

# STANDARD TERMS AND CONDITIONS OF DELIVERY, ASSEMBLY AND PAYMENT

## § 1 Conclusion of contract (general terms of contract, scope of delivery)

- (1) Our deliveries, which also include services, suggestions, consultation and ancillary services, are made only on the basis of the Terms and Conditions laid out below. We hereby reject any contradictory or alternative terms and conditions of the Customer; they shall not be accepted even if we fail to reject them again after we have received them. Upon placement of the order, but at the latest upon acceptance of delivery, the Customer accepts these Terms and Conditions.
- (2) Our offers are non-binding. Alterations and additions to the contract must be made in writing. This also applies to a decision to dispense with this requirement for written form.
- (3) The rights of the Customer arising out of this Contract can only be transferred to third parties with our consent.
- (4) The scope of delivery is in accordance with our written acknowledgement. We are only obliged to deliver in so far as it is possible to acquire the required raw materials, supplies and fuel with the relevant currency. Any reference to DIN (German Institute for Standardization) regulations is to be understood as a description of the contractual performance and not a warranty of specific characteristics. Drawings, illustrations, technical data, details of weight, dimensions and performance are meant only as a guide, unless they are expressly stated to be binding in the order acknowledgement. We retain rights of ownership and copyright to this documentation; third parties must not be granted access to it without our express authorisation.

## § 2 Prices

- (1) Unless agreed otherwise, our quoted prices include loading ex works or warehouse, and excluding statutory value-added tax and all other packaging and freight costs, customs duties and transportation insurance premiums, which are to be charged to the Customer.
- (2) Should the costs connected with the order increase substantially after conclusion of the contract, the contracting parties are obliged to agree an appropriate adjustment of the prices. If no agreement is reached, the contracting parties are entitled to withdraw from the contract. Any further claims are excluded.

## § 3 Payment terms

- (1) Unless an alternative written agreement has been reached, payment is to be made without any deduction within 30 days.
- (2) The withholding of payment or set-off against any possible counterclaims of the Customer that are disputed by us is not permissible. We are entitled, even contrary to the stipulation of the Customer, to set off his payments against another claim. Should the Customer default on payment to the sum of at least 10% of our overall claims against him, it shall be deemed agreed that:  
All our claims shall become payable immediately. We shall be entitled to make the further processing of all orders from the Customer subject to an advance payment or the furnishing of security, or to refuse further fulfilment after the expiry of a reasonable set additional period.

## § 4 Time limits for delivery, acceptance and call-offs

- (1) If delivery periods are agreed, these are to be calculated from the date on which the goods are made available ex works. Furthermore, they are only approximate. If the Customer does not fulfil his obligations, or if delivery is delayed as a result of unforeseeable or extraordinary events or events over which we have no control in our company or in any of our supplier or transport companies, then an appropriate extension of the delivery date shall be deemed agreed. The same applies in the case of strike or lock-out. Should the hindrance continue for longer than one month, we are entitled to withdraw from the contract. The delivery period begins on the date our order acknowledgement is issued, but not before all technical and commercial details have been settled. Any changes requested by the Customer in the execution of the product ordered have the effect of interrupting and extending the delivery date accordingly. Delays in returning documentation sent for approval also extend the delivery time.
- (2) Should the Customer default on acceptance of goods or services offered to him in accordance with the terms of the contract, he will be required to reimburse our costs at a rate of 25% of the invoice value of the goods, beginning one month after notification that the goods are ready for dispatch, without proof of how such costs have been incurred or the extent of such costs. The Customer is entitled to prove that we have incurred no losses or considerably lower losses.
- (3) We are entitled to otherwise dispose of the delivery goods after the granting and fruitless expiry of a reasonable period of time.

## § 5 Intellectual property rights

In the case of delivery on the basis of drawings, models or details supplied by the Customer, the Customer exempts us from all third-party rights. In the case of breach of contract by the Customer, his intellectual property rights shall not prevent our utilisation of the goods.

## § 6 Transfer of risk

All risk shall pass to the Customer as soon as the goods leave the supplier factory. If goods are taken back for reasons over which we have no control, then the Customer shall bear all risk until the goods are received by us.

## § 7 Warranty

- (1) Standard trade tolerances with regard to dimensions, amounts, weight, grain size, quality, colour, etc., are not grounds for complaint by the Customer. In case of doubt, the weight established by us is applicable. In case of complaint, the specifications agreed with the Customer are applicable.
- (2) Our technical advice and recommendations are based on appropriate examination, but are given without contractual obligation. In particular, checking whether the goods ordered or those suggested by us are suited to the purpose intended by the Customer is the sole responsibility of the Customer. A warranty of specific characteristics must always be given in writing. This also applies to any decision to dispense with the requirement for written form. The characteristics of the purchased object and the purpose for which it is intended are based solely upon our product description. Any other agreements reached must be confirmed in writing.
- (3) Complaints must be made in writing no later than two weeks after receipt of the goods. Hidden defects must be reported immediately when they are discovered. We have a right to examine goods about which complaints are made. Should the Customer not permit this, his claims shall lapse. In the case of a justified complaint, the Customer's rights are restricted to supply of replacement goods free of charge and free of freight costs, or repair by us.

