

## General Terms of Sale and Delivery

### 1. Area of Application

Our deliveries and services are made respectively rendered exclusively based on the following General Terms and Conditions. These shall be applicable also for all future business relations, also when they are not explicitly agreed again. They shall be applicable also, where we have not objected to different Terms and Conditions of the Buyer in a particular case, which we explicitly reject herewith. Our Terms of Sale shall be applicable also, when we execute the delivery to the Buyer without reservation having knowledge of any conditions to the contrary or of any conditions deviating from our Terms of Sale of the Buyer. At the same time we shall not be committed, as far as the General Terms and Conditions of the Buyer deviate from legal provisions irrespective of the content of the present General Terms of Sale.

### 2. Offer and Conclusion of a Contract

(1) Our offers shall be subject to confirmation. It is only the question of requests by the Buyer to submit an offer.

(2) The order of the Buyer is a binding offer. We can accept or reject this offer at our option within 4 weeks by sending a written order confirmation (also by fax or E-Mail). Where a delivery follows immediately, then the invoice shall be valid at the same time as order confirmation.

(3) We reserve all property rights, copyrights and rights under the Patents and Utility Model Act for all illustrations, drawings, calculations, results of data processing transaction, and other documents, which are made accessible to the Buyer by us within the scope of contract initiation. They are confided only for the purpose of our respective offers and may not be copied or made accessible to third parties without our express consent, also not in extracts. This shall apply in particular for such written documents, which have been marked „confidential“; the Buyer requires our express written consent before they are passed on to third parties. The documents must be returned to us free of charge, if the order is let otherwise.

(4) Our employees, commercial agents or other sales agents are not authorized to dispense with the requirement of a written order confirmation or to make promises deviating from the content or to give guarantees.

(5) The Buyer has the not exclusive right to use the standard software with the agreed performance characteristics on the agreed units without changing it. The Buyer is allowed to make two backup copies without express agreement.

### 3. Prices and Payments

(1) Our prices are valid „ex works“, unless provided otherwise in the order confirmation. To be added to the prices are value added tax with the percentage as prescribed by law and other duties of the respective receiving country in case of export deliveries as well as the costs for packing usually used in our company, other shipment expenses, delivery charges etc., which are possibly borne by us in the exceptional case. Any supplementary fees, public dues or similar shall be borne by the Buyer, provided there are no compelling legal provisions to the contrary. We shall be entitled to request immediately the refund of freights disbursed and other expenses. We charge packing at cost price.

Where we have taken on the erection and/or assembly and nothing else has been agreed, then the Buyer shall bear all required incidental costs such as travelling expenses, costs for transporting tools and personal luggage as well as daily allowances besides the agreed remuneration.

We reserve the right to increase our prices accordingly, if there are increases in costs after conclusion of the contract, in particular because of wage settlements or rises in prices of material and if the period between the conclusion of the contract and the planned delivery is at least 4 months.

(2) Payments are to be made net cash within 30 days as from the date of invoice and without any deduction for orders up to 25.000,00 €. One third is to be paid with the order, one third with the notification that the goods are ready for dispatch and one third within 30 days after date of invoice for orders in excess of 25.000,00 €. Provided that these payments have not been made, he shall be in default without any further conditions as from that date. Any possible foreign banking charges shall be borne

by the contracting party. Payments are to be made without any costs for our paying agent.

From default we are entitled to demand interests on payment in arrears amounting to 8% above the base lending rate to § 247 BGB (German Civil Code). If we are able to prove a higher damage caused by default, we shall be entitled to assert this damage. The Buyer shall, however, be entitled to prove to us that no or a considerably smaller damage has occurred as a result of the delay in payment.

(3) Where the Buyer defaults in payment with a payment, then all other outstanding accounts shall be become due immediately, unless the contracting party proves that he is not responsible for the default.

(4) The Buyer shall be entitled to offset only, if his counterclaims have become res judicata, have not been contested or are accepted by us, in no case however against claims assigned to him.

