

## **GENERAL TERMS AND CONDITIONS, GENERAL TERMS OF DELIVERY AND PAYMENT**

### **I. General matters**

1. The following terms and conditions shall apply to all our offers and all contracts entered into with us, including any consultations and other contractual services or pre-contractual negotiations, unless otherwise agreed in writing. General terms and conditions of the customer shall not apply. We hereby explicitly object to them.
2. Our offers are subject to change without notice. Our order confirmations or letters of confirmation shall be decisive for the content of the contract. Any oral statements and statements made on the phone by our representatives and employees, as well as any collateral agreements, shall only be effective and binding upon confirmation as such in writing.
3. Any figures, drawings, weight specifications, descriptions, etc. in any offers, price lists, and other general printed matter shall be prepared or determined to the best of our ability, but shall only be approximate indications unless they are explicitly designated as binding. We retain title, as well as any copyrights or other (intellectual) property rights in any cost estimates, drawings, and other documents. They must not be made accessible to any third parties, in particular not to any companies competing with us. Any drawings and other documents must be returned to us on first demand upon request.
4. We reserve acceptance of an order in any case even after submitting a quotation.

### **II. Offer/offer documents**

1. Our offers are subject to change without notice, except if otherwise stated in the order confirmation. This shall also apply to information in brochures and advertisements, etc. Declarations of acceptance and any orders must be confirmed by us in writing or by telex (fax or email) to be legally effective.
2. The figures, drawings, weight and dimensional data as well as any other documents attached to the offer shall merely describe the individual article without being binding.
3. We hold title as well as copyrights or other (intellectual) property rights in any figures, drawings, weight and dimension specifications as well as any other documents. This shall also apply to written documents that are designated as "confidential". The customer shall require our explicit written consent before passing them on to any third parties. The documents must be returned to us upon request.

### **III. Deliveries, delivery periods**

1. The delivery period shall commence on the day of our order confirmation, but not before all details of the order have been fully clarified and not before any necessary official permits and other documents to be procured by the customer have been provided. In this case, the delivery period shall commence on the day on which these documents are received. We shall not be bound to the contractual delivery period if clarification and approval of the plans does not take place in time or if the customer does not comply with the agreed terms of payment.
2. Correct and timely delivery by our suppliers is reserved.
3. If we are partially or entirely prevented from complying with our delivery obligations by force majeure, strike, lockout, or unexpected events that could not have been avoided in spite of the reasonably expected precautionary measures, no matter if they occurred in our factory or at a supplier's site, including operational disruptions, national and/or international measures to contain and/or prevent the further spread of transmissible diseases within the meaning of the Infection Protection Act (*Infektionsschutzgesetz*; IfSG) or any other health-related restrictions or conditions, official interventions, shortage of energy or raw materials (events), the delivery period shall extend appropriately. If such obstacles render delivery subsequently impossible or unreasonable for us, we shall have the right to withdraw from the contract wholly or in part. Withdrawal on the part of the customer shall be excluded in these cases.
4. We shall make partial deliveries at the customer's request with or without charging prorated shipping costs at our discretion.
5. In the event of our default of delivery, the customer must set us a reasonable grace period and send us a reminder for the performance that remains to be rendered in any case.
6. If there is any delay of delivery due to our fault and if the customer suffers any damage from this delay, it may demand compensation for delay in the amount of the damage it can prove and that was foreseeable at the time of conclusion of the contract, up to 0.5% of the remuneration for each full week of the delay, but not exceeding a total of 5% of the remuneration



for the part of the delivery that cannot be used appropriately due to the delay.

7. If dispatch is delayed at the customer's request or due to its fault, it shall be charged the costs incurred for storage, commencing 10 days after notification of readiness for dispatch. Subject to higher expenses, we shall charge a flat-rate compensation of 0.1% of the remuneration per calendar day for this purpose, up to a maximum of 5% of the remuneration and limited to the damage expected in the regular course of business. In this case, the risk of accidental loss or accidental deterioration shall pass to the customer upon notification of readiness for dispatch.

