

## Terms and Conditions of Sale and Delivery

### OBO BETTERMANN GmbH & Co. KG and OBO BETTERMANN Projekt und Systemtechnik GmbH, Menden

1. All our supplies and services shall be governed exclusively by the following terms and conditions, including our additional terms and conditions for cable tray business transactions. Any terms and conditions of business and purchasing of the customer shall be valid only if we have acknowledged them in writing. Our quotations are without engagement; they are mere invitations to submit contract offers. Any and all transactions and agreements, including those entered into by our employees and agents shall only be binding upon our written confirmation or invoicing. The foregoing provision shall also apply to any modifications of the agreed formal requirements.

2. The documents and data pertaining to the quotation, such as illustrations, brochures, drawings, dimensions, loading capacity values and weight details are approximate only, unless they are expressly stipulated to be binding. Samples are non-binding samples for inspection. Any purchase according to sample will be subject to customary deviations and deviations resulting from normal production processes. The properties of the sample shall be no guaranteed quality of the purchase object unless expressly stated otherwise in the confirmation of order. Samples must be returned to us at the latest within four weeks in perfect condition. If they are not returned within this period in proper condition, we shall be entitled to charge the purchase price for the sample in accordance with our current price list. All information on our products, in particular the illustrations, drawings, weight, dimension and performance data included in our quotations and printed matter shall be regarded as approximate average values and shall not represent any quality guarantee.

With regard to products made according to customer drawings, samples and other instructions of the customer, we will not provide any warranty nor assume any liability for the due and proper functioning of the product or for any other defects if and to the extent they are based upon the customer's specifications. The customer shall indemnify us from any third party claims, including claims for product liability as may be asserted against us for damages resulting from the products unless we have caused such damages by intent or gross negligence. The customer shall warrant that the manufacture and supply of products made in accordance with his instructions will not infringe any proprietary rights of third parties. Should any proprietary rights be asserted against us, we shall be entitled, without any legal review of the third party claims, to withdraw from the contract after hearing the customer, unless the third party withdraws the claims asserted against us under its proprietary rights within eight days by written declaration. The customer shall compensate us for any damage sustained as a result of the assertion of proprietary rights. In case of withdrawal, the work we have carried out so far shall be remunerated. Further rights under the statutory provisions shall not be affected thereby.

Any moulds, tools and design data produced by us for the execution of the order shall be our exclusive property. Unless expressly agreed otherwise, the customer shall not have any claims thereto, even if he has contributed to the costs of producing any such moulds, tools and design data.

3. The packing, shipping route and means of transportation shall be left to our discretion in the absence of any other agreements. They shall be charged at their cost price. We will take back undamaged cases, when being returned carriage paid, at 2/3 of the amount invoiced. The one-way or pool pallets used for transport shall be either exchanged upon taking delivery or returned. The smallest packing units stocked and listed may not be broken up for rationalisation reasons. In case of orders for different quantities, the nearest packing unit will be supplied.

We reserve the right to deviate from the agreed delivery quantity, in particular in the case of custom-made products, to a customary extent or in conformity with national or international standards. In case of a demand for adhering to a precise quantity, an express reference is necessary and subject to confirmation.

Master and call orders shall oblige the customer to accept the total quantity on which the master/call order is based. Where no particular call orders are specified in the contract, the total quantity of the master call order must be called within twelve months. If the customer fails to adhere to call deadlines, we shall be entitled to deliver and charge the total quantity in full after four weeks from written notice with reference to the consequences of any failure to call. Our rights arising from any default of the customer shall not be affected thereby.

4. Unless otherwise agreed, our prices are quoted ex works and do not include packing and insurance. The value added tax at the rate applicable on the date of dispatch will be added to our prices. The purchaser shall ensure the correctness of his VAT identification number, which he must notify to us immediately without being asked. He shall undertake to inform both us and the competent domestic tax authority without delay of any change in his name, address and VAT identification number.

Delivery shall be franco domicile within Germany, i.e. carriage and packing prepaid, if the net order value is in excess of € 1,200. For small orders below € 100 (net excluding value added tax), we shall invoice a lower quantity surcharge of € 10 (net) per order. Upon transfer of our supplies and services to a carrier or forwarding agent, at the latest upon their leaving our warehouse or supply plant, the risk shall pass to the recipient, even in case of deliveries free place of destination.

5. Delivery periods and delivery deadlines shall be approximate only unless we have expressly stated in writing that they are binding. Delivery periods shall commence upon receipt of our confirmation of order, but not before clarification of all execution details, ex place of delivery. The customer shall only be entitled to withdraw from the contract after having granted a reasonable extension of time. We reserve the right to make partial deliveries. Claims for damages and reimbursement of expenses - for any reason whatsoever - shall be subject to the provisions set out in article 10.