The right of the Buyer to retain payment or set up a defence shall be excluded, unless we considerably violate the obligations arising from the same contractual relationship despite a written warning and do not provide an adequate security.

(5) Despite provisions to the contrary of the Buyer, we shall be entitled to appropriate the payments first to his already existing debts. When costs and interests have already occurred, we shall be entitled to allow the payment as credit first against the costs, then against the interests and at last against the principal claim, even if otherwise provided by the Buyer. Upon financial aid shown, we shall set off first against the principal claim, then against the interests and costs.

(6) When we become aware of circumstances jeopardizing the solvency and credit-worthiness of the Buyer, in particular when he dishonours a cheque, stops his payments or when it becomes known that a petition in insolvency proceedings has been made, we shall be entitled to accelerate the entire residual debt, even when we have accepted the cheques. In this case we can demand furthermore advance payments and provision of security. As long as this is not fulfilled or fulfilled perhaps in a contestable way, we shall not be obliged to continue with the performance. The same shall be applicable for a belated payment of a previous delivery. Agreed rebates shall not be granted, if there is a matured balance in our favour at the time of payment.

When the stated circumstances become known or a petition in insolvency proceedings is made, we shall be entitled to withdraw from all orders after the reasonable period fixed by us has elapsed without results, during which the other party has to provide concurrently the consideration against the performance or a security at his option. In the case of withdrawal the Buyer must reimburse us the provable expense actually incurred. The assertion of further claims for damages shall remain unaffected.

### 4. Quality of the Objects of Sale

(1) The quality of the objects of sale is shown in the brochures, data sheets of hazardous material, documentations and other concrete descriptions of the products, which can be inspected at our place at any time and will also be forwarded any time on request. The stated specifications shall be neither assured, nor guaranteed.

(2) The quality of our products will deteriorate if they are maintained incorrectly or not maintained at all. The maintenance instructions, which are made known to the Buyer in the information brochures stated at paragraph 1 or in another way, are therefore to be observed in any case.

Deviations referred to a project or customary deviations from drawings, illustrations, measures, weights and other performance specifications shall be admissible. We shall reserve excess or short deliveries of up to 10 %.

The Buyer shall be obliged to inform us before conclusion of a contract where the ordered goods are not intended exclusively for ordinary use or will be used under unusual circumstances or conditions representing a particular health, safety or environmental hazard or conditions of increased stresses and strains.

## 5. Delivery Time and Performance Time

(1) Delivery times shall not start before the submission of documents possibly to be provided by the Buyer, which are required for treating the order, and before receipt of the agreed down payments. Deliveries are made ex works. A delivery time is deemed to have been kept, if the consignment is ready for dispatch within the deadline and that fact was imparted to the Buyer or when it leaves our estate.

(2) In case of acts of god or other unforeseeable, exceptional circumstances caused through no fault of our own, e. g. epidemics, pandemics, non-supply by our suppliers, stoppages caused by fire, water and similar circumstances, breakdown of production systems and machinery, strike and lockout, shortage of material, energy, transport facilities, official interventions (also when these occur at our suppliers), we shall be entitled to postpone the delivery or performance for the duration of the hindrance plus a reasonable start-up time - as far as we are hindered by the stated circumstances to fulfil our obligation to perform the contract in time through no fault of our own.

(3) Before expiry of the delivery time we shall be entitled to make partial deliveries/performance to a reasonable extent. Partial deliveries and invoices for working units shall be permissible.

(4) Where the shipment of the delivery is delayed by circumstances for which we are not to be held responsible, we shall be entitled to charge storage charges amounting to 0,5 % of the invoice total for every month started, unless the Buyer proves a smaller damage. Any further claims shall remain unaffected – e. g. all default claims.

