

**Issue: 01.2024**

These terms and conditions are a part of all our quotations and agreements on deliveries and services, including in current and future business relationships. Deviations from these General Terms and Conditions of Delivery and Service, in particular the business terms of the customer, shall only be deemed to be accepted if they have been expressly agreed.

**1 Agreement conclusion / Documents**

1.1 Our cost estimates are non-binding.

1.2 Agreements with us shall only come about once we have accepted orders sent to us in writing or delivered and provided the subjects of delivery or service ordered by the customer. This shall apply accordingly for enquiries from the customer, which are aimed at addenda or supplements to agreements.

1.3 The information for the customer and documents made available shall contain industry standard approximation values only. The indication of measurement values (e.g. services, power consumption, ranges, measurement precision, etc.) shall be understood to be without the influence of any interferences or other disruptions from the environment and shall only be binding if they expressly become the content of the agreement.

1.4 We reserve the title, copyright and other rights to all documents above. Without our written approval, the above documents may not be used for purposes other than for the agreement in any way, in particular making them accessible to third parties. On request they shall be returned to us immediately. A right of retention / service refusal of the customer is insofar ruled out.

**2 Design services and/or consulting services**

2.1 For agreements that obligate us to provide design services and/or consulting services, the services to be provided by us result from a statement of work. For serial and standard design, our delivery specifications shall be deemed to be the statement of work.

2.2 The rights to the work results shall remain with us; the customer shall have a non-exclusive usage right to them for its own purposes only within the framework of the contractual arrangements.

2.3 The customer may only demand the release of production documents of design, if the design was specially developed for it, the release was expressly agreed and the customer has paid all costs and remunerations within the framework of the order.

2.4 Data and documents made available to us are archived with the standard care. The customer must archive copies at its end for the purposes of restorability.

**3 Prices**

Our prices are in EUR from the plant in charge, excl. costs for packaging, other ancillary costs (e.g. installation and commissioning) as well as value added tax in its relevant statutory amount.

**4 Payments**

4.1 All payments shall be made to us within 14 days of receipt of our relevant invoice without any deduction.

4.2 If instalments are agreed and if the customer defaults on two consecutive instalments in full or in part and if the default is at least 5% of the total agreement price (net) or if the customer violates its obligations under the agreed title retention (see Item 9), the entire remaining amount due from the customer shall become immediately payable.

4.3 We only accept promissory notes after prior agreement and subject to their discountability and for the purposes of fulfilment. All discount and other ancillary costs shall be borne by the customer and must be paid to us immediately. A crediting of promissory note and cheque amounts shall only be carried out if its equivalent is at our disposal without dispute.

4.4 If the customer defaults on its payment obligation in full or in part, we shall be entitled to default interest from this time, regardless of our other rights. The claiming of another default loss remains reserved.

**5 Offsetting and retention**

5.1 The offsetting of counterclaims of the customer against claims to which we are entitled shall only become legally effective if and insofar as the counter claims of the customer are uncontested or have been determined (proven) with legal force.

5.2 We shall be entitled to offsetting and retention rights to the same legal degree.

**6 Deadlines / Dates**

6.1 Deadlines agreed with us shall start on the date of the declaration of acceptance.

6.2 In the event of amendments or supplements to the service content of agreements, which the customer initiated, the deadlines shall be extended appropriately in accordance with the above Item 6.1 to the extent to which the service modification influences the service content, in particular the subject of delivery/service.

6.3 Deadlines and dates shall only be binding if they were expressly agreed. Force majeure and other extraordinary circumstances, such as in particular industrial action, sovereign measures and traffic disruption, regardless of whether they occurred at our end or at the end of our suppliers, shall neither release us for the duration of their effect nor, insofar as they result in the impossibility of the service, overall from the delivery/service obligation. If the service prevention lasts longer than 6 months, the customer shall have a right to withdraw. Any agreed penalty shall not be deemed to have been forfeited under these circumstances.

**7 Acceptance**

7.1 The customer must immediately accept our delivery/service on becoming due at our request.

7.2 If the customer fails to accept the delivery/service in accordance with the above Item 7.1, we shall be entitled to withdraw from the agreement and demand compensation after an unsuccessful reminder and setting of a period of grace, i.e. at our discretion compensation of the loss caused or - without proof of the loss - 10% of the price agreed. The customer shall, in particular, have the right to prove that we did not sustain a loss or only a lower loss. Furthermore, we reserve the right to prove a higher loss.

