SALES AND DELIVERY CONDITIONS

General Terms and Conditions of ANSMANN AG

Version 07-2008

I. Applicability

1. All deliveries, services and offers of the seller are exclusively made on the basis of these General Delivery Conditions. They are a component part of all contracts concluded by the seller with its contractual partners for deliveries it offers. They also apply to all future deliveries or offers to the client, even if they have not been separately agreed.

2. Terms and Conditions of the client or third parties do not apply, even if the seller has not separately rejected their validity in individual cases. Even if the seller makes reference to a letter which contains or refers to Terms and Conditions of the client or a third party, this does not count as an agreement with the applicability of those Terms and Conditions.

II. Offer and contract conclusion

1. All offers of the seller are subject to change and are non-binding, provided they are not explicitly marked as binding or contain a certain term of acceptance. The seller can accept orders or purchase orders within 14 days of receipt.

2. The written concluded purchase contract alone is authoritative for the legal relationship between the seller and buyer, including these General Sales and Delivery Conditions. This fully reflects all agreements between the contractual parties on the subject matter of the contract. Verbal assurances of the seller before the conclusion of this contract are not legally binding and verbal agreements of the contractual parties are replaced by the written contract, provided it does not explicitly state that the verbal agreements are still binding. Supplements and amendments to agreements, including these Terms and Conditions, have to be made in writing in order to have effect. With the exception of general managers or authorised signatories, the employees of the seller are not permitted to make verbal agreements which deviate from these conditions.

3. Information from the seller about the subject matter of delivery (e.g. weights, dimensions, functional values, resilience, tolerances and technical data) as well as our depictions (e.g. illustrations and figures) are only indicative, provided the application for the contractually intended purpose does not require a precise agreement. They do not represent a guarantee of characteristics, but are merely descriptions or markings of the delivery or service. Trade-standard deviations and deviations which are made due to legal regulations or technical improvements, as well as the replacement of components with equivalent parts are permitted, provided they do not affect the application according to the intended contractual purpose.

4. The seller retains the ownership or copyright on all offers and quotations it makes as well as all illustrations, drawings, calculations, brochures, catalogues, models, tools or other documentation and aids which it has made available to the client. The client is not permitted to either make the subject matter of this contract or its content available to third parties without the explicit agreement of the seller, or to use it or reproduce it itself or via third parties. The client has to hand back the subject matter on request of the seller in full and to destroy any copies, if they are no longer needed in the normal course of business or if negotiations do not lead to the conclusion of a contract.

III. Prices

Provided nothing contrary arises from the order confirmation, the prices of the seller are valid “ex works”, excluding packaging, which is invoiced separately. The seller reserves the right to suitably alter its prices, if costs decrease or increase after the conclusion of the contract, in particular due to labour agreements or changes in the price of materials. This has to be proved by the seller at the client's request. The legally applicable VAT is not included in the prices of the seller, and shall be separately stated in the invoice at the legally-applicable amount on the invoice date.

IV. Payment conditions

1. The payment of the invoiced amount (net price plus VAT) has to be made within 30 days of the date of invoice, without deductions, in EUROS. A discount is only agreed under the pre-requirement that all previous invoices have been paid. In calculating the discount the net invoice value is authoritative after the deduction of discounts, freight, VAT etc. Payments by bill of exchange are subject to prior agreement. Bills of exchange and acceptance are only accepted on a cash basis. They are only accepted upon the charging of discount fees and other costs. Bills of exchange and acceptance do not count as cash payments and do not authorise the client to a discount from the invoiced fee. The seller only accepts bills of exchange subject to their ability to be discounted. If the discounting of a bill of exchange is rejected by the bank of the seller, then the payment has to be made in full, in cash. The seller assumes no guarantee for the timely discharge and protest. Immediate payment in cash (even during the term of a bill of exchange) can be demanded by the seller, if the pecuniary circumstances of the client considerably worsen or if the seller receives information after the conclusion of the contract that the client was adjudged to be in payment difficulties at the time of the conclusion of the contract. The seller can demand securities for the services and deliveries made up to this point, and the seller also reserves the right to only supply based on payment on delivery or in advance, or to withdraw from the contract,

without the client being able to assert any claims against the seller. In these cases the buyer is obliged to return the goods to the seller immediately and to send them back to the seller at its own cost.

