

Meg Wire Ltd Terms and Conditions of Sale

1. Scope of Application

(1) The General Terms of Sale and Delivery (hereinafter called "General Conditions") apply exclusively to all sales and deliveries of goods, accessories and spare parts (hereinafter "the Goods") by Meg Wire Ltd (hereinafter called Meg Wire). Any conflicting and/or supplementing general conditions of the Buyer are not binding upon Meg Wire. This applies also, if Meg Wire shall not expressly object to such conditions or if Meg

(2) The General Conditions together with the document of which they form a part contain all relevant terms of the agreement entered into with the Buyer.

(3) These General Conditions apply also to all future business with the Buyer.

(4) Special contractual conditions shall apply to repairs, maintenance contracts and other services unless reference is made therein to these General Conditions.

2. Orders, Specifications

(1) Any offers made by Meg Wire are not binding. They merely constitute an invitation to the Buyer to submit an

(2) Public announcements of Meg Wire, of the manufacturer of the delivered goods or the agents of whom, in particular in advertisement and labelling, are neither descriptions of the quality of the goods or a guaranty thereof. If any model or sample was shown to the Buyer, such model or sample was shown to illustrate the general type and quality of the goods and does not constitute a description of the quality nor a guaranty that the goods will conform to the model or sample. Price lists, advertisements and other material of Meg Wire are

3. Prices, Costs of Performance of Contract

(1) The prices stated in the confirmation of order are binding for a period of 30 days from the date of conclusion of the contract. The price is exclusive of VAT which shall be due at the rate ruling on the date of the VAT invoice. In the event that the costs of Meg Wire shall increase after such period and prior to delivery due to increases of costs e.g. prices for raw materials, wages, taxes, or other costs beyond the control of Meg Wire, Meg Wire shall be entitled to adapt its prices accordingly. Meg Wire will provide the Buyer with evidence for

(2) All customs duties, taxes, fees, charges, freight surcharges, insurance premiums, import and export charges and other expenses which additionally become payable after the conclusion of the contract in relation to its performance shall be for the account of the Buyer. This does not apply to the extent that such costs are caused

4. Insurance

If under this contract Meg Wire is required to provide insurance, such insurance shall be provided for the amount of Meg Wire's invoice plus ten (10) percent covering marine insurance only, unless otherwise agreed. If under this contract insurance is to be provided by the Buyer, the Buyer shall upon request furnish proof to Meg Wire of cover of insurance or provisional insurance before the time of shipment/consignment, and any Letter of Credit to be opened by the Buyer shall clearly exempt Meg Wire from providing insurance certificates.

5. Terms of Payment

(1) Where the contract provides for payment by Letter of Credit, the Buyer is obliged to open and deliver on the hand of Meg Wire said Letter of Credit within seven days of the date hereof unless some other time is specified

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(2) Any letter of Credit must be an irrevocable, confirmed, transferable Letter of Credit complying with the terms specified on the face hereof and available for the beneficiary's draft. The said Letter of Credit has to be opened by an internationally reputable first class bank, and confirmed by a first class Western European Bank, satisfactory to Meg Wire, without restricting the negotiating Bank, and shall be valid for at least 21 days after the shipment date. The Letter of Credit has to refer to the contract number, and has to authorise reimbursement to Meg Wire for such sums, if any, as may be advanced by Meg Wire for consular invoices, inspection fees and

(3) Meg Wire is under no circumstances obliged to perform the contract before receiving a Letter of Credit complying with the foregoing provision.

(4) Payments are due within 30 days of the date of invoice.

(5) In the event that the Buyer fails to meet his payment obligations Meg Wire is entitled to suspend further performance either in whole or in part until payment of the amounts due or provision of security.

(6) Provided Meg Wire is obliged to perform in advance and that the Buyer's financial situation deteriorates substantially which endangers the payments of the agreed price, e.g. suspension of payment by the Buyer or filing of a petition for the commencement of insolvency proceedings upon the assets of the Buyer, Meg Wire shall be entitled to suspend performance, until payment in advance or provision of security. If after a reasonable period of time the Buyer has failed to pay in advance or provide security Meg Wire shall be entitled to rescind

(7) Set-Off or retention rights of the Buyer are only given if its counterclaim is undisputed or has been confirmed

(8) The Buyer is not entitled to assign any rights or claims under this contract to a third party, without Meg Wire's

6. Delivery and default of delivery

(1) Time Limits, in particular delivery dates stipulated by Meg Wire are only binding if expressly confirmed as binding in the confirmation of order. Meg Wire is under no obligation to meet confirmed delivery dates if any final specifications and/or information of the customer required for the delivery of the goods are received by

(2) Periods of delivery are reasonably extended in the event of impediments beyond the control of Meg Wire, in particular shortfalls in energy supply, transport impediments, embargo impositions, disturbances of operation, discontinuance of operation, strikes, industrial actions, deficiencies or delays of deliveries by sub-suppliers. In case delivery becomes impossible for the aforesaid reasons, the respective order is deemed cancelled. Meg

(3) In the event that Meg Wire fails to meet binding delivery dates, the Buyer may rescind the contract after granting Meg Wire a grace period of at least four weeks.

