

General Terms of Supply and Sale I/2015

1. Application

- 1.1 Our supplies, services and offers are based exclusively on these General Terms of Supply and Sale. They are an integral component of all agreements concluded with our contractual partners (hereinafter also referred to as "Purchaser") with respect to deliveries and services. They also apply for all future deliveries, services or offers to the Purchaser, even if they have not once again been separately agreed upon.
- 1.2 General terms and conditions of the Purchaser or a third party are not applicable, even if we have not explicitly objected to their application in individual cases. Our General Terms of Supply and Sale apply exclusively. Deviating, opposing or supplemental general conditions of the Purchaser become a component of the agreement only and to the extent as we have explicitly agreed to their validity. This requirement for consent applies in any case, for example also if we have executed the delivery to the Purchaser without reservation being aware of the Purchaser's general terms and conditions.

2. Offer and formation of contract

- 2.1 Our offers are subject to change and non-binding, unless they are explicitly specified as binding or contain a particular expiration deadline.
- 2.2 The written purchase agreement, which is only formed based on our written order confirmation with respect to offers which are subject to change and/or non-binding, including these General Terms of Supply and Sale are exclusively decisive for the legal relationship between us and the Purchaser. This purchase agreement represents all understandings between us and Purchaser with respect to the contractual object in their entirety. Verbal agreements by us prior to the conclusion of this agreement are legally non-binding and verbal understandings between the contractual parties are replaced by the written agreement, unless they respectively implicitly imply that they continue to be binding.
- 2.3 Amendments and changes to the agreements, including these General Terms of Supply and Sale, require the written form to be effective. With the exceptions of managing directors and authorised signatories with power of representation, our employees are not authorised to conclude deviating verbal agreements. Electronic transmissions, particularly fax or email, are sufficient to comply with the written form condition if the copy of the signed declaration is transmitted.
- 2.4 Our information regarding the subject of the delivery or service (e.g. weights, measurements, practical values, capacity, tolerances and technical data) as well as our illustration thereof (e.g. drawings and images) are merely approximately applicable, unless the applicability for the contractually intended purpose requires specific compliance. The information does not represent guaranteed quality features, but is merely a description or indication of the delivery or service. Conventional deviations and deviations based on legal requirements or which represent technical improvements, as well as the replacement of components by parts of equal value are admissible if they do not impair the usability or the contractually intended purpose.
- 2.5 Unless otherwise agreed in no. 6.1, the "INCOTERMS" specified by the International Chamber of Commerce in their respectively latest version apply for the conventional contractual stipulations (e.g. EXW, CIP, etc.).

3. Prices and payment conditions

- 3.1 Prices apply for the services and scope of delivery specified in the order confirmations. Additional or special services are charged separately. Prices are in Euro and apply ex works, if applicable plus packaging, statutory VAT, customs in case of exports plus fees and other public dues.
- 3.2 If our agreed prices are based on our list prices and if the delivery is to occur more than four months after the conclusion of the agreement, our list prices applicable at the time of delivery shall apply (respectively less any agreed percentages or fixed discount).
- 3.3 Unless otherwise agreed, the payments are to occur as follows:
- 30% of the total price upon receipt of our order confirmation
 - 60% upon notification of readiness for dispatch, at the latest upon delivery
 - 10% within 30 days from delivery
- Invoice amounts are due and payable within 14 days net, unless agreed otherwise in writing. The receipt in our account is decisive for the date of payment. If the Purchaser does not settle at the due date, the outstanding amounts incur interest of 8% per annum above the respective base interest rate according to § 247 BGB (German Civil Code) from the due date; the right to assert a higher interest rate and further damages in case of default by the Purchaser remains unaffected. If the Purchaser is in default, we are entitled to raise default charges in the amount of EUR 10.00.
- 3.4 Off-setting with counter claims of the Purchaser or the retention of payment due to such claims is only permissible if the counter claims are uncontested or final and absolute.
- 3.5 We are entitled to execute still pending deliveries or services only against prepayment or security if we become aware of circumstances after the

conclusion of the agreement which tend to substantially reduce the Purchaser's creditworthiness and which jeopardise the payment of our pending claims against the Purchaser from the respective contractual relationship (including other individual orders based on the same general agreement).