**8 Transfer of risk**

8.1 We shall be authorised to make partial deliveries and/or services, unless an identifiable interest of the customer contradicts this.

8.2 The risk for our deliveries and services shall be transferred to our customer on acceptance, but for deliveries no later than on leaving the

plant in charge (Incoterms 2000). This shall also apply for partial deliveries/services, i.e. even if we have assumed other services (e.g. transport, installation and/or commissioning).

8.3 If the acceptance or the leaving of deliveries from our plant in charge is delayed for reasons that are the responsibility of our customer, the risk shall be transferred to the customer no later than after the fruitless expiry of the period set by us in accordance with the above Item 7.1.

8.4 If we accept items for safekeeping on behalf of the customer, the safekeeping shall take place at its cost and risk. Unless agreed otherwise, the customer undertakes to pay us for the warehousing the usual remuneration of a commercial warehousing operation.

## 9 Retention of title

9.1 We shall retain the title to the items delivered by us until receipt of all payments from the business relationship with the customer. If the customer acts in violation of the agreement, in particular in the event of default on payment, we shall be authorised to take back the goods subject to the retention of title after withdrawing from the agreement.

9.2 The customer undertakes to treat the goods subject to the retention of title with care; in particular, it undertakes to insure them sufficiently at the new value at its cost against damage from fire, water and theft.

9.3 For seizure or other intervention of third parties, the customer must notify us immediately. Insofar as the third party is not in a position to refund the court and extrajudicial costs of the claim under Section 771 ZPO (German Code of Civil Procedure), the customer shall be liable for the costs incurred by us.

9.4 The customer shall be authorised to resell and sell the goods subject to the retention of title; however, it shall already on conclusion of the agreement, of which these terms are a part, assign all claims in the amount of the final invoice sum (including value added tax) of our claim, which arise for it against its buyers or third parties, regardless of whether the goods subject to the retention of title were resold without or after processing. The assignment shall be accepted by us on conclusion of the relevant agreement, of which these terms are a part. The customer shall remain authorised to collect this claim also after the assignment. Our authorisation to collect the claim ourselves remains unaffected. However, we undertake not to collect the claim as long as the customer fulfils its payment obligations from the proceeds collected, does not default on payment and, in particular, no application to instigate insolvency proceedings has been filed or bankruptcy is given. If this is the case, the customer shall immediately notify us of the claims assigned and their debtors, send all files and documents required for the collection and report the assignment to the debtors (third parties). A right of retention and/or refusal of service of the customer is ruled out insofar.

9.5 The processing or conversion of the goods subject to the retention of title by the customer shall always be carried out on our behalf. If the goods subject to the retention of title are processed with items not in our property, we shall obtain co-ownership to the new item in the ratio of the value of the goods subject to retention of title to the other processed items at the time of processing. For the item that is the product of processing, the same shall apply for the items delivered subject to reservation. The customer shall retain the new item also for us.

9.6 If the goods subject to the retention of title are mixed inseparably with items not in our property, we shall obtain co-ownership to the new item in the ratio of the value of the goods subject to retention of title to the other mixed items at the time of mixing. If the mixing takes place in such a way that the item of the customer is to be seen as the main item, it shall be deemed to be agreed that the customer transfer to us co-

ownership on a pro rata basis. Sentence 4 of Item 9.5 shall apply accordingly.

9.7 The customer shall also assign to us the claims to secure our claims against it which arise by combining the goods subject to retention of title with a land plot against a third party. The assignment shall take place on conclusion of the agreement, of which these terms are a part, without further explanations of the customer or us being required.

9.8 The above assignments do not include any deferral of the payment obligations imposed on the customer.

9.9 We undertake to release the collateral to which we are entitled on request of the customer insofar as the value of our collateral exceeds the claims to be secured by more than 20%; the selection of the collateral to be released shall be made at our discretion.

## 10 Faults

10.1 The following shall apply in the event of material defects:

10.1.1 The customer shall complain about material defects to us immediately on detection.

10.1.2 Initially, we must be given the opportunity to carry out subsequent performance within a reasonable period of time, i.e., at our discretion by rectifying the fault, delivering a fault-free item or making a new item.

10.1.3 If the subsequent performance finally fails, it cannot be expected from us or the customer or if it is only possible at disproportionate cost/expense, the customer may - notwithstanding any compensation claims - withdraw from the agreement or reduce remuneration.

