

AGROB BUCHTAL GmbH

(formerly known as Deutsche Steinzeug Keramik GmbH)

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General Terms and Conditions

- A. Validity of the Terms and Conditions of **AGROB BUCHTAL GmbH**
(hereinafter also referred to as **AB**)
- B. Conditions of Purchase and Order
- C. General Terms and Conditions

Business partners

We conclude contracts exclusively with business enterprises, not with consumers.

A. Validity of the Terms and Conditions of AB

These Terms and Conditions shall be valid always and exclusively for the contractual relationship between **AB** and its business partners, even if they are not specifically referred to in the case of individual business transactions. Possible terms and conditions of our business partners shall not be valid.

B. Conditions of Purchase and Order

B.1

For orders and purchase orders placed by **AB**, the Conditions of Purchase and Order of **AB** shall be decisive exclusively.

B.2.01

All orders placed and purchases carried out by **AB** are handled - if the matter is not settled by these conditions - **exclusively** on the basis of the legal provisions.

B.2.02

The contractual partner of **AB** has to warrant and to pay damages to the extent and for the period of time provided by law.

B.2.03

In addition to the legal provisions, the conditions in the following shall be valid.

B.3

Our written purchase order is decisive for the content of the contract, if applicable in conjunction with our written confirmation of the contract.

B.4

The written form in the meaning of these conditions is also adhered to in case of fax or e-mail.

B.5.01

The price quoted in the purchase order is binding.

B.5.02

Provided that no deviating agreement according to the Incoterms 2010 of the International Chamber of Commerce (ICC) is concluded, the prices are delivery free to destination.

B.5.03

The prices do not include statutory value-added tax.

B.5.04

The prices include the costs of packaging and transport insurance.

B.5.05

The prices also include possible other costs of the supplier.

B.5.06

Additional services are not reimbursed separately.

B.5.07

AB shall be entitled to return packaging in good condition to the supplier at the supplier's expense. Shipping instructions for packaging must be clearly emphasized on the delivery note.

B.6.01

If not otherwise agreed, payment shall be made within 15 days with a cash discount of 3% or within 30 days net by means of payment chosen by **AB**.

B.6.02

The date of the receipt of invoice shall be decisive for computing the payment and discount period. A delivery carried out prior to the agreed date does not affect the beginning of the payment period depending on the receipt of invoice.

B.7.01

Without the written consent of **AB**, the supplier cannot assign its contractual delivery commitments to third parties - neither as a whole nor partly.

B.7.02

The supplier agrees that **AB** can offset claims existing against it or its subsidiaries and associated companies with all of its claims of all of its affiliated companies. The offset is also permissible if on the one side cash payment and on the other side payment in bills or any other performance has been agreed on account of performance.

B.8.01

Agreed delivery dates are fixed dates and must be adhered to.

B.8.02

If the supplier realizes that he cannot comply with agreed periods and fixed dates, he must notify us immediately in writing.

B.8.03

The place of performance for all deliveries and services is the place of destination specified by **AB**.

B.8.04

In the case of default of delivery, **AB** shall be entitled - after the fruitless expiry of a reasonable period - to the legal claims, i.e. withdrawal from contract and damages instead of the performance.

B.9.01

If and as far as **AB** is obliged to inspect the delivered goods, the period for the inspection of the goods and for lodging a complaint in case of an apparent defect shall be 14 days from receipt of the delivery.

B.9.02

The time limit for lodging a complaint in the event of hidden defects shall be 40 days from detection of such defects. Hidden defects include those which in the case of shrink-wrapped goods can only be detected after opening the packaging. If the goods are delivered to a place of destination which is not identical with the address of one of our headquarters, the 40-day time limit for lodging a complaint commencing with detection of the defect shall always apply.

B.9.03

AB shall be entitled to claim damages for any defects as provided by law without limitation. The right to claim damages shall also apply to deliveries by subcontractors of the supplier.

B.9.04

It is up to **AB** to demand as subsequent performance the remedying of the defect or the delivery of goods free of defects or the production

of new goods in consideration of the appropriateness.

B.9.05

The subsequent performance shall be carried out as quickly as possible as agreed with **AB** and in consideration of the internal interests of **AB**.

B.9.06

If no subsequent performance is effected within a reasonable period of time or if it is unsuccessful twice, **AB** shall be entitled to the rights of cancellation, reduction of purchase price, payment of damages and/or repayment of expenses.