In the event of any circumstances that are beyond our control within the scope of normal operating risks and obstruct or make impracticable any delivery, we shall be entitled to suspend delivery by the duration of such obstruction plus a reasonable start-up period or to withdraw from the contract for the part not yet fulfilled. The purchaser can demand a statement from us as to whether we wish to deliver within a reasonable period or withdraw. If we fail to make such a statement, the purchaser may withdraw. Our notice to the purchaser shall be deemed to be sufficient evidence that we have been prevented from delivering.

Delivery time is extended in case of such events as labour disputes, strikes and lockouts, orders from the authorities, difficulties with the procurement of materials, spoiled work or post-processing, shutdowns and staff shortage as well as shortage of means of transport, and general occurrence of unforeseen events beyond our scope of influence, by the length of duration of these events.

6. Payments shall be made upon receipt of invoice less a 3% cash discount for payment within 10 days or net after 30 days from date of invoice. Erection work and all paid labour work must be paid within 10 days without deduction of any cash discount. In case of non-cash payments, the date of the credit note will be deemed to be the date of receipt of payment. Payments received shall always be credited first against costs, then against interest and then against the earliest liability. Cheques and bills of exchange shall only be accepted as means of payment. Any payment by bill of exchange shall be subject to a prior separate and written agreement, whereby all bill costs shall be borne by the customer and no discount can be granted. The customer shall have no right to refuse performance and no right of retention - for any legal reason whatsoever - unless we have acknowledged his claim beforehand in writing or his claim has the force of law.

The customer shall only be entitled to set off claims which have the force of law, are undisputed or acknowledged by us in writing.

7. We shall retain title to the goods supplied by us until all our claims arising from our business transactions with the customer have been satisfied - current account clause - and all bills of exchange or cheques submitted for payment by the customer have been honoured.

Any treatment or processing of goods subject to our retention of title (reserved goods) shall be carried out for us as the manufacturer in accordance with § 950 BGB (German Civil Code) without any obligation on our part. If our reserved goods are to be regarded as the main item or the main item is owned by the customer, full title to the new item shall pass to us when it is created. In other cases, we shall acquire a co-ownership interest in the new item in the proportion of the sales value of our reserved goods to the other goods used for the new item at the time of processing, intermingling, joining or mixing. The customer shall take custody of our ownership or co-ownership interest free of charge; it shall be treated as reserved goods.

Before transfer of title, our goods shall be neither pledged nor assigned as collateral without our prior consent. In addition, any third party rights or pledges shall be notified to us immediately and we shall be given all details and provided all documents necessary for intervention; otherwise the customer must bear our loss. In the latter case, our total claims against the customer shall also be immediately payable.

The customer shall be entitled to sell or to use our reserved goods in the ordinary course of business subject to the condition that the relevant claims are transferred in accordance with article 8 below. This right shall lapse upon the customer's failure to promptly meet his payment obligations towards us or in the event of any cheque or bill protests or his suspension of payments. In such cases, we shall be entitled to take back the goods provisionally at the customer's expense and to sell them at our duly exercised discretion after a corresponding reminder has been

sent to the customer. We will then pass the due amount to the customer's credit.

8. If our goods are sold before payment of our claim, the customer shall be obliged to retain our title against his purchaser until the goods have been paid for in full by the purchaser. The claim arising against the purchaser from such resale as well as any other ancillary rights or security interests of the customer resulting from the sale and any claims for compensation in case of damage to or destruction of our reserved property, including the relevant insurance sum shall hereby be assigned to us. We hereby accept this assignment. Where our co-ownership interest is sold, the relevant claims shall be assigned in the amount corresponding to the value of our interest.

The customer shall, at our request, inform us of his purchasers, notify them of the assignment made and provide us with any and all documents required to assert our rights.

As long as the customer meets his contractual obligations without delay, he shall be authorised to collect the claims assigned. He shall keep the amounts collected on our behalf separately and remit them to us immediately as soon and as far as our claims become due. The authorisation shall lapse in case of any cheque or bill protest of the customer or his definite suspension of payments. The customer shall bear the costs incurred for any action taken against third parties and shall advance them upon request.

If the security provided to us by the retention of title and the anticipatory assignment should exceed the claims to be secured by more than 20%, we shall, at the customer's request, release paid supplies of our choice. Upon payment of all our claims by the customer, assigned claims shall pass to the customer.

9. Any complaints for obvious defects regarding the quantity or quality of our supplies and services that are identifiable upon careful inspection shall without delay, but at the latest within the period of limitation of eight days from arrival of the goods at the address of the customer or the person appointed by him, be notified in writing to us, not to our representatives. Slight deviations in dimensions and designs within the scope of defined technical tolerances shall not give rise to any right of complaint. Any rejected goods may only be returned to us with our prior written authorisation.

In case of justified complaints within the prescribed period, we shall, at our option, take remedial action by way of subsequent performance, by rectifying the defect, supplying non-defective goods or providing a credit note for the lower value calculated.

