

## 1. General provisions

1.1. Agreements – especially as far as they make modifications to these conditions – shall only become binding with our written confirmation.

1.2. These General Conditions shall exclusively form the basis for all our deliveries and services, including suggestions, advice and other additional services (hereinafter collectively referred to as the "Deliveries"). Any different conditions of the ordering party, in particular any purchase and/or order conditions, shall not be part of the contract, even if we do not oppose them explicitly. Our General Conditions shall also apply if we supply the Deliveries to the ordering party without any reservations and with knowledge of different conditions or of conditions of the ordering party which differ from our General Conditions.

1.3. Technical and operational information regarding weight, dimensions and other performance and consumption data in our brochures, drawings and publications are for general information purposes only unless reference is made thereto in the offer and/or our order confirmation; this is, however, not a guarantee in the sense of §443, German Civil Code (Bürgerliches Gesetzbuch – BGB). We reserve the ownership rights and copyrights with respect to cost estimates, drawings and other documentation; they may only be made available to third parties with our consent.

1.4. As far as modifications to the contractual obligations arise after a quotation has been submitted due to new or changed legal regulations or new requirements by (inspection) authorities, the contract shall be modified taking into account the concerns of both parties.

## 2. Price, Payment, Safety

2.1. The prices do not include packaging, freight, insurance and other additional costs (storage, external inspections). The INCOTERMS in their latest version shall otherwise apply. The statutory amount of turnover tax (VAT) which is due shall be added to the agreed prices. The German or foreign turnover tax owed by us shall therefore be shown separately from these prices on the invoice. We shall draw up individual invoices with the turnover tax shown separately for advance payments and other payments to be made by the ordering party before our Deliveries are made and for which payments our duty to pay turnover tax arises when the money is received. The turnover tax is due for payment together with the invoice amount. All taxes, customs duties and other public charges made by us in the foreign country on Deliveries abroad shall be reimbursed by the ordering party.

2.2. We must receive the payments on the agreed dates in cash and without any deduction.

2.3. The ordering party shall only have a right to withhold payment and to set it off against counterclaims as far as the counterclaims are undisputed or are judicially final and absolute.

2.4. We accept payments by irrevocable Letter of Credit only, unless agreed differently.

2.5. The statutory regulations on payment default shall apply.

2.6. If a payment defaults or if our receivables are at risk due to the ordering party's creditworthiness deteriorating, we are entitled to make payable our receivables irrespective of the duration of a bill of exchange or to demand collateral. We are also entitled to make outstanding Deliveries and services only against an advance payment or collateral.

2.7. We can set off all receivables which we have against the ordering party against receivables which the ordering party has against us. If requested, we shall inform the ordering party of sub-contractors covered by this clause.

2.8. If, for whatever reason, difficulties arise with the transfer of the invoiced amount to the Federal Republic of Germany, the thus incurred disadvantages shall go to the expense of the ordering party.

2.9. The payments owed to us shall be made in EURO.

## 3. Packaging

The packaging shall be invoiced to the ordering party separately unless otherwise agreed. We can instead demand the return of the packaging, charging a deposit and a fee for use.

## 4. Delivery Dates, Obstacles to Fulfilment

4.1. The delivery dates shall only apply if all the order details have been clarified in due time, particularly the submission of all documentation and permits to be procured by the ordering party, the possible release of drawings and the punctual receipt of any agreed advance payment as well as the punctual presentation of any agreed payment collateral. A further prerequisite is the timely provision of advance construction and assembly work by the ordering party, particularly the provision of electricity, gas, water and the necessary auxiliary personnel made available free of charge to us.

4.2. The agreed delivery dates shall also have been adhered to with the notification that the delivery goods are ready to be dispatched if we are not responsible for the fact that the delivery goods cannot be dispatched on time.

4.3. If we are hindered from fulfilling our obligations by unforeseen events which affect us or our suppliers and/or sub-contractors and which we could not avert even with the reasonable care accorded to the circumstances, e.g. war,

interventions by a higher authority, internal unrest, natural forces, accidents, other operational interruptions and delays in the supply of essential operating materials or semi-finished products, the delivery dates shall be prolonged by the duration of the hindrance and an appropriate startup period. If we are unable to fulfil our obligations due to the hindrance or if it is unreasonable for us to fulfil them, we can withdraw from the contract; the ordering party has the same right if it is unreasonable for it to accept the goods due to the delay. In the sense of this paragraph strikes and lock-outs are in any case hindrances for which we are not responsible.

4.4. If we default and if the ordering party incurs damage due to this reason, the ordering party is entitled to demand compensation for the default. This amounts to 0.5% for each full week of default and a total maximum of 5% of the value of the respective part of the contractual object which due to the default cannot be used on time or cannot be used pursuant to the contract.