B.9.07

The right to claim damages for any defects is bound by the statute of limitations pursuant to the legal regulations.

B.9.08

All costs associated with subsequent performance shall be borne by the supplier, including the costs of taking back goods, dismantling, transport, ways, work, material, planning, documentation services incurred by subsequent performance.

B.9.09

As far as **AB** incurs any costs due to the subsequent performance, we shall be entitled to invoice them with the local prices.

B.10

Should individual provisions contained in these conditions be invalid as a whole or in parts, this shall not affect the validity of the remaining provisions. Instead of the invalid provisions, §133, §157 and §242 of the German Civil Code are to be applied - for the purpose of plugging the gap - for settling the facts by way of supplementary interpretation of the contract.

B.11

The supplier will maintain silence with regard to third parties about all internal processes, facilities, plants, documents etc. of **AB** and its customers which it gets to know in connection with its activity for **AB**, also after submitting the

respective offers or the performance of the contract. It will impose corresponding obligations on its assistants or vicarious agents.

B.12.01

In case of goods arriving too early, the value date of the invoice is fixed to the delivery date desired by **AB** under the contract. The value date is deemed to be the date of receipt of the invoice.

B.12.02

In the case of defective goods or performance or part-delivery not conforming to the contract, the value date of the invoice is fixed to the date on which the goods are free of defects or of complete delivery. The value date is deemed to be the date of receipt of the invoice.

B.13.1

The contracts between **AB** and its business partners shall be governed by German law exclusively under exclusion of the UN agreement on Contracts for the International Sale of Goods (CISG).

B.13.2

The exclusive place of jurisdiction is Bonn.

C. General Terms and Conditions

C.1. Confirmation of order / Content of contract / Minimum order values / Communication etc.

C.1.01

All sales are subject exclusively to our terms of delivery and payment, which our customer accepted when placing the order. This also applies to future transactions, even if they are not particularly referred to, but the purchaser has received them in connection with an order confirmed by AB. If the order is placed under variant terms of delivery and payment, only our terms of delivery and payment shall apply, even if we do not object. Thus deviations shall only apply, if they are expressly accepted by us in writing.

C.1.02

For the content of the respective contract, **AB's** written confirmation of order shall be decisive. Verbal agreements in connection with conclusions of contracts made with employees of **AB** which are not authorized to represent also require the written confirmation of **AB**.

C.1.03

Quality statements concerning the products and services of **AB** are attributable to **AB** only if these statements are originally made by **AB** or expressly on behalf of **AB** or if they are expressly authorized by **AB** or if **AB** has known these statements for four weeks or must have known them and has not distanced itself from them. Authorized dealers and customers of **AB** acting as resellers are not vicarious agents of **AB** within the meaning of §434, section 1, BGB (German Civil Code). An adequate correction of quality statements within the meaning of §434, section 1, BGB can be effected in any case on the **AB** website at www.agrob-buchtal.de.

C.1.04

The basis for the quality of the contractual goods is formed by the relevant sections of the DIN EN 14411 standard. Apart from this, quality statements attributable to **AB**, which include

measurable values, are to be understood with a tolerance of $\pm 10\%$.

C.1.05

The customer must send purchase orders and execution requests in writing exclusively to the fax numbers or e-mail addresses provided for this specific purpose.

C.1.06

Should the customer choose any other communication channels, it shall bear the risk associated with delayed processing.

C.1.07

Ceramic tiles and panels are manufactured in many different sizes. Thus, different piece numbers per square metre of laying area are required. In calculating the price per square metre, the respective joint widths for laying specified in the relevant standards are included.

C.1.08

The goods are packed in cardboard boxes and shrink-wrapped on pallets. According to the requirements of the Ordinance on Packaging, INTERSEROH, contract no. 25454, is in charge with recycling packaging put into circulation by us. All other special packaging shall be charged to the customer.

C.1.09

As far as packaging is required, **AB** packages the goods according to the existing regulations and proceeds pursuant to §15 of the Ordinance on Packaging.

C.1.10

Products marked as 1st choice meet the requirements of the relevant DIN EN 14411 standard. Products marked as 2nd choice do not meet the requirements of the aforementioned standard and feature technical and/or visual defects, which exclude them from qualification as 1st choice.

