

## General terms and conditions Bossard Austria GmbH, Vienna

### 1. Contracting, subject matter

- 1.1 The following terms and conditions shall be binding upon any of our sales to any Customer and shall be the exclusive basis to any of our sales. They shall be in their entirety form part of each and every contract we enter into. Any other general terms and conditions or specific terms shall only be valid and applicable if they have been confirmed by explicit written agreement signed by both parties.
- 1.2 Provided we issue a written confirmation of order, or there exists any other written agreement signed by both parties, any supply to be effected and service to be rendered by us shall exclusively and finally be dealt with within such confirmation or agreement.
- 1.3 Not we but Customer shall exclusively be responsible for all application and use of the products supplied. We shall especially not be responsible for engineering, technical advice or similar services, unless such services are provided for in an explicit written agreement signed by both parties.

### 2. Supply, Pricing, Payment

- 2.1 We supply on the basis of Incoterms 2010.
- 2.2 The prices refer to the currency in the applicable price list zero rated for VAT. Payment shall be effected in same currency. Unless otherwise stated, our prices shall be per 100 pieces. Price columns for 1'000 pieces and more shall apply to industrial packaging or bulk quantities only. Minimum order value within the Austrian domestic market shall be EUR 200,--. A surcharge shall apply on orders which require opening original packaging. Any general discount may only be granted with regard to orders of at least EUR 300,--.
- 2.3 Payment shall be effected within 30 days from the date of our invoice, net and without discount. Agreed interest on defaulted payment shall be 12%. Furthermore, a handling fee for reminders of EUR 80,-- shall be charged. Both charges shall become due without separately being accounted for.
- 2.4 We reserve the right to adjust prices without notice due to currency exchange rate fluctuations or any other changes in the market place. Our price lists and offers shall only be binding within the respective terms (if any) specifically offered therein.

### 3. Brochures, catalogues, documents supporting order, technical documentation, drawings, software-programs

- 3.1 Any data, similar information and drawings contained in our brochures, catalogues, documents supporting order, technical and any other documents shall not be binding.
- 3.2 We shall not be liable for the accuracy of any documents supporting Customer's orders, especially drawings, material specifications and documents of similar nature.
- 3.3 All our intangible property rights in plans, technical or other documentation and software-programs as well as all rights related thereto shall remain exclusively with us; subject to specific rights of use we granted explicitly and in writing to Customer.

### 4. Due dates, default, quantity for specifically designed goods

- 4.1 Offered and accepted delivery dates shall be observed to the extent possible. They shall correspond to the availability of material prevailing at the time of order confirmation. They shall be subject to the definitive acceptance of the order by our suppliers.

- 4.2 The delivery time shall be reckoned from the time after the contract has been concluded, the formalities required by any authorities have been met, the payments to be made at the time of the offer have been effected or secured and the most important technical points have been cleared.
- 4.3 The terms of delivery agreed upon shall be adequately extended – without we becoming liable for damages – in the following cases:
- if any information, which is necessary for us to fulfill the contract, is not received by us in due time, or if such information is subsequently changed;
  - if Customer or any third party (especially our sub-contractors) deliver or perform behind schedule or are otherwise in default with any of their contractual obligations;
  - if we, Customer or any third party (especially our sub-contractors) are subject to obstacles or unpredictable events which are not avoidable (esp. – but not limited to – force majeure, war, international tensions, riots, lack of commodities, breakdowns, epidemics, strikes etc.).
- 4.4 If the delivery date is not met and provided the reasonable time extension as defined in each specific case is also exceeded, Customer shall be entitled to withdraw from this agreement if and as far as at that time it will not have been fulfilled. We disclaim any and all liability for any damages due to late or short delivery or failure of delivery.
- 4.5 An excess of short delivery of 15% shall be considered acceptable for items specifically designed to Customer's requirements delivery.

## **5. Retraceability, reservation of title**

- 5.1 We fulfill our retraceability obligations for the products supplied by providing the respective information on the packaging label. After delivery of the products supplied, Customer shall bear the responsibility to insure that we can be traced as supplier.
- 5.2 Title to the products supplied shall not pass to purchaser but shall be retained by us until full price has been paid to us in cleared funds by Customer.

## **6. Acceptance inspection, notice of defects (claim)**

- 6.1 All of our warranties shall be subject to Customer inspecting the products supplied upon delivery according to the statutes (article 201 of the Swiss Code of Obligations).
- 6.2 Customer shall give notice regarding any defects immediately, or – at the latest – within 8 days after receipt of the products supplied, completion of the service rendered or discovery of the defect. All Customers' complaints and our warranties shall be subject to the statutory periods of limitation. Any complaint shall be affected by means of registered mail. Upon receiving the complaint we shall be entitled to examine the defect or damage claimed through our own employees or any expert appointed at our discretion.

