

General Terms and Conditions of Delivery and Payment for Use with Businesses (as of: August 2010)

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Section 1 Scope

- (1) All deliveries, services and offers by Woll Maschinenbau GmbH (hereinafter: Woll GmbH) shall be based exclusively on these General Terms and Conditions. These form part of all contracts concluded by Woll GmbH with its contractual partners (hereinafter also referred to as the "Customer") with regard to the deliveries or services it offers. They shall also apply to all future deliveries, services or offers made to the Customer, even if they are not separately agreed again.
- (2) Terms and conditions of the Customer or third parties shall not apply, even if Woll GmbH does not expressly contradict them in the individual case. Even if Woll GmbH refers to a letter that contains the Customer's or a third party's terms and conditions or draws attention to them, this shall not constitute any agreement to the validity of these terms and conditions.

Section 2 Offer and conclusion of contract, call orders

- (1) All offers made by Woll GmbH shall be subject to change and non-binding, unless otherwise expressly designated as binding or unless they contain a specific acceptance period. Woll GmbH shall be able to accept orders or commissions within fourteen days of receipt.
- (2) The legal relationship between Woll GmbH and the Customer shall be governed solely by the written Contract they have entered into, including these General Terms and Conditions. This contract shall fully reflect all agreements made between the contracting parties regarding the Contract's subject matter. Verbal promises given by Woll GmbH prior to the conclusion of this Contract shall not be legally

binding and verbal agreements between the contracting parties shall be replaced by the written Contract; unless it has been expressly stated therein and in each particular case that they shall continue to be binding. Changes or additions to the Contract must be made by the management or its specially authorised agents in writing. Verbal agreements or statements by others shall only be effective if they are confirmed by the management in writing.

To comply with the written form, transmission by fax shall be sufficient; other telecommunication transmissions, in particular via email, shall not be sufficient.

- (3) Information from Woll GmbH on the subject of the delivery or service, e.g. weights, dimensions, utility values, load capacity, tolerances and technical data as well as representations of them, e.g. drawings and images, shall only be approximately relevant, unless usability for the contractually intended purpose requires precise conformity.

They shall not be guaranteed quality features but rather serve for the description or identification of the delivery or service. Deviations that are customary in the trade and deviations that occur due to legal regulations or which represent technical improvements, in particular the replacement of components with equivalent parts, shall be permissible insofar as they do not impair usability for the contractually intended purpose.

- (4) For call orders, unless otherwise agreed, the Customer must call the complete order within 12 months from the date of order confirmation. After expiry of a further, appropriate period of grace Woll GmbH shall be entitled to deliver the goods and to invoice them or to withdraw from the Contract or to claim damages for non-performance.

Section 3 Prices, payment, default, offsetting, the buyer's rights of retention

- (1) The prices shall apply to the scopes of supply and service listed in the order confirmations without deduction. Additional or special services shall be charged separately. The prices shall be understood as ex works, plus packaging, statutory Value Added Tax, customs duties in the case of export deliveries as well as fees and other public charges.

- (2) Insofar as the agreed prices are based on Woll GmbH's list prices and where the delivery is not to take place until more than four months after the Contract's conclusion, Woll GmbH's list prices as valid at the time of delivery shall apply (in each case minus an agreed percentage or fixed discount).
- (3) The same shall apply, if in the case of order processing based on an hourly basis, the agreed prices are Woll GmbH's hourly rates; if applicable, the Customer shall be notified of Woll GmbH's hourly rates prior to the conclusion of the Contract.
- (4) Insofar as unforeseeable cost increases occur for Woll GmbH between the conclusion of the Contract and its performance, Woll GmbH shall be entitled to adjust the prices in view of the changed circumstances and without calculating an additional profit.
- (5) Payments shall be due in full upon delivery or acceptance, unless otherwise agreed in writing.
- (6) The Customer shall be in default 10 days after the due date without further notification by Woll GmbH if payment has not been made. The effective date of payment shall be the day on which Woll GmbH receives it. Cheques shall only be accepted as payment from their date of redemption. Offsetting against counterclaims made by the Customer or the withholding of payments shall only be permitted if the counterclaims are undisputed or have been legally established.

In the event of a late payment, Woll GmbH shall be entitled to charge default interest at a rate of eight percentage points above the basic interest rate (Section 247 of the German Civil Code (BGB)). The Customer shall be entitled to prove that Woll GmbH has not suffered any damage or significantly lower damage. Woll shall be entitled to prove that higher damage has occurred.

