

Certified translation from the German language

## **General Terms and Conditions of BOHEMIA CRISTAL Commercial Company (limited liability company)**

### **1. General**

The following terms and conditions of delivery and payment shall be part of all supply contracts of the seller. Any conditions of the customers diverging from that which have not explicitly been accepted in writing shall be considered to be without any commitment and obligation, if they have not explicitly been protested against. Any customer shall be liable to the provisions and regulations of the HGB (German Commercial Code). In case any of these provisions and regulations is considered to be legally invalid, they shall be interpreted in such a way that the economic purpose connected with these provisions and regulations may presumably be achieved. However, the legal validity of all the other provisions and regulations shall not be affected by that point.

### **2. Offers**

All offers shall be made without obligation and not binding.

### **3. Orders**

Orders, no matter if placed orally or in writing, shall be considered to be accepted, if they were confirmed. The contents of that confirmation shall determine the business transaction. The invoice of goods is also regarded to be the acknowledgement of the order.

### **4. Period of Delivery – Default in Delivery**

The feasibility of delivery shall, in any case, be subject to reservation.

Any specifications concerning the period of delivery shall be without obligations. Any claims for indemnification or compensation, penalties for default or delay etc. not caused by anybody's fault shall remain excluded. In addition, the supplier shall be discharged from keeping the stipulated period of delivery as well as from the obligation of delivery without counterclaims, if the supplying industry is able to assert reasonable discharges in its General terms and Conditions. In any cases which the supplier is not responsible for, particularly in case of operational breakdown, interruption of operations, strikes, lock-outs, transport problems or defects of packing and similar cases as well as in cases of acts of God ("force majeure") or official measures which prevent the Company from delivering goods or rendering services to foreign countries, the seller shall, at least for the period of disturbance and its after-effects – be released from keeping the promise without allowing the customer to assert any claims from that.

### **5. Price Quotation**

Any details concerning the price quotation can either be found in the detailed offer, in the confirmations or in the valid price lists. Unless anything contrary has been agreed upon, the prices shall be calculated according to the current Euro price valid on the day of delivery.

### **6. Dispatch and Risk of Breakage**

Any dispatch, including consignments in part carried out by the supplier, shall be sent at the consignee's risk even if a free delivery has been agreed upon. At the time the goods are handed over to the railway, any other forwarding agent or the consignee himself, any liability and the danger including risk of breakage shall be transferred upon the consignee.

A price quotation free domicile shall not exclude that fact. In case the goods were taken over by the railway, by any other forwarding agent or the consignee himself without complaint this shall be proof of the fact that the goods were handed over in proper condition.

The consignee is urgently asked to check all consignments before accepting them; in case a breakage is assumed, the goods shall only be accepted under the prerequisite of an official confirmation in order to retain the right of recourse against the railway etc. In case goods are delivered in the supplier's own lorry, the transfer shall be considered to be completed if the goods are made available to the customer on the lorry at the place where the goods were sent to.

Unloading the goods shall be the consignee's sole duty. In case the consignor unloads the goods or offers his helps in unloading them, this shall not mean further liabilities or dangers are taken over by him. It shall remain the consignee's sole task and duty to ensure that suitable loading devices are made available and enough workers are made available to unload the goods.

## **7. Packing**

Concerning the deliveries and calculations of the packing the then valid price lists or special offers shall be applied. In case the packing shall remain the producer's or the seller's property, the joint delivery shall in any case allow a claim for the return of the packing or a claim for a compensation, at least to the amount of the deposit given or the value of the goods.

For technical and economic reasons, the return of transport packaging (packaging that enables the transport of goods from the distributor to the trade, protect them from damage or used for security reasons in logistics) in the country to which the seller is obliged, not possible. Remuneration for disposal by the buyer is included in the selling prices.

In the case of exports abroad, the buyer assumes all the obligations of the country-specific packaging ordinance, since the vendor does not conclude any contracts with foreign waste disposal companies and, accordingly, does not pay any disposal costs. Remuneration for disposal by the buyer is included in the selling prices.