C.1.11

Due to the particular character of ceramic manufacturing, the colours of goods delivered

can deviate from samples submitted. In the case of split tiles in particular, a play on colours is typical and often desired. In addition, there are permissible customary with regard to size and thickness.

C.1.12

The wear to which every floor covering is subject depends, on the one hand, on the area of application, duration and frequency of exposure to stress, type and degree of soiling as well as, on the other hand, the hardness and wear-resistance of the covering material. Classification into stress groups refers to the wear-resistance displayed by the glazes, but not their loading capacity with regard to pressure and heavy weights.

C.1.13

Only those products are suitable for processing (especially laying) in commercial and public buildings which have been expressly approved by **AB** for these areas of application. The customer should therefore pay attention to the respective recommendations of use for the products.

C.1.14

In the case of some artistic and decorative glazes, crazes - sometimes forming only after laying - are typical of the appearance of these products. Crazes do not impair the utility value of the tiles.

C.1.15

Drawings, execution plans, design proposals, laying schemes, quantity statements, drafts of bills of quantities and the like made available by **AB** only constitute a favour. They are not binding and must be checked for correctness in any case by the customer. **AB** does not assume liability for their correctness.

C.1.16

AB shall be entitled to sell and assign claims against its customers. Contractual prohibitions of assignment shall not apply.

C.1.17

On completion of an order, i.e. the manufacture of individual customized products, the products ordered cannot be cancelled or returned.

C.2. Brands and protection of proprietary rights

C.2.01

AB shall be entitled to apply its own company and brand logos. The customer shall not be entitled to remove such logos applied by **AB**.

C.2.02

Any later surface modifications by renewed firing of the goods, in particular the application of decors, shall require the prior written consent of **AB**.

C.2.03

The contractual partner of **AB** shall also be obliged to agree to the arrangements in **C.2.01** and **C.2.02** when reselling the products to others.

C.3. Logistics concept, passage of risk, freight charges and exchange of pallets

C.3.01

NB: The clauses in this section 3 govern a special logistics procedure applicable between AB and the customer.

C.3.02

To facilitate an efficient flow of goods and to enable working economically by means of productive logistics, collection of the goods must be organized so precisely as to avoid a capacity overload of the loading ramps, for example. This is achieved, among other things, by fundamentally separating the types of delivery. A distinction is made between ex-works deliveries and carrier-bound deliveries.

C.3.03

In general, the following applies:

As far as **C.3.04** is not relevant, deliveries are effectuated ex-works (EXW). This means that all deliveries are effectuated ex-works on the following conditions:

- Collection by the customer requires advance notice with a period of three working days by fax or e-mail and
- requires compliance with an exact timeframe of ± 60 minutes made available by **AB**.
- If these conditions are not complied with, the goods can only be collected after a new time has been arranged with **AB**.

In that case, **AB** reserves the right to charge the customer €100.00 net as an administrative lump sum for such rearrangement.

C.3.04

The principle of carrier-bound delivery shall apply for the German mainland (i.e. not for German islands) as well as for the foreign regions listed in the currently valid **freight rate table** (sent upon request): this means that delivery is exclusively carried out by a carrier charged with it by **AB** within the scope of a complex logistics system.

C.3.05

The customer shall pay a flat-rate price for transport which results from the currently valid freight rate table available to the customer on request.

C.3.06

All purchase contracts are concluded as sale to destination according to the buyer's instructions within the meaning of §447 BGB (German Civil Code). §447, section 2, BGB shall not be applicable.

C.3.07

The risk shall pass to the customer as soon as the goods are transferred to the carrier.

C.3.08

The freight charges are borne by the customer.

C.3.09

The customer shall not be entitled to give the carrier instructions with regard to transport.

This shall also apply to part deliveries (see **C.5.02**).

C.3.10

Even if the principle of carrier-bound delivery according to **C.3.04** applies in general, the following exception to it is possible:

The customer shall be entitled, if it proves in individual cases that transport organized by itself would be cheaper, to collect the goods or have them collected in compliance with the following conditions:

- collection by the customer requires advance notice of a period of three working days by fax or e-mail **and**
- it requires compliance with an exact timeframe of ± 60 minutes made available by **AB**.
- Because of the administrative costs related to this, we reserve the right to charge a lump sum of €100.00 net for each collection by a customer.

