

General Terms and Conditions of Sales, Delivery and Payment

I. *Recognition of Conditions of Delivery*

- a) The following General Terms and Conditions are the exclusive basis of all offers, sales, deliveries and operations of CAD Schroer GmbH, Fritz-Peters-Strasse 26-30, 47447 Moers (hereinafter referred to as "CSG").
- b) The General Terms and Conditions are an integral part of all agreements concerning CSG's deliveries and operations, which agreements CSG concludes with its customers. They are recognized when the order is given or when the delivery is accepted.
- c) CSG herewith expressly contradicts any General Terms and Conditions of the customer in the sense of §305 et seq., German Civil Code (Bürgerliches Gesetzbuch, BGB).
- d) The term "customer" denotes the contractual partner, whatever the nature of the agreement.
- e) All oral agreements, in particular those made by telephone, require the written form in order to be valid.

II. *Offer and Order*

- a) Our offers are subject to confirmation and without obligation. CSG can accept orders for a period of thirty (30) days. The customer is therefore bound by its offer for at least this period.
- b) An offer is deemed to have been accepted when confirmed in writing by CSG. This also applies for alterations and supplements to orders. The delivery and invoice are concurrently deemed to be the confirmation of the order.
- c) All information by CSG in catalogues, price lists, other advertising material, etc., about delivery and operations as well as all pictures, descriptions, diagrams and il-

lustrations serve description purposes only and are merely to provide a general impression of the goods described therein. Deviations or alterations which are customary in the trade and are given based on legal regulations or represent technical improvements are permitted as far as they do not prejudice the use for the contractually stipulated purpose.

III. *Industrial Property Rights*

- a) The customer must observe the latest version of the General Terms and Conditions of License when buying software. Furthermore he must observe the industrial property rights (patents, trademark rights and copyrights, among other things) for the respective packaging and documentation. When buying the products the customer merely buys the rights of use stipulated in the General Terms and Conditions of License. Only CSG and/or its suppliers are entitled to all other industrial property rights.
- b) Third parties may not gain access to the documentation listed under cipher III.a. without CSG's written consent. It is also prohibited to make copies without CSG's express consent.
- c) CSG cannot be made liable for the violation of any patent or other property rights.

IV. *Deliveries, Delivery Periods and Transfers of Risk*

- a) Delivery periods and delivery dates are only binding on CSG if they were agreed in writing to be fixed.
- b) Partial deliveries and operations by CSG are permitted.
- c) CSG is entitled to hold back outstanding deliveries if the customer does not fulfil its payment obligations or if there are grounds for concern that it cannot fulfil them (right of retention). CSG reserves the

right in any case to make the delivery against advance payment or collect the payment on delivery.

- d) As far as there is an obstacle to delivery which is not of a temporary nature, CSG is entitled to withdraw from the delivery if it is a case of force majeure (e.g. war, riots, strikes, lock-outs, government measure) and this makes the delivery considerably more difficult or impossible.
- e) If unforeseen events in the sense of cipher III.d. considerably alter the economic significance or the content of the delivery or have a considerable effect on CSG's business, the agreement shall be appropriately altered while observing the principles of good faith. As far as this is not economically reasonable, the customer shall have the right to withdraw from the agreement. If the customer wishes to make use of this right of withdrawal, it must inform CSG of this without undue delay after gaining knowledge of the event's implications.
- f) If CSG defaults on a delivery or an operation or violates any other duty under the agreement, not including the duty to procure the goods free from defects or deficiencies with regard to rights, the liability shall be limited to compensation pursuant to cipher X of these General Terms and Conditions.

Moreover the customer may in writing with due notice demand further performance, and, if such is futile, may rescind the agreement. In this case the customer is only entitled to also withdraw from the agreement for partial deliveries which have already taken place if the customer proves that its interest in the partial delivery has fallen away.

- g) The risk is transferred to the customer when the goods leave CSG's plant/warehouse, at the latest, however, when the goods are handed over to the customer. If the shipment or the delivery is delayed upon the request of the ordering party, the risk shall already be transferred

to the ordering party from the date when the delivery is ready to be shipped. Freight, packaging and insurance costs as well as any storage costs shall be borne by the ordering party.

- h) The right to make alterations to the technical specifications is reserved. CSG is also entitled to deliver other makes than those which have been ordered if the technical specifications are the same or only deviate insignificantly from the order and the price is the same or only slightly higher - with the technical specifications of the goods also being higher.
- i) For electronic or electro-mechanical components CSG is entitled to deliver and invoice amounts customary in the trade which are larger or smaller than the ordered goods; the same is true if, for reasons of quality and transport safety the goods are delivered by CSG in packaging units only.

V. **Standard Software**

Standard Software and other third-party software products distributed by CSG are delivered only under the third-party's conditions of license; the licensing rights are granted in the name and on behalf of the third-party. CSG guarantees that it is entitled to distribute the products.