(4) In the event that the Buyer fails to accept due delivery, Meg Wire shall, without prejudice to any other remedies, be entitled to store the Goods at the Buyer's risk and recover from the Buyer any extra expenses (such as additional storage charges) incurred due to the Buyer's failure of acceptance.

(5) If the Buyer still fails to accept delivery after expiry of a reasonable grace period, Meg Wire shall be entitled to otherwise dispose of the delivered Goods and to charge the Buyer 20 percent of the purchase price as minimum damage, unless the Buyer is able to prove that the actual damage was considerably lower.

(6) In the case of overseas sales, any demurrage accruing at the port of discharge is for the account of the Buyer. The Buyer shall indemnify Meg Wire against any claims for such demurrage.

(7) Meg Wire is entitled to partial deliveries.

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7. Shipment Terms

(1) If the Goods are shipped on CIF or CFR terms, shipment of the Goods within the agreed period of time shall be subject to shipping space being available; in the event that shipping space is not available, the time provided for shipment shall be extended until such as space becomes available.

(2) If the Goods are shipped on FOB terms, the Buyer shall book the necessary space and give details thereof to Meg Wire within sufficient time for the Goods to be delivered to the nominated vessel within the time referred to on the face hereof. If the Buyer fails to book shipping space and/or to timely notify Meg Wire about the details of the shipment, Meg Wire may arrange shipment and insurance for the Buyer's account and at the Buyer's risk.

8. Shipment

(1) Unless otherwise agreed, transshipment and partial shipment shall be allowed

(2) Default or breach of contract by Meg Wire regarding a shipment or instalment does not give the Buyer any right of retention, or any other claim or remedy, in respect of any other partial shipment or instalment. This does not apply if the Buyer due to default or impossibility caused by Meg Wire of any of the partial shipments has no longer any interest in the fulfilment of the whole contract. (3) Dates on Bill of Lading shall be accepted as

10. Warranty

(1) The Buyer must examine the Goods without undue delay following delivery by Meg Wire and notify a defect to Meg Wire immediately in writing. This applies also in the event of repair or substitute delivery. If the Buyer fails to notify Meg Wire, the Goods are deemed approved, unless there is a defect which at the time of the examination was not perceptible. Where such a defect becomes apparent at a later time, notice must be made without undue delay following detection, otherwise the Goods are deemed approved with regard to the defect.

(2) If the delivered Goods shall be defective, Meg Wire may repair the defect free of charge or effect substitute delivery at its own discretion. If Meg Wire fails to effect substitute delivery or repair the defect, the Buyer may reduce the purchase price or rescind the contract. Additional claims of the Buyer are excluded, notwithstanding

11. Liability

(1) Meg Wire shall only be liable for damages, if

- (a) liability is mandatory under the applicable law, e.g. under the Product Liability Act or in the event of life, body
- (b) Meg Wire through its fault commits a material breach of this contract, or if
- (c) the damages attributable to gross negligence or wilful conduct on the part of Meg Wire.

(2) In all other cases Meg Wire has no liability for damages whatsoever, irrespective of the legal basis. In particular Meg Wire does not assume any liability for indirect and/or consequential damage, loss of profit or

(3) In any event, liability shall be limited to such damages which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, in the light of the facts and matters of which the party then knew or ought to have known, as a possible consequence of the breach of contract. This limitation of liability is not applicable in the cases referred to under para. 2, subpara (a) of this Article 11 (Liability).

(4) The exclusion and/or limitation of claims for damages according to the above paragraphs applies also to claims against employees and contractors of Meg Wire.

12. Force Majeure

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Notwithstanding any rights pursuant to Article 11 Meg Wire is not responsible or liable for any impediment or default of the performance of any part of this contract insofar as the same is caused by the occurrence of events beyond Meg Wire's control, including strikes or any other industrial relation disputes. Should such conditions prevail for 30 days or more, Meg Wire and the Buyer shall have the right to rescind the contract at any time by

13. Buyer's Liability

In the event that the Goods have been manufactured in accordance with drawings, designs, labels, brand names or other specifications supplied by the Buyer, the Buyer undertakes to indemnify and hold harmless Meg Wire in respect of any liability for infringement of intellectual property such as patents, registered designs or copyrights to which Meg Wire might be exposed by reason of the Goods having been manufactured as aforesaid.