C.3.11

Only one place of destination is ever possible per single purchase. This means that in the case of a purchase order for a quantity of goods to be dispatched to two different places, two order confirmations are generated by **AB** with separately invoiced freight charges according to the freight table.

C.3.12

The combining of several consignments for one place of destination is only possible if the customer expressly wishes this by fax or by e-mail and **AB** avails of the appropriate planning scope. In such cases, periods of delivery are extended and delivery dates are postponed in accordance with **C.4**.

C.3.13

A change of the place of destination by the customer shall not be possible after conclusion of the contract.

C.3.14

Freight charges are reported separately and excluded from the granting of any rebates or deductions of cash discounts.

C.3.15

Insurance of the delivery is effected only at the written request of the customer and at the customer's expense.

C.3.16

In the case of other types of delivery, all risks shall pass to the customer as soon as the goods leave the **AB** plant.

C.3.17

If shipment is delayed due to circumstances for which the customer is responsible, the risk shall pass to the customer as soon as the goods are ready for shipment; if collection by the customer was agreed, as soon as the goods are ready for collection on the agreed delivery date.

C.3.18

In the case of collection by the customer, respectively delivery to the customer except direct deliveries to building sites, **AB** accepts the same number of exchangeable pallets of identical type and quality when goods are packed on Euro pallets. Only pallets that do not require ~~no~~ repair are exchangeable. For each pallet delivered directly to building sites for which no exchangeable one is returned to **AB**, **AB** shall charge the customer €8.50 net/piece. In accordance with **AB**, a later return of the pallets can be appointed, if it's more than 50 pallets delivered to the customer. In this case, **AB** will issue a credit note of € 6.00 per pallet to the customer.

C.3.19

If goods are packed on heat-treated or gassed pallets, €12.50 shall be charged for each of such pallets.

C.3.20

If **AB** takes back goods on a goodwill basis, i.e. if there is no obligation to take them back, the

freight charges shall be borne by the customer. A return fee to the sum of 25% of the goods invoice value will be billed or deducted in the case of a credit note for the goods.

C.3.21

For deliveries by **AB** and delayed acceptance and handling of more than two hours for up to 5 tonnes and more than three hours for more than five tonnes for which the accepting party is responsible, **AB** shall reserve the right to bill charges in accordance with the freight rate table for each additional commenced hour delay.

C.4. Period of delivery

C.4.01

Possibly agreed periods of delivery shall be effective ex-works unless expressly otherwise agreed. Such periods of delivery start with the date provided in the order, at the earliest however when the documents, approvals, call-offs and addresses for shipments to be procured by the customer are available, all details of the order have been clarified (see also **C.3.12**) and the customer has made advance payments or provided collateral as agreed. As far as a **period** of delivery has been agreed, this period shall be reasonably extended if the customer is in arrears with the furnishing of documents, approvals, notifications of addresses for shipments, advance payments or collateral to be procured by it. If a delivery **date** has been agreed, this date shall be reasonably postponed if the customer is in arrears with the furnishing of documents, approvals, notifications of addresses for shipments, advance payments or collateral to be procured by it. Such a postponement of delivery dates or extension of periods of delivery also takes place if the conditions for the services to be rendered by **AB**, which the customer has to render by itself or through third parties do not exist in time, or if arrangements are modified at the customer's request within the meaning of **C.3.12**.

C.4.02

Should the customer request any modifications of the order after confirmation of the order, the period of delivery shall begin only with confirmation of the modification by **AB**. The delivery date shall be postponed accordingly.

C.4.03

The time for performance, period of delivery shall be reasonably extended if unforeseen hindrances occur which **AB** can not avert despite reasonable care in view of the circumstances of the case, e.g. a total or partial loss of subcontractors, for which **AB** is not obliged to take responsibility. In such a case, **AB** can withdraw from the contract.

C.4.04

A claim for damages instead of performance or a claim for damages for delayed performance is excluded in the cases of **C.4.03** if **AB** has immediately informed the customer of such performance hindrances.

C.4.05

The same shall apply in the case of fixed-date purchases if the aforementioned delays are not discontinued in time.

C.4.06

Damages possibly to be paid by **AB** because of delayed performance are limited to negative interest.

C.5. Partial deliveries / Surplus quantities and shortage in quantities

C.5.01

If the goods are manufactured as special production at the customer's request, **AB**, shall be entitled to supply a surplus quantity of up to 10%; this shall not be deemed to be a breach of duty. The purchase price shall change accordingly.