If we continue to default after the above maximum compensation for the default is reached, the ordering party can withdraw from the contract after an appropriate period of grace set by the ordering party in writing; the same shall also apply if we are unable to make the delivery or conduct the service due to reasons for which we are responsible.

4.5. A right of withdrawal, to which the ordering party or we are entitled pursuant to Paragraph 4.3 or Paragraph 4.4, generally only covers the as yet unfulfilled part of the contract. As far as the customer is unable to use partial deliveries which have already been made, the customer is also entitled to the withdrawal with respect to these partial deliveries.

4.6. If the ordering party defaults on the acceptance or if the ordering party intentionally violates other obligations to cooperate, we are entitled to demand compensation for the damage we have thus incurred, including any additional expenses. We reserve the right to make further claims. As far as the prerequisites in Ciper 4.6, Sentence 1, exist, the risk of an accidental loss or of an accidental deterioration of the delivery shall transfer to the ordering party at the time when the ordering party is in default of acceptance or in debtor's delay.

4.7. We are liable pursuant to the statutory stipulations as far as the underlying purchase contract is a transaction for delivery by a fixed date in the sense of §268, Subsection 2, No. 4, BGB, or §376, German Commercial Code (Handelsgesetzbuch – HGB). We are also liable pursuant to the statutory stipulations as far as the ordering party is entitled to claim that it no longer has an interest in the further fulfilment of the contract due to a default in the delivery for which we are responsible.

4.8 Further rights of the ordering party arising from a default, in particular claims for compensation, to the extent stipulated in Ciper 9 are excluded.

## 5. Acceptance

5.1. If an acceptance procedure is agreed, it must be carried out without delay after the notification that the delivery goods are ready for acceptance.

5.2. In the event that it is agreed that the delivery object has special performance features or in the event that we so demand, the ordering party is obliged to carry out an acceptance procedure. This shall also apply with respect to self-contained partial deliveries and/or partial services.

5.3. If the acceptance procedure does not take place or is incomplete without us being responsible therefor, the delivery object shall be deemed accepted with the end of the third (3<sup>rd</sup>) working day after the notification that the delivery object is ready for acceptance.

5.4. The acceptance procedure shall in any case be deemed to have been carried out when the delivery object is taken into operation without our consent.

5.5. The ordering party has to create the preconditions necessary for the acceptance procedure to be carried out. Apart from our personnel costs, the ordering party shall bear the total costs for the acceptance procedure.

5.6. The ordering party cannot refuse the acceptance due to minor defects irrespective of its rights arising from Ciper 8.

## 6. Transfer of Risk, Dispatch

6.1. The risk with respect to the delivery goods is transferred to the ordering party with the transfer of the delivery goods to the forwarding agent or carrier and/or, at the latest, when the goods leave the plant. This also applies to partial deliveries or if we take on other services, e.g. dispatch, erection or assembly.

6.2. When interpreting the trade clauses the INCOTERMS apply in the version valid when the contract is concluded.

6.3. The means and route of transport shall be our choice unless agreed otherwise with the ordering party. The same is true for the selection of the forwarding agent or carrier.

6.4. Delivery goods which have been notified as being ready for dispatch must be fetched without delay; otherwise we are entitled to store them at our own discretion and at the ordering party's expense and risk and to invoice them as having been delivered.

6.5. We are entitled to make partial deliveries and to invoice them.

## 7. Retention of Title

7.1. The delivery object remains our property (reserved property) until all receivables have been fulfilled, in particular the respective clearing balance which we are entitled to from the ordering party within the business relations.

7.2. At its expense the ordering party is obliged to insure the reserved property against theft, breakage, fire, water and other damage for the duration of its obligations towards us and to show us evidence thereof if requested. The ordering party herewith irrevocably assigns to us all its rights from the corresponding insurance policies until its obligations are fulfilled completely. If the ordering party does not meet its obligations pursuant to the above paragraph, we have the right to conclude the above insurance policies at the ordering party's expense to the extent which we consider necessary provided that we are directly entitled to the rights from the insurance policies.

7.3. The ordering party has the duty to keep the reserved property in perfect condition and to have us or companies instructed by us carry out any necessary repairs without delay; the ordering party must give us information about the reserved property at any time, in particular about the respective location. We are entitled to access the location of the reserved property at any time; where necessary, the ordering party shall at any time provide us or our authorised agent with access to the location of the reserved property. The ordering party may sell, pledge, assign as collateral, lease or otherwise relinquish the reserved property or modify the location notified to us only with our written consent. The ordering party is obliged to inform us without delay of any risk to our property.