We shall be entitled to refuse subsequent performance in accordance with the statutory provisions. If we refuse subsequent performance, if any subsequent performance remains unsuccessful or if the customer cannot be reasonably expected to accept any subsequent performance, the latter shall be entitled to withdraw from the contract in compliance with the provisions of the following sentences. The customer shall only be entitled to withdraw from the contract - where a withdrawal is not excluded by law - upon the unsuccessful expiry of a reasonable period for subsequent performance set by him, unless this period was not required under the statutory provisions (§§ 281 para. 2, 323 para. 2, 440, 441 para. 1 BGB (German Civil Code)).

In case of his withdrawal, the customer shall be liable for any deterioration, destruction or loss of use resulting from any negligence or intent on his part. Any claims for damages or reimbursement of expenses of the customer shall be subject to the provisions set out in article 10.

In the case of any fraudulent concealment of a defect or in the case of any provision of a quality guarantee for the goods sold at the time of the passing of risk within the meaning of § 444 BGB (German Civil Code) (seller's declaration that the object sold has a specific property at the time of the passing of risk and that the seller, regardless of any fault on his part, intends to be answerable for any and all consequences resulting from its absence), the customer's rights shall be exclusively governed by the statutory provisions.

We shall - in addition to the statutory grounds for refusal - also be entitled to refuse subsequent performance if and as long as the customer fails to send us, at our request, the rejected goods or a sample thereof; the customer shall have no right of withdrawal for any such refusal. We may further refuse any subsequent performance if the goods concerned have been altered or modified without our consent unless the customer can prove that the defect was not caused by such alteration or modification.

The limitation period for any claims arising from defects shall be one year; in the case of goods which have been used in accordance with their intended purpose for a building and have caused its defectiveness, the limitation period shall be two years. The provisions of §§ 478, 479 BGB (German Civil Code) on recourse in the chain of suppliers shall not be affected thereby.

10. In the case of a pre-contractual, contractual or non-contractual breach of duty, including unsatisfactory delivery, tortious conduct and producer's liability, we shall only be liable for compensatory damages and reimbursement of expenses - subject to further contractual or statutory liability requirements - in the case of intent, gross negligence or slightly negligent breach of a material contractual duty (contractual duty the infringement of which jeopardises the fulfilment of the object of the contract). However - except in the case of intent - our liability shall be limited to the typical contractual damage that was foreseeable at the time the contract was entered into. The purchaser shall not be permitted to make a claim for expenses incurred in vain.

Except for any breach of material duties, our liability for slight negligence shall be excluded, but in any case be limited to the amount of the purchase price.

Any claim asserted by the customer or a third party for payment of a contractual penalty shall be excluded.

With regard to damages caused by delay, we shall only be liable for slight negligence up to the amount of 5% of the purchase price agreed with us.

The exclusions and limitations of liability set forth above shall not apply in the event that a guarantee is given with respect to the quality of the object sold within the meaning of § 444 BGB (German Civil Code) if a defect is fraudulently concealed or in the event of injury to life, physical injury or injury to health, or strict liability under the German Product Liability Act.

Any and all claims for damages against us, for any legal reason whatsoever, shall become statute-barred at the latest after one year from delivery of the goods to the customer, in the case of tortious liability from the time of knowledge, or grossly negligent ignorance, of the circumstances giving rise to the claim and the person liable to pay damages. This provision shall not apply in the case of liability for intent and in the event that a guarantee is given for the quality of the object sold, in the case of fraudulent concealment of a defect or in the event of injury to life, physical injury or injury to health, or strict liability under the German Product Liability Act. Any shorter limitation periods shall take precedence.

11. We shall be entitled to process and store any customer data obtained with regard to or in connection with the business relationship in accordance with the German Federal Data Protection Act, irrespective of whether such data is provided by the purchaser himself or by any third parties.

12. Place of performance for delivery and payment is Menden/Sauerland. The court of competent jurisdiction for any and all disputes, including disputes with regard to bills of exchange and cheques, is the Local Court (Amtsgericht) of Menden or, at our option, the District Court (Landgericht) of Arnsberg, irrespective of the value of the object in dispute. We shall, however, also be entitled to take legal proceedings against the customer at the place of his registered office.

German law shall be exclusively applicable. The application of international purchase laws is hereby excluded.

Should, for any reason whatsoever, individual provisions of our terms and conditions of sale and delivery be invalid, the validity and binding nature of the other provisions shall not be affected thereby. The customer agrees that the invalid provision shall be replaced by a valid provision that comes as close as possible to the economic meaning of the invalid provision.

13. The prices of products made of brass and copper are subject to certain fluctuations that are based on the relevant DEL listings. The prices of our brass articles are based on a DEL listing of € 150 for Ms 58, those of our copper products on a DEL value for electrolyte copper of € 200.

In case of any increase or reduction in these prices by more than € 15, a five per cent surcharge or deduction shall be made for each 15 points. The calculation of any such surcharges or deductions shall be based on the DEL listing of the date of our receipt of the order.

Valid from August 2004