIS will retain title to the delivered goods.

The purchaser is entitled to sell these goods in the ordinary course of business as long as he fulfills his obligations towards his business partner in due time. Nevertheless, he is not entitled to pledge the reserved property nor to assign them by way of security. He is bound to secure the rights of WARNER LEWIS in case of re-selling the credited goods.

In case of delay of payment WARNER LEWIS is entitled after setting an adequate additional respite to demand the return of the reserved property at the expense of the purchaser, even without withdrawing from the contract.

All claims and rights resulting from the selling or any other industrial use of the goods belonging to WARNER LEWIS are even now assigned as security. WARNER LEWIS hereby accepts the assignment.

The purchaser always carries out working up and processing of the reserved property in favour of WARNER LEWIS. In case that the reserved property is processed or inseparably mixed with other goods that do not belong to WARNER LEWIS, WARNER LEWIS shall become co-owner of the new good in proportion of the invoice value of the reserved property to the other worked out or processed goods at the time of processing or mixing up.

If goods of WARNER LEWIS are united or inseparably mixed with other movable goods into a common good and if the other good is considered as a main good, the purchaser transfers proportional co-ownership to WARNER LEWIS as far as the main good belongs to him. He will keep the goods owned or co-owned by WARNER LEWIS in custody according to the liability criteria that apply for a prudent businessman. The same as in case of the reserved property is applicable for the goods modified by processing, combination or mixing.

WARNER LEWIS has to be immediately informed in case of measures of execution taken by a third party concerning the reserved property, claims assigned to WARNER LEWIS or other claims to be assigned securities and handed over the necessary documents. This is also the case for other impairments.

WARNER LEWIS shall release the securities that belong to them pursuant to the foregoing provisions at request inasmuch as the value of the debt to be secured exceeds the value of the goods which have been delivered under retention of title by more than 20 %.

## § 7 Concluding conditions

The above and the following terms are the only valid terms of business of WARNER LEWIS up to now, this cancels all previous terms.

Orders, subsidiary agreements and alterations are only binding if they are confirmed in writing by WARNER LEWIS.

Each alteration must be made in writing in order to be valid.

For purpose of contractual fulfillment and for legal purposes of whatever nature, including all disputes, it is agreed that the competent place of payment and delivery, even in case of delivery free, FOB or CIF, is Frankfurt am Main, unless something else arises out of the order acknowledgment.

All contracts and engagements entered into by WARNER LEWIS are expressly subject to the laws of the Federal Republic of Germany, unless the laws of the home country of the principal to WARNER LEWIS prohibits an agreement of this kind. The application of the UN Sales Convention shall be excluded.

It is agreed that the competent court of jurisdiction and place of settlement shall be that of the City of Frankfurt/Main, except in individual cases, where for legal reasons such an agreement is prohibited or invalid.

In doubt the German text of these Terms shall have priority.