## **8. Objections and Complaints**

Any objections or complaints can only be considered if they are presented to the supplier in writing and stating reasons at the latest eight days after the arrival of the goods. The justification of the complaint has to be proved by presenting samples of complaint or by handing in an official confirmation pertaining to the defects of the goods in question. Before settling a notification of defects, the goods objected and complained about shall not be made use of without the purchaser's prior consent. The purchaser's agents shall at any time be allowed to check the goods complained about.- Any use or distribution of goods, which could - even if only partially - restrain the supplier's other possibilities of disposal, shall exclude any claim because of defects of goods or packing. Any costs arising from working on the goods complained about shall not be at the expense of the seller either. In case the seller has to give a guarantee he shall deliver a free substitute of his choice, or shall refund the minor value, or shall credit an account at the calculated value or shall - in consent with the producer and the purchaser - cause the defects to be remedied by the producer. Any further claims shall be excluded unless the purchaser's counter-demands have become *res judicata*, uncontested and approved.

In case of a solely negligent failure to comply with one's duty, our liability shall be restricted to foreseeable damages as usually laid down in contracts. Obvious defects of the material and the manufacture, which exclude any use of the goods, as well as any further objections caused by the defects for which the producer is responsible shall only be considered in the way they are considered by himself. Special warranties given by the producer shall be passed on in full extent. Any compensation granted by the seller concerning claims derived from such statements shall be restricted to the amount compensated by the producers. The seller shall not assume a personal liability on the grounds of or to the amount of such compensations.

In case the customer had already demanded a reduction of price or had been granted one, any objection or complaint shall be considered to be settled. The client shall then no longer be entitled to any further warranty claims. Warranty claims shall be subject to a limited period of one year after the notification of complaint was sent back by the seller. Any objections, complaints or disagreements shall not release the customer from the obligation to pay the amounts of invoice due in a proper way, unless they have become res judicata, uncontested and approved.

## **9. Quality of Goods**

Deliveries shall be made in the producer's fair marketable quality. Any margins of tolerance claimed by the producers concerning thickness, or any other measures as well as defects etc. are also claimed by the seller towards the customer in the same way. Any different or special indications of quality have to be made in writing.

## **10. Reservation of Title – (US: Retention of Ownership)**

1. All delivery shall be made under reservation of title. The supplier shall remain the owner of the goods delivered until full payment of the purchase price was made including all additional claims and all future claims which are acquired by the seller in these business transitions. Cheques, bills of exchange and assignments shall only be valid after cash payment.

2. In case the customer decides to process the delivered goods into a new product, this processing shall be done for the seller. According to section 950 of the (German) Civil Code an acquisition of ownership by the customer shall be excluded.

In case the delivered goods are processed, connected or mixed with other goods not belonging to the seller, the seller shall acquire a joint ownership of the new product or the mixed rest in proportional value of the delivered goods to the new product at the time of processing or mixing. The new products are considered to be preparation goods as defined by these stipulations.

3. From the very beginning the customer shall assign all his claims arising from the resale of the goods, sent with the usual proviso, to the seller; this assignment shall be effected to the amount corresponding with the value of the goods sent with the usual proviso.

In case goods are resold at a total price and together with other goods not belonging to the seller, then, from the very beginning, the customer shall assign all his claims to the seller; this assignment shall be effected to the amount corresponding with the value of the goods sent with the usual proviso.

In case goods sent with the usual proviso and jointly owned by the seller are resold, then, from the very beginning, the customer shall assign all his claims to the seller; this assignment shall be effected to the amount corresponding with the value of the goods sent with the usual proviso. In case goods sent with the usual proviso are installed as an essential part in a third party's piece of property, the customer shall, from the very beginning, assign the entitlement to remuneration arising towards a third party or any other person to the seller; this assignment shall be effected at the amount corresponding to the value of the goods sent with the usual proviso.

In case the goods sent with the usual proviso are jointly owned by the seller, the assignment shall cover the amount, corresponding to the proportional value of the seller's. If the customer is entitled to the creation of a mortgage, that is strongly dependent on the existence of the claim according to section 648 of the (German) Civil Code, the entitlement shall be passed on to the seller at the amount mentioned.

The value of the goods sent with the usual proviso as defined in these stipulations shall be the seller's invoice value plus 20 per cent extra charge for security. The seller shall determine the priority of an assigned partial amount within the scope of the total claim arising to the customer.

4. The customer shall only be entitled to resell the goods sent with the usual proviso within the normal limits of business transaction provided that the claims of the purchase price (wage demands or any other entitlements to remuneration) shall be transferred to the seller as defined in article 3. The customer shall, however, not be entitled to any other disposal of the goods sent with the usual proviso, particularly concerning pledging or the transfer of securities.