7.4. If the ordering party violates the obligations of this Section 7, we are entitled to make immediately payable the entire outstanding amount of the reserved property irrespective of the duration of a bill of exchange or to demand collateral. If the ordering party does not pay the entire outstanding amount within seven (7) days after a corresponding request by us or if the ordering party does not provide the requested collateral within this period, its right to use the reserved property shall elapse. We are then entitled to demand the immediate restitution at the ordering party's expense while excluding any rights of retention. The ordering party now irrevocably grants us access to the location of the reserved property and authorises us to take it back.

7.5. Irrespective of the ordering party's payment obligation, we are entitled to make the best possible use through a private sale of the reserved property which we have taken back into our possession or to take it back at the respective market price. A certified expert to be named by the chamber of commerce which is competent for the delivery plant shall determine for the ordering party and for us a binding market price for the reserved property. After deducting our costs, the proceeds from the sale or the market price shall be offset against the ordering party's payment obligation.

7.6. Our claiming the retention of title and pledging the delivery object are not deemed withdrawing from the contract.

7.7. If the value of the existing collateral exceeds the total secured receivables by more than 10%, we are obliged to release certain collateral which we select should the ordering party request this.

## 8. Liability for Defects

We give a warranty for defects in our Deliveries pursuant to the following regulations:

8.1. Claims by the ordering party based on defects assume that the ordering party has duly fulfilled its inspection and notification requirements pursuant to §377, HGB.

8.2. As far as Deliveries are defective, we are entitled to choose whether to make a subsequent fulfilment by removing the defects or to deliver new goods which are free from defects and/or to make a completely new delivery. In the event that we remove the defects, we are obliged to bear all expenses for removing the defects, in particular transport, labour and material costs, as far as they are not increased by the fact that the delivery was made to another place than the place of fulfilment. We shall only bear the above costs up to the limit of proportion in §489, Subsection 3, BGB; the ordering party shall bear costs in excess hereto. If the subsequent fulfilment fails, the ordering party is entitled to choose whether to demand withdrawal or a reduction.

8.3. Claims based on defects have a statute of limitations of twelve (12) months. This does not apply if the law stipulates longer periods pursuant to §438, Subsection 1, No. 2 (buildings and related objects), §479, Subsection 1 (right of recourse) and §634a, Subsection 1, No. 2 (building defects), BGB. The regulations on suspending the statute of limitations and suspending or restarting the deadlines remain unaffected.

8.4. We do not accept any liability for damage which is incurred due to the following reasons: unsuitable or inappropriate use, incorrect assembly under the responsibility of the ordering party or of a third party or when the delivery object is taken into operation by the ordering party or by a third party, subsequent modifications by the ordering party or by a third party, natural wear and tear, negligent or incorrect treatment, maintenance or upkeep, disobeying the operating instructions, unsuitable operating material and chemical, electro-chemical or electrical influences and unusual temperatures or weather for which we are not responsible.

8.5. Ciper 9 otherwise applies to claims for compensation. Further claims or other claims than those regulated in this Ciper 8 which are made against us and our vicarious agents due to material defects are excluded.

## 9. Other Claims for Compensation

9.1 We are liable pursuant to the statutory stipulations as far as the ordering party makes compensation claims which are based on intent or gross negligence, including the intent or gross negligence of our representatives or vicarious agents. As far as we are not accused of intentionally violating the contract, the liability for compensation is limited to the foreseeable and typically occurring damage. We are liable pursuant to the statutory stipulations as far as we have intentionally violated a major contractual obligation; in this case, however, the liability for compensation is limited to the foreseeable, typically occurring damage.

9.2 The liability due to intentional bodily injury, death and damage to health remains unaffected; this also applies to the compulsory liability pursuant to the German Product Liability Act (Produkthaftungsgesetz). Liability for compensation which exceeds this Ciper 9 is excluded – irrespective of the legal nature of the claim made. This applies in particular to compensation claims arising from culpa in contrahendo, due to other breaches of duty or due to claims in tort for compensation of material damage pursuant to §823, BGB.

9.3 Liability for damages resulting from defects, indirect damages and customer claims for compensation are excluded as legally allowed.

## 10. Place of Fulfilment, Partial Invalidity

10.1. The place of fulfilment for our Deliveries is the place of the delivery plant. If we are also to provide services (e.g. assembly), the place of fulfilment is the place where the services are to be provided. The place of fulfilment for the ordering party's payment obligation is the point of payment stated in our invoice.

10.2. The invalidity or partial invalidity of individual provisions does not affect the validity of the other provisions and of the contract as a whole. An invalid or partially invalid provision is to be replaced by a valid one which comes closest to the business purpose of the invalid or partially invalid one.

## 11. Court of Venue, Applicable Law

11.1. The court of venue for all legal disputes, including procedures deciding claims arising from bills of exchange and cheques, is Munich. We can, however, also file a legal action at the courts of the ordering party's general court of venue.

11.2. The law of the Federal Republic of Germany relevant for legal relations between German parties applies exclusively to all legal relations between the ordering party and us.