VI. **Prices**

- a) All prices are understood to be ex CSG's business premises plus any turnover tax valid upon delivery. Costs for packaging and freight are to be borne by the customer. CSG shall calculate these costs valid on the date of the order confirmation or, if there is no order confirmation, CSG shall calculate the prices in EURO valid on the date of collection and/or shipment. Price surcharges which CSG has to pay (e.g. precious metal surcharges) shall also be invoiced.
- b) If CSG's purchase costs are considerably increased (also due to variations in the exchange rate) for orders with an anticipated delivery period of more than four (4)

months or if the prices recommended by the manufacturer are increased considerably, CSG shall be entitled to increase its prices correspondingly and on the other hand the customer entitled to withdraw from the agreement while excluding further reaching rights. Increases of 5 % and more referring to the net price are deemed to be considerable.

- c) Fixed prices must be agreed expressly as such and in writing; even in these cases they shall not apply to subsequent orders and when the customer makes individual subsequent changes to the delivery amounts and periods.

VII. Payment Conditions

- a) CSG's invoices are payable immediately upon receipt; the payment targets stated in the order confirmation or invoice otherwise apply. There needs to be a written agreement for deviating regulations to apply.
- b) Representatives are not authorized to collect due payments except via checks for deposit only. The debtor shall only be liberated from its payment obligation when the bank transfers and/or other means of payment which were merely accepted conditionally as payment of the debt are credited unreservedly to CSG's bank account. Bills of exchange shall not be accepted by CSG.
- c) Discounts are not foreseen by CSG in its calculations. Premature payment is therefore never an entitlement to make a deduction.
- d) If the agreed payment deadline has lapsed, CSG shall charge on agreements with consumers default interest at the rate of 5% above the base rate pursuant to §247, BGB; otherwise CSG shall charge default interest at the rate of 8% above the base rate pursuant to §247, BGB. The right to claim further default compensation remains unaffected hereby.
- e) The retention of payments due to counterclaims or setting off counterclaims by the customer is only permitted if the counter-

claims are undisputed or have become res judicata.

- f) All rights and duties arising from these Terms and Conditions and/or from the agreements covered by them cannot be assigned or transferred by the customer without the prior written consent of CSG.
- g) If CSG receives information about a deterioration of the customer's financial conditions or if CSG learns that the customer is otherwise behaving in violation of the agreement, CSG is entitled to carry out still outstanding deliveries or operations only against an advance payment or provision of security.
- h) If finished devices and/or systems cannot be delivered, assembled or put into operation due to circumstances for which CSG is not responsible, the payment must be made as if the delivery, assembly or putting into operation had taken place at the foreseen time. Invoices for spare parts, repairs and assembling are to be paid after delivery either net in cash or via collection of payment on delivery.
- i) CSG is entitled to check the creditworthiness of customers with the generally accepted means; if the result of this is doubt about the customer's creditworthiness or if a significant deterioration of the customer's financial conditions otherwise occurs, CSG is entitled to revoke the granted payment targets and carry out further deliveries only against an advance payment or via collection of payment on delivery.
- j) Granted payment targets shall be rendered invalid and all claims of CSG shall become payable immediately if the customer due to a lack of funds does not honour checks or direct debits on the basis of a direct debit authorization granted to CSG, if the customer returns them due to disparities or if the customer has registered insolvency.

VIII. Warranty

CSG is liable for defects in the goods according to the following provisions:

- a) CSG is first always to be granted the opportunity to make a subsequent fulfilment within an appropriate time period.
- b) Should the subsequent fulfilment be futile, the customer may, notwithstanding his rights under cipher X of this agreement, rescind the contract.
- c) Claims due to liability for defects shall not exist simply for a small deviation from the agreed quality, for insignificant detriment of the use, for natural wear and tear or for damage which occurs due to incorrect or negligent handling after the risk has been transferred or which occurs because of other especially external influences.
- d) Statutory rights of recourse of the customer against CSG shall only exist if the customer has not made any agreements with its customers which go beyond the statutory claims due to liability for defects.
- e) Further reaching claims of the customer against CSG and its vicarious agents due to material defects are excluded except for the regulation under cipher 10 of these General Terms and Conditions.
- f) Claims due to liability for defects are subject to a statute of limitations of two (2) years from the date of delivery for the case that the customer is a consumer in the sense of §13, BGB, and one (1) year from the date of delivery for all other contractual relationships.
- g) Claims of the customer due to damage arising from the violation of collateral obligations in the agreement of purchase and sale, which obligations do not consist of a defect, are subject to a statute of limitations of two (2) years.
- h) The warranty shall expire for electronic and electro-mechanical components if any alterations of whatever type are made to the goods, if they are used in another way than stated in the technical specifications

or if they are returned without the correct packaging.

- i) Goods are to be returned with the exact invoice number and a description of the defects. The risk of all returned goods shall only be transferred to CSG when the goods have been accepted by CSG.
- j) A warranty for the use of the goods for the purpose foreseen by the customer is not accepted; this also applies to alterations to the goods and their technical specifications by the producer. A warranty shall in particular not be accepted if state regulations (e.g. embargo provisions or export permit obligations) obstruct in any way disposal over the goods or their use. CSG shall not accept any liability for whether the goods can be used for the purpose intended by the purchaser.
- k) Information, advice and recommendations with respect to the use, compatibility and other performance characteristics as far as they go beyond the corresponding information of the producer are only binding on CSG if they have been confirmed to the customer in writing.