#### IV. Performance

1. Our delivery or performance obligation shall be deemed met when the delivery items have been completed and are ready for dispatch, the execution complies with the contractual regulations and the customer has been notified of readiness for dispatch.
2. Any changes to the design of the delivery item requested by the customer after confirmation of the order can only be considered free of charge if the change does not lead to any additional costs. We shall invoice any changes made at the customer's request after performance without exception.

#### V. Prices, terms of payment

1. Our prices are quoted ex place of delivery, excluding statutory VAT at the current rate. Proportional shipping costs such as postage, packaging, and loading at the factory shall be charged to the customer for any order.
2. All payments shall be made free of charge to our paying agent without deductions, unless special agreements have been made:
  - 30% of the order value upon order confirmation
  - 30% of the order value upon delivery or start of assembly or notification of readiness for dispatch
  - 30% upon commissioning
  - 10 % upon acceptance by the client, but no later than 30 days after commissioning.Any agreements deviating from the above are considered special conditions and must always be agreed in writing.
3. Offsetting against us is only permissible if the claims are accepted by us or have been finally established. Retention rights shall be excluded, except if they are based on the same contractual relationship. If any retention right applies, however, the customer must only withhold payments at a reasonable proportion to the counterclaims until the counterclaims have been settled.
4. If the payment date is exceeded, we shall charge interest at the rate of 1% per month, without the need for a formal notice of default. If the customer defaults on payment or if circumstances become known after conclusion of the contract that cast doubt on its creditworthiness, we shall have the right to declare all outstanding claims, including those for which bills of exchange were provided, immediately due and payable and to make any outstanding deliveries, subject to removal of the payment deadline, only against advance payment or provision of adequate collateral. This shall not affect any further claims on our part.

#### VI. Retention of title

1. We retain title in the delivery item until our claims against the customer or the companies of its group arising from the business relationship, including any future claims arising from contracts concluded concurrently or at a later time, have been settled in full.
2. If we procure the means for payment of the purchasing price for the customer by endorsing a bill of exchange issued by us and accepted by the customer for discounting (bill of exchange - cheque procedure), title in the goods shall only pass to the customer once the bill of exchange has been honoured by it and we are thus released from the liability resulting from the bill of exchange.
3. The customer shall perform any finishing or processing for us without any obligations arising for us from this. If the customer processes any goods subject to reservation of title with any other goods, we shall be due shared title in the new products in the ratio of the value of the processed goods subject to reservation of title to the other goods at the time of processing or finishing. The customer hereby assigns its shared title resulting from the combination, blending, or mixing of the delivered goods with any other objects to us. We accept this assignment. The customer shall have possession of the products and keep them as a custodian for us with commercial care.
4. The customer shall provide us with information on the inventory and condition of the goods in its possession and subject to our sole or shared title upon request at any time. It shall mark such goods.

5. The customer must only sell the delivered goods and the products resulting from their processing or finishing, their combination, blending, or mixing in its ordinary course of business and subject to retention of title. The customer hereby assigns any claims it is entitled to from the resale, further processing, or for any other legal reason concerning the goods subject to reserved title to us as collateral up to the amount of the value of the resold goods or the sales proceeds if it falls short of the value of the goods. We accept this assignment. The customer shall be obligated to inform its purchasers of the assignment upon our request and to provide us with the information and documents necessary for assertion of its rights on first request. As long as the customer meets its obligations, it shall be authorised to collect the assigned claims. If it has entered arrears, it shall immediately transfer any amounts received for the assigned claims to us. Any other claims of the supplier arising from the customer's default shall not be affected by this. If the value of the collateral exceeds our receivable by more than 25%, the customer shall be entitled to demand release of collateral to this extent.
6. Transfers as collateral and pledging of the goods subject to retention of title and any other dispositions that endanger our rights are not permitted. The customer must notify us immediately of any actual or legal access to the goods subject to retention of title or the assigned claims by any third parties, of the loss of or any damage to the goods subject to retention of title. It shall hand over the documents necessary for intervention in this case. The customer shall bear any costs for the intervention.
7. The customer shall be obligated to insure the delivered goods and the products manufactured from them against accidental deterioration or accidental loss, including the risk of fire and theft, and to provide us with evidence of conclusion of the insurance policy on first request.
8. We may revoke the authorisation to process, transform, or combine the delivered goods with any other movable objects in accordance with item 5, as well as the right to resell the goods subject to retention of title and to collect the assigned claims, if the customer engages in any conduct that is in breach of contract, in the event of significant deterioration of the customer's financial position, in the event of the customer's insolvency or overindebtedness, or if the customer enters default with payment of claims arising from the business relationship.

