

General Terms and Conditions for Sale
of
Flabeg Brasil Ltda.
Indaiatuba

Version: March 2012

I. General, Scope

Our deliveries and services shall be exclusively governed by the following General Terms and Conditions. These General Terms and Conditions shall also apply to all future business transactions relating to deliveries and services to the customer without the need for any further reference thereto. They shall also apply without any explicit reference thereto in future contracts. The customer's general terms and conditions shall not apply, irrespective of whether or not such general terms and conditions have been expressly rejected by us. These General Terms and Conditions shall also apply exclusively if we, having knowledge of other general terms and conditions, effect a delivery or service without reservation.

II. Offers and Conclusion of a Contract, Scope of Performance

1. Our offers to the customer are non-binding. The customer's order shall be considered a binding offer. This offer shall be accepted within four weeks at our discretion by sending an order acknowledgment or by the unconditional provision of the goods or services ordered. If an offer is expressly designated in writing as binding, we shall be bound by such offer for a period of two weeks of the date of the offer. Additional agreements, changes and performance data have to be confirmed by us in writing.
2. We reserve the rights of ownership and intellectual property rights in cost estimates, drawings, plans and other documents; these shall be made accessible to third parties only with our prior written consent and shall be returned to us upon request free of charge.
3. The documents related to our offer, in particular illustrations, drawings, indications of weights and dimensions, performance and consumption data as well as technical data and descriptions contained in the relevant product information or advertising material are non-binding. In case of sale by samples these will only be provided of average kind and quality in accordance with the furnished samples.
4. Guarantees, in particular guarantees as to condition or durability (*Beschaffheits- oder Haltbarkeitsgarantien*), shall be binding on us only in the scope in which they (i) are contained in an offer or an order confirmation, (ii) are expressly designated as "guarantee" or "guarantee as to condition" (*Beschaffheitsgarantie*), and (iii) expressly stipulate the obligations for us resulting from such guarantee.
5. In case the goods are used outside of Germany the scope of delivery, in particular for devices related to safety at work and environmental protection is determined by the agreements made. The customer shall be responsible for compliance with statutory and other regulations applicable at the point of use.

III. Prices, Terms of Payment, Late Payment

1. The prices agreed at the time the respective contract is concluded, in particular the prices indicated in the order form or the order acknowledgment, shall apply. If no price has been explicitly determined or if the customer purchases goods at list prices, the prices applicable on the day of delivery according to our price list shall apply. Unless expressly agreed otherwise all prices shall be Ex Works (Incoterms 2000) from our works or from another address indicated by us, exclusive of packaging and other ancillary costs. All prices shall be understood net plus applicable value added tax at the currently valid statutory rate. All public charges (taxes, fees, customs etc.) arising from the conclusion or the performance of the contract outside of Germany shall be borne by the customer.
2. We reserve the right to reasonably adjust our prices if, after conclusion of the contract, cost changes occur, in particular due to

wage agreements, price increases by sub-suppliers or exchange rate fluctuations, which we are not responsible for.

3. Our invoices shall be paid, unless another payment date is specified in the invoice, within ten days after the date of invoice and delivery without any deduction. If a payment is made after the payment date, statutory default interest will be charged while we reserve the right to assert further-reaching claims.
4. We shall be entitled to apply any payments received firstly to earlier receivables, then to costs and interest of the principal receivable and finally to the principal receivable. The customer shall only be entitled to exercise a right of retention or set-off if its counterclaims are final (*rechtskräftig*), are not contested or have been acknowledged by us. The exercise of any retention right shall also only be permitted to the extent that the counterclaim is based on the same contractual relationship.

IV. Deterioration of the Customer's Financial Situation

1. If, after conclusion of a contract, circumstances become known, whereupon the customer's performance of its contractual obligations is jeopardised due to its financial situation (in particular in case of suspension of payment, insolvency filing, distraint or execution measures, notice of a bill or protesting a cheque and returning of a direct debit also towards or by third parties), we may, at our choice, withhold the deliveries and services until prepayment of the purchase price or provision of appropriate security. This also applies if due to default in payment by the customer reasonable doubts about its solvency or creditworthiness arise.
2. In the cases of Clause IV.1 we are also entitled to withhold deliveries and services until receipt of all payments for outstanding claims against the customer or provision of appropriate security. For claims not yet due, including claims resulting from contracts already concluded where we have to perform in advance, and claims without an inner natural or economic link to the delivery this shall only apply if we have legitimate interests therefore.
3. If a current account relationship exists as part of the business relationship we are in the cases of Clause IV.1 also entitled to withhold deliveries and services until receipt of all payments from acknowledged balances or provision of appropriate security.
4. If the customer fails to provide prepayment or provision of security in accordance with Clause IV.1 within two weeks, we may rescind the affected contract.

