

## GENERAL TERMS OF BUSINESS AND TRADE

### 1. General information

**1.1** Our offers and services are made exclusively according to these conditions. Conditions of the purchaser and deviating agreements are only valid if they are acknowledged by us in writing. Our acknowledgment is neither our silence nor the sending of conditions, nor the execution of an order by us. Our conditions also apply to all future business relationships, even if they are not expressly agreed again. Deviating terms and conditions of the purchaser, which we do not expressly recognize, are not binding for us, even if we do not expressly object to them. The following conditions of sale shall apply even if we unconditionally execute the order of the purchaser in knowledge of conflicting or deviating conditions of the purchaser.

**1.2** At the latest when receiving our goods or services, or our order, the purchaser and/or supplier recognizes these conditions.

**1.3** The purchaser and/or supplier declare their agreement with the processing of their data concerning business transactions with us and enterprises associated with us as evidenced by our annual company report.

### 2. Offers and orders

**2.1** Our offers are non-binding, unless we have explicitly marked as binding. An order that is qualified as an offer to conclude a contract, we may fulfill by sending an order confirmation within two weeks or by delivery of the products ordered within the same period. Orders placed by the purchaser are binding only after written confirmation. The content and scope of the contract are governed by our confirmation of order. Additional agreements, amendments, additions, etc. must be confirmed by us in writing or by telecommunication. The images, illustrations and information, in particular in regard to weights or dimensions and/or other technical data as well as references made to DIN, VDE or other company or generally applicable norms and standards merely indicate the object of agreement and do not constitute a guarantee for particular properties or characteristics unless this has been explicitly confirmed in writing.

**2.2** The purchaser assumes responsibility for the information given and the parts to be provided by him.

**2.3** We retain the right to request advance payment in the case of customized products.

**2.4** The purchaser has the right to return the ordered goods within a period of four weeks from receipt without giving reasons. The condition is that the goods are unused and undamaged. Excluded from this voluntary right of return are special devices and customized articles. The purchaser has to return the goods at his expense to us. The purchase price will be refunded to the purchaser after receipt of the goods.

### 3. Delivery and partial delivery

**3.1** Unless, in individual cases, special agreements have been made in writing, delivery periods and delivery dates (terms of delivery) are to be regarded as approximate and, in any case, presuppose that all facts needed by us in order to execute the order will be clarified in mutual agreement.

**3.2** The agreed delivery deadline shall be deemed fulfilled when the object of delivery has left the company, or when notice has been given of readiness for shipment, by expiry of the agreed delivery period.

**3.3** If non-compliance of deadlines is for reasons of force majeure, e.g. mobilization, war, turmoil, or similar events which are beyond our control, e.g. strike, or lock-out, the deadlines are extended by the times during which the event or its effects last.

**3.4** We are liable in case of default with the performance in cases of intent or gross negligence on our part or a representative or vicarious agents as well as in case of a culpably caused injury to life, body or health according to the legal regulations. In other cases of delay, our liability for compensation in addition to performance and for compensation instead of performance (including the replacement of futile expenses) will be limited to 10% of the value of the delivery. Further claims of the purchaser are excluded even after the expiry of a time limit for the performance which has been set for us. The limitation does not apply in case of culpable breach of essential contractual obligations. However, the claim for damages for the culpable breach of essential contractual obligations is limited to the type of foreseeable damage, as long as no further case according to p. 1 of this paragraph (2) is given. The right of the purchaser to withdraw from the contract [pursuant to no. 10 of these conditions] shall remain unaffected. A change of the burden of proof to the disadvantage of the purchaser is not connected with the above regulations.

**3.5** The delivery time will be extended adequately if our deliveries or services are delayed as a result of circumstances beyond our control, including operational disturbances, strikes, lockouts or traffic or other unforeseeable obstacles which occur with us or our subcontractors. This also applies if the aforementioned events occur at a time when we are in delay. If, due to the extension of the delivery time, the cost situation used for us upon delivery of the relevant offer is significantly altered or if the rendering of the service is in any other way unacceptable to us, we are entitled to withdraw from the contract completely or partially.

**3.6** Each resignation must be made by written declaration.

**3.7** We are entitled to partial deliveries.

**3.8** 10% over or under delivery is permitted and customary in the industry, they will be charged accordingly.

### 4. Prices

Prices are ex-works without engagement and do not include erection, assembly, commissioning or packaging. The respectively applicable amount of Value Added Tax will be charged separately in the invoice.

### 5. Dispatch

**5.1** Dispatch is effected ex-works at purchaser's risk. This also applies when and insofar as the dispatch is carried out using our own transportation means; dispatch and packing regulations of the purchaser are only binding if they have been agreed in writing.

**5.2** Containers, crates, cases, pallets and other hired packaging do not become the property of the purchaser and shall be sent back to the owner free of charge. Wooden boxes, cardboard cartons and disposable packaging will be charged for at cost price and are not returnable.