#### VII. Assembly

1. Our special terms for assembly shall apply if we perform assembly. As far as these are not attached to our order confirmation, the assembly terms can be found on our website.
2. Earthwork, masonry, and carpentry work as well as the tools, lifting gear, scaffolding, materials, electricity, and water required for this shall not be included in our deliveries if we have taken over assembly, even if a flat rate is invoiced.

#### VIII. Shipping, passing of risk

1. Shipping shall take place based on our dutiful discretion. We shall insure the shipment against breakage, transport, and fire damage at the customer's expense, unless otherwise agreed in writing.
2. Risk shall pass to the customer as soon as the delivery has left our warehouse or any other designated place of dispatch, even if freight-free delivery is agreed. If dispatch of the goods is delayed by the customer or its representative, the risk of loss or deterioration of the goods shall pass to the customer on the day of readiness for dispatch.

#### IX. Inspection methods, quality

1. The inspection methods usually applied by us shall be used for examinations of the delivery item, generally based on the standards of DIN Deutsches Institut für Normung e.V. Quality assurance of our material shall be performed in the form of quality controls that are continually performed by us at our headquarters.
2. We shall only issue certificates for material inspections of any kind if agreed in writing, based on the quality controls performed at our headquarters in the form of quality controls that we continually perform at our headquarters. In case of doubt, only a "certificate of compliance with the order" shall be issued.
3. Any quality control performed shall not replace the other party's obligation to inspect and report any defects. The other party shall be responsible for compliance with statutory, authority, or other regulations and provisions when using our deliveries, services, etc.
4. The other party shall be obligated to use our deliveries, services etc., properly, to store them properly if necessary, and to protect them from incompatible influences. Wear and tear typical for the contract shall not constitute any breach of duty on our part.

5. If the other party exports the delivery to any other countries, also if it is processed by it, we shall not be liable for the exportability of our deliveries, services, etc., nor for freeness from permit requirements or free import into the export countries, except if we have made such representations in writing.

#### X. Liability for defects

Except if the customer has caused any modifications and repairs of the delivery item without authorisation, we shall be liable for defects of the delivery, including the lack of warranted properties, as follows, excluding any further claims:

1. We shall, at our discretion, improve or re-deliver any parts that verifiably become unusable as a result of a circumstance occurring before passing of the risk due to faulty design, poor materials, or defective workmanship, or any parts for which usability is significantly impaired due to these causes within 6 months (within 3 months in the case of multi-shift operation) after passing of the risk free of charge. Any such defects found must be reported to us in writing without undue delay. We shall not be liable to pay compensation for consequential costs, e.g. assembly costs for the installation and removal of such parts, downtime costs, etc. If shipment of the delivery item is delayed without any fault on our part, liability for defects shall expire at the latest 12 months after receipt of the notification of readiness for dispatch. We shall acquire title in any replaced parts. We shall not be liable for any defects other than those listed here.
2. Our liability for any defects shall expire if the customer does not meet its contractual obligations, in particular if it does not comply with the agreed payment terms.
3. The customer shall grant us the necessary time and opportunity to make all arrangements we consider necessary and to deliver replacement or spare parts. If this is refused, we shall be exempt from liability for defects.
4. The customer shall be entitled to withdraw from the contract or to demand reduction of the remuneration if we allow a reasonable grace period set for improvement or replacement delivery due to an existing defect to expire unsuccessfully due to our fault or if improvement or replacement delivery is finally rejected by us without justification or has finally failed.
5. We assume no warranty for suitability of our goods for a specific purpose if the specific use does not result from written instructions enclosed with the goods or if suitability for a specific purpose has not been explicitly confirmed by us in writing. In any case, the customer shall be obligated to verify suitability of our goods for the intended purpose in detail in advance.
6. We assume no warranty for any damage incurred after passing of the risk due to incorrect or negligent handling, excessive stress, defective construction work, unsuitable equipment, or as a result of influences of temperature, weather, electrochemical, chemical, or electrical nature, provided that these are not due to our fault.
7. We or our vicarious agents shall only be liable for damage that occurs within the scope of the warranty due to breach of secondary contractual obligations, consulting errors, tort, culpable breach of the obligation to remedy defects or to make a subsequent delivery, or any other legal reason in cases of intent or gross negligence on our part. In the case of commercial transactions, claims for damages shall be excluded even in the absence of warranted properties if the warranty did not serve the specific purpose of avoiding consequential damage from a defect.
8. If we do not accept any notices of defects submitted in time, the customer's right to assert claims arising from a defect shall expire 6 months after the date of the timely notice of the defect, but no earlier than one year after delivery or upon expiry of the warranty period if such a period has been agreed.
9. We shall only assume the liability that the manufacturers have also assumed towards us for any chains, wire ropes, conveyor belts, motors, couplings, and other third-party products, but we shall be liable for the correct selection and calculation of such third-party products. We only accept liability for proper function of our systems if the installation is performed by our special fitters.

#### XI. General liability

1. Claims for damages of any kind against us or our vicarious agents – in particular for breach of ancillary contractual obligations, for culpa in contrahendo, for tort – shall be excluded, except if we have acted with intent or gross negligence or if an exclusion of liability is not legally permissible for other reasons.
2. In all cases where liability cannot be excluded but may be limited in amount in commercial transactions in cases of gross negligence or in these and non-commercial transactions also without gross negligence, liability shall always be limited to the proven damage foreseeable at the time of conclusion of the contract, but at most to the sales price

- of the product delivered by us to which the claims for damages refer or from which they result.
3. As far as liability for damages against us is excluded or limited, this shall also apply concerning the personal liability for damages of our employees, workers, staff, representatives, or other vicarious agents.

XII. Place of performance, place of jurisdiction, applicable law, miscellaneous

1. The place of performance for delivery and payment shall be Leiblfring.
2. We shall have the right to collect, store, change, transmit, or use data of the customer that we have received from the business relationship, as far as the other party can dispose of it itself.
3. The place of jurisdiction for any disputes – including any actions on bills of exchange and cheques – shall be Regensburg, provided that the customer is a full merchant, a legal entity under public law, or a public-law special fund, or has no general place of jurisdiction in Germany. We shall also be entitled to take legal action against the customer at its place of business at our choice.
4. The contractual relationship shall be subject to German law. Application of the United Nations Convention on international sales of goods (UN sales law) as amended from time to time shall be excluded.
5. Legal invalidity of individual parts of the contract or individual contractual provisions outside of these general terms and conditions of purchase shall not affect the legal validity of any other part of the contract. In this case, the contracting parties shall replace any invalid provision by such valid provision that comes as close as possible to the economic purpose of the invalid provision. In this case, the statutory rules shall apply as far as supplementary interpretation of the contract is required for the purpose of closing of gaps.
6. The above terms of delivery shall also be deemed agreed for any subsequent transactions.