V. Delivery Periods, Delay in Delivery, Partial Deliveries

1. Delivery or service periods stated by us are non-binding unless a delivery period has expressly been agreed as binding in the individual case. Expressly agreed delivery periods begin upon the dispatch of our order confirmation. The delivery period shall be deemed complied with if the goods have left the works or readiness for shipping has been announced by the time the delivery period expires.
2. Our adherence to delivery and service obligations is subject to the timely and correct performance of the customer's obligations. If advance payment is agreed or if the customer has to provide us with documents, permits or releases, the delivery period shall not begin before these requirements are fulfilled. We reserve the right to plead the defence of lack of performance of the contract.
3. If agreed delivery or service periods are exceeded due to circumstances we are responsible for, the customer may rescind the contract by written notice after fruitless expiry of a reasonable time period set by it. In case of non-binding delivery periods, we shall not be in delay in delivery before fruitless expiry of a reasonable time period for delivery set by the customer. The

customer may not set such time period earlier than four weeks after the non-binding delivery date.

4. We shall only be in default after expiry of a reasonable time period set by the customer. In case of force majeure and other unforeseeable, unusual events we are not responsible for, such as business disruptions by fire, flood and similar events, breakdown of manufacturing facilities and machinery, delays in delivery or suspension of deliveries by our suppliers as well as disruptions of operations caused by shortage of raw materials, power or labour, strike, lockout, difficulties to obtain transport, disruptions of traffic, governmental interventions - to the extent these events prevent us from performing on time our delivery and service obligations - we are entitled to defer the delivery or performance for the duration of the impediment plus a reasonable start up period. If the delivery or service is thereby delayed by more than one month, both parties shall be entitled to rescind the contract with respect to the volumes affected by the impairment of delivery or service whereby any damage claims shall be excluded.
5. Our liability for each case of delay in delivery is limited in accordance with the provisions in Clause IX.1 to 7.
6. If reasonably acceptable for the customer, we may effect partial deliveries and performances within the agreed delivery and performance periods.

VI. Transfer of Risk, Transport and Packaging

1. Deliveries shall be made, unless expressly agreed otherwise between us and the customer, Ex Works (Incoterms 2000) from our works or from another address indicated by us.
2. Risk shall pass to the customer at the latest upon delivery to the customer, the carrier or any other forwarding agent commissioned by the customer. This shall also apply in case of partial deliveries or if we, by way of exception, have assumed additional obligations such as freight charges, delivery or installation, unless delivery is effected by our own vehicles or means of transportation. Risk shall also pass to the customer if it is in default of acceptance (*Annahmeverzug*). The collection of the goods to be collected constitutes a material contractual obligation of the customer. At the customer's request and costs we will insure the goods against theft, breakage, damage in transit, damage by fire or water, and other insurable risks.
3. If it is agreed with the customer that the goods are to be shipped by us, the method of shipping and the shipping route will be determined at our discretion by us, unless otherwise agreed in writing with the customer. Also, in this case, the provisions in Clause VI.2 shall apply.
4. We do not take back disposable packaging. Instead, we will, at the customer's request, name a third party which will take back the packaging.

VII. Reservation of Title

1. We reserve title in goods delivered to the customer until full payment of the purchase price and of all other current or future claims against the customer we are entitled to under the business relationship. The inclusion of the claim for the purchase price against the customer into open accounts and the confirmation of a balance (*Anerkennung eines Saldos*) shall not affect the reservation of title.
2. In case of breach of contract by the customer, notably default in payment, we may - without prejudice to other (damage) claims - rescind the contract and recover the goods in which title is reserved (the "**Reserved Products**") or, by our exclusive discretion, we may choose for the judicial collection of the outstanding payments. In this hypothesis, the remaining instalments shall be early mature, and, therefore, may be collected in the collection action. In case of default of payment, the prior setting of a time period is not required. After recovery of the Reserved Products, we may upon prior notice realise the same in a reasonable manner; the realisation proceeds shall be applied to the liabilities of the customer less reasonable realisation costs.
3. The customer shall treat the Reserved Products with care, in particular it shall insure the same at its costs against damage by fire, water and theft sufficiently at replacement value. The customer herewith assigns its claims under the insurance contracts to us; we hereby accept the assignment. The customer shall carry out in due time and at its costs any necessary maintenance and inspections.
4. For the duration of the reservation of title the customer shall not pledge the Reserved Products or use the same as security. The customer shall not assign its rights hereunder without our prior written consent.

