

General Terms and Conditions for Delivery and Services

1. General Terms

All of our - also future - deliveries and services are performed exclusively based on these general terms and conditions, unless agreed otherwise in writing. The validity of any customer general terms and conditions is herewith expressly refuted no matter whether endorsed upon, delivered with or contained in the customer's acceptance or acknowledgement of this contract, purchase orders, specifications or similar documents. Agreements, especially to the extent as they modify these General Terms and Conditions become only binding by our written confirmation.

2. Offers

Our offers are not binding until we acknowledge the order in writing. Our offers must not be accessible to third parties.

3. Prices

3.1 Our prices are to be understood excluding VAT and any other statutory taxes and duties, ex works and excluding costs for packaging, delivery, insurances or acceptance.

3.2 VAT applicable on the day of delivery will be shown separately in our invoices. We are entitled to adjust our prices if new legal requirements come into force subsequent to the signing of the contract. This also applies if e.g. the state-of-the-art technology or the like should change.

3.3 Our prices apply only to undivided orders. Deviations require our written confirmation.

4. Terms of Payment

4.1 Payments must be made within 7 days from the date of invoice unless an explicit due date is shown on the invoice. The date of receipt of payment by us shall be decisive in determining whether the payment has been made on time.

4.2 In the event of late payment and irrespective of any further claims we are entitled to (a) stop further deliveries to customer or to (b) demand advance payments until all outstanding payments have been received. In case of delayed payment, we are further entitled to charge default interest at the level laid down by law on any amount owing for the period the payment is overdue plus reminder charges. Furthermore, we are entitled to terminate the contract without notice if the customer does not make a full payment despite reminder and grace period.

4.3 The customer has the right to offset only to the extent that his counterclaims are undisputed or legally valid. Furthermore, the customer is only entitled to offset if his counterclaim is based on the same contractual relationship.

5. Delivery / Time of Delivery

5.1 Unless agreed otherwise the delivery shall be ex works. The risk passes to the customer when the goods are handed over to the carrier. Agreed packaging will be billed to the customer.

5.2 When the goods are collected by the customer or the customer's agent the sole responsibility for loading and unloading in a way that is operationally safe and secure for conveyance and in full compliance with all relevant legislation will rest with the customer. We may on occasion provide assistance beyond our contractual and statutory obligations but in doing so does not undertake any additional responsibility and the customer or his agent holds us free from any claims made against us to this extent.

5.3 Unless confirmed by us in writing all delivery dates are not binding. Agreed delivery dates require the clarification of all technical questions and the fulfillment of all obligations of the customer, in particular also agreed advance payments. We have the right to make partial payments.

5.4 If we are prevented from fulfilling our obligations by an event for which we are not responsible, the dates are postponed by the duration of the obstruction plus a reasonable start-up time. If the further execution of the contract respectively the delivery become unreasonable for us due to the delay, we can withdraw from the contract. **5.5** Any statutory rights of withdrawal of the customer relate only to the not yet fulfilled part of the contract.

5.6 We shall not be responsible for any shortage, loss, damage or discrepancy in goods unless notified to us in writing within 3 working

days of receipt of the goods by the customer. This exclusion of liability shall not apply if the customer proves that it was not reasonably possible to notify us within this time period and that such notification was given as soon as was practicable and in any event within 3 working days after the customer became aware or could reasonably be expected to have become aware of the claim. If acceptance tests for goods are provided in the contract this clause 5.6 shall not apply to such goods and the customer will be deemed to have accepted such goods upon successful completion of the acceptance tests.

5.7 Where any shortage, loss, damage or discrepancy in goods is notified to us in accordance with clause 5.6 we shall at our option rectify the shortage, loss, damage or discrepancy in the goods free of charge or refund or forego an appropriate proportion of the price for the goods.

5.8 If full delivery cannot be made due to the customer's act or omission, such goods shall be deemed to have been delivered and we may charge for abortive deliveries or part deliveries and for storage of goods until delivered.

5.9 If full collection cannot be made due to the customer's act or omission we may charge for abortive journeys or part collection.

6. Obligations of Customer to cooperate

6.1 The customer shall provide us in due time and in full all documents and information that we need for the planning and execution of our deliveries and services. Furthermore, the customer shall immediately give us all approvals in relation to any documents subject to approval.

6.2 Insofar as we are commissioned with erection services, the customer carries all services and costs in relation to the provision and securing of the construction site, an adequate working space, storage space, electricity, water, heating, necessary scaffolding and working platforms.

7. Passing of Risk

The risk of loss and damage and costs passes to the customer once we have provided the goods ready for collection, but at the latest when the goods are handed over to the customer or forwarder.

8. Acceptance

8.1 Formal acceptance must only be performed if agreed in the contract. If acceptance is not performed in due time or not completely performed for reasons not within our responsibility despite our request, our services rendered shall be deemed to have been accepted at the end of the fifth day following the request. If a formal acceptance is not agreed, the acceptance effects occur after 10 days after our completion notification. In any case, the acceptance effects occur when our service is commissioned by the customer.

8.2 To the extent an acceptance is agreed upon for pure delivery transactions or is requested by us, the following applies in deviation to the preceding clause: Acceptance can only be performed in the workshop.

8.3 Acceptance may not be declined due to trivial defects which do not substantially impair usability.

9. Defects in Deliveries and Services

9.1 We must be immediately notified of defect. After acceptance the complaint of defects, which was detectable at acceptance, is excluded.

