

## I. Applicability

All contracts of delivery are concluded and executed in accordance with our terms and conditions set forth herein. Orders received from the purchaser shall be construed as acceptance of these terms and conditions. Any different terms, including conflicting terms of the purchaser, and any amendments or addenda to the contracts of delivery must be confirmed by us in writing if they are to become legally effective. Should any individual provisions of these terms be invalid, this shall not affect the validity of the remaining terms and conditions.

## II. Conclusion and contents of contracts of delivery

- Orders placed with us require written confirmation of acceptance from us. Such confirmation shall determine the scope of our obligations to deliver. This shall also apply where an offer has been made by us prior to the conclusion of the contract.
- All illustrations, drawings and data concerning weights and dimensions shall, unless expressly confirmed as binding, only be approximate. We shall retain title and copyright rights with respect to all quotations, models, patterns, plans, illustrations, drawings and other documentation. These may not be duplicated or, in particular, made accessible to companies competing directly or indirectly with us without our written consent. In cases where a contract is not concluded, we retain the right to demand the return of all our documentation.
- Any errors in printing, spelling or calculation, or similar, shall not be binding upon us where the error is obvious for the purchaser or where acceptance of the delivery can reasonably be expected of the purchaser on the basis of corrected data, in consideration of our interests.
- Where, as a result of continuing product development, changes are made to our products subsequent to the conclusion of the contract, we shall be entitled to supply the modified product version. We are thereby entitled to supply goods which are different from models, patterns, plans, illustrations, drawings, descriptions, colours and any data concerning weights, dimensions, quality or other data, provided that these are reasonable for the purchaser in consideration of our interests.

## III. Prices, insurance

- All prices are ex-works exclusive of packaging and transport insurance.
- Packaging shall be charged at cost price and is non-returnable. No credit shall be given for returned packaging.
- Transport insurance shall be concluded by us for the account of the purchaser unless he instructs otherwise or collects the goods himself. The insurance charge shall be ½% of the value of goods ordered. Any damage to goods must be confirmed in writing by the railway authorities or carriers.
- Where changes occur in the basis of costs, we reserve the right to charge prices valid on the date of delivery.
- Turnover tax at the current rate shall be added to prices charged for domestic deliveries.

## IV. Terms of payment

- Our invoices are payable in cash with a discount of 2% within 14 days of the date of the invoice or notification of readiness for dispatch, or without deductions within 30 days of the date of the invoice or notification of readiness for dispatch.  
**Invoices for installations and repairs are not subject to discount and are payable immediately.**
- In the case of contracts of delivery with a value in excess of € 25.000,- 1/3 of the price shall be payable upon receipt of the order confirmation and 2/3 upon receipt of the goods or of notification of readiness for dispatch.
- Credit notes for bills of exchange or cheques shall be valid dependent on receipt, notwithstanding any earlier date of payment of the purchase price where the purchaser is in default. They shall be accepted at their value on the date on which we receive their countervalue. Any discounts, expenses and duties on bills of exchange shall be charged to the purchaser. **Where we are liable to a bill of exchange, no discount shall be made.**
- Where payment is not made within 30 days of the date of payment stipulated under 1 above, or within the period stipulated under 2 above, the purchaser shall be deemed to be in default upon expiry of such periods, without the issue of any demand for payment. In the event of default, default interest amounting to 4% above the applicable Lombard rate of the German Federal Bank shall be charged. We reserve the right to make further claims for damages arising from default.
- Where the purchaser fails to comply with the terms of payment, or where circumstances arise which are likely to adversely affect the creditworthiness of the purchaser, all amounts due to us shall become payable immediately. In such cases, we shall be entitled to demand advance payment for contracts not yet performed or, upon expiry of a reasonable extension period, to rescind the contract or to claim damages for non-performance. We shall further be entitled to prohibit the purchaser from reselling the goods and to regain possession of them.
- The purchaser shall not be entitled to withhold payment due to claims outstanding to him, nor to set payments off against any such outstanding claims, where such claims are contested by us or are not established by a court.

## V. Delivery

- Delivery times are given to the best of our ability, such that they can be met in cases of normal production operations. Delivery periods commence on the date of our confirmation of the order, though not before all details of the goods to be supplied and of all other conditions to be fulfilled by the purchaser, including any agreed advance payments, have been finally settled.
- The delivery date shall be deemed to be met where notification of readiness to dispatch is given on time. This shall also apply where dispatch is not carried out or is delayed for reasons for which we are not responsible.
- We shall be entitled to make deliveries or partial deliveries before the end of the delivery period.
- The agreed delivery period shall be extended, notwithstanding our rights arising from default on the part of the purchaser, by the period by which the purchaser is in default of payments due to us.
- The delivery period, and that of our suppliers, shall be extended correspondingly in the case of measures arising from industrial disputes, in particular strikes and lockouts, and in the event of unforeseeable obstacles which are beyond our control, in as far as such obstacles can be shown to have a significant influence on the completion or supply of the ordered goods. We shall not, furthermore, be responsible for any delay caused in this way where the aforementioned circumstances arise during a period of default.
- Where we are responsible for failure to deliver on time, the purchaser may, in cases where such damage has actually occurred, demand compensation for delay for each completed week of the delay amounting to 0.5% up to a maximum of 2.5% of the value of the item in relation to which damage has occurred due to late delivery. All further claims on the part of the purchaser arising from failure to deliver on time, in particular claims for damages, are excluded, also after the expiry of any extension period. This provision shall not apply where liability exists under law due to intent or gross negligence. The purchaser's right to rescind the contract where a further extension has not been met is not affected by this provision.

