

Date: September 08, 2006

# General conditions of payment and supply



## I. General:

1. The scope of deliveries and/or services (hereinafter referred to as „Supplies“) shall be determined by the written declarations of both parties. The Suppliers written confirmation of order is authoritative (in the following Gerich GmbH), if a contract has been concluded without written declarations of both parties. Parol placed orders are only committing to us if they are confirmed by us in writing.

2. We reserve our copyrights and proprietary exploitation rights without restrictions for estimates of costs, drawings and other documents; they are only allowed to be customised to a third party with our prior consent. Drawings and other documents appertaining to offers have to be given back instantaneous by request if the order is not placed. Sentences 1 and 2 apply accordingly for documents of the Purchaser; however these might be made accessible for such third persons on which Gerich GmbH has assigned supplies and performances permissibly.

3. All information concerning chemical and physical characteristics of our products as well as application technology consultation in written and spoken and by tests we give to the best of our knowledge. The Purchaser is not released from his own inquiries and tests to ascertain the concrete applicability of the products for the intended application. Solely the Purchaser is responsible for the applications, uses and installation of the products and has to observe legal and official regulations as well as he has to observe possible trade mark rights of a third party.

4. Subsidiary agreements are only operative if they are confirmed in written form.

## II. Prices and terms of payment:

Prices shall be understood plus value-added tax in legal height and are quoted ex works excluding packing. Except when otherwise stipulated invoices of the seller are payable strictly net 30 days after invoice date, if the issuing of invoice applies to German territory. For payment within 10 days after date of invoice the seller gives a discount of 2 % free paying office. For issuing of invoice outside German territory delivery takes place against payment in advance. Other methods of payment only if stipulated. Discounts are not allowed if the Purchaser is in arrears with payment of former deliveries. The Purchaser can only accumulate such accounts which are ascertained indisputable or legal, incidentally accumulation is not allowed. Assertion of a right of detention due to unacknowledged or not legally ascertained counterclaims is excluded unless these claims are based upon the same contractual relationship. Price basis for our metal products made of brass is the day after receipt of order and the metal quotation for MS no. 2 of € 153,39. Increase of metal quotation (compare daily press) of € 12,78 at each case upwards, results in a surcharge of 5 % respectively.

## III. Retention of title:

1. Property of the supplied commodity is reserved to us until the purchase price is paid completely. For goods the Purchaser purchases within the scope of his industrial activity, we keep retention of title, until all of the accounts receivable regarding the business connection are settled, including the emerging accounts receivable for the future – this also applies for contracts placed at the same time. This applies too, if we took up several or all accounts receivable in an ongoing invoice and balance is discounted and acknowledged. In the case of violation of important contractual obligation, in particular delayed payment, we have the right of taking the goods back after reminding and the Buyer has to fulfill the obligation of releasing the goods. Withdrawal as well as garnishment of an item by us only means cancellation if we declare cancellation expressly and in writing. In the event of garnishment or miscellaneous interference of a third party the Buyer has to inform us immediately by sending us the bailiff's return as well as an affidavit concerning the identity of the distrained item.

2. The Purchaser has the right to resell the goods within orderly business provided that accounts receivable from resale change hands into Gerich GmbH as follows: already by now the Buyer makes assignments, including all accounts receivable with all ancillary rights which accrue from reselling against the consumer or against a third party, unconcerned if the reserved goods are going to be resold without or by arrangement. The Buyer is authorised to collect receivables after assignment. Our authority to collect receivables on our own remains untouched. However Gerich GmbH commits oneself not to collect receivables so long as the Buyer fulfills his payment obligations accordingly. We can demand the Buyer for publishing the assigned receivables and their defaulters, giving us all information necessary for collection, handing out the appertaining documents and telling the defaulter of the assignment. Are the goods to be resold with other goods which are not property of Gerich GmbH, the receivable of the Buyer against the consumer applies assigned in height of delivery price stipulated between us and the Buyer.

3. Handling and processing of the reserved goods is made by Gerich GmbH in terms of §950 BGB, without binding us. Processed goods apply as reserved goods in terms of this condition. Are the reserved goods going to be processed with other goods which are not property of Gerich GmbH or inseparable admixed, Gerich GmbH acquires co-ownership on the new item at the rate of the invoice value of the reserved goods to the invoice value of the other used goods at the time of processing or commingling. Thus accrued co-ownership applies as reserved goods in terms of these conditions. Are goods of Gerich GmbH going to be joined with other movable items to one integrative item or inseparable admixed and has the other item to be seen as main item the agreement applies to the Buyer to assign proportional co-ownership to Gerich GmbH as far as the main item belongs to the Buyer. As for reserved goods the same applies for goods accruing by processing, joining as well as commingling.

4. Gerich GmbH commits oneself to release the entitled assurances insofar, as its value exceeds the assured accounts receivable above 20 %, as far as the accounts receivable are not settled yet.

