

Terms And Conditions Of Sale And Supply

1. Each offer and sales contract shall be subject to the following terms and conditions of sale and supply, unless other agreements have expressly been made in writing.

2. Each order placed with us shall not be regarded as entered before receipt of our written order confirmation. Accords with our employees shall be valid only after our written confirmation.

3. Documents forming part of our offer (such as pictures, drawings, information about weight and dimensions) shall be regarded as approximate only unless expressly denominated as to be binding. We reserve the right to modify or improve the design without prior notice, provided that such modification or improvement will not cause any price supplement.

Any quotation, drawing or other document whatsoever shall remain our property and be subject to our copyright and must not be disclosed to third parties without our prior approval.

4. The prices are to be understood in Euro ex works respectively ex warehouse in Schwelm, plus value-added tax and packing (packing at cost price, will not be taken back).

5. Prices are based on the cost factors decisive at the time of issuing our order confirmation. Unless as fixed prices have been agreed upon, we reserve the right to appropriately adapt the prices for goods to be supplied within three months upon order confirmation to changes in the cost of human resources, raw material, design, production and distribution.

With that right the price can be appropriately increased or reduced in relation to the change in cost, whereas, however, the amount of this adaptation shall not exceed 10% of the price offered. The purchaser, though, shall not be entitled to claim such price-adaptation.

6. As soon as the goods ordered leave our works respectively warehouse in Schwelm, the risk shall in any case pass over to the purchaser, even if cost and charges are prepaid by us. Damages or losses occurring during transportation shall be borne by the purchaser. For that reason the purchaser shall have possible damages attested by the forwarder on the transport documents prior to accepting the consignment, so as to ascertain claims for compensation against post, railway, forwarding agent.

7. Each order is subject to an individual agreement upon the delivery time. Delivery times agreed are however to be regarded as approximate and not binding. We shall not be liable for losses caused by delayed delivery. In case of force majeure, we will be entitled to ask for a longer delivery time or to cancel the sales contract partly or in whole.

The purchaser shall not be entitled to claim compensation or warranty in this case.

8. Our invoices shall be payable within 30 days upon date of invoice without any deduction. Invoices with less than € 50,00 net value shall be payable immediately without any deduction. This refers to delivery of goods as well as repair and maintenance. Should the case be that we accept bill of acceptance or bill of exchange as a particular term of payment, discount and other charges from our bank shall be part of our invoice to be paid by the purchaser.

Bills of exchange and cheques are always under reserve of receipt of and value date. Should the purchaser delay payment, we reserve the right to invoice appropriate interest (2% over the discount rate of the Landeszentralbank (Federal State Central Bank).

9. Payment Terms For Export Orders:

Cash against documents or confirmed irrevocable letter of credit or as per individual agreement.

10. Charging up claims against our charges is possible only if the purchaser's counter-claim is undisputed by us and bases on a legally de-

clared title.

11. Purchaser's warranty claims are subject to their having properly followed their obligation to check for and contest defects in compliance with §377 HGB (code of commercial law). This obligation to check and contest is explicitly also to be followed by purchasers not entered in the trade register.

Claims for defects will become statute-barred within one year after passing over the risk to the purchaser. The above-mentioned time-limits are not applicable in cases where longer respites are compulsory prescribed by law in accordance with §438,1Nr. 2 BGB (code of German federal regulations) (buildings and goods for buildings), §479,1 BGB (code of German federal regulations) (right of recourse) as well as §634a,1 BGB (code of German federal regulations) (construction defects).

Obvious defects shall be contested within a time-limit of 8 days upon delivery. Should the purchaser forbear the contestation, the warranty will become void.

Substantiated and timely contestations of defects will be compensated by us at our option either by rework or by replacement. Should this amendment fail, the purchaser is entitled to cancel the contract or reduce payment.

12. Each delivery is made with reservation of our ownership. Goods delivered shall remain our property until all our invoices issued within this business relationship are paid. The purchaser shall be entitled to resell the goods supplied in the proper course of business. He is not entitled to use the goods without our explicit consent or to assign them as security. The title to resell shall become void, if the purchaser is arrear with payments to us. The purchaser shall inform us immediately if third parties try to get hold of goods under reservation of our ownership. Working with or processing the goods under reservation of our ownership shall – as to us as the manufacturer – be done in terms of §950 BGB (code of German federal regulations). Should the purchaser process the goods together with other goods not pertaining to us, the so manufactured product shall be our property in proportion of the value of the goods under reservation of our ownership compared to the overall value of all the other goods used for manufacturing that product. The purchaser shall assign amounts receivable from the resale of the goods to us already now in the amount of our invoice (including VAT) that shall conform with the sales contract between him and us. This assignment shall be valid regardless of whether he resold the goods without or with prior processing. The purchaser shall be entitled to collect his claim irrespective of the assignment and not withstanding our power to collect the claim ourselves. We will however not collect such claims as long as the purchaser settles our invoices without arrear and does not particularly go into administration for insolvency nor suspend payment. In order to secure our claim, the purchaser shall also assign claims to us that accrue from third party to him in relation with a resale of the goods together with a real estate. We accept such assignment already now. In case we shall supply goods as a subcontractor, the purchaser shall assign claims to us right now that accrue to him from the resale of the processed goods in the amount of the outstanding works compensation fee.

13. Place of jurisdiction for all disputes arising from the legal relationship with the purchaser, including claims connected with bills of exchange or cheques, shall be Schwelm.

14. Should single terms out of these terms and conditions for sale and supply turn out to be void, this will not affect the validity of the other terms.

15. All legal relation between the purchaser and us is subject to the laws of the Federal Republic of Germany, explicitly excluding the regulations of the UN Convention on Contracts for the International Sale of Goods (CISG).