

# General sales conditions of Wiremesh Protec GmbH

(From: 04/2012)

## 1. General

The following terms and conditions apply exclusively to the legal relationships between our customers and Wiremesh-ProTec GmbH.

Any purchasing conditions stipulated by our customers are invalid even if we do not expressly contradict them. They are only valid if we have agreed to them in writing.

Oral and telephone agreements require our confirmation in writing in order for them to become effective.

The purchaser must inform us before the contract is concluded as to whether a long-term supplier declaration is to be issued.

## 2. Offers

Our offers and prices are subject to alteration.

Documents presented as part of the offer such as drawings, illustrations and indications of measurement are only approximate and are not binding; we reserve the rights of ownership and copyright.

Documentation of any kind may not be made accessible to any third party (including parent companies, subsidiaries and any other group member companies) without our express permission.

## 3. Confirmation of order, scope of order

Our written order confirmation is decisive for our deliveries.

Supplementary agreements and amendments require confirmation in writing in order to take effect. We are entitled to effect partial deliveries and short or excess deliveries of +/-10%.

A make-and-hold order has a duration of 12 months maximum. We reserve the right to choose how we send the goods if the customer has not provided any information to this end on his order.

Packaging material will not be taken back.

## 4. Prices, terms of payment

All prices apply ex works, excluding packaging and including the legally required VAT at the time of dispatch. Post and packing will be invoiced separately.

If no other terms of payment have been agreed, payment will ensue within 30 days of the invoice date and dispatch or within 14 days with a 2% discount without loss. If payment is delayed or deferred, default interest of 8% above the basic rate of interest must be paid. The right to assert a claim for higher damage caused by delay is reserved.

If the customer is partly or totally in arrears with payment or should circumstances become known after the conclusion of the contract that question the customer's creditworthiness, all payments will be due immediately.

Regardless of our rights (lien) we can withdraw from the contract and demand compensation instead of fulfilment after an appropriate deadline has been set and not complied with.

The right of the customer to offset claims is excluded unless the claim proposed to be offset is indisputable or legally recognised. The customer can only assert the right of retention in the context of claims from the same contract.

## 5. Delivery, delivery time, delays in delivery

Delivery time begins with the dispatch of our confirmation of order, provided that all commercial and technical questions have been resolved and we have received all the documentation and releases required from the customer. All delivery dates and delivery deadlines are always only approximated. The delivery date

is deemed to have been adhered to when the delivery item(s) have left our facilities or the readiness for dispatch has been communicated by the time of its expiry.

If the delivery is delayed at the customer's request, the goods will be stored with us at the customer's risk and expense. Partial deliveries are permitted as long as they are not detrimental to use. Each partial delivery is an independent transaction.

Delivery time can be delayed by force majeure, strike and lockout, inability to deliver that is not our fault, malfunctions of any kind, difficulties in procuring material or energy, delays in transport etc. Unforeseeable events outside our sphere of influence that we are not able to prevent, independently of whether they affect us directly or indirectly, entitle us to extend the delivery time appropriately or even to withdraw partially or completely from the contract.

The purchaser cannot, in the case of delayed delivery, irrespective of the cause, insist on compensation for non-fulfilment; nor can any claims for damages caused by delay be made.

## 6. Passing of risk, receipt

Risk is passed to the customer when readiness to dispatch has been declared if the customer is a dealer.

Risk is passed to the customer, even when carriage-free delivery has been agreed upon, on the transfer of the goods or products to the haulier or carrier, and in any case by the time the goods or products leave our business or warehouse. If the despatch is delayed for reasons for which we are not responsible, risk passes when notice of readiness for dispatch is given. The purchaser shall bear any costs arising after risk has passed. We determine the type of delivery and packing unless otherwise agreed in writing. Any insurance of the goods or products against transport damage and other risks will only be taken out at the express wish and at the expense of the purchaser. The goods will be delivered unpackaged and unprotected against rust unless otherwise agreed upon in writing.

Our prices apply to the scope of service and delivery stated in our order confirmations. The prices are, unless otherwise agreed upon, in euros, ex-works and without the legally applicable value added tax. Additional costs, such as costs for packaging, transport, insurance etc., shall be borne by the purchaser.

The customer is only entitled to refuse the goods if the contents are clearly different from those ordered. This does not include short or excess deliveries.

## 7. Zahlungsbedingungen

Invoices must be paid according to the terms of payment stated in the order confirmation. Payment for wage work is due immediately and net on receipt of invoice.

Wiremesh-ProTec GmbH reserves the right to demand partial or full payment in advance or credit.

Should the purchaser delay payment, default interest of 8% above the interest rate of the European Central Bank will be charged. Holding back on payments or offsetting them against any counterclaim on the part of the customer is only permitted when this has been recognised by us or determined by law.

All our demands are due immediately if terms of payment are not adhered to or if, after the business has been concluded, circumstances become known which in our opinion are sufficient to lessen the credit rating of the customer. Further, we are entitled in such a case to execute any further supplies only upon advance payment or the provision of security and, should either of these not ensue, to withdraw from the contract after a suitable

period of grace and demand damages for non-fulfilment.

## 8. Rights of ownership

The expanded and extended and right of ownership is deemed in advance to be valid all goods and products supplied by us. We reserve the right to ownership of the goods delivered by us until payments pertaining to the delivery contract have been rendered in full. If the customer is a dealer, we reserve the right to ownership of all the goods delivered by us until payments on all demands (overall reservation) pertaining to the business connection... This also applies to any demands that arise or are brought about in the future. The overall reservation finally lapses when all demands that are still open at the time of payment and are included in this overall reservation have been fulfilled.

