

## Terms and Conditions of Business

### Preamble

All agreements and offers shall be based upon our terms and conditions. The Buyer recognises them either by placing an order with us or by taking delivery of the goods. If the Buyer has terms and conditions of business which differ from ours and which we have not expressly recognised in writing, they shall not be binding upon us, even if we do not raise an express objection to them. Verbal agreements must be recognised by us in writing to apply.

### 1. Entering into a contract

The contract shall be regarded as having been signed if, after receiving an order, Wagner has sent out a written statement of acceptance. If, when submitting a written offer, the Wagner company has set a period of time for the acceptance of the offer by the Buyer, the contract shall consequently be regarded as having been accepted if the Buyer has sent Wagner a written statement of acceptance before the set period of time for him to do so expires.

### 2. Prices

The prices are per unit in Euros ex Works or ex Depot plus the statutory legal VAT which is valid at the time of invoicing, excluding packing, unassembled, unless other terms and conditions have been agreed. If there is a significant change in the price factors material costs, wages and taxes, prices are to be adjusted to take into account the change in the price factors.

### 3. Delivery

Delivery dates shall only be regarded as being approximate dates. Part-deliveries shall be allowed. Excess and under deliveries of up to 10% of the order shall also be allowed. Wagner reserves the right to make its deliveries on time to the Buyer dependent upon deliveries to Wagner being correct and on time. The delivery period shall be extended as appropriate, even if Wagner is already in default with a consignment to be supplied to the Buyer if unforeseeable hindrances occur such as, for example, force majeure, operational disruptions, strikes, or lock-outs etc, regardless of whether this affects the Wagner company of its sub-suppliers. If it becomes impossible for Wagner to deliver as a result of the circumstances named above, Wagner shall consequently be exempted from its obligation to supply. If, in the above-named cases, the delivery period is extended or if Wagner is exempted from its obligation to supply, any compensation claims for damages and rights of withdrawal from the contract on the part of the Buyer which may be derived from this shall lapse. In each instance in which Wagner is in default with a consignment, the Buyer must set Wagner a subsequent period for supply of at least 4 weeks before he is allowed to state that he is withdrawing from the contract, unless the above provisions apply.

### 4. Transport and risk

Transportation shall be carried out at the Buyer's expense and risk, even if it has been agreed that a consignment is to be delivered carriage paid. Identified transport damage must be reported immediately. If a consignment is damaged as a result of being transported by rail, arrangements are to be made so that the facts are recorded straight away. The costs of transport insurance shall be borne by the Buyer. Wagner shall select the method of dispatch. If the Buyer is responsible for a default in dispatch, risk shall pass over to the Buyer when he is notified that the consignment is ready for dispatch.

### 5. Payment

Unless an agreement has been made otherwise, payment is to be made within 30 days of the date of the invoice, net and in full, in Euros and in cash. If payment is made within 8 days, we shall allow a prompt payment discount amounting to 2% on the value of the goods, provided that no other accounts with the Buyer

for consignments supplied are outstanding at the point in time at which payment is made. If the Buyer fails to pay within the period of time allowed for payment, the Buyer shall be charged default interest at 2% above the base rate of the LBZ München without a formal notice of default being required. All charges incurred as a result of payment not being made in cash shall be borne by the Buyer. Payments not made in cash shall be accepted with reservations. The Buyer is not allowed to withhold payments on account of any claims not recognised by us. Offsetting against such claims is also not permitted.

### 6. Reservation of title

Wagner shall retain the title to the goods supplied until all accounts created by the business relationship between Wagner and the Buyer have been settled in full. The receipt of the equivalent sum by Wagner for an invoice shall be regarded as payment. The Buyer shall be entitled to resell the goods subject to reservation of title in a normal business transaction. The Buyer's accounts created by reselling the goods subject to reservation of title shall be assigned by the Buyer to Wagner here and now, which accepts the assignment. The Buyer is obliged to arrange insurance cover for the goods subject to reservation of title at his own expense against fire and water damage.

### 7. Warranty

If the supplied item is defective or lacking warranted qualities, or if it becomes defective within the statutory warranty period, Wagner shall – at its own discretion – have to supply a replacement or carry out a repair to the exclusion of any further claims being asserted under warranty by the Buyer. The Supplier must be notified of such defects straight away and manifest defects must be notified within 10 days of receipt and defects which are not manifest must be notified straightaway in writing after identification. If Wagner allows a substantiated and reasonable subsequent period of time set by the Buyer for a defect to be rectified to elapse, without having supplied a replacement or carried out a repair, or if the repair is unsuccessful, the Buyer shall consequently be entitled to withdraw from the contract to the exclusion of all other claims by him.

### 8. Tolerances

All dimensions, weights, drawings, blocks and photographs must be regarded only as being non-binding approximations. We shall reserve the right to carry out design modifications in the interest of progress. Special designs shall be produced at the Buyer's risk. Metal, wood and plastics may show minor colour and structural discrepancies, which shall not constitute defects.

### 9. Other Compensation Claims for Damages

Compensation claims for damages based upon impossibility of performance, default, other breach of obligation, culpa in contrahendo, and unlawful acts shall not be admitted, unless they are the result of wilful intent or gross negligence on the part of Wagner or its senior staff. In such cases, the Buyer shall consequently be entitled to withdraw from the contract to the exclusion of all other claims by him.

### 10. Place of fulfilment and place of jurisdiction

Lahr shall be the place of fulfilment for all obligations arising from the contractual relationship. This shall also apply for ancillary and secondary obligations. The place of jurisdiction for all the legal disputes arising from the contractual relationship as well as those concerning the materialisation of the contract between the Wagner company and the Buyer and the validity of the said contract shall be heard before the courts that have jurisdiction where Wagner has its principal place if business, provided that this is legal. The contractual relationship shall be governed by the law of the Federal Republic of Germany with the exception of the Uniform Law on the International Sale of Goods.