IX. Reservation of Title

- a) The title to all delivered goods remains with CSG (reserved goods) until all claims arising from the business relationship, even those in dispute, whatever their legal foundation, have been fulfilled including default interest and costs of legal consequences.
- b) Reserved goods are processed for CSG as the producer in the sense of §950, BGB, without placing obligations on CSG. The processed goods are considered reserved goods. If the customer processes, connects and mixes said goods with other goods, CSG shall be entitled to joint ownership of the new product or product group in the ratio of the calculated value of the reserved goods to the calculated value of the other goods used. If CSG's ownership should lapse due to the connection or mixture, the customer shall transfer to CSG already at this time the ownership rights of

- the new product or product group due to it in the amount of the calculated value of the reserved goods; the subsequently existing joint ownership rights shall apply as reserved goods in the sense of this cipher.
- c) The customer may only sell the reserved goods in the ordinary course of business against payment or reservation of ownership (in at least an extended form) and only as long as it is not in default to CSG - and otherwise provided that the receivables from the sale pursuant to this cipher are transferred to CSG. The customer is obliged generally to store the reserved goods separately.
 - d) Receivables from sales or other exploitation of the reserved goods shall be assigned including all ancillary rights, if necessary partially, but in any case with priority to CSG already at this time. The scope of the assigned rights shall be measured according to the value of the reserved goods (cipher IX). If there are also third-party rights corresponding to this figure involved, the scope of CSG's rights shall be measured according to the ratio of the stated value to the value of the total value which is legitimately claimed by the third party. The customer is entitled to include receivables from sales or other exploitation up to CSG's revocation which is permitted at any time.
 - e) Upon CSG's request the customer is obliged to inform its customers immediately about the assignment and to give CSG the information and documentation necessary for the collection. If the value of the existing securities exceeds the total secured receivables by more than 10 %, CSG shall be obliged upon the customer's request to release optional securities in the amount of the excess security.
 - f) If the customer does not fulfil its payment obligations or if the customer violates other contractual obligations, CSG shall be entitled to withdraw from the agreement after a time period has lapsed. If CSG exercises its right of withdrawal,

CSG can be satisfied by selling the retracted reserved goods in the open market.

- g) If the reservation of title is claimed by CSG, the right of the user to continue to use the goods expires. All copies of the goods made by the customer must be deleted.

X. Limitation of Liability

- a) Compensation claims of the customer, notwithstanding the cause in law, are excluded unless they are based on cases of intent, gross negligence, mortal or personal injury, injury to health, violation of a guarantee pursuant to §444, BGB, inability to perform or a violation of fundamental contractual duties. The compensation for the violation of fundamental contractual duties is, however, limited to foreseeable damage typical of a sales agreement in as far as intent or gross negligence is not present or liability applies due to mortal or personal injury, injury to health or a violation of a guarantee pursuant to §444, BGB. The burden of proof is not changed by the above regulations to the detriment of the customer.
- b) The liability for loss of data is limited to the typical restoration expenditure which would have occurred if security copies had been made regularly and corresponding to the risk.
- c) The provisions of the German Product Liability Act (ProdHG) shall apply without limitation.

XI. Export Controls

- a) Even without corresponding information from CSG all goods are possibly subject to export permits. The customer recognizes German and also foreign export controls and limits and is obliged not to sell, export, re-export, deliver or otherwise pass on directly or indirectly such products or technical information to persons, companies or countries if this violates German or foreign laws or decrees - and is obliged to obtain all necessary export licenses or

other documents before exporting products or technical information which it has received from CSG.

- b) The customer is furthermore obliged to demand the same of all those receiving CSG products or technical information and to inform them of the necessity to follow these laws and decrees.
- c) The customer shall obtain at its own cost all licenses and export and import documentation required for the purchase and resale of the products ordered from CSG.

the effectiveness of the remaining provision parts and/or entire provisions shall not be affected thereby.

Last Modification: January 2003

XII. Final Provisions

- a) This agreement cancels all previous written or oral arrangements between the contractual partners. Supplements to this agreement do not exist.
- b) Modifications or supplements to this agreement must be made in writing. This also applies should this written requirement be modified.
- c) CSG and its affiliated companies store data of all business partners in files and processes them whereby reference is made to the German data protection act (Bundesdatenschutzgesetz, BDSG).
- d) The court of venue for all disputes between CSG and customers as registered merchants, public corporations or separate funds under public law is Moers, Federal Republic of Germany. CSG is entitled to sue the customers at the location of their head or branch offices.
- e) The legal relationship between CSG and the customer is exclusively subject to the law of the Federal Republic of Germany while excluding the respective national law with respect to international conflicts of laws, in particular the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980 (CISG).
- f) These Terms and Conditions shall apply until they are revoked.
- g) Should individual provisions of these Terms and Conditions be or become partially or entirely invalid or impracticable,