**5.3** If the dispatch is delayed on the instructions of the purchaser, the transfer of risk to the purchaser shall take effect as from the point of dispatch readiness. We retain the right to charge to the purchaser the costs arising from storage at our works, at least, however, 0.5% of the invoice amount for each completed month. As the case may be, we may be able to dispose over the goods, after the stipulation and expiry of a reasonable period of grace, and subsequently supply to the purchaser within an appropriately extended delivery period.

### 6. Terms of payment

**6.1** Our payment claims are due for settlement, in the contract currency, net and without deductions, 30 days after the invoice date. Also, in the case of deferred terms of payment, payments become due immediately without deduction should the purchaser fall into arrears with one payment or should we become aware of a considerable deterioration in his assets status or financial situation. In the event of delayed payment, irrespective of any further rights, normal bank interest, at least in the amount of 8 percentage points above the base rate calculated in accordance to § 247 BGB, will be charged.

**6.2** Bills of exchange are not accepted as payment means.

**6.3** The purchaser is not entitled to withhold payments or offset them against possible counter claims unless this has been recognized by us or determined by legal process.

**6.4** We execute delivery to purchasers with whom we are not in a regular business relationship against

payment on receipt.

### 7. Security provision

If agreed down-payments are not received on the due date or if we become aware of circumstances, after the conclusion of the contract, which could considerably diminish the purchaser's ability to pay, we shall be entitled, prior to delivery and irrespective of any further claims, to demand payment in advance or the provision of appropriate securities to cover our payment demands.

### 8. Retention of title

**8.1** We retain title to any goods delivered until full settlement has been made of all payment demands on whatever legal basis, including any possible claims on bills of exchange, claims lodged by third parties and receivables owing to companies associated with us (as evidenced by our company report). We shall be entitled to insure the delivery object at the purchaser's expense unless the latter furnishes proof of existing insurance.

**8.2** The purchaser is only entitled to process the delivered goods in conjunction with other items in the proper course of business.

**8.3** The processing or transformation of the goods under retention of title is at all times effected on our behalf without involving any liability on our part. If goods under our retention of title are processed in conjunction with other goods not belonging to us, we are entitled to partial title to the new item to the value in proportion to the value of the goods under retention of title at the time of processing. If goods delivered by us are combined with other moveable items to form one unified item or should they be inseparably mixed and should the other item be deemed the main item, it shall be taken as agreed that the purchaser shall assign to us proportional title to the main item in so far as the latter belongs to him.

**8.4** The purchaser shall place the property or partial property in safe-keeping on our behalf free of charge. For the new item the same shall apply as for the goods under retention of title.

**8.5** The purchaser is revocably entitled, under exclusion of other dispositions, to re-sell the item in the proper course of business, provided that the receivables arising from said re-sale are assignable. The purchaser's right to re-sell shall be extinguished in the event that his payments are discontinued. The purchaser shall re-sell goods under retention of title likewise under retention of title if the third-party purchaser does not pay immediately. On re-sale, the purchaser - already at this point in time - assigns to us all receivables arising therefrom. In so far as the purchaser has fulfilled his payment obligations to us, he is entitled to collect receivables from the third-party purchaser. On demand, the purchaser shall furnish us with all information and documents necessary for collecting the receivables shall inform the debtors of the assignment to us and, at his own expense, shall provide us with publicly certified copies of the documents evidencing the assignment of said receivables. When re-selling our goods through third parties, the purchaser's receivables from his customers and/or agents shall be deemed assigned to us to the amount of our outstanding invoice. In the sense of the aforesaid, the term "re-sale" shall also be understood to mean the installation of the goods under our retention of title in real estate property or buildings and their use to fulfil any other kind of works or works delivery/supply contracts.

**8.6** In the event of delays in payment, uncertainty in respect of the solvency or deterioration of the financial situation of the purchaser, the latter, at our demand shall be obliged to return to us the goods under our retention of title. The repossession or garnishment of the goods by us shall only be deemed withdrawal from the contract on presentation of a written declaration to that effect. In the event of garnishment served by or other interventions on the part of third parties, the purchaser must inform us immediately.

**8.7** The retention of title and the securities accruing to us shall remain applicable until we are freed from any contingent liabilities we may have entered into in the interest of the purchaser.

**8.8** Should the value of the securities accruing to us on the basis of our retention of title exceed the value of the secured receivables by more than 25%, we undertake to release the securities to the corresponding extent.

### 9. Preemption

The purchaser shall concede to us the preemption right to all inventories of our products for all cases of insolvency, as well as in the event of the use of said products contrary to contract stipulations.

### 10. Claims and rights of the purchaser

**10.1** In respect of our warranty and other liability in relation to claims arising from defective deliveries or services, including wrong deliveries or services, the following regulations shall apply. Warranty claims for indemnification are only accepted if the purchaser fulfil their obligation to duly complain in accordance with § 377 HGB. Should our contracted services include fitting and assembly or commissioning, or if it is a matter of an independent repair order, or other services in connection with a works contract, the following regulations shall apply.