(5) Where an agreed delivery time is not kept through our fault, the Buyer shall be entitled to demand compensation for default or to withdraw from the contract upon expiry of a reasonable respite in accordance with section 5 paragraph 2, if we did not act with gross negligence or wilfully excluding all further claims. This shall be applicable also in the cases stated at section 5 paragraph 2. The compensation for default shall be limited to a maximum of 5 % of that part of the delivery, which was not fulfilled as stipulated in the contract. A withdrawal shall be excluded, if the Buyer is himself in default of acceptance.

## 6. Transfer of Risk

(1) The risk of loss or damage to the Plant shall pass to the Purchaser in accordance with any agreed trade term, which shall be construed in accordance with the Incoterms in force at the date of formation of the Contract.

(2) If no trade term is specifically agreed, delivery of the Plant shall be Ex works (EXW). Any risk of loss or damage to the Works not covered by the first paragraph of this section shall pass to the Purchaser on taking-over of the Works.

(3) Any loss or damage to the Plant and Works after the risk has passed to the Purchaser shall be at the risk of the Purchaser, unless such loss or damage results from the Contractor's negligence.

## 7. Liability for Defects

(1) The warranty rights of the Buyer require that he duly met the owed obligations with regard to inspection and notification of a defect according to § 377 HGB (German Commercial Code). The customer must give notice of obvious, typical and during an orderly inspection – as far as such an inspection is feasible in the normal course of business – recognizable defects in writing within 8 days after hand-over. The contracting party shall be obliged to provide us with a detailed written description of the defects notified by him. The customer must give written notice within 8 days upon discovery of defects, which are not obvious and not recognizable during an orderly inspection. Where the Buyer misses the period for making a claim, a warranty for the defects concerned shall be out of the question. By processing the received complaints and inspecting the goods, we do not dispense with the assertion of belated or incomplete notifications of defects.

(2) We shall not warrant damages and defects, which are to be attributed in particular to natural wear and tear, incorrect installation or commissioning by the Buyer, improper use and operating errors, faulty or unsuitable power supply, operation with the wrong kind of current or voltage,

fire, lightning, explosion, humidity and failure to carry out the necessary respectively recommended service and/or maintenance works. Furthermore, no guarantee shall be given, when parts are exchanged or incidentals are used, which do not correspond with the original specification.

(3) We warrant the faultlessness of our product for the maximum period of one (1) year as from delivery. If there is a defect we are at first entitled to remove the defect or to deliver goods free of defects at our option. It is left to the Buyer either to reduce the purchase price in case of failure of the post-fulfilment or to withdraw from the contract at his option. The post-fulfilment is deemed to have been failed, when two trials of post-fulfilment failed. Any further claims, in particular claims for reimbursement of expenses or claims for damages due to harm caused by a defect or consequential harm caused by a defect, exist only within the scope of the regulation as defined in section 8.

(4) As far as the Buyer is obliged to fix a reasonable period of time for us to provide our service in order to assert his rights, the period is deemed to be reasonable only, if it is not shorter than 20 days.

We are entitled to refuse post-fulfilment, if it is possible only with excessive costs. Costs are deemed excessive in particular, if the total expenses of the post-fulfilment are higher than 30 % of the market value of the products sold. The further rights of the Buyer shall remain unaffected.

(5) We must bear the expenses required for the purpose of post-fulfilment, in particular transport, travelling, working and materials costs, as far as these are not increased by the fact that the goods were shipped to another place than the place of delivery, performance and/or payment. Replaced parts shall become our property.

(6) Where the defect cannot be ascertained, the Buyer shall bear the inspection costs.

(7) Only the direct Buyer shall be entitled to warranty claims against us, which are not assignable. The Buyer shall have no right to withdraw from the contract where defects are insignificant, he shall be obliged to accept the delivery

Where the deadline for post-fulfilment has expired without success, we shall have the right to request the Buyer to assert his further warranty claims against us within a time limit of one month fixed by us. Where he does not submit such a declaration within that period, warranty rights are excluded; this shall be valid only, if we expressly pointed out this legal consequence in the request stating the time limit fixed by us.