9.2 By our choice, we will repair or take back defective deliveries and replace them with faultless deliveries.

9.3 Any warranty claims shall lapse 12 months from the transfer of risk except in the case where the customer is a consumer in which case claims shall lapse after 24 months.

9.4 If the above provisions restrict the statutory warranty rights they shall not be applied if we have maliciously concealed the defect or have given a guarantee for the properties of the item.

9.5 The customer shall only have a right of recourse against us under clause 478 of the German Civil Code if the customer has not admitted contractually to his buyer any warranty rights above and beyond the statutory warranty rights.

9.6 The customer's right to make claims for compensation resulting from defects in the purchased items is subject to the restrictions in section 10 (Liability).

9.7 We do not warrant that the delivered goods are suitable for the customer's intended use or process.

10. Liability / Claims for Compensation

10.1 Our liability – irrespective of the legal reason – is limited to damage caused by us or our agents intentionally, by gross negligence or carelessly by the violation of obligations important for the fulfilment of the purpose of the contract. The obligations which are essential for the fulfillment of the contractual purpose are those whose infringement would endanger the object of the contract and on which the customer may rely on.

10.2 In cases of careless violation of obligations important for the fulfilment of the purpose of the contract, the level of our liability is limited to the damages typical for comparable transactions of this type which were foreseeable on conclusion of the contract or, at the latest, when the obligations were violated.

10.3 A further liability to compensation as in the clauses mentioned above is excluded, irrespective of legal basis. We are not liable for indirect and / or consequential damages, such as loss of profit or loss of production.

10.4 Claims for compensation under the Product Liability Act, due to the lack of a guaranteed characteristic and arising from death, physical injury, damage to health or based on other compulsory legal requirements shall remain unaffected.

10.5 The above provision does not imply any change in the burden of proof to the detriment of us.

11. Force Majeure

11.1 All events attributable to Force Majeure for example but not limited to war, civil unrest, natural disasters, lightning strike, orders from higher authority, strikes, lockouts, disruptions in the supply of energy and raw materials, resource scarcity, unusual traffic and road conditions, damage to machines not caused by a lack of proper maintenance, late delivery or failure to deliver on the part of upstream suppliers and any other events and operating problems for which no blame can be ascribed to us shall release us from our contractual obligations for as long as such events last and for the scope of their effect.

11.2 The provisions of clause 11.1 also apply if the above circumstances occur at the premises of subcontractors.

11.3 Where one or more force Majeure events have occurred during the term of the contract we shall be entitled to extend the term of the contract for a period equal to the cumulative number of days during which Force Majeure occurred during the original term of the contract.

11.4 If we are not able to supply the customer with product from its normal source of supply due to a Force Majeure event we have the right to supply the product to the customer from another source and charge all reasonable extra costs thereof unless the customer notifies us in writing that he does not need the product during the period of Force Majeure.

12. Retention of Ownership / Intellectual Property Rights

12.1 The delivered goods shall remain our property until full payment of all liabilities arising from the business relationship. If the customer violates the contract and especially if he defaults on payment, we are entitled to set an appropriate deadline and to take back the goods if this expires without result. If we take back the goods this is not regarded as withdrawal from the contract unless the customer is a consumer.

12.2 The customer is not allowed to pledge the goods in which ownership is retained or to offer them as security.

12.3 Working and processing of the reserved goods are carried out for us as a manufacturer within the meaning of § 950 German Civil Code, without obligation to us. In the processing, connection and mixing of the reserved goods with other goods by the customer, we are entitled to co-ownership of the new thing in proportion of the invoice value of the reserved goods to the invoice value of the other goods used.

If our property lapses due to combination or mixing, the customer hereby assigns to us the property rights to which it is entitled to the new stock or the item to the extent of the invoice value of the reserved goods and stores it for us free of charge. The claims from any resale of the reserved goods are already assigned to us.

If the reserved goods are resold by the customer together with other goods not delivered by us, the claims arising from the resale or the respective balance claims shall be assigned to us in proportion of the invoice value of the reserved goods to the invoice value of the other goods.

12.4 If the value of the existing securities exceeds the secured claims by more than 10%, we are obliged to release securities of our choice at the request of the customer.

12.5 We retain the right to all intellectual property rights in our drawings, specifications, data and all other information and documents that we have prepared for the customer in whatever medium.

13. Form of Notices

All changes and additions to this contract require the written form to be effective. The same applies to the termination of the contract.

14. Data Privacy

The Parties undertake to comply with the applicable data protection rules.

15. Confidentiality

The parties shall be obliged to maintain silence as regards the content of this contract and all commercial and technical details related thereto and to refrain from disclosing information of this nature to third parties.

16. Invalidity

If any provision of this contract or any provision included in it later is or becomes null or invalid in whole or in part or if there is any omission in this contract this shall not affect the validity of the other provisions and the parties will meet to agree a valid replacement provision that is similar in meaning and effect.

17. Place of Jurisdiction / Applicable Law

17.1 The Place of jurisdiction is – according to our choice – Dortmund / Germany or the domicile of the customer, insofar as he is a registered trader, a legal entity under public law or a special fund under public law.

17.2 The law of the Federal Republic of Germany shall apply, excluding the United Nations Agreement on Agreements covering the international sale of goods (UN Purchase Law).