- (7) Offsetting against counterclaims made by the Customer or the withholding payments shall only be permitted if the counterclaims are undisputed or have been legally established. The commercial right of retention in accordance with Section 369 German Commercial Code (HGB) shall be excluded.
- (8) Woll GmbH shall be entitled to perform or render outstanding deliveries only against an

advance payment or security deposit, if, after the Contract's conclusion, Woll GmbH should become aware of circumstances, which are likely to substantially reduce the Customer's creditworthiness and due to which the payment of outstanding claims to be made by the Customer to Woll GmbH for the respective contractual relationship (including individual orders to which the same framework contract shall apply) is in jeopardy.

§ 4 Delivery and delivery times

- (1) Deliveries shall be made ex works.
- (2) The deadlines and dates for deliveries and services promised by Woll GmbH shall always only be approximate unless a fixed period or date has been expressly promised or agreed. If a delivery period has been expressly agreed as binding, it shall start as soon as all the Contract's details, particularly with respect to the execution of the delivery item, have been agreed in writing. Delivery dates shall be extended by the period during which such an agreement has not yet been reached.

If goods are to be shipped, the delivery times and dates shall refer to the time when the goods are handed over to the third party commissioned with the transportation.

- (3) Woll GmbH may – notwithstanding its rights arising from any default on the Customer's part – demand an extension of the delivery and service periods or a postponement of the delivery and service periods by the period of time during which the Customer fails to meet his contractual obligations, e.g. payment obligations towards Woll GmbH. The same shall apply if the production is not released by the Customer in good time or if the Customer fails to make the necessary documents, such as drawings or pattern parts, available in good time. The same shall apply for changes to the delivery item for which the Customer is responsible.
- (4) Woll GmbH shall not be liable for the impossibility of making a delivery or for delays in delivery, if the same are caused by force majeure or other events that could not be foreseen at the point in time when the Contract was concluded, e.g. operational disruptions of all kinds, difficulties in procuring material or

energy, transport delays, strikes, lawful lockouts, a shortage of labour, energy or raw materials, difficulties in obtaining the necessary regulatory approvals, official measures or missing, wrong or late delivery by suppliers, for which Woll GmbH is not responsible.

- (5) In the event of an incorrect and/or late self-delivery, Woll GmbH shall inform the Customer about the delivery item's unavailability immediately. Woll GmbH may either offer a similar product or service or withdraw from the Contract. In case of withdrawal, Woll GmbH shall promptly refund to the Customer any consideration already received.

If the events mentioned in (4) and (5) substantially complicate the delivery or performance for Woll GmbH or make it impossible to render, and where the hindrance is not of only a temporary nature, Woll GmbH shall be entitled to withdraw from the Contract. Whenever there are hindrances of a more temporary nature, the delivery or performance times shall be delayed or postponed by the duration of the hindrance plus a reasonable start-up period. Insofar as it is unreasonable for the Customer to accept the delivery or performance of the service due to the delay, the Customer shall have the right to withdraw from the Contract by sending immediate written notice to Woll GmbH.

- (6) Woll GmbH shall only have the right to make partial deliveries, if
- the partial delivery can be used by the Customer within the scope of the contractually intended use,
 - the delivery of the remaining ordered goods is guaranteed and
 - the Customer does not incur any significant additional expenses or costs (unless Woll GmbH agrees to cover these costs).
- (7) In the event that Woll GmbH does not meet the agreed date for the delivery of the goods or the provision of a service, or if the delivery of the goods or provision of services shall prove, for whatever reason, to be impossible, Woll GmbH's liability for damages shall be limited pursuant to Section 8 of these General Terms and Conditions.

Section 5 Place of performance, shipping, packaging, transfer of risk, acceptance