5. The customer shall notify us in writing without undue delay of all seizures, attachments and other interference by third parties with respect to the Reserved Products. Moreover, the customer shall notify such third parties of the reservation of title. To the extent the third party is unable to reimburse us for the court and out-of-court costs of a legal action pursuant to article 275 of the Brazilian Civil Code, the customer shall be liable for the loss thus incurred to us.
6. Any processing (*Verarbeitung*) or reworking (*Umbildung*) by the customer of the Reserved Products shall always be performed for us. If the Reserved Products are processed or reworked with other items not belonging to us, we shall acquire co-title in the new thing in the proportion of the value of the Reserved Products (final invoice amount - *Fakturaendbetrag*, including value added tax) to the other items that are processed or reworked at the time of such processing or reworking. In all other respects, the same provisions shall apply for the new thing thus created as for the Reserved Products. If the Reserved Products are inseparably commingled (*vermischt*) or combined (*verbunden*) with other items not belonging to us, we shall acquire joint title in the new thing in the proportion of the value of the Reserved Products (final invoice amount, including value added tax) to the other commingled or combined items at the time of commingling or combining. If the commingling or combining takes place in such a way that the thing of the customer is considered to be the principal thing, the customer shall transfer co-title to us on a pro rata basis. The customer shall keep the sole title or co-title thus created in custody for us. As security for our claims against the customer, the latter shall also assign to us the claims accruing against third parties by the combining of the Reserved Products with a real estate property.
7. At the customer's request we will release securities we are entitled to, to the extent the realisable value of such securities exceeds our secured claims against the customer by more than 10%; we may select the securities to be released at our discretion.
8. The customer shall bear all the costs involved in the registration of this document and of the sale agreement in the Registry of Deeds and Documents of its domicile.
9. We may assign our rights hereunder without the consent of the customer, so the assigned party would be able to register this agreement in the Registry of Deeds and Documents, to appoint attorneys to defend our rights hereunder, to protest the agreement and to judicially collect the customer, among others.

VIII. Customer's Claims in the Event of Defects

1. The customer shall notify us without undue delay, but at the latest within one week of delivery of the goods, in writing of obvious defects (e.g. defects of quality or title, wrong delivery or deviations in quantity); hidden defects shall be notified to us in writing without undue delay, but at the latest within thirty days of being discovered. The customer's claims for defects shall be forfeited if a notice of defect has not been made in time or properly, unless a defect has been fraudulently concealed. The acceptance of goods may not be refused for defects that are not of a material nature.
2. Without our prior written consent, we will not bear the costs caused by the customer for examination of possible defects. For an effective handling of claims for defects, we will sort out defective goods from an affected delivery, unless we instruct the customer otherwise. The customer will not dispose of defective goods without our prior written consent. Upon our request, the customer shall send defective goods to us for examination.
3. The customer shall not be entitled to claims for defects for used goods or goods that have been agreed to be of a lower quality category. The same shall apply in case of deviations, in particular deviations of dimensions, thicknesses, weight, performance data or colour nuances, which are within the tolerances customary in the industry, as well as in case of immaterial reduction of the value or usability of the goods.
4. In case of defects, we will remove the same, at our choice, through rectification (*Nachbesserung*) or replacement delivery (*Nachlieferung*). Rectification or replacement delivery (subsequent performance - *Nacherfüllung*) shall be made without acknowledgement of a legal obligation (*Anerkennung*). For repaired goods the remainder of the original limitation period shall run from the return of the repaired good; the same shall apply for replaced goods.
5. If subsequent performance fails, the customer may rescind the affected contract (*Rücktritt*), whereas the right to reasonably reduce the purchase price of the affected contract (*Minderung*) is excluded. Rectification is considered as having failed after the third attempt, unless the nature of the goods or other circumstances suggest otherwise.
6. Claims of the customer for expenditure required for the purpose of subsequent performance, notably the costs of transport, journeys,

labour and material, are excluded to the extent that the expenditure is increased as a result of the goods being brought to a place other than the agreed place of delivery; we may charge such increased costs to the customer. Also excluded are costs for dismounting and installing (*Aus- und Einbaukosten*) defective goods; such costs may be claimed by the customer as claims for damages subject to the provisions of Clause VIII.1, Clause IX. and Clause X.

7. If the customer wrongly asserts claims for defects (e.g. the goods were not defective), we may charge to the customer reasonable costs incurred; the same shall apply if we wrongly grant claims for defects without being obliged to. In case of defects that are not of a material nature claims for defects are also considered to be wrongly asserted; in case a claim is disproportionately asserted (e.g. all goods are rejected even though only a part is affected), charging of costs will be made on a pro-rata basis.
8. Our liability for any damage the customer may have suffered due to defects of goods delivered by us or for any futile expenses is determined by the provisions in Clause VIII.1, Clause IX. and Clause X.