- (4) Should repair or replacement fail, the Customer shall grant a reasonable additional period of time and can, after fruitless expiry of this period, demand either termination of the contract or reduction of the purchase price, at his option.  
More far-reaching claims by the Customer, particularly to reimbursement of processing costs, costs of assembly and disassembly and for damage not affecting the object supplied, are excluded as far as legally permissible.
- (5) If a partial delivery is defective, no rights in respect of the remaining partial delivery can be derived. We are entitled to refuse to fulfil claims based on defective performance as long as the Customer does not fulfil his obligations.
- (6) The following circumstances do not constitute defects:
  - damage resulting from normal wear and tear to wearing parts
  - damage caused by improper handling, particularly as a result of inadequate maintenance or lack of maintenance
  - damage caused by electrical connections in the building which do not conform to the regulations of the Federation of German Electrical Engineers (VDE)
  - damage caused by a failure to observe our operating and maintenance instructions.
- (7) In order that all repairs and replacement deliveries can be made which appear necessary to us in our fair judgment, the Customer must, after consultation with us, provide sufficient time and opportunity, otherwise we are released from liability for the defects. Only in the case of an emergency which endangers operational safety and to prevent disproportionately serious damage, in which case we must be informed immediately, or if we are in default regarding the rectification of defects, does the Customer have the right to rectify the fault himself or to have the fault rectified by a third party and demand reimbursement from us for the costs incurred.
- (8) Warranty claims lapse 24 months from the date on which the Customer takes possession of the goods. In the case of deliveries and services that are subject to contracts for work and services, the warranty period is 24 months from acceptance. If acceptance does not take place in our factory, it is deemed to have taken place if a declaration is made to us after delivery or if the goods supplied are utilised for the purpose intended.

## § 8 General limitation of liability

We restrict our liability for negligent breach of obligations by us or by our servants or agents to liability for contractually typical, foreseeable damage.

## § 9 Liability under the German Product Liability Law

- (1) Exclusions of liability under these Standard Terms and Conditions of Delivery, Assembly and Payment do not apply to claims of private consumers and users, irrespective of fault, under German Product Liability Law (Produkthaftungsgesetz).
- (2) We are only liable to the Customer for compensatory and recourse claims if it can be proven that we are responsible for a defect in the goods supplied by us.

## § 10 Retention of title

- (1) All the goods supplied by us remain our property (goods subject to retention of title) until all claims are fulfilled, in particular the balance claims due to us, regardless of the legal basis under which these claims arise. This also applies if payments are made in respect of specifically identified claims. The Customer is obliged to store and label separately the goods subject to retention of title.
- (2) Handling and processing of goods subject to retention of title are done for us as the manufacturer according to § 950 BGB (German Civil Code), without imposing any obligations on us. The processed goods are deemed goods subject to retention of title according to Clause 1 above. If the Customer processes, combines or mixes goods subject to retention of title with other goods, we attain co-ownership of the new object in proportion to the ratio between the invoice value of the goods subject to retention of title and the invoice value of the other goods used. If our ownership is extinguished through mixing or combination, the Customer herewith assigns to us his rights of ownership of the new object to the extent of the invoice value and holds them in safe custody for us free of charge. The rights of co-ownership arising under this clause are deemed goods subject to retention of title according to Clause 1 above.
- (3) The Customer may only sell the goods subject to retention of title in the ordinary course of business under his standard terms and conditions and as long as he is not in default, and only provided that the claims arising out of the resale in accordance with Clauses 4 and 5 are assigned to us. He is not entitled to dispose of the goods subject to retention of title in any other way.
- (4) The Customer's claims arising out of the resale of the goods are herewith assigned to us. They serve as security to the same extent as the goods subject to retention of title themselves. Any further assignment of these claims is excluded. We accept the claims.
- (5) If the goods in which we have co-ownership under Clause 2 above are sold, the assignment of claims applies in the amount of the co-ownership share or the invoice value. At our request, the Customer is obliged to immediately inform his buyer of the assignment to us and to provide us with the information and documentation required to enforce these claims. The Customer is obliged to inform us immediately of any seizure or impairment by third parties.
- (6) If the value of the existing securities exceeds the secured claims by more than 10% in total, we are to this extent obliged to release securities of our choice upon request by the Customer.

## § 11 Place of fulfilment and jurisdiction

- (1) The place of fulfilment for payments and for all other obligations is our registered office.
- (2) Jurisdiction is that of our registered office, including for actions filed under the special procedure for claims arising from bills of exchange and cheque payments. We are entitled to take action against the Customer at his place of general jurisdiction. This is applicable unless otherwise stipulated in an arbitration agreement in individual cases.
- (3) The law of the Federal Republic of Germany is exclusively applicable to all legal relations between the Customer and ourselves; application of the UN Convention on Contracts for the International Sale of Goods is excluded.

## § 12 Severability

Should individual provisions of these standard delivery and payment terms be completely or partially invalid or void, then the contracting parties are obliged to agree a provision by which the purpose and aim of the invalid or void provision is best achieved. For the rest, the valid contractual agreements are upheld.