2. If the buyer is in default of a payment, then the legal regulations apply.

3. The client is only entitled to off-set rights, if its counter-claims are determined to be legally-valid, are uncontested or recognised by the seller. In addition the client is permitted to exercise a right of retention provided its counter-claim affects the same contractual relationship.

V. Delivery and delivery time

1. Deliveries are made ex works, provided nothing else is agreed.

2. Deadlines and periods for deliveries and services given by the seller are at all times only approximate, unless a fixed period or deadline has been explicitly accepted or agreed. If a dispatch has been agreed then the delivery periods and deadlines refer to the time of the transfer of the goods to the freight forwarder, haulier or any other third party contracted with the transport.

3. The seller can – regardless of its rights from a default of the client – demand an extension to the delivery or service periods or a postponement of the delivery and service deadlines by the period in which the client did not meet its contractual obligations to the seller.

4. The seller is neither liable if it is impossible to make the delivery nor for delivery delays, if they are due to force majeure or other events which are not foreseeable at the time of the conclusion of the contract (e.g. all kinds of operating malfunctions, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lock-outs, lack of work force, energy or raw materials, difficulties in the procurement of necessary official permits, official measures or the lacking, incorrect or late delivery by suppliers), which the seller has not caused. If these events make it extremely difficult or impossible for the seller to perform the delivery or service and the hindrance is not just of a temporary nature, then the seller is authorised to withdraw from the contract. In case of temporary hindrances, the delivery or service periods are extended or postponed by the duration of the hindrance plus a suitable start-up period. If the client is not to be expected to accept the delivery or service due to the delay, then it can withdraw from the contract by issuing an immediate written declaration to the seller.

5. The seller is only permitted to make part deliveries, if the part deliveries can be used by the client within the scope of the contractual purpose, the delivery of the rest of the ordered goods is guaranteed and the client does not incur significant extra expense or additional costs as a result (unless the seller declares that it is prepared to assume these costs).

6. If the seller is late with a delivery or service or if it is impossible for the seller to perform a delivery or service, regardless of the reason, then the liability of the seller is limited to compensation in accordance with point IX of these General Terms and Conditions.

VI. Place of performance, dispatch, packaging, transfer of risk and acceptance

1. The place of performance for all obligations from this contractual relationship is 97959 Assamstadt, provided nothing contrary is stated. If the seller is also due to carry out the installation, the place of performance is the site where installation is to take place.

2. The type of dispatch and packaging are subject to the discretion of the seller, exercising all due care and diligence.

3. The risk is transferred from the freight forwarder, haulier or any other third party contracted with the delivery to the client at the latest with the handover of the contractual item (whereby the start of the off-loading process is authoritative). This also applies if part deliveries are made or the seller has taken on other services (e.g. dispatch or installation). If the dispatch or hand-over is delayed due to circumstances which are caused by the client, then the risk is transferred to the client on the day when the seller is ready to delivery and has notified the client of this.

4. Storage costs after the transfer of risk are to be borne by the client. If the goods are stored by the seller then the storage costs amount to 0.25% of the invoiced amount of the stored items for delivery per lapsed week. The right to claim and provide proof of further or lower storage costs is reserved.

5. The delivery is only insured by the seller against theft, breakage, transport, fire and water damage or other insurable risks on the explicit desire of the client and at their expense.

VII. Guarantee

1. The guarantee period is one year from delivery.

2. The items delivered are to be carefully examined immediately after their delivery to the client or a specified third party. The items are deemed to be approved, if the seller does not receive a notification of defects with regards to evident defects or other defects which could not be recognised in an immediate, careful examination, within 7 days of the delivery of the contractual item or otherwise within 7 days of the determination of the defect or the moment when the defect was detected under normal application of the contractual item without closer examination. At the seller‘s request the defective contractual item is to be sent back to the seller free-of-charge. In case of justified notification of defects the seller shall compensate the client for the costs of the least expensive delivery mode; this does not apply if the costs increase because the contractual item is at a location other than the place where it is intended to be used.