IX. Liability

1. Our company shall only be liable for damages or futile expenses - irrespective of the legal basis - if such damages or futile expenses were caused by
 - a) culpable breach of a material contractual obligation by us or one of our assistants or
 - b) gross negligent (*grob fahrlässig*) or intentional breach of an obligation by us or one of our assistants.

Contrary to Clause IX.1.a) we are liable for damages or futile expenses caused by any advice and/or information not subject to separate remuneration only in case of intentional or gross negligent breach of obligations, unless such breach of obligations constitutes a defect of the goods delivered by us.

2. If we are liable under Clause IX.1.a) for breach of a material contractual obligation not caused by gross negligence or intent, our liability for damages shall be limited to the damage which is typical and foreseeable. The above limitation of liability set out in sentence 1 equally applies to damages caused by gross negligence of our employees or agents, who are not officers or executives of our company.
3. In the cases of Clause IX.2 our liability shall be limited to an amount of Euro 1.5 million per damaging event. We will conclude and maintain insurance coverage with a corresponding contract amount (at least Euro 1.5 million per damaging event).
4. In the cases of Clause IX.2 we are not liable for loss of profit by the customer and consequential or indirect damages.
5. If the goods delivered by us lack a guaranteed quality, we are only liable for such damages covered by the purpose of such guarantee.
6. Any further liability for damages than that set out in Clause IX.1 to 5 shall be excluded, irrespective of the legal nature of the claim asserted.
7. The limitations of liability for damages set out in this Clause IX. shall also apply to the personal liability for damages of our employees, staff, agents, and assistants.

X. Limitation Periods

1. The limitation period for claims by the customer for defects of goods delivered by us or services performed in breach of our obligations - including damage claims and claims for reimbursement of futile expenses - shall be three years as from the damage.
2. The limitation period for the customer's claims relating to any new goods delivered by us that are used in structures in accordance with their regular purpose of use and having caused the defectiveness of such structures, shall be three years after the limitation period begins to run by law. Contrary to sentence 1 the limitation period shall be two years if the customer used the goods delivered by us for the performance of contracts which fully incorporate part B of the Contracting Rules for Award of Public Works Contracts (*Verdingungsordnung für Bauleistungen*). The limitation period according to sentence 2 above shall begin not earlier than two months after the date the customer satisfied its contractual partner's claims resulting from defects in structures caused by goods delivered by us, unless the customer could have successfully plead the statute of limitations towards its contractual partner. The customer's claims against us for defects of goods delivered by us will become time-barred in any case as soon as the claims of our customer's contractual partner against our customer for defects of goods delivered to our customer have become time-barred, but at the latest five years after we have delivered the goods to our customer.

3. If we have provided advice and/or information without separate remuneration in breach of duty and such advice or information was unrelated to the delivery of goods or such advice or information does not constitute a defect of the goods delivered by us, the limitation period for claims against us based on this shall be three years after the limitation period begins to run by law. The limitation period for any claims by the customer against us for breach of contractual, pre-contractual or statutory obligations that do not constitute a defect of the goods delivered or to be delivered by us shall be three years after the limitation period begins to run by law. If such breach of duty set out above constitutes a defect of the goods delivered by us in connection with such advice or information, the provisions in Clause 1, Clause 2 and Clause 4 shall apply for the limitation of any claims based thereupon.

XI. Place of Jurisdiction, Governing Law

1. Exclusive place of jurisdiction for any claims between us and merchants (*Kaufmann*), legal persons under public law or special funds under public law shall be the customer place of general jurisdiction, unless otherwise provided by mandatory law.
2. The legal relationship between us and the customer or us and third parties shall be exclusively governed by the laws of the Federal Republic of Brazil, as it applies between Brazilian merchants. The application of the provisions on Contracts for the International Sales of Goods (CISG - Vienna UN Convention) shall be expressly excluded.

XII. Security Information

In case of a visit to its works or workings at its factory premises, the customer shall inform us about the general security regulations and provide protective clothing and other accessories and aids.

XIII. Final Provisions

1. Set-off and exercise of a right of retention by the customer due to contested counterclaims or counterclaims which are not final (*rechtskräftig*) are excluded. The exercise of any retention right by the customer is also excluded to the extent that the counterclaims are not based on the same contractual relationship.
2. Without our prior written consent, the customer shall not, in part or in whole, assign its rights and obligations. We may assign our rights and obligations, in particular to affiliated companies within the meaning of Law 9.430 of 1996.
3. Changes or amendments to or cancellation of these General Terms and Conditions require written form in order to be effective. This also applies to the cancellation of this written form requirement.
4. Should any of the above provisions be invalid or excluded by a special agreement, the validity of the remaining provisions remains unaffected thereby.
5. We keep customer data in connection with our mutual business relation.
6. The Portuguese version of these General Terms and Conditions shall alone be controlling.