## 8. Erection and Assembly

(1) The Buyer shall ensure that all clearances and authorizations required for the execution of the works have been obtained. The Buyer must provide the following items at his costs and make them available in time:

- All earth-moving, structural and other supplementary works not usual in the trade including qualified personnel and helpers, building materials and tools required for these works.
- The necessaries and materials required for the assembly and commissioning, such as scaffolding, cranes and elevators and other devices, combustibles and lubricants;
- Energy and water at the place of use including connections, heating and lighting;
- Dry and lockable rooms of sufficient size at the place of assembly for the storage of the machine parts, equipment, materials, tools etc., and appropriate working and recreation rooms including sanitary installations appropriate to the circumstances for the assembly personnel; besides the Buyer shall take the same appropriate measures for the protection of our property and the assembly personnel, which he would take for the protection of his own property;
- Protective clothing and accident preventers required due to special circumstances at the place of assembly;
- The Buyer shall insure persons and material against the risks and consequential charges arising at the site of erection;
- The Buyer shall provide an interpreter as far as necessary for translating from German into the national language and vice versa;
- The Buyer shall provide accommodation according to Western European standard;

- Abroad the Buyer shall provide transfer from the airport/hotel/accommodation up to the site and vice versa free of charge,
- Costs for forced exchange and Visa costs shall be borne by the Buyer;
- The Buyer shall provide access to the internet on site;
- The Buyer shall secure medical service for the manning on site in particular the emergency supply;
- The Buyer shall take all necessary steps to ensure the safety of the staff. Where the safety is not ensured, the staff employed on site will leave the site, the accommodation or the country. The costs arising in connection herewith shall be borne by the Buyer.

(2) The Buyer shall provide unasked the required details on the position of covered power, gas, water lines or similar installations as well as the required structural calculations for the statics before commencement of the assembly works.

(3) The provisions and objects required for taking up the works must be at the place of erection or assembly before commencement of the erection or assembly, and all preparatory works before commencement of the installation must have advanced to such an extent, that the erection or assembly can be started and executed without interruptions as agreed. Access routes and the place of erection or assembly must be level and cleared. The site roads must be passable with road vehicles.

(4) Where the erection, assembly or commissioning is delayed by circumstances for which the supplier is not be held responsible, the Buyer shall bear the costs for waiting time and additionally required journeys of the supplier or assembly personnel.

The Buyer shall attest the supplier the hours worked by the assembly personnel on a weekly basis and the conclusion of the erection, assembly or commissioning without delay.

Where we request acceptance of the delivery on completion, the Buyer shall carry it out within a period of two weeks. Where that is not the case, the delivery is deemed accepted. The acceptance is also deemed to have been made, if the delivery has been taken into use – if applicable on completion of an agreed test phase.

## 9. Claims for Damages

(1) Unless provided otherwise in the present terms, we shall be liable for damages on account of breach of contractual, non-contractual and statutory duties and for the compensation of futile expenses only if done with intent or gross negligence. This shall apply also for neglect of their duty by our legal representatives and vicarious agents. In the case of simple negligence we shall be liable only when essential contractual duties have been violated.

In the case of liability, we shall indemnify the Buyer for the proven damage to the extent as it was foreseeable by us and not avoidable by the Buyer at the conclusion of the contract as a result of the breach of duty with regard to occurrence and extent of damage considering the following limits.

(2) We shall not be liable for damages, which were not caused at the delivery item itself; in particular we shall not be liable for loss of profits or other financial losses of the Buyer.

The liability for damages arising from injury of life, body or health shall be excluded from all limitations on liability.

(3) The above-mentioned limitation on liability with the stated restrictions shall apply also for claims for culpa in contrahendo, violation of collateral duties and in particular for claims for product liability in accordance with § 823 BGB.

(4) The Buyer can request damages in lieu of performance only in case of important breaches of duty by us.