3. In case of material defects to the contractual items the seller is obliged and authorised to remedy the defect or provide replacement delivery within a suitable period, at its discretion. In case of the failure i.e. inability, unreasonableness, refusal or unacceptable delay of the remedy or replacement delivery, the client is permitted to withdraw from the contract or reduce the purchase price suitably.

4. If a defect is due to the fault of the seller the client can demand compensation at the pre-requirements stated in point IX.

5. In case of defects to components of other manufacturers, which the seller cannot remedy due to the license law or for technical reasons, then the seller shall, at its discretion, assert its guarantee claims against the manufacturer and suppliers for the account of the client, or assign the claims to the client. Guarantee claims against the seller only exist for defects of this kind, provided the other pre-requirements are met and in accordance with these General Terms and Conditions, if the legal assertion of the afore-mentioned claims against the manufacturer and suppliers was unsuccessful or there is no prospect of success, for example due to insolvency. During the course of the legal dispute the limitation period for the affected guarantee claims of the client against the seller is suspended.

6. The guarantee expires if the client alters the contractual item without the agreement of the seller or has a third party make the alteration and this makes the removal of the defect impossible or unreasonably more difficult. In any case the client has to bear the additional costs for the remedy of the defect caused by the alteration.

7. A delivery of used items agreed individually with the client is excluded from any guarantee.

VIII. Property rights

1. According to point VIII of these conditions the seller shall be responsible for ensuring that the contractual item is free from industrial property rights or copyrights of third parties. Each contractual partner shall inform the other immediately in writing if claims are asserted against them due to the violation of rights of this kind.

2. If the contractual item violates an industrial property right or copyright of a third party, then the seller shall modify or exchange the item at its discretion and expense, so that the rights of third parties are no longer violated, but the contractual item still meets the contractually agreed function, or shall obtain the rights of use for the purchaser by concluding a licence agreement. If the seller is unable to do this within a suitable period of time then the client is authorised to withdraw from the contract or to suitably reduce the purchase price. Any compensation claims of the client are subject to the limitations of point IX of these General Terms and Conditions.

3. In case of legal violations by products of other manufacturers supplied by the buyer, the seller shall, at its discretion, assert its claims against the manufacturer and pre-suppliers for the account of the client or assign the claims to the client. In these cases claims against the supplier only exist in accordance with point VIII, if the legal assertion of the afore-mentioned claims against the manufacturer and pre-suppliers was unsuccessful or there is no prospect of success, for example due to insolvency.

IX. Fault-based liability for compensation

1. The liability of the seller for compensation, regardless of the legal grounds, although in particular for inability, delay, defective or incorrect delivery, contractual violation, violation of obligations in contractual negotiations and tort is limited according to this point (IX), provided it is due to their fault.

2. If it is not a violation of a material contractual obligation, then the seller is not liable in case of simple negligence of its agents, legal representatives, employees or other vicarious agents, and in case of gross negligence of its non-executive employees or other vicarious agents. Material contractual obligations are obligations to on-time, defect-free delivery and installation as well as obligations for consultation, protection and to exercise due care, which should make it possible for the client to use the contractual item according to the contract, or to protect the life or limb of personnel of the client or third parties or the property of the client from significant damage.

3. If the seller is liable to compensation as per point IX, paragraph 2 on merits, this liability is limited to damages which the seller had anticipated as possible consequences of a contractual violation when the contract was concluded, should have known under consideration of the circumstances which it was aware of, or which it should have expected under the application of due care. Indirect damages and consequential damages, which are the consequence of defects to the contractual item, are also only reimbursable if the damages are typically to be expected under proper use of the contractual item.

4. In case of liability for simple negligence the obligation of the seller to provide compensation for material or personal damages is limited to €5,000,000.00, even if this affects a violation of a material contractual obligation.