C.5.02

Part deliveries are also permissible to an extent which is reasonable for the customer.

C.5.03

If **AB** makes use of its right to partial delivery or delivery of a surplus quantity, payments for goods already supplied can not be withheld for this reason.

C.6. Prices and price group codes

C.6.01

Unless otherwise agreed, prices and price group codes shall be valid ex-works or ex-warehouse **exclusive** of packaging.

C.6.02

Prices and price group codes do not include the value-added tax valid at a given time. The same applies to costs and interest.

C.6.03

If the cost factors change after conclusion of the contract, in particular the prices for raw materials or supplies as well as wages and transport costs, **AB** shall be entitled to adjust the prices and price group codes appropriately if a period of more than 4 months lies between the confirmation of order and delivery.

C.6.04

The price lists valid on the day of the order shall be applicable. The price lists are sent out on request.

C.6.05

In principle, the price lists are always valid for one calendar year. **AB**, however, reserves the right to change them during the year. Such changes shall always become effective at the end of a quarter after a period of six weeks following announcement thereof on the Internet or by notification.

C.6.06

No rebate or cash discount shall be granted for separately invoiced freight charges and packaging costs, nor are they taken into account when calculating any bonuses agreed.

C.6.07

Each pallet opened is billed at the corresponding package price, not the pallet price.

Special net prices apply for full pallets. The special net price can be increased by 16% for pallets opened.

C.7. Terms of payment**C.7.01**

The provisions of the Value-Added Tax Law shall apply for advance payments.

C.7.02

Unless otherwise agreed, payments are due immediately.

C.7.03

Receipt on the **AB** account shall be decisive for the punctuality of payment.

C.7.04

A cash discount of 2% is granted for advance payments; a cash discount of 1% is granted for payments made within 14 days.

C.7.05

Payments to be made to **AB** are due after 30 days from the date of invoice at the latest. By exceeding this date, the debtor defaults on payment. If the purchaser is arrears with any payment due to us, all existing claims are payable immediately.

C.7.06

In the case of a delay in payment by the customer, **AB** will charge a dunning fee to the amount of 5.00 EUR for each prompt note.

In the case of default in payment by the customer, **AB** shall be entitled to claim interest on default payments at the rate of 9% above the base interest rate. Proof and assertion of any further damages shall remain unaffected by this.

C.7.07

The place of performance for payments is the registered office of **AB**.

C.7.08

The customer can only offset with indisputable or legally effective claims.

C.7.09

The customer has no right of retention.

The rights pursuant to §320 BGB (German Civil Code), however, shall continue to apply as long and as far as **AB** has not fulfilled its warranties.

C.7.10

If on the part of the customer - should a declaration of intention by the customer still be required for conclusion of the contract, after the last declaration of intention of **AB** - concerning the conclusion of the contract, a substantial deterioration of its financial situation occurs after the conclusion of the contract, **AB** shall be entitled to demand advance payment or the furnishing of collateral for all performances and deliveries not yet carried out under contracts from the same legal relationship (§273 BGB) at **AB's** discretion. If the customer does not satisfy this demand, **AB** shall be entitled to withdraw from these said contracts or, after fixing a time limit, to claim damages instead of performance, i.e. 25% of the order value not carried out without particular proof, unless the customer provides proof of lower damage. **AB** shall also be entitled to claim damages exceeding the flat-rate percentage.

C.7.11

The redemption of several debts receivable as well as of principal claims, interest and costs shall be effected pursuant to §366, section 2, and §367, section 1, BGB (German Civil Code). The debtor, however, shall be entitled to the defence of non-performance of contract pursuant to §320 BGB.

C.7.12

The notice period is shortened to one day for pre-notification via the direct debiting scheme, which is done by sending the message of bank

collection. The pre-notification will be sent at least one day before the due date.

C.7.13

Upon deliveries within the European Union (§ 6a Added Tax Act), the customer is obliged to confirm to **AB** after the arrival of the goods at its final destination that the goods entered the remaining community area (entry certificate according to § 17a VAT Implementation Ordinance). **AB** therefore provides a single-use link respectively alternative documents.

In case the customer does not fulfill this duty within two months after delivery, **AB** is entitled to invoice a security deposit with the amount of the value added tax applicable at the time of delivery in the Federal Republic of Germany.