In addition the customer shall neither be entitled to any disposal concerning demands which he had assigned to or had to assign to the seller particularly pertaining to pledging, transfer of securities or assignment.

In case the goods sent with the usual proviso or the assigned claims as defined in article 3, are pledged by a third party, or in case any other intervention is made which endangers the seller's rights or possible means of disposal, the customer has to inform the seller without undue delay.

5. Subject to revocation, the seller shall authorize the customer to collect the claims arising from the resale (wage demands or any other entitlements to remuneration). On request the customer has to specify the debtors of the assigned claims to the seller, and in addition to that, has to inform the debtors about the assignment.

The seller is herewith authorized to inform the debtors about the assignment on behalf of the customer.

6. In case the value of the securities granted to the seller exceeds his claims by more than 20 per cent, the seller shall – on request of the customer, be obliged to grant a re-assignment.

7. The customer shall be obliged to keep the goods sent with the usual proviso in a proper stock room and take out an insurance against theft, breakage, damages caused by fire, water and others at his own expense. The insurance claims are considered to be assigned to the deliverer at the amount of the value of the goods sent with proviso.

8. In case of deliveries to foreign countries a reservation of title or ownership cannot be agreed upon with the same effect as in German law, but if the reservation grants entitlements to the goods delivered to others, the deliverer shall be entitled to these rights. The deliverer has to co-operate in every respect.

## **11. Right to Rescind**

Sales are effected under the prerequisites of credit worthiness and solvency.

In case it turns out that these prerequisites have not existed or do not exist anymore, the seller shall, at anytime, be entitled to rescind the contract of sale or change his conditions of sale. The seller shall also be entitled to rescind the contract – without any claim for indemnification by the customer, if circumstances make it impossible to him to deliver the goods in due time and in perfect condition without any fault on his part.

## **12. Security**

The right to demand the provision of securities at any time before or after the sale has been effected as well as the right to reject a delivery until the security has been furnished shall explicitly remain reserved. Such a demand shall not cause the delay of a delivery by the seller. He shall however be entitled to put the customer in default and to act according to the legal provisions if the customer delays the acceptance of the goods, the payment or the furnishing of securities.

### **13. Technical Conditions of Sale**

Any technical conditions of sale, especially concerning measurements, and the calculation of measures, freights, price calculation, pledge, packing, contents of cases and crates, thickness etc. are in accordance with practices customary in trade and with the producer's usage, as well as the legally valid price lists and special offers. They have to be regarded as a supplementary part of these General Terms and Conditions.

### **14. Terms of Payment**

On submitting an account, payments have to be made in cash, free of charges, without any discount directly to the seller, not to the representative or a third party. The right of set-off and retention on the part of the customer shall be excluded as long as the customer's counter-demand is not legally determined, undisputed or confirmed. There shall be no obligation to accept a bill of exchange. An acceptance does not mean the extension of payment of the original outstanding debts. The seller reserves the right to assert the claim based on the bill of exchange by returning the bill of exchange step by step at any time.

The date on which payment shall become due shall be calculated beginning with the date when the invoice was made out. Without the seller's request for payment, in case of delayed payment, the following fees have to be paid:

bank interests and additional costs of payment transactions, handling fee/service charge, collection fees, rise of interest rates and all other costs caused by the customer's contract like lawyer's charges, notarial fees, court fees and higher interest rates and fees charged by the bank or the seller's deliverers, also interest for default which are 3 per cent higher than the European prime rate.

However, the customer shall be granted proof that damage has arisen or the damage is essentially lower than the lump sum. In case payments by bill of exchange or by instalments have been agreed upon and in case the seller defaults in payment of more than two instalments which amount at least to the tenth part of the purchase price, or in case the customer's economic situation has changed, or in case of an order for judicial sale sequestration, or in case of a settlement to avoid bankruptcy or insolvency proceedings have been demanded or started, in case business, company or real estate change, even if only caused by plant leasing, the total purchase price or the total debt shall become due; any discounts granted before shall expire.

In any case the seller shall be entitled to demand payments in advance or securities without having to give any reasons.

### **15. Place of performance and jurisdiction**

The place of performance and jurisdiction shall be the Supplier's place of business. The competent district or regional court at the Supplier' place of business shall be deemed expressly agreed as the place of jurisdiction, also for actions relating to bills of exchange and cheques.