5. The existing liability disclaimers and limitations apply to the same extent for the benefit of agents, legal representatives, employees and other vicarious agents of the seller.

6. If the seller provides technical information or consulting services and this information or consulting is not part of the contractually agreed scope of services owed by the seller, this is made without remuneration and excluding all liability.

7. The limitations of this point (IX) do not apply to the liability of the seller due to wilful conduct, for guaranteed characteristics, due to injury to life, limb or health or in accordance with the Product Liability Act.

X. Retention of title

1. Until all claims are met, including all balance claims from the current account, which the seller is currently or in the future entitled to raise against the client, the delivered goods (retained goods) remain the property of the seller. In case of behaviour by the client which breaches this contract, e.g. default of payment, the seller has the right to take back the retained goods, after setting a suitable extension period. If the seller takes back the retained goods, then this represents a withdrawal from the contract. If the seller seizes the retained goods, this is a withdrawal from the contract. The seller is authorised to utilise the retained goods after taking them back. After deducting a suitable amount for the utilisation costs, the net proceeds are to be offset against the amount due by the client.

2. The client has to treat the retained goods with care and insure them sufficiently against fire, water and theft at its own expense, and at the replacement value. Necessary maintenance and inspection work are to be carried out by the client at its own expense.

3. The client is authorised to sell and/or utilise the retained goods properly in business operations, provided it is not in default of payment. Pledges or assignments as security are not permitted. The client hereby assigns in advance, and to their full extent, any claims (including all balance claims from the current account) to the seller which arise from the resale or from any other legal basis (insurance, tort) with respect to the retained goods; the seller hereby assumes the assignment. The seller shall irrevocably authorise the client to collect the claims assigned to the seller for their account and in their own name. The authorisation for collection can be rejected at any time if the client does not properly meet its payment obligations. The client is also not authorised to assign these claims for the purpose of debt collection by means of factoring, unless the factoring obligation is simultaneously justified, in which case the counter-performance is to be made for the full amount of the claim immediately to the seller as long as claims of the seller still exist against the client.

4. A processing or transformation of the retained goods by the client shall be made in any case for the seller. If the retained goods are processed with other goods, which do not belong to the seller, then the seller acquires the joint ownership of the item at the ratio of the value of the retained goods (final invoiced amount incl. VAT) to the other processed items at the time of processing. The same applies to new items created by the processing, as to the retained goods. If the retained goods are mixed with other goods in a way that they cannot be separated, and the other goods do not belong to the seller, then the seller acquires the joint ownership of the item at the ratio of the value of the retained goods (final invoiced amount incl. VAT) to the other mixed items at the time of the mixing. If the item of the client is to be deemed the main item due to the mixing, then the client and the seller agree that the client shall transfer proportionate joint ownership of the item to the seller; the seller hereby assumes the transfer. The seller's resulting sole or joint ownership of the item is guaranteed by the client.

5. In case of third party appropriation or seizure of the retained goods, in particular attachments, the client shall refer to the ownership of the seller and inform the seller immediately so that it can assert its property rights. If the third party is not able to compensate the seller for the legal or extraordinary costs incurred in connection with this, then the client is liable.

6. The seller is obliged to release the securities it is entitled to, when the realisable value of the securities exceeds the claims being secured by more than 10%, whereby the seller is authorised to choose the security to be released.

XI. Closing provisions

1. The place of performance and jurisdiction for deliveries and payments (including cheque and bill of exchange claims) as well as for all disputes between the seller and the client arising from the purchase contracts concluded between the seller and the client is the registered location of the seller. The seller is also authorised to sue the client at its place of residence or the registered site of its company.

2. The relationships between the contractual parties are exclusively governed by the law applicable in the Federal Republic of Germany. The application of the standardised law on the international sale of goods as well as the law on the conclusion of international purchase contracts for goods is excluded.

3. If the contract or these General Terms and Conditions contain loop holes, then legally valid regulations are to be applied to fill these holes, which the contractual partners would have agreed according to the economic objective of the contract and the purpose of these General Terms and Conditions, if they had been aware of the loop holes.