## **7. Warranty, disclaimers, limitation of warranty**

- 7.1 We shall only warrant the product qualities according to the individual product-standards DIN, ISO, SN and the corresponding technical terms of delivery and with regard to products specifically designed for customers according to the order documents specifying the products supplied. Unless otherwise agreed upon by written agreement signed by both parties, the acceptance plan per ISO 3269 «Fasteners acceptance inspection» shall apply with regard to standard products as well as to products specifically designed for Customer.

There is inherent risk of delayed catastrophic failure involved in using fasteners hardened to 320 HV and above, especially electroplating class 12.9. Evidence of this risk is documented in ISO 4042. In particular we do disclaim any warranty, if Customer makes the decision to select and purchase parts, whose properties, characteristics, and manufacturing processes result in a high susceptibility to hydrogen assisted cracking, it is at the customers own risk and parts will be excluded from any and all product quality responsibilities related to hydrogen cracking, of us to Customer including but not limited to all of Customers indemnities, express or implied warranty including implied warranty or merchantability of fitness for a particular purpose.

We disclaim any warranty as to a quality which goes beyond aforementioned standards, even with regard to the information contained in our catalogues and brochures. Such warranty has to be agreed upon in writing and signed by both parties. Our exchange of sub-suppliers, who meet the same product standards or deliver according to the same guaranteed properties, shall not represent an alteration of the product supplied.

- 7.2 We disclaim any warranty as to the suitability of the products supplied with regard to the application and manner or place of use. The selection and adaptation of any product supplied to or for a specific use or application shall not be our responsibility. We shall further not be responsible for the misuse or inappropriate application or installation of the products supplied. If we comment on questions regarding construction and/or assembly, our opinion is based solely on the details provided to us by Customer. Our descriptions and other information are based upon theoretical considerations or research results which are acquired under laboratory conditions. They shall be checked under field-experienced conditions by the Customer. In case we alter the products supplied according to specific needs of Customer, we disclaim any warranty with regard to the herewith altered product qualities as referred to in 7.1 para. 1 and para. 2 above.
- 7.3 We disclaim any warranty, if Customer does not adhere to the operating conditions related to aforementioned product standards or any other operating conditions prescribed, specified or accepted in writing by us or if Customer alters the products supplied without our explicit written consent.
- 7.4 We disclaim any warranty with regard to all defects attributable to normal wear and tear, faulty use, defective maintenance, incorrect handling, over-exertion and intervention by third parties.
- 7.5 If we provide any service regarding engineering and technical advice or similar services, we disclaim any warranty other than the qualities mentioned in 7.1 - 7.4 above.
- 7.6 Our warranty shall be limited only to replacing the defective products supplied. This remedy shall be the exclusive remedy of Customer against us for any defect in a product supplied.

Subject to 8. below, we disclaim any other further liability or obligation whatsoever.

## **8. Liability for damages, exclusion of liability**

- 8.1 Within the scope of our statutory product liability, we shall be liable for personal injury and property damage which are directly attributable to personal injury or property damage.
- 8.2 We disclaim any further contractual or statutory liability, including but not limited to, liability for incidental or consequential damages for lost profits, lost sale or any other incidental or consequential loss due to a defect of the product supplied. This limitation of our liability also applies to our contractual and statutory liability with regard to

damages, based upon activities or defaults by our statutory representatives, staff and debtor's agents as well as to the personal contractual and statutory liability of these persons.

## **9. Cancellations of orders, withdrawal**

- 9.1 Customer's cancellations of orders require our explicit written agreement as well as Customer reimburse us for material, wages and other expenses.
- 9.2 Customer's complaints with regard to product quality and quantity etc. shall not give Customer the right to cancel the balance of an order.
- 9.3 We shall be entitled to withdraw from delivery commitments if Customer misrepresents its financial condition to us or if Customer's financial condition suffers a material adverse effect.

## **10. Security provisions**

- 10.1 The adherence to the general and local security provisions as well as the instruction of Customer's staff regarding the use of the products supplied shall be Customer's sole obligation.
- 10.2 Customer shall be responsible for ascertaining and notifying us at the latest when submitting his order of any specific regulations and standards for destined application. However, Customer shall remain exclusively responsible for compliance with such specific regulations and standards for any application.

## **11. Proper law, venue**

Austrian law shall exclusively apply. The conflict of laws provisions and the UN Convention on Contracts for the international Sale of goods shall be excluded. Vienna, Austria being the exclusive venue.

## **12. Original language**

In the event of deviations between the German version of these terms and conditions and any version in another language, the German authentic text prevails.