

general terms of conditions

(Stand: 1.12.2002)

§1 Scope of Application

The following general terms and conditions of business shall apply exclusively to all transactions and agreements, even if their incorporation is not expressly and separately agreed, and shall prevail over any similar or conflicting terms and conditions of the customer.

§2 Completion of Contract:

- (1) Barring agreement to the contrary, a contract shall be entered into upon our written confirmation of order.
- (2) Our quoted prices are always conditional and exclusive of the respective applicable sales tax, and list prices are subject to change if the period between the contract completion and delivery exceeds 4 months.

§3 Delivery; Samples; Insurance

- (1) Deliveries shall be effected at the expense and risk of the customer. Partial deliveries shall be permitted.
- (2) We shall retain proprietary rights to all samples, cost estimates, drawings, and similar information both tangible and intangible in nature, including information in electronic format. Disclosure of this information to third parties shall be prohibited. Information and documents identified by the customer as confidential shall not be made accessible to third parties without authorization.
- (3) If shipment or acceptance is delayed or does not take place due to circumstances beyond our control, risk shall pass to the customer upon notification of readiness for shipment or acceptance.
- (4) We shall be entitled to insure the delivery at the expense of the customer against theft and fire, water, or other damage.
- (5) We do not deliver to consumers as defined by § 13 BGB / final customers.

§4 Warranty for sales in Germany (for sales outside of Germany please see enclosure to §4 below)

- (1) Notice of Defects:
 - (a) Customers who are merchants must report defects immediately; otherwise, all warranty claims shall be excluded.
 - (b) Customers who are non mercantile enterprises must report obvious defects within 3 weeks of delivery and non-obvious defects within one year from delivery in writing; otherwise, all warranty claims shall be excluded.
- (2) Rights of the Customer insofar as the requirements of our warranty for defects are met, the customer shall be entitled to claims as follows:

For customers who are merchants or non-mercantile enterprises, our obligation shall be limited initially to supplementary performance free of charge. Should said supplementary performance ultimately be unsuccessful, the customer shall be entitled to withdraw from the agreement or to demand a reduction in the purchase price. This limitation of the right of cancellation shall apply only with respect to defects and not to other breaches of duty. The customer's claim for damages shall be excluded to the extent that our liability per § 6 of these terms of conditions has been effectively limited. The rights of the customer shall be further excluded insofar as these rights do not pertain to claims that have been acknowledged by us or that have become res judicata. With respect to significant third-party products, our liability shall be limited to the assignment of claims against the supplier of the third party products provided that this leads to the indemnification of the customer. In other respects, the assertion of claims against us shall depend on the supplier being held legally liable prior thereto.
- (3) Statute of limitations
For customers who are merchants or non-mercantile enterprises, the warranty rights shall expire one year after delivery.

§5 Arbitration

Disputes between us and a customer who is merchant or non-mercantile enterprise involving a reported defect shall be decided by binding arbitration excluding recourse to the courts. Should no agreement be reached as to the person of the arbitrator, both parties shall be entitled to request Stuttgart Chamber of Industry and Commerce to appoint an arbitrator, whereby said appointment shall be binding for both parties.

§6 Liability

- (1) In addition to intentional breach of duty, our liability to the customer shall extend to include the following:
 - (a) Gross negligence of our management.
 - (b) Gross negligence of our servants or agents who are not management, limited to the typical and foreseeable damages.
 - (c) Simple negligence with respect to the fulfillment of the primary obligations under this agreement, limited to typical and foreseeable damages.
- (2) In deviation from section (1), we shall be liable in accordance with legal regulations in cases where a breach of duty for which we are responsible leads to loss of life or bodily injury or to an impairment of health.

§7 Terms of Payment; Retention; Setoff; Insolvency of the customer

- (1) Payments by check shall be payable on the value date of the credit. The customer's right of offset shall be excluded except with respect to claims that have been acknowledged by us or have become res judicata. Furthermore, the right of retention shall be excluded for customers who are merchants or mercantile enterprises except claims that have been acknowledged by us or have become res judicata.
- (2) The petition to commence insolvency proceedings on the assets of the customer shall entitle us to withdraw from the agreement and to demand immediate return of any delivered articles that have not been paid in full.