**10.2** We assume liability under our warranty in accordance with the current technical state of the art. Agreements in regard to product properties and other guarantees are only valid if concluded in writing, otherwise the purchaser shall bear the burden of proof. General modifications in respect of construction or design prior to the delivery of an order do not constitute grounds for complaint.

**10.3** We assume no guarantee in regard to damage caused by unsuitable or improper use, faulty assembly, commissioning, disposal or repair not carried out by us, faulty or negligent handling and natural wear-and-tear. The same shall apply to parts released by the purchaser.

**10.4** As a matter of principle, claims and rights of the purchaser are initially limited to the remedying of faults, which will be carried out by us by means of repair or replacement delivery at our own discretion. In individual cases, we reserve the right to issue a credit note to the value of the faulty product delivered to the purchaser. At our demand, products subject to complaint shall be sent to us for repair. In the case of unfounded complaints, the costs arising therefrom shall be borne by the purchaser, whereby the regulation according to § 635 II of the German civil code (BGB) shall not apply. Should products supplied by us be repaired or modified without our involvement, or in the event that maintenance and/or installation instructions are disregarded, our warranty and any other liability on our part shall be extinguished. Only in cases in which operational safety is in acute danger and when necessitated by the need to prevent disproportionate damage shall the purchaser be entitled, after informing us, to rectify the faults at his own expense. These costs will be reimbursed by us to the extent that they would have arisen if he had remedied the defects ourselves. Our warranty liability extends to the remedying of defects in the same way as to the original delivery and/or service up to the end of the warranty period applicable to the original delivery or service, at least, however, for a period of three months from the date of completion of the remedying of the respective defects. The purchaser is obliged, after prior consultation with us, to provide us with the opportunity to remedy the faults or defects. If the faults or defects cannot be remedied for reasons beyond our control, the purchaser shall be entitled to withdraw from the contract after expiry of a reasonable period of grace to be determined. In all cases of justified complaints, all other claims of whatever kind over and above the claim to remedy faults or defects are excluded and/or limited in accordance with the provision under Point 11.

**10.5** Should it become impossible for the purchaser to use the object delivered in accordance with the contract as a result of culpable contravention of additional contractual obligations on the part of the purchaser - in particular disregard of operating or maintenance instructions, we assume liability only to the extent stipulated under Points 10.4 and 11. For advice given we assume liability only in so far as a special agreement has been made in writing to regulate our remuneration for this service.

**10.6** According to legal requirements we are obliged to take back new goods or to decrease (reduce) purchase prices even without the deadline required otherwise, if buyers' customers as consumers of the new movable goods (consumer goods) due to a defect of these goods could demand the return of the goods or the decrease (reduction) of purchase prices or if the buyer is facing a corresponding claim

by the consumer. We are also obliged to reimburse to the buyer any expenses incurred, in particular regarding transport, travel, labor and material costs, which contribute to subsequent fulfillment due to a defect of the goods existing upon transfer of risk from us to the buyer. The claim is non-admitted if the buyer has failed to duly fulfill inspection and complaint regulations in accordance with § 377 HGB. The obligation under the previous section is excluded if in so far as a defect relating to advertising claims or any other contractual agreements, deriving not from us, or if the buyer has assured the end consumer a special warranty. The obligation is also excluded, if the buyer was not obliged by legal regulations to exercise warranty rights against the end consumer or the buyer have not made a notice of defect according to a claim made against him. This applies even if the buyer has granted the end consumer warranties which go beyond legal requirements.

**10.7** We are not liable for defects which are based on materials provided by the purchaser or a design prescribed or specified by the purchaser. Our liability presupposes that our products have been installed according to the contract, suitably and in accordance with the intended use and a defect occurs under the contractually agreed operating conditions and proper usage of the goods.

**10.8** The right to warranty and other claims expire one year after the transfer of risk. The assertion of warranty and other claims has no influence on the payment obligations and deadlines. If the purchaser does not fulfill his obligation to pay or not in time, our above-mentioned obligations shall be suspended until the payment obligations have been fulfilled.

**11. Liability for compensation**

The exclusion of liability stipulated under Point 10.4 shall not apply in the case of violation of obligations by intent or gross negligence on our part or on the part of our vicarious agents as well as in the case of personal injury caused by a negligent violation of obligations on our part or on the part of our vicarious agents. It shall likewise not apply in the case of fraudulent intent or the assumption of a guarantee.

**12. Set-off prohibition**

Offsetting is not permissible in the case of non-recognized or legally non-determined claims.

**13. Drawings and other documents**

We retain title and copyright to cost estimates, drawings and other documents placed at the disposal of the purchaser. They must not be used for purposes other than those stipulated by us and must not be made available to third parties.

**14. Place of fulfilment and court of jurisdiction**

**14.1** The place of fulfilment for all deliveries and payments is Lüdenscheid.

**14.2** The place of jurisdiction for all disputes arising from the contract agreement is Lüdenscheid. This shall also apply to claims arising from cheques, tort claims and garnishments, as well as copyright proceedings. We shall be entitled to file suits against the purchaser through the court at his place of business or residence.

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Version 01.03.2022