- (1) Place of fulfilment for all obligations arising from the contractual relationship shall be Woll GmbH's company seat (Saarbrücken), unless otherwise provided for. If Woll GmbH also owes the installation, the place of performance shall be the place where the installation must be carried out.
- (2) Shipping and packaging shall be subject to Woll GmbH's professional judgement.
- (3) The risk shall be transferred to the Customer at the latest when the delivery item is placed in the possession of the third party designated to make the delivery. This shall also apply if partial deliveries are made or if Woll GmbH has also taken on other services, e.g. the shipping or installation. If the dispatch or handover is delayed as a result of a circumstance under the Customer's control, the risk shall be transferred to the Customer on the day on which Woll GmbH was ready to make the dispatch and sent the Customer a notification to this effect.
- (4) If the shipment of the deliveries is delayed by more than two weeks past the agreed delivery date on the Customer's request or, where an exact delivery date was not agreed, if it is delayed after Woll GmbH has given notification of its readiness for dispatch, Woll GmbH shall be able to charge storage fees for each full week at 0.25% of the delivery item's full price. The Customer shall be entitled to prove that Woll GmbH has not suffered any damage or significantly lower damage. Woll shall be entitled to prove that higher damage has occurred.
- (5) Woll GmbH shall only insure the shipment against theft, breakage, transport, fire and water damage or other insurable risks at the Customer's express request and at the Customer's expense.
- (6) Insofar as an acceptance has to take place, the purchased item shall be considered to have been accepted when
- the delivery and, where Woll GmbH also owes the installation, the installation have been completed
 - Woll GmbH has communicated this to the Customer with reference to the notional acceptance according to this Section 5 (6) and

- asked the Customer to accept it,
- when two working days have passed since the delivery or installation or the Customer has started using the purchased item, e.g. has started using the supplied system and, in this case, two working days have passed since the delivery or installation, and
- the Customer has failed to complete the acceptance within this time period for a reason other than a defect indicated to the Seller, which makes the delivered item impossible to use or considerably impairs it.

Section 6 Warranty

- (1) The warranty period in accordance with the more detailed specification in Section 11 shall be one year from delivery.
- (2) Claims for defects shall not be valid in the case of only insignificant deviations from the agreed quality and/or only an insignificant impairment in usability.
- (3) The delivered items must be carefully inspected immediately after delivery to the Customer or the third party designated by Customer. They shall be considered to have been approved, if Woll GmbH does not receive a written notice of defects in the form specified in Section 2 (2) with regard to obvious defects or other defects recognisable during an immediate, careful examination, within seven working days of delivery of the delivery item or otherwise within seven working days after the defect was discovered or once the defect could be recognised by the Customer without further investigation during normal use of the delivery item.

At Woll GmbH's request, the defective delivery item must be returned to Woll GmbH free of delivery charges. If the complaint is justified, Woll GmbH shall reimburse the cost of the cheapest method of dispatch; this shall not apply if the costs increase because the delivery item is located somewhere other than the location of its intended use.

- (4) In any case, Woll GmbH shall have the right to choose between remedying the defect and making a new delivery. If the supplementary performance fails, the Customer shall be entitled to ask for a reduction in the invoiced amount or may withdraw from the Contract, provided that the liability for defects does not

relate to construction work. The application of Section 478 para. 1 BGB (Recourse claims of the entrepreneur) remains unaffected. Also unaffected shall be the Customer's right to claim damages instead of performance in accordance with the statutory provisions and General Terms and Conditions.

- (5) If the Customer wants to demand compensation for damages instead of performance or carries out their own repairs, any failure to remedy the defect shall only be deemed to have occurred after the second unsuccessful attempt. The statutory cases for the dispensability of setting a deadline shall remain otherwise unaffected.
- (6) If a defect is Woll GmbH's fault, the Customer shall be entitled to claim damages under the specific conditions set out in Section 8.
- (7) In the event of defects in components from other manufacturers, which Woll GmbH cannot remedy due to licensing or factual reasons, Woll GmbH shall, at its discretion, assert its warranty claims against the manufacturers and suppliers for the Customer's account or assign them to the Customer. In the event of such defects, warranty claims made against Woll GmbH shall only exist under other conditions and in accordance with these General Terms and Conditions, if the legal enforcement of the aforementioned claims against the manufacturer and supplier has been unsuccessful or is futile, for example due to insolvency. For the duration of the legal dispute, the statute of limitations for the Customer's relevant warranty claims against Woll GmbH shall be suspended.
- (8) The Customer shall only be entitled to recourse claims in accordance with Section 478 BGB (Recourse claims of the entrepreneur) and such recourse shall be limited to cases, for which the Customer has not concluded agreements with its buyers that exceed the statutory claims for defects.
- (9) The warranty shall no longer apply, if a defect has been caused by the Customer's improper handling or attempt at repair. The warranty shall also no longer apply, if the Customer modifies the delivery item or has it modified by a third party without Woll GmbH's consent and in such a way that it makes the remedying of defects impossible or unreasonably difficult.

In any case, the Customers shall bear any additional costs for the remedying of defects that result from such modifications or an independent attempt at repair.

- (10) The Customer shall be solely responsible for the delivery item's safety with regard to the Customer's specific application.
- (11) A delivery of used goods can be individually agreed with Woll GmbH but shall take place under the exclusion of any warranty.