§8 Collateral

Should the customer be in default on a payment or should be the financial situation of the customer have deteriorated substantially subsequent to contract completion, we shall be entitled to demand that the customer provide collateral in accordance with bank practices for the total amount of our claims within a fixed time limit. Should the customer fail to provide collateral within the specified period, the entire debt shall become due and payable.

§9 Damages for Non-Performance

As compensation for non-performance we shall be entitled to claim 30% of the payment total without proof of loss unless the customer brings proof that no loss or a loss that is significantly less than the standard amount occurred. We shall be entitled to bring proof of greater actual loss was incurred.

§10 Reservation of Title

- (1) We shall retain title to all delivered articles (goods under retention) until all of our claims against the customer have been paid in full. Should the total value of the goods under retention exceed the total amount of our claims by more than 20%, we shall be obligated to release excess collateral of our choosing.
- (2) The customer should be authorized to sell goods under retention in the ordinary course of business, whereby all claims arising from the resale shall be assigned to us prior thereto.
- (3) Should the customer be in default, the customer shall disclose to us the complete addresses of those to whom the goods under retention were sold. We shall then have the right to disclose the assignment.

§11 Applicable Law and Legal Jurisdiction

- (1) These terms and conditions and any agreements entered into hereunder shall be subject to German Law excluding the Uniform law of the International Sales of Goods.
- (2) Stuttgart shall be the venue for all disputes arising from this agreement, provided that the customer is a merchant, a legal entity, person, or separate estate governed by public law, or is domiciled outside the Federal Republic of Germany at contract completion. Should any provisions of an agreement entered into between us and the supplier be invalid, the remaining provisions of the agreement shall remain unaffected thereby. The invalid provision shall be replaced by another provision that accomplishes, to the extent legally possible, the intent and economic effect of the invalid provision.

**Anhang zu §4 AGB /
Annexe au §4 des conditions générales de vente /
Enclosure to §4 of the General Terms of Conditions**

Gewährleistungabgeltung im Export

„columbus übernimmt aus ihren AGB, § 4, die Gewährleistung. Diese Gewährleistung wird rechtlich und wirtschaftlich dadurch abgegolten, dass columbus dem Kunden einen speziellen zusätzlichen Nachlass von 1 % auf die vereinbarten Preise gewährt. Damit sind alle etwaigen Gewährleistungsansprüche des Kunden gemäß § 4 abschließend abgegolten. Der Kunde führt die Mängelbeseitigung selbst/durch Dritte auf eigene Kosten und auf eigenes Risiko durch. Dieser Nachlass von 1 % wird von columbus vom Netto-Endbetrag jeder Kundenrechnung abgezogen.“

Warranty compensation in export

According to § 4 of the General Terms of Conditions, columbus takes on liability for possible defects and this liability shall be legally and commercially compensated by columbus, granting the Buyer an additional discount of 1% on the agreed net price. With this all possible warranty claims of the Buyer according §4 shall be finally and preliminary satisfied. The Buyer shall undertake any remedy of defects at his own expenses and his own risk. This discount shall be stated as a special discount applied on the final net amount explicitly at the end of the invoice -

Compensation de la garantie à l'export

conformément à l'article §4 sur la garantie légale énoncé dans ses conditions générales de vente , columbus assume la garantie et cette garantie est compensée légalement et économiquement, par le fait que columbus octroie à l'acheteur une remise additionnelle de 1% sur les prix convenus.

De cette façon tout droit de garantie conformément au §4 de la part de l'acheteur, est ainsi compensé définitivement au préalable. L'acheteur pratique l'élimination de défauts éventuels à sa charge et à ses risques. Cette remise spéciale est indiquée à la fin de chaque facture et est applicable sur le montant net total.

Compensazione die garanzia per l'esportazione

In accordanza con il articolo§4 sulla garanzia legale delle sue condizioni di vendita, columbus assume la garanzia, la quale viene compensato legalmente ed economicamente verso il acquirente con una rimessa aggiuntiva di 1% sui prezzi concordati. In questa maniera tutti i diritti di garanzia del acquirente dal articolo §4 sono compensati *in tutto e definitivamente*. L'acquirente effettuera tutta la rimediazione di eventuali defetti a spesi suoi e a responsabilita sua. La rimessa aggiuntiva verra applicata sul totale netto delle fatture come rimessa speciale.