

**Standard Business Conditions**  
**LEDANO Bennemann GmbH – Status 03/2009**

**1. Scope of Applicability**

These standard business conditions are valid for all deliveries and other services including those performed in the future. Any conditions deviating from this require our explicit written confirmation.

If the order is placed or confirmed through our contractual partner solely on the basis of their own conditions of sale, then these are hereby contradicted. We are only committed to them if we have recognised them in writing.

**2. Completion of the Contract**

Offers on our part are requests to place an order and remain subject to change without notice and without obligation pending our written confirmation. Any placed order - also verbally or by telefax/email - is only deemed as having been accepted after we have duly confirmed it in writing. Our written confirmation of the order is authoritative with regard to the scope of the delivery. Any supplementation, additional agreements or any other undertakings require our written confirmation.

Rights deriving from the contract are not transferable without our explicit agreement. The customer or firm ordering the goods is committed to the order placed for up to four weeks after our having received this order. No claims for indemnification can be raised in respect of the order not being accepted. Obvious errors, such as printing, spelling and calculation errors are not binding on us and do not constitute any right to their fulfilment or indemnification. We reserve the right to subsequently reject an order completely or partially should the manufacture thereof prove to be particularly difficult or impossible. In such cases the ordering party cannot make any claim on us in this respect.

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**8. Complaints and Warranty**

Any shortcomings in respect of incorrect or incomplete delivery, or failure to comply with the promised characteristics are to be notified in writing immediately after being ascertained and any processing or installation work suspended. Evident faults are to be notified in writing within 8 days of receiving the goods. In the case of concealed faults the legal provisions apply with regard to the requirement to give notice of defects.

We provide a warranty for the function and material supplied within 24 months. The time-limit begins with the date of the transition of the risk.

No warranty is provided for faults due to incorrect or inappropriate use, incorrect installation by the customer or a third party, or for natural wear and tear, faulty or negligent treatment. The same applies to the consequences of inappropriate alterations and repairs carried out by the customer or a third party without our approval.

The warranty extends to our obligation to provide carriage paid replacement free of charge or to carry out rectification whichever we choose on return of the faulty item(s). We can refuse to effect the warranty as long as the customer has not paid for that part of the delivery not subject to any complaint.

Any further demands are ruled out. This applies particularly to indemnification of damage not occurring to the merchandise itself (consequential costs of the defect) in so far as the damage was not caused deliberately or grossly negligently either by managerial employees or organs of the company. If we grossly negligently violated a primal-contractual duty our indemnifiability for bodily injury, material damage and financial losses is limited to the limit of indemnity of our commercial

product properties, the dimensions and the weight may deviate slightly from the catalogue or Internet specifications in so far as no main function of the product is impaired by this. We reserve the right to carry out alterations serving to further technical development of the product. We are entitled to effect partial deliveries should no agreement specifically to the contrary have been reached.

Deviations in quantity up to 10% (10 per hundred) of the amount ordered are admissible should no other agreement have been concluded in writing to the contrary.

### **3. Technical Documents, Proprietary Rights**

All the documents and/or samples, sketches and plans placed at the disposal of the customer or prospective customer remain our property and may not be used for other purposes or passed on to third parties without our explicit written approval.

### **4. Prices**

The prices are valid in € (EURO) ex stock Viersen, Germany. They do not include value added tax and the packaging costs. The prices applicable on the day of the delivery will be charged. All the other ancillary costs such as insurance, certification, inspections, customs duties, fees etc. are to be borne by the customer. The right to adjust the agreed prices as a result of altered costs for raw materials, wages, taxes and the like is explicitly reserved.

### **5. Terms of Payment**

The amount invoiced falls due net immediately.

Amounts invoiced are payable immediately without any deduction.

In case of opening transactions the total contract amount falls due net immediately and is payable without any deduction before delivery.

third party liability insurance. In the case of features having been promised to the customer, we are liable in so far as this assurance pursued the objective of protecting the buyer specifically against consequential damage deriving from the defect.

### **9. Application Notes**

Any information about eligibility and applicability of our products and services is unaccommodating and do not liberate our customer from the obligation of own checks and tests. This is obligatory due to the diversity of applications and conditions. In any case the risk of success (technically/economically) remains with our customer. This also applies in case of assistance by us. Our customer is responsible to fulfil local laws and directives.

### **10. Reservation of Proprietary Rights**

The merchandise delivered remains our property until such time as complete payment of all the existing present and future demands deriving from the business relationship with the customer has been made, irrespective of the legal basis.

