

Terms and Conditions (August 2017)

1. General provisions

1.1 The provisions outlined below apply to all advice, offers, sales, deliveries and other services as well as all current and future legal relationships between ourselves and our clients, with the provision no other individual regulatory provisions apply. It is expressly stated here that none of the purchasing provisions of our clients contradict these terms and conditions or other applicable legal provisions, either in whole or in part. Furthermore, even should we complete a delivery in the knowledge that such contradictory provisions exist, they shall not be considered to be part of the contract.

1.2 The contractual relationship is governed solely by German law. The UN Convention on Contracts for the International Sale of Goods does not apply.

1.3 Additional oral agreements do not apply. Individual agreements that do not meet with these terms and conditions, in particular with our authorised representatives, are considered binding only where and when confirmed by us in writing.

1.4 Our offer is always made subject to confirmation. Contracts, even those made on trade fairs or by our authorised representatives are only valid in accordance with a written confirmation and only after receipt of an official customer order.

1.5 The nature of contractual goods is exclusively described in our offers, confirmations of orders and respective documents, without a guarantee in accordance with Article § 443 of the German Civil Code.

1.6 A possible packaging surcharge may be applied with the net cost price and taken back in the pertaining plant or in the pertaining warehouse, provided that this is arranged by contract or it compulsory by law.

1.7 Rental packaging is charged on a daily base, provided that it has not been sent back carriage paid within 21 days upon receipt of the contractual goods by the customer.

2. Prices

2.1 Unless expressly agreed otherwise, our delivery prices apply ex works including loading of the HGV or carriage and exclusive of turnover tax and packaging.

2.2 Should the price calculation basis change subsequent to signing the contract, e.g. as a result of an increase in wage and equipment costs, turnover tax or any other circumstances, in particular of a technical nature, we shall be entitled to raise the contractual price proportionate to the alteration in the calculation basis. This provision applies equally to call-off orders.

3. Delivery and delivery deadlines

3.1 Delays are not at our expense, should the customer fail to meet his/her contractual obligations whatsoever or not in time, especially if he/she has to obtain approvals of authorities, third parties, implementation plans, documents for the specification of the contractual goods, clarification of all technical details and deposits.

3.2 Should the solvency of the client be called into question subsequent to signing the contract, e.g. in the form of late payments, discontinuation of payments, an application to initiate insolvency proceedings, transfer of ownership of current assets as security on a debt, unfavourable information

released by a bank, credit institute or credit insurer, we shall be entitled to withdraw our services and, having sought to no avail to recover surety in the form of directly enforceable bank guaranties, bank guarantees or advances within a specific deadline, to terminate the contract and/or claim compensation. No such deadline shall be required where the solvency of the client is clearly disputed.

3.3 All delivery deadlines confirmed are non-binding dispatch dates. We are entitled to deliver in batches where the delivery goods can be easily split and are also entitled to deliver ahead of deadline provided we provide prior notification of this.

3.4 An appropriate delivery deadline that is no less than 6 weeks from the call shall be agreed for all call-off orders. Where no production and acceptance dates are agreed, we shall be entitled to demand that binding dates be set 3 months at the latest from confirmation of the order. Should the client fail to respond to this request within 3 weeks from the date on which the letter was sent, we shall be entitled to set a 2-week extended deadline and, should this deadline pass without any reaction from the client, claim compensation and/or withdraw from the unfulfilled part of the contract. The same shall apply should the client fail to collect the contractual goods, or parts thereof, by the delivery deadline or should the delivery of said goods, or parts thereof, be prevented through actions of the client.

3.5 Should circumstances that are outside our control, hamper, delay or prevent the completion of any orders accepted, we shall be entitled to postpone the delivery, remaining delivery or partial delivery by the time for which the problematic circumstances persist, or alternatively to terminate the contract either in whole or in part. In the latter case, the client shall not be entitled to claim any compensation whatsoever. Circumstances that are outside our control are, for example, interventions by the authorities, interruptions to operations, strikes, lock-outs, work disruptions caused by political or economic circumstances, shortages of the necessary raw materials and other supplies, energy supply problems, transport delays caused by traffic problems and all other unavoidable situations to which we, our suppliers or third companies on which our business depends, are subject. This clause also applies if we have already fallen behind schedule when such circumstances arise.

3.6 The client may only extend the delivery deadline once the deadline initially agreed has been exceeded by more than 2 weeks. The extension must be adequate and a minimum of 3 weeks. Should we fail to make the delivery by the extended deadline, the client shall be entitled to terminate the contract. The client shall not be entitled to claim compensation from us for failure to fulfil our contractual obligations unless we act with gross negligence or cause personal injury

3.7 The service with the predefinition "Free delivery - Construction site" includes the transportation. In the case given, the customer is bound to provide suitable access drives or roads. With unloading times of more than 1.5 hours (per vehicle) as well as with non-acceptance, the customer is obliged to pay the entire costs for the return transportation and new delivery.