Section 7 Property rights

- (1) In the event that the delivery item violates an industrial property right or a third party's copyright, Woll GmbH shall, at its discretion and expense, modify or replace the delivery item in such a way that no third-party rights are infringed but the delivery item continues to fulfil the contractually agreed functions, or it shall provide the Customer with a right of use by concluding a licence contract. If it is unable to achieve this within a reasonable time frame, the Customer shall be entitled to withdraw from the Contract or to reduce the purchase price appropriately. Any claims for damages by the Customer shall be subject to the restrictions stated in Section 8 of these General Conditions and Terms.
- (2) In the event of any violations of rights by components made by other manufacturers but delivered by Woll GmbH, Woll GmbH shall, at its discretion, assert its claims against the manufacturers and sub-suppliers for the Customer's account or assign them to the Customer. Claims against Woll GmbH shall only exist in these cases in accordance with Section 7, if the legal enforcement of the aforementioned claims against the manufacturers and sub-suppliers has been unsuccessful or futile, for example due to insolvency.

Section 8 Liability for damages based on culpability

- (1) Woll GmbH's liability for compensation, regardless of the legal reasons, in particular due to impossibility, default, defective or incorrect delivery, breach of contract, breach of obligations in contract negotiations and tortious

liability, to the extent that this involves culpability, shall be limited in accordance with this Section 8.

- (2) Woll GmbH shall not be liable
 - a) in cases of minor negligence of its managerial staff, legal representatives, employees or other vicarious agents;
 - b) in cases of gross negligence of its non-executive employees or other vicarious agents, unless essential contractual obligations have been breached. Essential to the Contract shall be the obligation to deliver and install the delivery item free of significant defects as well as advice, protection and custody obligations, which should enable the Customer to use the delivery item for its contractually intended use or to protect the life and limb of the Customer's personnel or third parties or the Customer's property against significant damage.
- (3) Insofar as Woll GmbH is liable in principle for damages in accordance with Section 8 (2), this liability shall be limited to damages foreseen by Woll GmbH at the time of the Contract's conclusion as a possible consequence of a contractual breach or taking into consideration the circumstances that were known to it or which it ought to have known about, which it should have foreseen by applying due care and diligence. Indirect losses and consequential damages due to defects of the delivery item shall only be liable for compensation if such damages can be typically expected when the delivery item is used in conformity with its intended purpose.
- (4) In the event of liability for minor negligence, Woll GmbH's obligation to pay compensation for property damage and any other resulting financial losses shall be limited to a sum corresponding to the current cover sum of Woll GmbH's product liability insurance, even if essential contractual obligations have been breached.
- (5) The aforementioned exclusions and limitations of liability shall apply to the same extent to the benefit of the Seller's managerial staff, lawful representatives, salaried employees and other vicarious agents.
- (6) If the Seller provides technical information or advice and this information or advice is not part of the contractually agreed scope of owed

services, this shall take place free of charge and under exclusion of any liability.

- (7) The limitations of Section 8 shall not apply to the Seller's liability for deliberate actions, guaranteed characteristics, injury to life, limb or health or under the German Product Liability Act.

Section 9 Exclusion of the right of withdrawal and decision obligation

The Customer shall only be able to withdraw from the Contract within the framework of the statutory provisions, if Woll GmbH is responsible for the breach of duty; however, in the case of defects, the legal requirements shall remain effective. In the event of a breach of duty, the Customer shall declare within a reasonable period of time following a request by Woll GmbH, whether the Customer is withdrawing from the Contract due to the breach of duty or insists on delivery.

Section 10 Reservation of ownership

- (1) The delivery item shall remain the property of Woll GmbH until payment has been received in full.
- (2) Furthermore, the delivery item shall remain the property of Woll GmbH until all of the latter's claims against the Customer arising from the business relationship have been fulfilled.
- (3) The Customer shall be permitted to process the delivery item or to combine it with or connect it to other items. Processing, connections or combinations (hereinafter jointly referred to as: "Processing" and with respect to the delivery item "Processed") shall be carried out for Woll GmbH as the manufacturer. The item resulting from Processing shall be referred to as "New Goods". The Customer shall keep the New Goods for the Woll GmbH with the diligence of a prudent businessman.

In case of Processing with other items that do not belong to Woll GmbH, Woll GmbH shall be entitled to joint ownership of the New Goods up to the share of the proportion resulting from the ratio of the value of the Processed delivery item to the value of the remainder of the Processed goods at the time of Processing. If the Customer acquires sole ownership of the New Goods, Woll GmbH and the Customer shall be in agreement that the

Customer shall grant Woll GmbH joint ownership of the New Goods in proportion to the value of the Processed delivery item to the value of the remainder of the Processed goods at the time of Processing.