C.8. Duty of inspection and to lodge complaints

C.8.01

Deliveries by **AB** must be inspected by the customer immediately upon receipt with regard to their fitness for use and correctness. In the event of violation of this provision, any possible warranty claims are excluded.

C.8.02

First of all, the customer must inspect the delivery with regard to damage to packaging or irregularities concerning the packaging. Wherever this is the case, the customer must remove the packaging and inspect the goods. If defects are detected, the inspection must be intensified. In the event of violation of this provision, any possible warranty claims are excluded.

C.8.03

In any case, the customer must take samples of the supplied goods. The more defects detected, the more intensive inspection is necessary by the customer. In the event of violation of this

provision, any possible warranty claims are excluded.

C.8.04

AB must be informed of any apparent defects in writing within 6 days of arrival of the goods at the place of destination by precisely specifying the exact complaints.

C.8.05

The customer must also lodge complaints concerning hidden defects immediately after their detection in this same form.

C.8.06

In the event of violation of the provisions **C.8.04** or **C.8.05**, any possible warranty claims are excluded.

C.8.07

Defects detectable only after bundles are opened must also be reported in writing within the aforementioned period, however, at the latest six months after receipt and in any case prior to processing of the supplied goods. In the event of violation of this provision, any possible warranty claims are excluded.

C.8.08

By cleaning the tiles, the goods must also be inspected with regard to colour deviations prior to processing (this means in particular: laying). If they are processed nevertheless, the processed goods shall be deemed to be accepted.

C.8.09

Goods with apparent defects must not be processed. If they are processed nevertheless, the processed goods shall be deemed to be accepted.

C.8.10

Processing must not be continued if the defects become apparent during processing. If they are processed nevertheless, the processed goods shall be deemed to be accepted.

C.8.11

If goods with special characteristics are ordered which can not be found without special experimental checks, e.g. surface coatings, the goods packaging must be examined for a note referring to these special characteristics. If this is not the case, notification of the absence of a note must be provided within seven days of delivery. If the goods are processed despite the missing note, any warranty and liability for the absence of the respective special characteristic shall be excluded. In the event of violation of the duty to lodge a complaint and in the case of processing, the processed goods shall be deemed to be accepted.

C.8.12

Non-conforming goods must be kept ready for inspection by **AB** in the condition in which they are at the time of detecting the defect. In the event of violation of this provision, the customer shall be obliged to prove that the condition of the goods has not deteriorated due to its behaviour and subsequent performance has not become more expensive.

C.8.13

Non-conforming goods are to be stored properly by the customer until the complaint has been settled. Any deterioration of the goods due to a violation of this provision and a loss of the goods due to that shall be chargeable to the customer.

C.8.14

If a defect is detectable only after processing, dismantling (removal of the tiles) may be carried out only after **AB** has been given the opportunity to inspect the defect within a reasonable period and in an appropriate manner or if **AB** has agreed to dismantling in writing. In the event of violation of this provision, any possible warranty claims are excluded.

C.9. Warranty

The following limitation of warranty shall not apply in the case of damage injuring of life, body or health due to an intentional or negligent violation of duty on the part of **AB** or one of our legal representatives or vicarious agents. Nor shall it apply if any other damage is due to intent or gross negligence.

C.9.01

The statutory warranty period shall apply.

C.9.02

Contrary to **C.9.01**, the warranty period for goods which the customer has sold to resellers is 5 years from delivery to the customer. Should the customer be entitled within this period to plead the statute of limitations with regard to its respective customer, only the shorter warranty period of the customer with regard to its customer shall apply - if it's not effected in time - also in the relationship to **AB**.

C.9.03

All liability and warranty shall be excluded for insignificant violations of duties and negligible defects. In the event that the customer is entitled to subsequent performance, **AB** shall decide whether subsequent performance is to be effected by remedying the defect or by delivering goods free of defects.

C.9.04

Works concerning goods supplied by **AB** or other services rendered by **AB** shall be deemed to be works for remedying defects or rework only

- **if** the defects have been expressly accepted by **AB**
- **or if** the customer's complaints have been proved
- **and if** these proven customer complaints are justified.

Without these conditions, such works are to be considered special performance with costs.

C.9.05

And also apart from this, reworks or substitute deliveries are carried out by **AB** as special performances with costs unless they are

expressly effected on the basis of the acceptance of a legal obligation.