## IV. Time for supplies; delay:

Obliging delivery dates have to be expressly agreed upon in writing. Is such an agreement in writing missing possible details on delivery date are without obligation. Observance of the agreed time limit assumes timely entry of all documents the Purchaser has to deliver, necessary authorisations, releases, the timely clarification and authorisation of plans, observance of agreed conditions of payment and miscellaneous obligations. If obligations are not fulfilled in time the time limit is going to be extended adequately. The agreed time limit for delivery is kept if shipment is despatched or if shipment is collected within the agreed time limit.

2. Delivery dates extend by the period, in which the Purchaser defaults on his duties from the same contract.

3. All claims for damages of the Purchaser towards the Supplier, because of delayed delivery are excluded, unless they have arisen from the Suppliers deliberate or grossly negligent behaviour or from culpably injury of life, body and health.

## V. Transfer of risk

The risk shall pass to the Purchaser, at the time when the Supplies are shipped or picked up by the carrier.

Packing is done with best diligence. Shipment is done with our best discretion. Upon request of the Purchaser, the Supplier shall insure the shipment against breakage, transport damage and fire loss at the expense of the Purchaser. This applies as well as freight paid delivery was agreed upon.

## VI. Receiving of supplies

1. The Purchaser shall not refuse to receive Supplies due to minor defects.

2. Partial Supplies shall be allowed, unless they are unreasonable to accept for the Purchaser.

## VII. Defects as to quality

Gerich GmbH is liable for the accuracy of its products for the period of 12 months from the day of delivery forth, unless otherwise agreed expressly and in writing, in accordance with the following terms:

1. The Purchaser shall be obliged to inspect the goods within 8 days upon receipt at destination. Thereby discovered defects shall be notified to us in writing and without undue delay.

2. For remedial action the Purchaser shall allow Gerich GmbH the needed time and opportunity in equitable discretion, in particular the item or sample objected to; otherwise warranty is inapplicable.

3. Supplies admitted defective by us are taken back and faultless goods are supplied. At our own option we can instead replace the reduction in value or refurbish the goods.

4. The Supplier has to pay freight charges for returned goods. If examination of a note of defect shows no case of warranty costs for our checks and repairs are going to be billed following our valid list prices.

5. Towards businessmen claims for defects become time-barred one month after refusal of notice of defects in written by us - at the latest however in the termination of our general time limit for warranty of 12 months.

6. Time limit for warranty is 12 months for touching up, repairs and replacements. It starts with delivery of touching up respectively the repaired object of delivery.

7. Liability for defects alludes not to natural abrasion or to damages which were caused after transfer of perils due to incorrect or inattentive handling, excessive strain, unsuitable equipment, improper installation or miscellaneous chemical, electrochemical, mechanical or electrical actions, which are not predictable.

8. Exemption from liability (as aforesaid) does not apply as far as there is mandatory liability on the part of Gerich GmbH in cases of deliberate or grossly negligent behaviour or in cases of culpably injury of life, body and health or in cases of absence of warranted characteristics.

9. Further claims of the Purchaser towards the Supplier or the assistant are excluded – in particular claims on substitute of damages, which do not affect the delivery item itself. This applies if there is mandatory liability in cases of deliberate or grossly negligent behaviour, in cases of culpably injury of life, body and health or in cases of absence of warranted characteristics.

10. If Gerich GmbH is made demands on due to fault in independent liability in terms of product liability law or comparable prescriptions, Gerich GmbH is only liable if the Purchaser meets his obligation of testing and reprimanding according to cypher 1 and if the damage occurred because of a defect of a good delivered by Gerich GmbH. If there are such precondition Gerich GmbH is liable proportionate to the total loss. Proportion of the proportionate liability is the purchase price of the delivered defective good proportional to the value of the total value made by the Buyer. Arrangements of the product liability law are replaced by the arrangement aforesaid.

## VIII. Other claims for damages:

Any claims for damages the Purchaser may have, based on default in performance of contract or infringement of duties arising in connection with the contract or tort shall be excluded. This shall not apply in the case of mandatory liability, in the case of intent or gross negligence on the part of Gerich GmbH, the legal agent of Gerich GmbH or its vicarious agent. The limitation of liability applies to the Purchaser accordingly.

## IX. Venue and applicable law:

1. If the Purchaser is a business person, sole venue for all disputes arising directly or indirectly out of the contract shall be either the Amtsgericht Schwäbisch Hall or the Landgericht Heilbronn depending upon height of the amount in dispute.

2. Legal relations existing in connection with this contract shall be governed by German substantive law, to the exclusion of the United Nations Convention of Contracts for the International Sale of Goods (CISG).

3. The legal invalidity of one or more provisions of this contract shall in no way affect the validity of the remaining provisions. This shall not apply if it would be unreasonable for one of the parties to continue the contract.