

1. Scope of the General Terms and Conditions of Sale and Delivery

1.1 The following General Terms and Conditions of Sale and Delivery shall apply to all deliveries performed and services provided by us. We hereby expressly object to any deviating terms and conditions of the Customer. They shall only apply if we recognize them in writing. The execution of an order of the Customer shall not result in the recognition of his deviating terms and conditions.

2. Offer

2.1 Our offers shall be binding if we have made them in writing and without reservation. Likewise, any other agreements made in connection with the conclusion of a contract shall only be binding if we have made or confirmed them in writing. Declarations made by facsimile, computer-generated facsimile or email shall also be considered as written declarations. Any oral declarations require written confirmation.

2.2 In the tender phase already, the Customer shall inform us of any unusual strain, special forms of use and increased risks that may occur when the Customer uses the goods delivered and services provided by us.

2.3 If, in connection with preparing the conclusion of a contract, we have provided drawings or other documents to the Customer, they shall remain our property. They are protected by copyright and may not be copied, changed or passed on to third parties without our written consent.

3. Prices, Insurance

3.1 Prices are ex works and exclude packing, travel costs, insurance and customs duties. The amount of the prices shall depend on the written agreements. Should an agreement on prices have not been made, the price that is invoiced by us generally on the date of delivery shall apply.

3.2 A prerequisite for the compliance with agreed prices for our deliveries and services shall be that the positions on which the agreement is based are unchanged and can be performed without any obstructions for which the Customer is responsible. Any subsequent additions or changes which lead to additional costs shall be paid for by the Customer additionally.

3.3 The conclusion of transport or other insurance contracts shall be at the Customer's discretion, even if we take over the transportation costs for the delivery.

4. Periods and Due Dates

4.1 Periods and due dates for our deliveries and services shall only be binding if they have been determined by mutual agreement. A prerequisite for their observance shall be that the Customer performs all preparatory actions required from him and that he fulfils his duty to co-operate. If a performance from his part is delayed, the periods and due dates shall be extended by said delay.

4.2 The delivery period shall be considered observed if the goods to be delivered have left the works by the time of its expiry or if we have informed the Customer of our readiness for dispatch. We shall be entitled to make partial deliveries if this does not result in unacceptable efforts and expenditure for the Customer.

4.3 If any failure to observe periods or due dates is due to unforeseeable obstructions which are outside our sphere of influence and for which we are not responsible, said periods and due dates shall be extended adequately and at least for the duration of the obstruction or interruption. This shall apply, in particular, in cases of force majeure and in the case of strikes, lock-outs or orders of public authorities, even if such circumstances occur to our suppliers or subcontractors. If the obstructions persist for an uninterrupted period of more than eight weeks, each Party shall be entitled to withdraw from the contract in full or in part.

4.4 If nevertheless, we are in default, the Customer shall grant us an adequate additional period for performance. Unless said period has expired fruitlessly or it is has been unnecessary for reasons provided by law, The Customer may not procure replacements nor withdraw from the contract.

5. Advice

We will give advice on application technology to our best knowledge on the basis of our research work and our experience. Any data or information about the suitability or application of our products on the Customer's premises shall not relieve the Customer of his duty to perform his own tests and examinations. Should he make claims against us for inadequate advice given, our liability shall be governed by Section 17 in any case.

6. Reservation of Ownership

6.1 We reserve the ownership of delivered goods until the satisfaction of all claims that we have against the Customer as a result of the business relationship (goods subject to reservation of ownership). This shall also apply if individual or all amounts have been included in a current invoice and the balance has been struck and recognized.

6.2 In case the Customer acts in a manner contrary to the contract, especially in the case of late payment, we shall be entitled to take back the goods subject to reservation of ownership if we have granted the Customer an adequate period for payment and withdrawn from the contract after its fruitless expiry. The statutory provisions on the materiality of the period being granted shall remain unaffected. If the Customer is obliged to surrender the goods, he shall give us the opportunity to enter, for this purpose, the rooms, plots and construction sites on which the goods subject to reservation of ownership are located and to perform all preparatory actions for the removal.

6.3 If the Customer sells the goods subject to reservation of ownership, he hereby assigns us all of his claims against his purchasers resulting from the sale until the complete satisfaction of our claims. Upon our request, the Customer shall be obliged to inform his purchasers of the assignment and to provide us with the information and documents which are necessary for enforcing our claims. The Customer may not make any other dispositions, particularly any pawning or any assignment as security. If a worsening of the Customer's assets occurs or if he becomes insolvent, the right of resale shall cease to exist. In such case, the Customer shall provide adequate security to us in advance.

6.4 If the goods subject to reservation of ownership are united to an integrated object with other items, we shall acquire co-ownership of it on a pro-rata basis if they become integral parts of an integrated object.

6.5 Prior to any distraint or any impairment of our rights by third parties, the Customer shall inform us immediately.

6.6 If the value of all security interests exceeds the amount of the secured claims by more than 20 %, we will release an appropriate portion of the security interest to him on his request.