(5) The proof of causality of a publicity for the purchase decision lies with the Buyer. Where the Buyer invokes a quality agreement by a public statement or publicity made by us, the manufacturer or his helpers, the Buyer shall establish the proof that this statement was causal for the purchase decision.

The Buyer must prove that the goods sold were tainted with a defect at the time of passing of the risk. Where the Buyer is the consumer, this regulation shall not apply. Rather it is supposed within a period of 6 months since passing of the risk that the product was already defective at the passing of the risk.

In no way do we assume any guarantees or quality assurances.

Where the contract goods are only unascertained ones, our liability shall be determined by the a. m. regulations in this case also; a liability independent of a fault shall be excluded.

## 10. Reservation of Ownership

(1) All our deliveries and performances are made or rendered with reservation of ownership. The ownership shall pass only then to the Buyer, when all our claims arising from the business relation and from those connected to the object of purchase, have been satisfied. This covers all claims, no matter for what legal ground including future or contingent receivables also from contracts concluded at the same time or later within the scope of the business relations. That shall apply also, when payments are made to specially designated claims. With current account, the reserved property shall be used as security for our balance claim.

(2) The Buyer shall be obliged to treat the objects of sale carefully; he shall be obliged in particular to insure these sufficiently at his own costs against fire, water and theft for the value when new. As far as maintenance and inspection works are required, the Buyer must carry them out professionally and in time at his own costs.

(3) The Buyer shall be neither allowed to pledge the delivery item nor to assign it by way of security, for which we have reserved ownership. He must inform us without delay about any seizures and attachments and other dispositions by third parties. In such a case the Buyer must give us the required support for us to protect our rights. Costs for any interventions becoming necessary shall be borne by the Buyer. Besides the Buyer must notify us furthermore of the existing goods when he suspends the payments.

(4) Where the Buyer is in default with the payment, we shall be entitled to reclaim the products immediately, i. e. without withdrawal from the contract – irrespective of the continuance of the contract. The Buyer shall be obliged to return the product. When we assert the reservation of ownership, this shall be deemed to be a withdrawal from contract only then, if that is declared by us explicitly in writing.

(5) The processing or transformation of the goods reserved by the Buyer shall always be done for us. When treating and processing or mixing the reserved goods, the reserved ownership of the treated or mixed products shall continue. Where the reserved goods are processed or inseparably mixed with other objects not belonging to us, we shall acquire the ownership of a new thing in relation of the invoice value of the reserved goods to the invoice value of the other products used at the time of processing or mixing. The co-ownership interests thus arising shall be considered to be reserved goods within the meaning of the present terms. Where our products are combined or mixed inseparably with other movable objects to form a uniform thing, and where the other thing is to be regarded as the main thing, the Buyer transfers co-ownership proportionately to us, as far as the main thing belongs to him. In the above mentioned cases the Buyer shall assign to us his ownership of the processed, combined or mixed goods already now. The handover shall be replaced by the Buyer keeping the processed, combined or mixed objects in a safe place on our behalf. The same shall apply to the thing caused by processing, using and mixing as applies for the goods reserved.

(6) The Buyer shall be entitled to process and sell the goods reserved in the ordinary course of business, unless he is in default with us, has ceased the payment or filed a bankruptcy against his property. The Buyer assigns to us already now the claims in full against buyers or third parties arising from the resale with all ensuing rights. We accept this assignment. Where goods reserved are sold by the Buyer together with the goods not belonging to the Buyer after processing/combining, he assigns to us already now the claims arising from the resale amounting to the value of the goods reserved with all ancillary rights and rank being prior to the rest. We accept this assignment already now. The Buyer shall be authorized to collect his claim also after the assignment. Our option to collect the

claims ourselves shall remain unaffected – we commit ourselves, however, not to collect the claims, as long as the Buyer duly meets his obligation to pay and other obligations, is not at default in payment and in particular no bankruptcy petition has been filed, there is no suspension of payments or there are no justified doubts regarding the solvency and credit-worthiness of the Buyer. The customer shall in no case be entitled to assign the claim otherwise.