In the event that no such acquisition of ownership should occur on the part of Woll GmbH, the Customer shall transfer its future ownership now and in advance or – at the aforementioned ratio – the joint ownership of the newly created item to Woll GmbH as security.

Article 11 Statute of limitation

- (1) The statute of limitation for claims and rights based on deficiencies in the delivery/performance, regardless of the legal reason, shall be one year. However, this shall not apply in the case of Section 438 para. 1 no. 1 BGB (Legal defects in immovable goods), Section 438 para. 1 no. 2 BGB (Buildings, items for buildings), Section 479 para. 1 BGB (Recourse claims of the entrepreneur) or Section 634a para. 1 no. 2 BGB (Buildings or works, whose success lies in the performance of planning or supervisory services). In the case of the previous sentence 2, a limitation period of three years shall apply.
- (2) Statutes of limitation in accordance with number (1) shall also apply to all claims for compensation made against Woll GmbH relating to the defect, regardless of the legal reason for the claim. If claims for compensation of any kind are made against Woll GmbH that are not related to a defect, the statute of limitations set out in number (1) sentence 1 shall apply.
- (3) The statutes of limitations set out in points (1) and (2) shall apply with the following proviso:
 - (a) The statutes of limitations shall in general not apply in the event of wilful intent or fraudulent concealment of a defect or insofar as Woll has given a guarantee for the quality of the delivery item.
 - (b) The statutes of limitations shall also not apply for claims for damages in the event of injury to life, limb or health or freedom, for claims under the German Product Liability Act, in the event of a grossly negligent breach of duty or breach of essential contractual obligations.

- (4) The statutes of limitation for all claims shall begin on delivery.
- (5) Insofar as nothing else has been expressly agreed, the statutory provisions on the commencement of a statute of limitation, suspension of expiry of the limitation period and the suspension, stay and resumption of limitation periods shall remain unaffected.

The aforementioned regulations shall not be associated with a change in the burden of proof to the Customer's detriment.

Section 12 Intellectual property, confidentiality

Woll GmbH shall reserve its right of ownership and/or copyright to all offers and cost estimates it submits as well as to the drawings, illustrations, calculations, prospectuses, catalogues, models, tools and other documents and aids it makes available to the Customer. Without Woll's express consent, the Customer must not make these items or their contents accessible to third parties, publicise them, use them or reproduce them or allow third parties to do so. The Customer shall return these items to Woll in full on request and destroy any copies made of them if they are no longer needed in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. Woll GmbH shall deal with the documents provided by the Customer in the same way. Woll GmbH shall reserve all rights relating to patentable innovations, which result on the part of Woll GmbH from the order processing and for which no property right has been logged yet. The Customer shall not derive any rights of prior use from the work with these innovations, including after the expiry of the periods set out in Section 12 of the German Patent Act or those that apply in any other jurisdiction.

Article 13 Customer protection

If the Customer has come into business contact with one of Woll's suppliers or heard of them for the first time through Woll, then the Customer shall grant Woll customer protection for this supplier. The Customer shall, even after the completion of this first contact or initial contract, not establish direct business contacts with this supplier for the purpose of bypassing Woll for a period of two years.

Section 14 Final provisions

- (1) The place of jurisdiction for all disputes resulting from the business relationship between Woll GmbH and the Customer shall according to Woll GmbH's choice be Saarbrücken or the Customer's company seat. For complaints against Woll GmbH Saarbrücken shall be the exclusive place of jurisdiction.

Mandatory legal provisions on exclusive jurisdictions shall remain unaffected by this provision.

- (2) The relations between Woll GmbH and the Customer shall be governed solely by the laws of the Federal Republic of Germany under exclusion of the Referral Rules of International Private Law

The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.

- (3) Insofar as the Contract or these General Terms and Conditions contain any legal loopholes, then the regulations that the contracting parties would have agreed upon with respect to the Contract's economic goals and the purpose of these General Terms and Conditions, if they had been aware of these regulatory gaps, shall apply and be legally binding.

Note:

The Customer takes note of the fact that Woll GmbH shall store data arising from the contractual relationship in accordance with Section 28 of the German Federal Data Protection Act for the purposes of data processing and reserve the right to transfer such data to third parties, insofar as it is necessary for the fulfilment of the Contract.