7. Payment

7.1 Payments shall be due at the time of the handover of the delivered goods or the completion of the services. Agreed periods for payment shall only be considered complied with if the amount to be paid is available on the due date. Unless otherwise agreed, the Customer shall pay the amount of the invoice free of postage and expenses and without any discount within 30 days after the date of the invoice.

7.2 Cheques will only be accepted on account of performance. Any costs in connection with the submission of cheques shall be borne by the Customer

8. Delay in Payment, Offset

8.1 In the case of the Customer's payment being delayed, we shall be entitled to charge a default interest of 8 % above the basic rate of interest. We reserve the right to claim any further damages. In particular, we reserve the right to also claim such costs as we incur if, after the delay in payment has occurred, we have our rights enforced by third parties, particularly by lawyers.

8.2 The Customer may withhold payments and set them against any counterclaims only if they are undisputed or ready for decision or if they have been determined in a final and absolute manner. A right to refuse performance due to advance payments shall only exist if we enforce counterperformance or provide security for it.

9. Complaints, Rights in the Case of Defects

9.1 The Customer shall, in the ordinary course of business, examine the delivered goods immediately upon delivery and inform us of any found defects immediately. Any concealed defects shall also be reported immediately upon their discovery. The complaint must be made in writing.

9.2 Prerequisites for claims for defects shall be the factual correctness and completeness of the information presented to us by the Customer for the execution of our deliveries and services as well as the proper use of the deliveries and services by the Customer for the proper purpose. We shall not be liable for any defects resulting from the performance data submitted by the Customer or from any other incorrect or incomplete information.

9.3 In the case of a justified complaint, our subsequent fulfilment will be in the form of replacement or subsequent improvement / new production, at our choice. In any case, the Customer shall grant us an adequate period for this. If we do not comply with our subsequent fulfilment obligations for an adequate period or if the subsequent improvement fails, the Customer shall be entitled to require a reduction of the payment or, in the case of not merely minor breach of duty, to withdraw from the contract. If only parts of the delivery are defective, the Customer's further rights shall only relate to the defective part of the delivery unless the partial delivery is of no interest for him.

9.4 If our notes on processing are not observed, if the delivered goods are assembled or started up incorrectly by the Ordered or third parties, if changes are made which have not been agreed with us or if parts are exchanged, or materials used, which do not correspond to the original ones, the Customer shall not have any rights in the case of defects.

10. Rights of Utilization, Defective Titles, Violation of Third-party Industrial Property Rights

10.1 For delivered goods produced or manufactured individually, we shall ensure that they are usable free of third-party industrial property rights or copyrights in the country of the place of delivery in accordance with the contractual agreement. Any use deviating from the purpose of use according to the contract shall require our prior written consent.

10.2 Insofar as we provide the Customer with documents or delivered goods for which we hold industrial property rights, patent rights or a copyright or for which third-party rights exist, we hereby grant the Customer a non-exclusive right of utilization for such rights for the contractually agreed purposes. The Customer undertakes not to remove information on the manufacturer from delivered goods and not to alter them without our express prior consent. All other rights shall remain with us or the holder of the rights, respectively.

10.3 Any claims due to any kind of violation of industrial property rights shall be excluded insofar as the Customer commits the violation of industrial property rights by not using the delivered goods for the intended purpose.

10.4 If nevertheless, a third party makes claims against the Customer due to the violation of industrial property rights, the Customer shall inform us immediately and agree any defence measures and settlement negotiations with us. If the claims are justified, we shall, at our choice and at our expense, either obtain a right of utilization for the Customer or change our designs so that they do not violate any third-party industrial property rights or exchange the designs. If this is not possible within an adequate period, the Customer shall be entitled to withdraw from the contract. In such case, any claims for damages shall only be governed by Section 11.

11. Liability

The Customer may make any other claims, particularly claims for damages, even due to impossibility or late delivery or due to tortious product liability, in accordance with the provisions of the law only if we have not adhered to guaranteed characteristics, if we have acted maliciously, if damage to life, body and health has occurred or if another damage has been caused by intentional or grossly negligent acts of our agents or legal representatives or is based on a material breach of contract. Insofar as the material breach of contract has not occurred intentionally or in a grossly negligent manner, our duty to pay damages shall be limited to the foreseeable, typically occurring damage. The liability for damage claims under the German Product Liability Act shall remain unaffected.

12. Statute of Limitations

All claims of the Customer shall fall under the statute of limitation unless longer periods are always prescribed for buildings, objects used for buildings and defects of buildings under Art. 438, Subarticle 1, 2, and Art. 634 a, Subarticle 1, 2 of the German Civil Code (BGB), injury to life, body and health occurs due to our deliveries, we have committed an intentional breach of duty or we conceal defects maliciously. For damage claims under the German Product Liability Act, the legal provisions on the statute of limitations shall apply.

13. Place of Performance, Place of Jurisdiction, Applicable Law

13.1 The place of performance for all deliveries and services shall be our place of business.

13.2 For all legal disputes resulting from the contractual relationship, the place of jurisdiction shall be the competent court for our place of business if the Customer is a businessman, a public body or a public special fund. We may also choose to sue to Customer at his place of business.

13.3 The law of the Federal Republic of Germany shall apply.