3.8 The service with the predefinition "assembly finished" includes assembly personnel, lifting tools and accessories for the finished parts as well as technical processing according to the performance index. Our customer is obliged to provide energy and water as well as areas for the assembly, storage and location sites for cranes etc. at the construction site, on schedule and free of charge.

4. Dispatching and liability

4.1 We dispatch all contractual goods ex works at the risk of the client, even where the freight and other costs are borne by us. We only insure the contractual goods against damage during transport at the express written instruction and at the expense of the client.

4.2 Should it have been agreed that the goods would be collected, but should they still not have been collected within 8 days from the agreed date, we shall dispatch the goods in a manner deemed suitable by us at the client's expense.

4.3 For the delivery of contractual goods the risk is carried by our customer, the first carrier or forwarding agent. This also applies to individual partial deliveries and if we have paid the forwarding expenses.

4.4 Should the dispatch date be postponed at the client's request or should the client be late in accepting the goods, the contractual liability shall be transferred from the date on which we provide notification that we are ready to dispatch the goods. Following that date, the goods shall be stored on behalf of and at the expense of the client.

5. Retention of ownership

5.1 We retain ownership of the contractual goods until such time as all claims, including future claims, against the client have been paid. This also applies to the payment of specially designated claims and until such time as any current account balances have been settled.

5.2 All reserved goods are stored separately at the expense of the client in accordance with professional best practices and shall be clearly labelled and insured against damage, destruction and loss at our request. The client shall present the corresponding policy to us at our request. The client hereby transfers all claims from said insurance policies to us in advance for the full value of the reserved goods and consents that all payments are made to us. We are entitled to take back all reserved goods and, where required for that purpose, allow representatives authorised by us to enter the business premises of the client.

5.3 Provided the client fulfils their contractual obligations towards us at all times, they are entitled to sell the reserved goods through standard trade channels. However, this clause may be revoked at any time. In such cases, or where the reserved goods are delivered to a third party, irrespective of the value or condition thereof, or again are assembled, the client hereby transfers all claims against the purchaser arising from the sale, delivery or assembly of the goods, together with all related rights and including all related claims for compensation, to us from this date and until such time as all of our claims arising from these deliveries have been cleared, up to the invoice amount for said deliveries.

5.4 Where the reserved goods are reprocessed, combined with other goods or remodelled, this work shall be carried out for us, but no guarantee shall be provided. In all such cases, our co-ownership of the new product shall be proportionate to the value of the reserved goods in comparison to the value of the new product at the time when it was produced.

5.5 Where assignment in cases of onward sale, assembly or late payment is prohibited, the client undertakes to inform the third-party purchaser of the advance assignment. Where the reserved goods delivered by us are sold to a third party together with other goods, that share of the total price asked which corresponds to the invoice value of our delivery is assigned to us. Should the client fail to make the payments by the deadline set, we shall be entitled to obtain the assigned claim directly from the third-party debtor.

5.6 The client is prohibited from conducting non-standard transactions, such as pledging, assignment by way of security and transfer of the reserved goods. The client undertakes to inform us immediately should third parties gain access to goods and claims belonging to us, such as seizures, as well as of all encroachment on our property. Where such circumstances can be attributed to the client, they shall pay all costs for judicial intervention.

5.7 Should the overall value of the surety provided to us for the purposes of the business relationship exceed the value of our claims by more than 20%, we undertake to transfer said excess amounts back to the client at the latter's request. The choice of which sureties are transferred back is made by us.

6. Payment

6.1 Unless otherwise agreed, all invoices must be paid in full in the agreed currency within 30 days from the invoice date. Discounts shall only be granted where specifically agreed and must be calculated on the basis of the invoice value ex delivery works.

6.2 Payments shall only be considered completed once the amount is definitively available to us. Payments by note and cheque shall only be accepted where expressly agreed. All discount and note charges shall be borne by the client in all cases. Where payment by note is agreed, the duration of the note shall in no case exceed 90 days from the invoice date.

6.3 We are free to decide whether incoming payments are used to settle the oldest obligation or that obligation for which the least surety is available.

6.4 Partial deliveries are invoiced immediately and become due individually, independently of the date on which the delivery as a whole is completed. Unless otherwise agreed in writing, all advance payments shall be offset against the oldest partial delivery.

6.5 Counterclaims may only be used to offset payment claims where these are legally enforceable or have been recognised by us. The same applies to repayment rights for the amounts outlined in our invoices.

7. Compensation and contract termination

7.1 Should the client fail to adhere to the agreed payment deadlines, we shall be entitled to exercise our rights in accordance with Article 288 of the Civil Code (interest on late payments).

7.2 Should the client fail to accept a delivery, receive a service or make a payment within an agreed deadline, we shall be entitled after an appropriate extended deadline to terminate all or part of the contract and/or claim compensation of 20% of the purchase price, unless we are able to prove that the actual damage incurred is greater than this amount, in particular with respect to recovery costs, unless the client is for their part able to prove that the actual damage incurred is lower. An extended deadline shall not be required where, subsequent to signing the contract, the solvency of the client is called into question in accordance with figure 3.2.