4. Delivery

- 4.1 Unless otherwise agreed with the Purchaser, we deliver ex works Schermbeck in accordance with INCOTERMS in their respectively latest version, which is also the place of fulfilment.
- 4.2 Deadlines and time limits for deliveries and services promised by us always only apply as approximates unless a fixed time limit or deadline is confirmed or agreed upon. If dispatch has been agreed upon, the delivery terms and deadlines refer to the moment of handover to the forwarding agent, carrier or other third parties commissioned with the transport.
- 4.3 Notwithstanding our rights based on the Purchaser's default, we are entitled to demand an extension of delivery and service deadlines or postponement of delivery and service deadlines by the period during which the Purchaser does not comply with his contractual obligations toward us, particularly if the Purchaser does not present the necessary verifications or presents them in uncertified form in accordance with no. 1 of these General Terms of Supply and Sale.
- 4.4 We are not liable for the impossibility of the delivery or for delays in the delivery if they were caused by force majeure or other events not foreseeable at the time of the conclusion of the agreement (e.g. disruptions of operation of any kind, difficulties in the procurement of materials or energies, transport delays, strikes, legitimate lock-outs, lack of manpower, energy or raw materials, difficulties in the procurement of necessary official permits, official measures or the omitted, incorrect or late delivery by suppliers), which are outside of our sphere of responsibility. If events such as these significantly complicate the delivery or service or render them impossible for us and if the impediment is not of a mere temporary nature, we are entitled to withdraw from the agreement. In case of temporary impediments, the delivery or service deadlines are extended or delayed by the term of the impediment plus an appropriate start-up period. If it is unreasonable for the Purchaser to accept the delivery or service due to the delay, he may withdraw from the agreement by way of immediate written declaration to us.
- 4.5 If we are in default with a delivery or service or a delivery or service becomes impossible for us regardless of the reason, our liability is limited to compensation according to no. 9 of these General Terms of Sales and Supply.

5. Installation

Special conditions will be applied in individual cases for the installation of the delivery item by us and/or the provision of fitters.

6. Dispatch

- 6.1 The dispatch of goods occurs at the risk and account of the Purchaser. The risk is transferred to the Purchaser upon handover of the goods to the freight carrier, however at the latest upon the goods leaving our factory. If the dispatch is delayed due to the conduct of the Purchaser, the risk is transferred to the Purchaser from the day at which the goods are ready for dispatch and our respective notification of the Purchaser.
- 6.2 The delivery is only ensured by us against theft, breakage, transport, fire and water damage upon the explicit request of the Purchaser and at the Purchaser's expense.
- 6.3 Goods which have been reported ready for dispatch have to be retrieved without undue delay. Otherwise, we are entitled to dispatch them at our discretion or store them at the risk and expense of the Purchaser and charge them immediately.
- 6.4 Our deliveries are prepared for transport in a manner complying with the minimum requirements for stability. For this purpose we use recyclable, environmentally friendly material. We do not participate in the disposal costs. If we are obligated to redeem transport packaging according to the Packaging Ordinance or other statutory provisions, the return to us has to occur free of charge.

7. Reservation of title

- 7.1 We reserve ownership to the delivered goods up to the complete payment of all our current and future claims from the delivery agreement and an ongoing business relationship (secured claims).
- 7.2 Treatment and processing of the reserved goods occur on our behalf as manufacturer in terms of § 950 BGB (German Civil Code) without obligations for us. The processed goods are considered reserved goods in terms of no. 7.1. In case of processing, combination and intermingling of the reserved goods with other goods by the Purchaser, we are entitled to co-ownership in the new item at a ratio of the invoice value of the reserved goods to the invoice value of the other utilised goods. If our ownership expires due to combination or intermingling, the Purchaser hereby