10.1.4 Claims of the customer against us due to expenses for the purposes of subsequent performance, in particular transport, travel, work and material costs, shall be ruled out, insofar as the expenses are increased because the subject of delivery/service was taken to another location than the office of the customer, unless the transport is in line with the intended use of the subject of delivery/service.

10.1.5 Legal claims to recourse of the customer against us shall only exist insofar as the customer has not entered into any agreements with its buyer above and beyond the statutory fault claims and rights. For the scope of the right of recourse of the customer, the above Item 10.1.4 shall apply accordingly.

10.1.6 In the event of complaints about faults, payments of the customer may be retained to a degree that is in a proportionate relation to the material faults occurred.

10.2 The following shall apply in the event of legal defects:

10.2.1 Unless agreed otherwise, we undertake to only perform the delivery/service in the country of the place of delivery free from commercial property rights and copyrights of third parties (hereinafter: "Property Rights"). If a third party files justified claims against the customer due to a violation of Property Rights by deliveries/services provided by us and used in accordance with the agreement, the following shall apply:

10.2.2 We shall at our discretion and at our costs either bring about a right of use for the relevant delivery/service, modify the delivery/service such that the Property Right is not violated or replace it. If we are not able to do so at reasonable terms/conditions, the customer shall - notwithstanding any compensation claims - be entitled to the statutory rights of withdrawal or reduction. Otherwise, Item 10.1 shall apply accordingly.

10.2.3 Claims of the customer due to a Property Right violation shall be ruled out if it is responsible for the violation of the Property Right or the violation of the Property Right is caused by special requirements of the customer, by an application not intended by us or by the fact that the delivery/service is modified by the customer or used together with products not supplied by us.

10.3 The statute of limitations for material and legal defects shall be one year and start on the transfer of risk. This shall not apply if and insofar as under sections 438(1)(2), 479(1), 634(a)(1)(2) German Commercial Code longer periods apply, the fault was maliciously concealed or one of the liability cases stated under Item 11.1 applies

10.4 Our obligation to pay compensation shall be guided by Item 11 below.

10.5 We shall deliver used items – subject to Item 11 – in exclusion of any liability for material and legal defects.

10.6 The above regulations shall not be associated with any reversal of the burden of proof to the detriment of the customer.

## **11 Compensation and liability**

11.1 Compensation and expense claims (hereinafter referred to as “Compensation Claims”) of the customer against us, for whatever legal reason, shall be ruled out, unless they are based on the provisions of the Product Liability Act, a violation of contractual or legal obligations by us with intent or in gross negligence, health or physical injuries of the customer as a result of a violation of an obligation that is our responsibility, the assumption of a guarantee for the existence of a property or the violation of integral contractual obligations. Contractual obligations (cardinal obligations) shall be such obligations whose fulfilment only enables the orderly execution of the relevant agreement to be concluded on the basis of these terms and on whose observance our customer can regularly rely.

11.2 Compensation for violation of integral contractual obligations shall be limited to the typical contractual, foreseeable damage, unless there is a case of intent or gross negligence, and there is no liability for health or physical injuries or due to the assumption of a guarantee for the existence of a property. Foreseeable is the damage whose implementation is to be regularly expected when violating the relevant typical contractual obligation.

11.3 A violation of an obligation by us shall be equivalent to such by our legal representative or vicarious agent.

11.4 Item 10.6 shall apply accordingly.

## **12 Secrecy**

12.1 The customer shall treat as confidential all documents and information it obtains in fulfilment of an agreement for as long as they are not publicly known.

12.2 These obligations shall also continue to exist on termination of the agreement, of which these terms are a part, and must also be imposed on third parties in the event of permissible disclosure of documents and information to them.

## **13 Jurisdiction / Applicable law and translations**

13.1 The exclusive jurisdiction of both parties for all disputes arising directly or indirectly out of the contractual relationship - also from documents, promissory notes and cheques - shall be Düsseldorf. However, we shall remain authorised - at our discretion - to also make

claims against the customer in other courts, whose area of responsibility includes the residence, registered office or assets of the customer.

13.2 German law shall apply in exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 (UNCITRAL / CISG).

13.3 In the event of translations of these terms to a language other than German, the German version of these terms shall be authoritative for interpretation purposes.

## **14 Invalidity**

14.1 If individual provisions of this Agreement on deliveries and services, of which these terms are a part, are or become invalid, this shall not affect the validity of the other provisions of the agreement. Instead of the invalid provision, we shall agree with the customer such a provision that governs the commercial intention of the invalid provision in full or - insofar as not effectively possible legally - with as broad a legal validity as possible