7. The delivery of goods which have been declared ready for dispatch shall be requested immediately. Where this is not the case, we shall be entitled to store goods at our own discretion at the cost and risk of the purchaser. Where the purchaser is in default in taking delivery, we shall be entitled to demand compensation, without proof of damage, amounting to 0.5% of the invoiced amount for each commenced month. We reserve the right to claim other damages.

## VI. Passing of risk, dispatch

- The risk passes (also in the case of partial deliveries) to the purchaser upon delivery of goods to him or, in cases of dispatch (including where our own transport is used or goods are delivered free of charge) where loading is completed at the works or the consignment store. The risk passes (also in the case of partial deliveries) to the purchaser when goods are ready or are notified as ready in cases where the delivery or dispatch is delayed or prevented by circumstances for which we are not responsible. The dispatch route and means of transport are chosen at our discretion.

## VII. Retention of title

- All delivered goods shall remain our property until such time as all payments, including those which may become due in future, have been paid, and until such time as any contingent liabilities have been settled. This shall also apply to payments relating to any struck and accepted balance in the case of open accounts.
- The processing of reserved goods undertaken by the purchaser shall be carried out on our behalf. Contrary to the provisions of § 950 BGB (German Civil Code), the purchaser does not acquire title. No obligation shall arise on our part from the processing of such goods. In cases covered by § 947 and § 948 BGB (combination and commixtion) the purchaser transfers title or joint title to the new items to us with immediate effect and holds them on our behalf. Where, for whatever reason, title does not pass to us, the purchaser shall assign to us with immediate effect any claims under § 951 BGB.
- Reserved goods shall be held and stored separately from other goods. The purchaser shall only be entitled to sell reserved goods in the ordinary course of business, and not e.g. by way of pledge or of transfer of ownership by way of security. The purchaser shall inform us without delay of any imminent or executed levy of execution or of any other impairment of our rights by third parties.
- With immediate effect the purchaser assigns to us by way of security all claims arising from the resale of reserved goods, including any subsidiary rights. At our request, the purchaser shall be obliged to notify his purchasers of such assignment and to submit to us all documents necessary for the assertion of our rights. Until such time as we assert our right to collect outstanding accounts, which we are entitled to do at any time, the purchaser shall be entitled and obliged to do so and shall transfer the amount collected to us without delay.
- Where the value of securities exceeds the value of the debts secured by more than 25%, we shall be obliged, at the request of the purchaser, to release securities. Such securities shall be selected by ourselves.
- The assertion of our right to reserve title or to seize goods by way of execution shall not constitute rescission of the contract, except under relevant provisions of the Abzahlungsgesetz (German law on instalments).

## VIII. Warranties, liability

- We provide a warranty as stated below against defects in our goods and services and against nonconformance, provided it can be shown that such defects or nonconformance existed on the date on which risk passed to the purchaser, provided that the defect has arisen within six months of installation or within twelve months at the latest of the passing of risk and the purchaser has notified the defect in writing without delay.
- We shall repair defective parts or replace goods at our option. Any replaced parts shall become our property.
- Warranties in respect to goods delivered outside the Federal Republic of Germany are restricted to claims which would have arisen at the crossing of the border in the case of warranty claims.
- Our liability in respect to items not wholly of our manufacture shall be limited to the assignment of liability claims to which we are entitled against the supplier of the item in question.
- No warranty shall apply where the purchaser makes alterations or repairs to the item delivered without our prior consent, or allows third parties to make such alterations or repairs, without first giving us time and the opportunity to make such repairs ourselves. Only in urgent cases where operational safety is threatened or in order to avert particularly serious damage, of which we shall be informed immediately, or where we are in default in making good the defect, shall the purchaser be entitled to repair the item or to have it repaired by a third party and to demand payment from us for the work carried out. No warranty shall apply where the purchaser has failed to fulfil his obligations under the contract, in particular where he is in arrears, or partly in arrears, with payments.
- A warranty period of three months shall apply to replacement parts and repairs. The warranty shall, however, remain in effect at least until the expiry of the original warranty for the item supplied.
- Where any repairs or replacements provided by us are defective, or are not carried out, and remain defective or not carried out after the expiry of a reasonable extension period, the purchaser shall in the first instance be entitled only to a reduction in price. Where agreement cannot be reached on the extent of any such reduction, the purchaser shall be entitled to repudiate the contract.
- The purchaser's right to assert claims arising from defects shall lapse six months after the date of any duly submitted written complaint, and not earlier than upon expiry of the warranty period.
- No warranty shall be given in cases of damage caused by inappropriate or improper use, incorrect installation or operation, natural wear and tear, excessive use, incorrect or negligent treatment, unsuitable operating materials, chemical, electrochemical and electrical influences, etc., unless these are caused by our fault and an exclusion of liability is not admissible under law.
- Any further claims on the part of the purchaser other than those stipulated under 1 to 9 above, of whatever kind, in particular claims for damages other than warranty claims, are excluded as far as this is admissible under law.

## IX. Place of performance, venue, governing law

- The place of performance for delivery and payment, and the venue for all litigation arising in connection with this contract, shall be Speyer.
- German law under BGB (German Civil Code) and HGB (German Commercial Code) exclusively shall apply in addition to provisions contained in contracts of delivery and these terms and conditions of sale and delivery.