- directly assigns to us here and now his inherent proprietorship rights to the new stock or the item at the extent of the invoice value of the reserved goods and stores it for us without charge. The thus created co-ownership rights apply as reserved goods in terms of no. 7.1.
- 7.3 The goods under reservation of title may not be mortgaged or pledged as security to third parties until complete payment of the secured claim. The Purchaser is obligated to notify us of any access to our goods by third parties in writing without undue delay.
- 7.4 In case of conduct contrary to the agreement by the Purchaser, particularly in case of non-payment of the due purchase price, we are entitled to withdraw from the agreement according to the statutory regulations and demand the return of the delivered goods based on reservation of title and the withdrawal. If the Purchaser fails to pay the due purchase price, we are only permitted to assert these rights if we unsuccessfully provided the Purchaser with a suitable deadline for payment or if such a deadline is expendable based on statutory regulations.
- 7.5 The Purchaser is authorised to on-sell the goods under reservation of title in the course of regular business. The Purchaser here and now assigns all claims against third parties resulting from on-selling the objects to us for security purposes. We accept the assignment. The Purchaser's obligations specified in no. 7.3 of these General Terms of Supply and Sale also apply in consideration of the assigned claims. The Purchaser, next to us, remains authorised to collect the claim. We are obligated to refrain from collecting the claim as long as the Purchaser complies with his payment obligations toward us and does not default on payments, an application to commence insolvency proceedings has not been made or any other defect of his performance exists. If this is the case, we can demand that the Purchaser discloses the assigned claims and their debtors, provides all details necessary for the collection, supplies the respective documentation and informs the debtors (third parties) of the assignment. If the realised value of the sureties exceeds our claim by more than 10%, we shall release securities at the request of the Purchaser at our discretion.
- 8. Warranty claims by the Purchaser**
- 8.1 The Purchaser's rights in case of material and legal defects become statute barred in two years following the delivery of the goods or, if acceptance is required, from the date of acceptance.
- 8.2 The following circumstances are not considered defects:
- Damages to wear parts as a result of natural wear and tear (chains, rubber, hinge and wire belts, bearings, sprockets, drives etc.);
 - Damages incurred due to improper treatment, particularly due to omitted or insufficient maintenance;
 - Damages resulting from improper electrical connection on site in accordance with VDE Guidelines;
 - Damages due to non-compliance with our operating and maintenance instructions.
- 8.3 The delivered items have to be carefully inspected immediately upon delivery to the Purchaser or the third party specified by the Principal. They apply with respect to obvious defects or other defects which would have been discernible by an immediate, diligent inspection as approved by the Purchaser, unless we have received a written notice of defect within seven working days following the delivery. The delivered objects are considered approved by the Purchaser with respect to other defects unless we have received a written notice of defect within seven working days following the moment at which the defect was revealed. If the defect was discernible by the Purchaser at an early point in time at normal usage, this earlier point in time is decisive for the commencement of the period of objection.
- 8.4 In case of material defects of the delivered items, we are initially obligated and entitled to subsequent improvement or replacement delivery at our choice within an appropriate period. We are entitled to make the subsequent fulfilment subject to the Purchaser paying the due purchase price. However, the Purchaser is entitled to retain an appropriate amount proportionate to the defect.
- 8.5 If the Purchaser's demand for remedy of defect is apparently unjustified, we are entitled to demand repayment of the incurred costs from the Purchaser.
- 8.6 In the event of failure, i.e. the impossibility, unacceptability, refusal or inappropriate delay of the subsequent improvement or replacement delivery, the Purchaser may withdraw from the agreement or appropriately reduce the purchase price. The Purchaser's right to withdrawal does not exist in case of an insignificant defect.
- 8.7 If a defect is based on our fault, the Purchaser is entitled to demand compensation subject to the specifications determined in no. 9.
- 8.8 A delivery of used items agreed to with the Purchaser in individual cases occurs excluding any warranty for material defects.
- 9. Liability**
- 9.1 Unless otherwise stipulated in these General Terms of Supply and Sale including the subsequent conditions, we are liable according to the respectively relevant regulations in case of violation of contractual and extra-contractual obligations.
- 9.2 We are liable for compensation in case of intent and gross negligence - regardless of the legal grounds. In case of slight negligence we are only liable
- a) for damages resulting from the violation of life, body or health,
 - b) for damages resulting from the violation of essential contractual obligations (obligations the fulfilment of which allows the proper execution of the agreement and the compliance of which the contractual partner may regularly assume and is entitled to assume); however, in this case our liability is limited to the replacement of the foreseeable and typical damage.
- 9.3 The liability limitations based on no. 9.2 of these General Terms of Supply and Sale do not apply if we have maliciously omitted to disclose a defect or if we have provided a warranty for the quality of the goods. This also applies for claims by the Purchaser according to the Product Liability Act.
- 10. Final conditions**
- 10.1 The laws of the Federal Republic of Germany apply for these General Terms of Supply and Sale and all legal relationships between the Purchaser and us, excluding international uniform law, particularly the United Nations Convention on Contracts for the International Sale of Goods. Prerequisites and effects of the reservation of title according to no. 7 of these General Terms of Supply and Sale are subject to the laws of the respective storage location of the matter, in as far as the elected choice of law in favour of the German law is accordingly inadmissible or ineffective.
- 10.2 If the Purchaser is a merchant in terms of the Commercial Code, a legal person under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all direct and indirect disputes arising from the contractual relationship is our registered business address in Schermbeck, Germany. We are also entitled to raise claim at our general place of jurisdiction.
- 10.3 If the agreement or these General Terms of Supply and Sale contain legal gaps, those legally effective regulations to fill these gaps are deemed agreed upon which the contractual parties would have had agreed upon according to the commercial objective and purpose of these General Terms of Supply and Sale, had they considered the legal gap.
- 10.4 The Purchaser acknowledges that we store data from the contractual relationship according to § 28 of the Federal Data Protection Act for the purpose of data processing and that we reserve the right to transmit this data to third parties (e.g. insurances) if required for the contract performance.