(7) We can request the Buyer to disclose the assigned claims and its debtors to us, to give us all details required for the collection, to hand over the appertaining documents and to inform the debtors of the assignment. Any bills of exchange possibly given by third parties as buyer shall be transferred to us.

(8) Where the value of the securities due to us exceeds the total claim against the customer by more than 20 %, we shall be obliged to release the securities of our choice on request of the Buyer. If we take back goods as mutually agreed, their crediting shall be done only to the amount of the respective present market value.

### **11. Applicable Law, Jurisdiction, Place of Delivery, Performance and/or Payment, Suspension of the Statute of Limitations**

(1) The contractual relationship shall be subject to the law of the Federal Republic of Germany to the exclusion of the UN Sales Convention.

(2) The place of delivery, performance and/or payment for all commitments arising from the contractual relationship shall be our principal place of business in Bielefeld (Westphalia) for deliveries – also for deliveries with carriage prepaid – and payments among others.

The place of jurisdiction shall be our principal place of business in Bielefeld (Westphalia), also with actions on a bill and actions for assertion of a claim concerning payment of a cheque, if the Buyer is an entrepreneur or a legal person under public law. The same place of jurisdiction shall be applicable, when the Buyer has no general place of jurisdiction in the home country or has changed his residence or habitual residence to a foreign country after conclusion of the contract. In any case, we can sue the Buyer also at his principal place of business.

Regardless of any further legal regulations, the suspension of the statute of limitations shall expire also, when the negotiations about a suspension are not continued for more than four weeks. A renewed start of the limitation of claims of the customer requires our express written confirmation in any case.

### **12. Industrial Property Rights**

(1) Where we shall deliver according to drawings, types, patterns or under pledging of parts supplied by the Buyer, the Buyer shall take responsibility for that property rights of third parties will not be violated hereby in the country of destination of the product. We will point out all rights known to us to the Buyer. The Buyer must exempt us from claims of third parties and to pay damages for the damage caused. Where a third party denies us to produce or deliver invoking a property right belonging to him, we shall be entitled to stop all works without checking the legal situation, until the legal situation has been clarified by the Buyer and the third party. We shall be entitled to withdraw from the contract where the continuance of the order can no longer be reasonably expected from us because of the delay.

(2) Drawings and patterns left to us, which did not lead to the order, will be returned by us on request; otherwise we shall be entitled to destroy those 3 months after the submission of the offer. This obligation shall be applicable also for the Buyer. The party entitled to destroy must inform the contracting party beforehand in due time about his intentions to destroy

(3) We shall be entitled to the copyrights and, where applicable, industrial property rights, in particular all usufructuary and exploitation rights to the types, moulds, appliances, models, drawings and the delivery item produced and designed by us or a third party on behalf of us.

(4) Where a third party files legitimate claims against the Buyer, as industrial property rights or copyrights (in the present case: property rights) are violated by products supplied by us, which are used in accordance

with the contract, we shall be liable as follows: According to our choice we will either obtain a usufructuary right for the product at our costs, change the product, so that the property right is not infringed or replace the product. Where that is not possible for us under reasonable conditions, we shall be allowed to take back the product against reimbursement of the purchase price.

The above mentioned commitments shall be incurred only then if the Buyer informs us immediately in writing about the claims put forward by third parties, if an infringement is not accepted and all defensive measures and conciliation negotiations are left up to us. Where the Buyer stops using the product to reduce the damage or for other important reasons, he shall be obliged to inform the third parties that an acknowledgement of an infringement of a property right is not connected with the stoppage of use.

Claims of the Buyer shall be excluded, as far as he is liable for the infringement of the property right.

### **13. Safeguarding Clause**

Should a provision in the present General Terms and Conditions be ineffective or become ineffective, then the validity of all other provisions or agreements shall remain unaffected. An effective agreement shall supersede the incorrect provision, which comes as close as possible to the economic purpose of the incorrect provision.

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