C.9.06

As far as the warranty period is delayed or interrupted by works or substitute deliveries carried out by **AB**, such a delay or interruption only applies to the quantity concerned by the substitute delivery or rework.

C.9.07

For carrying out reworks and substitute deliveries within the scope of warranty, the customer must provide **AB** with the necessary time and opportunity. Only in urgent cases, i.e. to prevent excessively great damage, the customer shall be entitled - provided that **AB** is immediately informed, or if **AB** is in arrears with the remedying of a defect - to remedy the defect by itself or by a third party, and to demand reimbursement of the necessary expenses from **AB**.

C.9.08

If subsequent performance to be carried out has not resulted in the remedying of the defect after a reasonable number of attempts to be assessed for the individual case, the customer shall be entitled to withdraw from the contract. At least three attempts are considered to be reasonable for subsequent performance.

C.9.09

If **AB** has refused subsequent performance despite a legitimate right to subsequent performance on the part of the customer, the customer shall be immediately entitled to withdraw from the contract.

C.9.10

The same shall apply if **AB** has not carried out subsequent performance to which **AB** is entitled within a reasonable extension of time to be fixed by the customer.

C.9.11

The customer shall have the right to reduce the purchase price (reduction) only if **AB** agrees to that.

C.9.12

Any further claims on the part of the customer shall be excluded.

C.9.13

We shall not warrant for damage for which **AB** is not responsible. This includes, e.g. damage caused for the following reasons: inappropriate or improper use, faulty installation by the customer or by third parties, natural wear, incorrect or careless treatment.

C.9.14

AB shall not warrant for components provided by the customer. The customer shall be exclusively responsible for the suitability and quality of such components unless expressly otherwise agreed.

C.9.15

Within the scope of subsequent performance, **AB** shall not be obliged to reimburse costs incurred by the customer due to the fact that it had already processed the goods.

C.9.16

AB only assumes warranty for the KeraTwin K20 system when the construction inspection approval no. Z-33.1-1175 issued by the Deutsches Institut für Bautechnik is adhered to in full.

AB only assumes warranty for the KerAion K8 system when the construction inspection approval no. Z-10.3-776 issued by the Deutsches Institut für Bautechnik is adhered to in full.

AB only assumes warranty for the KerAion Quadro system when the construction inspection approval nos. Z-10.3-725 (fixation with clasps), Z-10.3-724 (fixation with bearing profiles) issued by the Deutsches Institut für Bautechnik are adhered to in full.

AB only assumes warranty for the DryTile system when the construction inspection approval no. Z-156.610-1373 issued by the Deutsches Institut für Bautechnik as well as the installation guidelines (technical data sheet DT01) are adhered to in full.

C.10. Transfer

C.10.01

The contractual partner must not transfer the rights and obligations under the contract to third parties without the written consent of **AB**. This shall not apply to the assignment in advance of a purchase money claim within the scope of an extended reservation of ownership.

C.11. Compensation for damages

C.11.01

The limitations of liability according to these Terms and Conditions shall not apply to damage on account of injury to life, body or health of a person. In all the other respects, the following provisions shall apply.

C.11.02

AB shall only be held liable for damage which **AB**, a legal representative or a vicarious agent has caused intentionally or grossly negligently. In all other respects, liability shall be excluded.

If **AB** is obliged to provide compensation, **AB** shall only be liable, as provided for by the following stipulations, for the immediate damage, i.e. not for damage which has not been caused to the item delivered as such.

C.11.03

Liability for consequential damage due to a breach of obligation, including within the scope of an obligation of subsequent performance, is excluded.

C.11.04

This shall also apply in the case of damage due to tort.

C.11.05

In addition to the above-mentioned stipulations, **AB** shall be liable for damage which exceeds the damage caused to the item delivered as such only in the case of intent or gross negligence, within the scope of product liability law and in the case of lack of properties which are expressly warranted, provided that this warranty was specifically intended to protect the purchaser against damage which has not been caused to the item delivered as such.

C.11.06

AB shall only be liable for the damage typically covered by the contract, which is reasonably foreseeable, except in the case of intent or gross negligence.

C.11.07

The obligation of replacement does not cover consequential damage even in the case of liability on account of a breach of essential contractual duties.

C.11.08

Within an ongoing business relationship, **AB** shall be entitled to settle pecuniary claims on the part of the customer by credit note, unless these are due to tort. On termination of the business relationship, any existing credit note amounts are to be paid off by **AB**.