14. Retention of Title

(1) Meg Wire retains title to the delivered Goods (hereinafter the "retained goods") until full settlement of all claims - present and future - under the business relationship with the Buyer.

(2) The Buyer undertakes to diligently store the retained goods and insure such goods sufficiently against fire, water theft and other risks at his expense. Meg Wire may require the Buyer to produce proof of such insurance or payment of the premiums therefor at any time. Upon conclusion of the contract the Buyer simultaneously assigns his corresponding claims under the insurance policies to Meg Wire and Meg Wire accepts such

(3) The delivered goods are always processed or transformed by the Buyer on behalf of Meg Wire as supplier, but without binding Meg Wire. In case Meg Wire loses title to the delivered goods due to processing Meg Wire shall have partial title to the new product proportionately to the value of the delivered goods in relation to the value of the other components of the new product at the time of processing. In case title entirely passes to the Buyer due to fixed attachment or mixture he is obliged to transfer to Meg Wire a partial title proportionately to the value of the delivered goods in relation to the value of the other components of the new product at the time of fixed attachment or mixture. Meg Wire's partial title acquired under the provisions of this clause shall pass to

(4) The Buyer shall notify Meg Wire without undue delay in writing of any attempts of impairment or attachment of the retained goods by third parties. The cost required to protect the right of Meg Wire shall be borne by the Buyer to the extent such costs cannot be reclaimed from a third party.

(5) The Buyer shall be entitled to resell retained goods in the ordinary course of his business. The Buyer assigns to Meg Wire all present and future accounts receivable (including VAT) resulting from the sale of these goods in the amount corresponding to the invoice value of the respective retained goods. The Buyer remains entitled to collect said accounts receivable from the respective parties which does, however, not affect Meg Wire's right to collect the accounts receivable itself. Meg Wire is obliged not to collect the assigned accounts receivable, while, the Buyer fulfils his obligation to forward collected payments to Meg Wire, is not in default of payment and no filing for the commencement of insolvency proceedings has been made, and the Buyer has not suspended payments. If the Buyer fails to meet the aforesaid obligations, he shall upon Meg Wire's request provide Meg

(6) The Buyer is not entitled to use the retained goods for any other purposes. Especially he is not entitled to transfer ownership by way of security or pledging. The accounts receivable assigned to Meg Wire may be assigned for security purposes to or pledged in favour of a third party only with the prior consent of Meg Wire.

(7) If the Buyer commits a material breach of contract, in particular if he is in default of payment, Meg Wire shall be entitled to take the retained goods back at the Buyer's expense or to demand assignment of the rights of possession which the Buyer has towards third parties, and to revoke the Buyer's right to sell the goods, collect accounts receivable and to use, process, ship or sell the retained goods. In case Meg Wire takes the retained goods back or sells these goods, such act shall not be deemed as a rescission of contract. Meg Wire may offset the proceeds of the sale against the outstanding amounts. The Buyer shall be liable for any loss to the extent

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(8) To the extent the value of the securities provided exceeds the claims of Meg Wire by more than fifty (50) percent, Meg Wire is obliged upon the Buyer's request to release securities at its discretion.

(9) To the extent Meg Wire is entitled to take back retained goods, the Buyer undertakes to offer Meg Wire and its representatives the irrevocable right to enter its premises during normal business hours and to tolerate the

15. Governing Law, Disputes

(1) The contract is governed by English law. The U.N. Convention on Contracts for the International Sale of Goods (CISG) shall be excluded. The trade terms under this contract, are governed by and interpreted under the provisions of the International Rules for the Interpretation of Trade Terms (Incoterms) and its Supplements

(2) Any dispute between the parties as to the validity, construction and performance of the Contract shall be determined by arbitration in London under the International Arbitration Rules of the London Court of International Arbitration at the date of the contract, which Rules with respect to matters not regulated by them, incorporate the UNCITRAL Arbitration Rules. So far as English law applies to the arbitration hereby agreed the parties further agree to exclude any right of application or appeal to the English Courts in connection with any questions of law

16. Miscellaneous

The employees of Meg Wire (excluding the legally required bodies, and persons holding full powers of attorney, as well as persons authorised thereto) are neither entitled to change or amend the conditions or the content of contracts concluded nor to give any commitments or representations.

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