

1. General

Our offers, supplies and services are provided exclusively on the basis of the following terms and conditions unless otherwise agreed in writing. Any terms and conditions of the Buyer shall apply only in so far as we have expressly agreed thereto in writing. Neither our failure to object to any terms and conditions sent to us by the Buyer nor our performance of an order shall be construed as an implicit acceptance thereof.

2. Quotation and Conclusion of Contract

Our quotations are not binding on us. Orders shall be binding only after we have acknowledged and accepted them. Technical modifications subsequently requested by the Buyer shall entitle us to change our price(s) to the extent of the additional expenses caused thereby. All technical data, illustrations, drawings, particulars of weight and dimensions shall be considered as only approximate and not as representations or warranties as to characteristics of the products. We reserve the right to make engineering changes.

We retain ownership and copyright to all offers, drawings and other documents. They may not be made available to any third parties.

3. Scope of Delivery

The contents and scope of the delivery shall be determined by our acknowledgement and acceptance of the order. Any changes require our approval in writing.

4. Prices and Terms of Payment

Our prices are ex works including loading at our plant, but excluding packing. Value added tax (VAT) at the prevailing German rate will be charged where applicable.

Unless otherwise agreed in writing, payments shall be made no later than 30 days from the date of our request for payment. All expenses incidental to the payment shall be borne by the Buyer.

In the case of purchase orders amounting to more than 5000 Euros, payments shall be made as follows:

- 1/3 down payment upon ordering
- 1/3 upon notification of readiness to deliver
- 1/3 upon receipt of our final invoice.

No bills of exchange shall be accepted.

In case of failure to make payment when due, we will charge past-due interest at a rate of 4% above the then current base rate according to section 247 of the German Civil Code as published from time to time by the German Bundesbank. We reserve the right to claim further compensation for damage in excess thereof.

In case of reasonable doubt of the Buyer's ability to pay, or if a petition for institution of insolvency or composition proceedings involving the Buyer's assets is filed, we shall have the right to terminate performance under all existing contracts, to demand immediate payment of all our receivables, or demand prepayment and/or creation of a security interest.

The Buyer shall be entitled to retain payments or to offset with counterclaims only if his counterclaims are uncontested or have been confirmed by a non-appealable court decision.

If the Buyer does not accept the goods at the date stated in our acknowledgement and acceptance of his order, we shall charge the prices applicable at the actual date of delivery.

5. Period for Delivery

The period for the delivery shall commence as of the date of dispatch of the acknowledgement and acceptance of the order, but not before all technical and commercial issues of the contract have been cleared up and agreed on between the Buyer and us, and all documentation, permits, certificates etc. to be provided by the Buyer or any agreed upon down payment have been received. Otherwise, the period for delivery shall be extended accordingly.

The period for delivery shall be deemed to have been complied with if by the deadline the delivery has left our premises or the Buyer has been notified of our readiness to ship.

If the agreed period for delivery cannot be met due to circumstances beyond our or our suppliers' control, such as force majeure, concerted labour action, etc., it shall be reasonably extended. We shall immediately give notice to the Buyer of any such delay in delivery.

If the Buyer suffers a loss as a result of a delay in delivery for which we are responsible, the Buyer shall be entitled to claim damages for delayed performance. Such damages shall amount for every week of such delay to 0.5%, but not more than a total of 5%, of the value of that part of the overall delivery which cannot be used in time as a result of the delay.

If the Buyer fails to accept the ordered goods at the agreed on date of delivery, and if he fails to do so within a reasonable extension period set by us, we shall have the right to sell or otherwise dispose of the good(s) and to supply the Buyer after a reasonably extended period of time.

6. Acceptance Inspection, Passing of Risk

An acceptance inspection shall be carried out only if agreed on by the parties, or at our discretion. If the Buyer delays or fails to perform such acceptance inspection, we shall have the right to ship the purchased good without acceptance inspection.

All risk of loss or damage shall pass to the Buyer once the good(s), or partial deliveries thereof, have been loaded at our premises. This shall apply even if we have assumed services like shipping costs, direct delivery, installation etc.

7. Retention of Title

We shall retain title to the good(s) supplied until the Buyer has fully paid to us all sums due or to become due from this as well as from other current or future business transactions. We have the right to insure the good(s) supplied against theft, fire, water, breakage and other damage at the Buyer's expense, unless the Buyer can prove that he himself has taken out such insurance. It is hereby agreed that if the Buyer resells our good(s), the Buyer shall, until we have received payment in full under this and all other contracts, assign to us, with all rights attached thereto, his claims against his customers arising from such resale.

If the security interests provided exceed the total of our still unpaid claims by more than 25 %, we shall upon the Buyer's request, release security interests of our choosing.

The Buyer may pledge or transfer ownership of the goods supplied as security to third parties only with our consent in writing. In the event of any interventions by third parties, such as seizure, attachment etc., the Buyer has to inform us immediately. In the event of any conduct of the Buyer not in conformity with the contract, we shall, after a warning notice and observation of a reasonable period of time, be entitled to demand the return of the supplied good(s). In such event, the Buyer shall surrender the good(s) supplied. Our assertion of retention of title or demand for return of the supplied good(s) shall not be deemed to constitute cancellation of the contract.