Any processing of goods delivered by us that are still our property must always be carried out on our order but without obligations on our part arising from it. If the goods that are still our property are combined with or joined to other objects, the customer must transfer his rights of ownership or joint ownership of the new object to us immediately and must keep the object for us carefully and free of charge.

The customer may only sell any goods that are still our property in regular business operations and must not be in arrears with payment. For security purposes, when the contract is concluded, the customer transfers any claims against his purchasers to which he is entitled from the sale or any other legal reason, together with any ancillary rights, to us in their entirety.

The customer is entitled to collect claims from resale. This collection of claims is no longer valid in the case of cancellation or by the latest should payment be delayed or if insolvency proceedings are opened. We will make use of our cancellation if it becomes clear after the contract has been concluded that our payment claim from this or other contract(s) with the customer is endangered by the latter's lack of ability to pay. Should we so demand, the customer is obliged to inform his purchaser of the transfer to us immediately and pass over the documents required for the collection to us.

The customer must inform us immediately about any seizure or other impediments arising from third parties. The customer will bear all costs arising for the suspension of access or the return transport of the goods subject to retention of title should they not rendered by third parties.

If the customer is in arrears with payment we are entitled to take back the goods subject to retention of title and if necessary enter the customer's premises. The same applies if it becomes clear after the contract has been concluded that our from this or other contract(s) with the customer is endangered by the latter's lack of ability to pay. This retraction of goods is not a withdrawal. The customer must provide us with information about the location of the goods subject to retention of title and any demands arising from the resale on demand. Should the right of ownership not be legally binding according to the law of the land in which the goods subject to retention of title are located, then the regulation that is closest to it within the law of the country in question shall apply instead.

If the value of any securities to which we are entitled exceeds the claims put up as security by more than 50% , we are obliged to release the securities to which we are entitled should the customer so request; we choose which securities to release. For the duration of the right of property, the customer is entitled to own and use the delivery item as long as he fulfils his own obligations from the lien and is not in arrears with payment. If the customer is in arrears with payment or does not fulfil his obligations regarding the lien, then we can withdraw from the contract should an appropriate deadline set by us expire without result and demand that the customer return the delivery item.

Lien goods may only be pledged, transferred by way of collateral, hired out or passed on to third parties with our written permission.

Should any third party gain access to the goods subject to retention of title, especially in the case of pledging, the customer must inform us immediately in writing and also inform the third

party about our lien. Costs for the actual and legal pursuance of our goods are borne by the customer unless they are to be borne by the third party in question.

We are entitled to have the goods subject to retention of title insured at the customer's expense against fire, water and any other damage for the duration of the lien, unless the customer already has adequate insurance himself.

## 9. Guarantee

The goods or products delivered by us must be examined thoroughly and immediately on arrival by the customer. If there are any visible defects, these must be confirmed by the haulier. The goods or products shall be deemed as received in perfect condition if no complaint to the contrary is made in writing within 8 working days of receipt. If any defects were not recognisable after immediate, careful examination, these must be reported in writing 8 working days after their discovery at the latest. Principally, the goods or products shall be deemed as received in perfect condition if no complaint to the contrary is made in writing within 14 working days of receipt.

Insofar as the delivery item was defective at the time of the passing of risk, we are entitled to choose either to repair the defect (reworking) or deliver a defect-free replacement (replacement delivery). Parts replaced become our property.

The customer is not entitled to repair defects himself or have them repaired unless we are in arrears with repairing the defect (after an appropriate term has been set; if an appropriate term is not set, we are exempted from liability for defects) or the customer is forced to carry out the repairs due to urgent business requirements (danger in arrears meaning, for example, if a production standstill is immanent in order to prevent disproportionately serious damage; the customer is, however, obliged to prove this).

In the case of replacement delivery, our guarantee is restricted to the costs of the replacement part and dispatch costs. The latter will only be borne within the boundaries of the Federal Republic of Germany. Any reworking costs incurred abroad will only be borne to the extent that they would be at a reworking location in Germany.

If the reworking or replacement delivery is unsuccessful for reasons for which we are responsible or if we are responsible for not adhering to a supplementary performance deadline, the customer can – within legal regulations – choose to reduce the contract price or withdraw from the contract.

Claims for defects are not valid in the case of improper use of the delivery item, erroneous assembly or putting into operation by the customer or third parties, natural wear and tear, damage as a consequence of incorrect or negligent treatment, improper maintenance, the use of unsuitable equipment, improper storage or any other circumstances that are the responsibility of the customer or the third party in question.

## 10. Limitations

Any claims regarding defects on the part of the customer expire one year after the passing of risk. The legal terms apply in the case of deliberate or malicious behaviour, and for claims made in accordance with the product liability laws. Legal terms also apply in the case of harm culpably caused to life, body or health.

## 11. Liability

Unless indicated otherwise below, liability on our part - for whatever legal reasons - is excluded. We are not liable for damages not caused to the delivery itself, and we are in particular not liable for lost profit or any other financial losses incurred by the customer.

This exclusion from liability does not apply in the case of intent or gross negligence. It also does not apply to defects that have been maliciously kept silent or whose absence was guaranteed, or to any harm culpably caused to life, body or health.

Insofar as we neglectfully violate an obligation stipulated in the

contract, our liability is limited to predictable damage.

## **12. Place of fulfilment**

The place of fulfilment for deliveries and payments is Hückelhoven- Hilfarth; Heinsberg is the sole place of jurisdiction for all disputes arising from the business relationship if the customer is a dealer.

We are also entitled to file lawsuits at the customer's place of business. The law of the Federal Republic of Germany is the only law that applies to our relationships with the customer.