The buyer is entitled to use our goods in the proper course of business and in accordance with the intended use, to process them, as well as to supply and sell them as a retailer. The buyer is not entitled to any other disposition. If our products are connected with other objects either by us on the instructions of the customer or by the customer to form a single unit, it is agreed that the customer grant us proportional co-ownership in compliance with § 947 item 1 BGB (Bürgerliches Gesetzbuch – German Civil Code) and put the item in safe-keeping. In the case of goods to which we have rights of ownership, as per the above provision, being transferred, the customer immediately assigns irrevocably that proportion of his entire residual demands

Exceeds the total contract amount 1,000.00 € (EURO) the total contract amount falls due net immediately. 50% of the total contract amount are payable before delivery and 50% are payable after receipt of the goods.

In the case of the deadline for payment being exceeded, we are entitled to charge interest at least in the amount of 4% above the official discount rate of the German Federal Bank (Deutsche Bundesbank) with effect from the date on which payment fell due. We retain the right to make claims for a further loss due to the late payment.

If the customer does not comply with the terms of payment or if we become aware of circumstances likely to reduce the customer's credit-worthiness, all our demands fall due immediately irrespective of the agreed period for payment. We are also entitled to effect outstanding deliveries only on receipt of advance payment, or if this is not implemented to withdraw from the contract or to demand compensation for non-fulfilment thereof.

## **6. Delivery and Acceptance Deadlines**

The delivery dates cited in our order confirmation are not deemed as being fundamentally binding. Revocation of the contract or any claims for compensation for non-adherence to the delivery dates is ruled out, unless the delay in delivery is based on deliberate intent or gross negligence. If we have agreed to a binding delivery date in writing, after the statutory extension of the original term by at least 14 days has expired, the customer can demand indemnification for the delay in the amount of ½% for every full week commencing with the expiry of the subsequent statutory extension. This is however limited to 5% of that part of the overall delivery which was not at their disposal in time. The customers have in every such case to prove in a credible

deriving from the contract of sale up to the amount of the remaining demands still owing to us. The customers are entitled to the collection of those debts as long as they have completely fulfilled all their commitments to us.

The customers are to notify us without delay by registered letter of any levy of distraint, seizure or any other orders effected by a third party, and at their own expense to take all the measures required to safeguard our rights.

At the customers' request we may as an option undertake to hand over the safeguards to which we are entitled in the amount that their value exceeds 25% of the debt thus secured. In the case of current invoices the reservation of ownership constitutes a safeguard for the outstanding balance. During the period in which these proprietary rights are reserved, the customers undertake to maintain the sales article in a proper condition and insure it against fire, damage caused by water and theft and to furnish us with proof of the insurance having been duly concluded, as well as to assign their claims against the insurers to us at our request.

## **11. Embossing Plates, Tools and Devices**

We charge proportional costs for the manufacture or procurement of embossing plates or tools effected in compliance with the customers' order. Unless agreements have been made to the contrary, we remain the owners of such embossing plates or tools and are able to dispose of them without restriction. In the case of revocation or annulment of a contract whilst still in the development stage or whilst in production, we reserve the right to charge for the entire costs incurred for embossing plates, tools and devices in addition to our claim for compensation in respect of their failing to fulfil the contract.

manner that they have sustained a loss due to the delay in the delivery.

Incidences resulting from force majeure, such as war, strikes etc. release us from any claims for compensation.

If the customers fall behind with taking delivery (mora accipiendi), we are entitled to claim the purchase price or to withdraw from the contract or to demand compensation for non-fulfilment. If we demand compensation for non-fulfilment we are entitled to claim 15% of the price agreed as indemnification without any proof being required.

Delivery of goods ordered on call has to be taken within six months, unless agreement has been made to the contrary. Otherwise we are entitled to the rights specified above in respect of failure to take delivery of the specific part of the order on demand.

### **7. Dispatch and Transfer of Risk**

Dispatch will be effected even in the case of carriage paid deliveries at the expense of the buyer. The risk is transferred to the buyer as soon as the merchandise has been placed at their disposal or handed over to the forwarding agent or haulage contractor, or at the very latest on leaving the supplying works. If the dispatch is delayed due to circumstances for which we are not liable, the risk is transferred to the buyer with effect from the date on which the notice of readiness for shipment is received.

In all cases in which no specific instructions have been issued for the dispatch and accepted by us, dispatch will be effected to the best of our judgement without this entailing obligation to ensure the cheapest carriage of the goods. Insurance will only be taken out at the express wish of the customer and at their expense.

### **12. Place of Performance, Venue for Litigation, Law Applicable**

The place of performance for both parties is Essen, Germany.

The venue for litigation is at our choice Essen, Germany (in so far as legally admissible) or the customers' principal place of business. The same applies to documents, bills of exchange and cheque proceedings. German law is exclusively valid.

The application of the standardized laws governing the international sale of movable items as well as the conclusion of international contracts of sale in respect of movable property is ruled out.

### **13. Severability Clause**

Should any provision in these conditions or in the additional agreements reached be or become invalid, then both we and the customers are obliged to replace the invalid provision with a regulation which is equivalent to it in terms of economic outcome, whilst the other provisions in the contract remain unaffected.

LEDANO Bennemann GmbH  
March 2009