In case of institution of insolvency proceedings against the Buyer, we shall be entitled to cancel the contract and demand that the good(s) be returned to us.

8. Warranty of Quality

In the event of any defects of the supplied good(s) we shall, to the exclusion of any further claims, rectify such defects as follows:

We shall without charge at our option either repair or replace free of charge any parts which within the first 1000 operating hours or within 12 months, whichever comes first, after the passing of risk, turn out to be unusable or usable only to a very limited extent due to any cause existing before the passing of risk. Any such defects must be notified to us in writing as soon as they are detected. In case of obvious defects this must be done within 10 days from the receipt of the delivery. Any replaced parts shall become our property.

If the Buyer has performed an agreed on acceptance inspection of the delivered good(s), any subsequent claims in respect of any defects noticeable during the acceptance inspection shall be excluded.

Our warranty and liability shall cease, however, at the latest, after 12 months from the passing of risk. Our warranty for essential parts supplied by others shall be limited to the assignment of the warranty claims we are entitled to against the supplier of such externally supplied part.

Warranty for substitute parts and repairs shall end at the expiration of the original warranty period for the supplied good(s).

Any warranty shall be excluded in the following cases: For wear parts, or parts that are subject to normal, operational wear and tear; unsuitability of parts furnished, or engineering designs prescribed by the Buyer; incorrect or improper use, especially in case of faulty set-up, assembly/installation, or commissioning by the Buyer or third parties; non-compliance with our instruction manual; faulty or negligent handling, operation, maintenance and servicing; unsuitable operating materials, unsuitable foundations or subsoil; chemical, electro-chemical or electrical influences unless we is responsible for them.

The Buyer shall, after prior consultation with us, give us the time and opportunity required for any repairs and/or substitute deliveries. Otherwise, we shall be released from warranty obligations and liability for any consequences resulting therefrom. Only in cases of urgency, if operational safety is at risk or major damage must be reckoned with, shall the Buyer have the right to correct the non-conformity himself or have it corrected by third parties, and to demand that the expenses incurred be refunded by us. In such event the Buyer must immediately inform us. If such repair or rectification is carried out improperly, any warranty and liability on our part for the consequences resulting therefrom shall be excluded. The same applies to any modifications carried out on the supplied good(s) without our explicit approval.

If a complaint proves to be justified, we shall bear of the expenses incurred for substitute delivery or rectification the cost of the substitute part, shipping expenses (only within the Federal Republic of Germany), and the reasonable expenses for dismounting and reinstallation.

Any warranty on our part requires that the Buyer has met all his contractual duties, especially compliance with the terms of payment. The only exception shall be if any defect of the supplied good(s) existing at the time of the passing of risk is substantiated by means of an expert opinion or by proceedings for the preservation of evidence.

No warranty is given for any used goods supplied unless otherwise agreed in writing. Any claims of the Buyer for compensation for damage not affecting the supplied good(s) itself/themselves shall be excluded.

9. Liability

Any claims not explicitly agreed to in these General Terms and Conditions of Sale shall be excluded. Claims shall be limited to compensation for damage to the good(s) supplied, and they shall be limited to the delivery value.

We shall be liable for any damage caused not to the delivered good itself only in case of intent or gross negligence on the part of managing directors or executive employees, and in case of defects of the good(s) delivered to the extent liability for personal injury or material damage to privately used goods is provided for under the product liability law.

In case of culpable breach of essential contractual obligations, we shall be liable also in case of gross negligence on the part of non-executive employees, but such liability shall be limited to the reasonably foreseeable, typically occurring damage.

In any event, liability shall be limited to the compensation payment of our respective insurance.

10. Rescission of the Contract by the Seller

In the event of unforeseen events such as force majeure, labour disputes, or other circumstances beyond our control, in so far as these substantially affect the economic importance or the contents of the order, or substantially affect our operation, and if performance of the contract subsequently proves to be impossible, the contract shall be reasonably readjusted. Where doing so would be economically unreasonable, we shall have the right to cancel all or part of the contract. The Buyer shall not be entitled to damages on account of such cancellation. We shall inform the Buyer immediately in case we intend to make use of our right of cancellation.

11. Place of Performance and Legal Venue

The place of performance for the supplies and services to be provided by the us shall be the place of our registered office in DE-87477 Sulzberg, Germany. The legal venue for any and all disputes that may arise from the contractual relationship shall be Kempten/Allgaeu, Germany. We shall, however, have the right to bring legal action in any other place of jurisdiction.

All legal relations between us and the buyer shall be governed by the law of the Federal Republic of Germany. Applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

12. Applicability to Future Contracts

Our preceding General Terms and Conditions of Sale shall also be applicable to all future contracts between us and the Buyer even when no explicit reference is made to them.