C.12. Call-off orders

C.12.01

If call-off orders are not called off within 4 weeks of expiry of the call-off period, **AB** shall be entitled to demand payment.

C.12.02

This also applies to call-off orders without an agreed call-off period if more than 4 months without call-off have expired since **AB's** notification of readiness for shipment has been received.

C.13. Storage / Default in acceptance of delivery

C.13.01

Should the storage of finished goods at **AB** for a limited period of time be expressly agreed in exceptional cases or should storage become necessary due to default in acceptance of delivery, **AB** shall not be liable for damage which might occur in spite of reasonable precautions having been taken.

C.13.02

Nor shall **AB** be obliged to insure any stored goods.

C.13.03

In the case of default in acceptance of delivery, **AB** shall be entitled to store the goods at the customer's risk and for the customer's account at a commercial warehouse.

C.13.04

In the case of storage at **AB**, **AB** shall be entitled to invoice €2.00 (two) per day and per pallet.

C.13.05

The two figures above shall also apply in the event of shipment being delayed for over two weeks beyond the notified date of readiness for shipment at the customer's/buyer's request.

C.13.06

If the customer does not accept the ordered goods, despite a deadline being fixed, **AB** shall be entitled, independent of the proof of damage actually incurred, to demand 25% of the agreed price as lump-sum remuneration, unless the customer furnishes proof of lower damages.

C.14. Reservation of title

C.14.01

All shipments shall be made subject to the reservation of title.

C.14.02

This reservation plus the extension specified below shall apply pending payment of all claims from the business relationship with the customer and pending complete exoneration regarding any contingent liabilities **AB** has undertaken in the customer's interest.

C.14.03

The items delivered must not be pledged.

C.14.04

AB shall be entitled to request the surrender of its reserved goods for important reasons, especially in the case of default in payment, against offsetting the proceeds of sale. This request for surrender shall not constitute a rescission from the contract.

C.14.05

If and to the extent that the goods returned can be sold otherwise as new by **AB** within the usual course of business, the customer shall be liable to pay 10% of the invoice amount of the goods as costs for return shipping without any further proof. If sale as new is not possible within the usual course of business, the customer shall be liable to pay another 30% of the invoice amount of the goods without any further proof for loss of value. The customer reserves the right to furnish proof of a lower percentage.

C.14.06

AB shall retain the right to assert higher damages.

C.14.07

Processing and handling the goods delivered by **AB** shall always be effected on behalf of **AB**, so that the goods remain **AB's** property in any state of processing, handling and as finished goods, excluding the consequences of §950 BGB (German Civil Code). If the reserved goods are processed along with other items delivered which are also subject to the exclusion of the legal consequences of §950 BGB, **AB** shall acquire co-ownership of the new object to the proportion of the invoice value of the goods of **AB** to the invoice value of the other processed items.

C.14.08

The customer hereby assigns all claims resulting from resale, processing, installation and other exploitation of our goods to **AB**. To the extent that the products sold, processed or installed by the customer include items which are not the customer's property and for which other suppliers have also stipulated a reservation of title with a clause regarding sale and advance assignment, assignment shall be effected to the extent of the share of co-ownership by **AB**, which corresponds to the fraction of the claim; otherwise, to the full amount.

C.14.09

Authorization to collect retained by the customer despite assignment shall expire due to revocation which shall be admissible at any time.

C.14.10

If the value of the collateral due to **AB** exceeds the claims of **AB** against the customer by over 20%, **AB** shall be obliged at the customer's request to release collateral to the corresponding extent at **AB's** choice.

C.14.11

AB is entitled to assign the claims from our business relationships.

C.15. Place of performance**C.15.01**

The place of performance for services to be provided by **AB** shall always be the registered office of **AB**.

C.15.02

The place of performance for deliveries shall also be the registered office of **AB**, especially if **AB** effects transport on its own.

C.16. Place of jurisdiction and applicable law**C.16.01**

Bonn shall be agreed as the place of jurisdiction for all disputes resulting from transactions based on these Terms and Conditions, with merchants, legal entities of public law and special funds under public law.

C.16.02

The laws of the Federal Republic of Germany shall apply exclusively. The application of the UN agreement on Contracts for the International Sale of Goods and other uniform laws shall be ruled out.