8. Guarantee

8.1 The quality level to which we agree to adhere for the contractual goods arises exclusively from the contractual agreements between the client and ourselves and not from any other promotional statements, brochures, consultancy sessions and so on. This does not presume adoption of a guarantee, e.g. in the sense meant by Article 443 of the Civil Code.

8.2 We provide consultation and advisory service in all good conscience, drawing on our experience however with the exclusion of any liability. Indications and information about the applicability and use or employment of the contractual goods are without commitment, if they are not explicitly an agreed condition in the sense meant in figure 8.1. They shall not absolve the customer to carry out own tests.

8.3 For all purchase transactions, we shall be liable for all defects, to the exclusion of further claims, as follows:

a) Our customer is obliged to check the contractual goods immediately after delivery and if required take random samples. Obvious defects and claims are to be declared instantaneously after delivery but before the contractual goods are used, the latest however within 8 days upon receipt, in written and specified fashion. Even in the case of objection, the customer is obliged to take receipt of the contractual goods. These are to be stored properly and only shall be sent back if we expressly state. Defects which cannot be noticed after an initial proper control, are to be claimed in the same way immediately after their discovery. In the case of a defects claim, which is not received within the specified time nor in the proper format, then the contractual goods are considered to be accepted.

b) The provisions of Article 377 of the Commercial Code apply to obligations with respect to complaints and investigation.

c) The client undertakes to provide our authorised representatives with the opportunity to inspect and check all contractual goods with respect to which a complaint has been submitted. Otherwise, all claims under the guarantee shall be deemed invalid.

d) We guarantee for 1 year from the delivery date that all contractual goods shall be fault-free and produced in accordance with professional best practices, unless a longer, statutory and compulsory guarantee period applies.

e) Should the customer use, handle or store the contractual goods in an inappropriate manner, fail to adhere to our instructions and guidelines or damage or destroy the contractual goods after transfer of liability, all claims under the guarantee shall be deemed invalid.

f) Standard variations in measurements and materials that are to be expected and/or caused by the manufacturing technology used do not entitle the client to contest the contractual goods. The relevant DIN/German standard norms, where available, and our own works standards apply for all tolerance margins.

g) Variations of up to 15% either way in delivery amounts and quantities are acceptable.

h) We undertake to remedy faults either by carrying out the necessary improvements or supplying replacement parts, as deemed appropriate by us. The client undertakes to provide us with sufficient time and the opportunity to remedy faults. Where this is not the case, all claims under the guarantee shall be deemed invalid. Should attempts to remedy faults fail several times in a row, the client shall be entitled to terminate the contract or claim a discount. Any additional claims against ourselves or our authorised representatives, on whatever legal basis, are limited to the corresponding net order value, unless we act with gross negligence or cause personal injury.

i) Should the defects be traced back to special productions made to specifications, evaluations or construction documents provided by our customer, all claims under the guarantee shall be deemed invalid.

8.4 For constructional service we safeguard as follows:

a) Our guarantee complies with Article 13 of German Construction Contract Procedures. Therefore the guarantee is taken under the exclusion of all claims of the customer, provided that all defects which become apparent within 2 years after acceptance shall be eliminated within an appropriate time-limit by means of overhauling. A withdrawal from the contract is impossible. We shall only be obliged to

overhauling when the customer has met his obligation to pay, deducting an appropriate part for the defective goods.

b) The acceptance complies with Article 12, figure 5 of German Construction Contract Procedures. In accordance with it, our service is deemed as accepted after the termination of 12 working days after receiving the written information about the complementation of the service. Should our customer have used the service or part of the service, the acceptance is deemed after the termination of 6 working days after the initial utilization.

9. Copyright

9.1 All printed material, drawings, tools and stamped parts and samples produced by us remain our property.

9.2 We reserve the right to exercise all copyrights and other standard industrial rights covering all patterns, stamps and samples designed by ourselves or third parties working for us, even where the client bears the costs of these.

9.3 All drawings and samples which have not resulted in an order, supplied or offered by the customer shall be sent back at the expense of the customer if desired. Otherwise we are authorised to eliminate these three months after making our offer.

9.4 The copyrights and if applicable related commercial rights for the models, shapes and appliances, drafts and drawings designed by us or on our behalf by a third party are legally entitled to us, even when our customer paid the expenses for them.

10. Miscellaneous provisions

10.1 We reserve the right to process all data provided by the client for the purposes of the business relationship in accordance with the provisions of the Federal Data Protection Act and, in particular, to provide the credit insurer with the data they require in order to issue the credit insurance.

10.2 The client is not entitled to transfer any claims against us arising from the business relationship.

10.3 Should any of the clauses given above become legally invalid, this shall not affect the validity of the remaining provisions and of the contract as a whole. Invalid provisions shall be replaced by new provisions that serve the same economic end. Where such provisions are not integrated into the contract, the corresponding content of the contract shall be governed by the applicable legislation.

10.4 The place of execution for all deliveries is our delivery works.

10.5 The place of jurisdiction for all matters, including future claims, arising from the business relationship, including with respect to notes, cheques and other documents, is the court of the place of execution for payments.