

General Terms and Conditions

Art. 1 Scope

- (1) These conditions of sale apply exclusively and only in the case of entrepreneurs in the sense of Art. 310 paragraph 1 of the German Civil Code (BGB). Any conflicting or different terms and conditions of the customer will only be recognised in the case of our express written agreement to the customer's terms and conditions.
- (2) These conditions of sale apply to all future transactions with the customer, as far as where it applies to legal transactions of related nature.

Art. 2 Offers and conclusion of the contract

- (1) As far as the order is to be accepted as such - in compliance with Art. 145 of the German Civil Code (BGB) - we have two weeks to send a written confirmation.
- (2) Our quotations are subject to change and are not binding. Contracts are only effective when confirmed in writing.
- (3) Descriptions of our devices, and other technical specifications are not binding. We reserve the right of construction and shape alterations until the date of delivery.
- (4) We are entitled to withdraw from the contract without specification of reasons, if the local situation prevents either the correct technical assembling of the system or its proper functioning. The same applies in the case of likely insolvency of the customer.
- (5) If the customer backs from the order for motives not imputable to us, he shall be liable for any damage caused.

Art. 3 Documents Provided

- (1) We reserve the rights of ownership and copyright regarding all contract-related documentation, such as calculations, drawings, etc. These documents are not to be made accessible to third parties, unless the customer is granted our express written consent.
- (2) If we do not accept the customer's offer within the time limit stated under Art. 2, these documents are to be returned to us immediately.

Art. 4 Prices and Payment

- (1) Unless otherwise agreed in writing, our prices are ex works and exclusive of packaging costs and of the current valid VAT. Packaging costs will be charged separately. The payment of the purchase price is to be made by bank transfer to one of the two bank accounts listed on the footnotes. Discount is only admissible upon special written agreement.
- (2) Unless otherwise agreed, the purchase price is to be paid within ten days after delivery of products or rendering of service. Interest on late payments will be in the amount of 8% above the base interest rate *per annum*. We reserve the right to claim higher compensation of damages caused by the delay of payment.
- (3) If a minimum period of three months elapses between conclusion of the contract and the delivery of products or the rendering of services, we reserve the right to change prices adequately, due to higher wage, material and sales costs.
- (4) In general, the following applies: All services will be charged on a time and material basis. In the event that a fixed price has been agreed for the installation, said price shall only be valid in the case of a single installation of speedy and smooth execution related to the goods initially agreed upon. If the amount agreed upon contract is exceeded by extra costs of more than 5%, we reserve the right to bill the extra costs accordingly.
- (5) In the case of installations requiring 14 days or more to be concluded, or interrupted by any given period of days, we are entitled to send an interim invoice.

Art. 5 Rights of Offsetting and Retention

The customer has rights of set-off only if his counter-claims have been legally established or are undisputed. The buyer is entitled to exercise a right of retention only as long as his counter-claim is based on the same contractual relationship.

Art. 6 Delivery time

- (1) Any delivery period specified by us shall commence only after all

technical matters have been clarified and all obligations on the part of the customer have been duly and properly fulfilled. We reserve the right to object to non-fulfilled contracts.

- (2) If the customer fails to accept the goods or if he culpably infringes any other duty to cooperate, we shall be entitled to ask for compensation of any resulting damage including any possible extra expenses. We reserve the right to further claims. As long as the prerequisites of the previous sentences are present, the risk of accidental loss or accidental deterioration of the goods shall be transferred to the customer at the time when he entered into default of acceptance or payment.
- (3) Any claims for damages due to late delivery and/or installation are excluded. The same applies to contractual penalties.

Art. 7 Transfer of Risk upon Shipment

If the goods are sent to the customer at the customer's request, risk of accidental loss or deterioration of the goods transfers to the customer upon dispatch to the customer, but no later than the point in time at which said goods leave the factory/warehouse. This applies regardless of whether the item is dispatched at the place of performance or of who bears the freight charges.

Art. 8 Installation

- (1) Travel and waiting time of our technicians are considered working time.
- (2) Immediately after implementation of the work by our technicians, the customer is obliged to confirm in writing the incurred work at hourly rates, the measurements of the materials and the handover of the equipment. If, by reasons not imputable to us, the customer does not confirm and sign off the handover report, the measurement report and the time sheets, these documents issued by our technician will be used as a basis for calculation of the final amount.
- (3) Before commencement of the installation work, the customer must ensure that the preparatory work (this applies in particular to new buildings) has been concluded or is so far ahead, that our technicians can start with the routing of cables or pipes and the installation of the equipment immediately after arrival and perform their installation work without interruption.
- (4) Should the installation and/or commissioning of the equipment be delayed due to circumstances on the assembly site which are not imputable to us, the customer will be charged for all travel and waiting time costs of the technician, as well as all associated costs.
- (5) Services that are not expressly included in the quotation or taken into account in the order confirmation (removal of obstacles, drilling and chiselling work, breaking open of walls, alterations in the original plans of electrical cabling and gas suction pipelines, etc.), will be charged to the customer after previous agreement with the competent supervisor of the project.
- (6) The customer is expected to grant the following, free of cost: Use of burglar-proof storage rooms for our devices and materials, provision of electricity 230 V, as well as ladders and/or scaffolding for routing of cables and pipes.
- (7) We manufacture our systems to the best of our knowledge and judgement. The customer is responsible for obtaining any necessary authorizations from local supervisory or inspection authorities. These costs, even that of acceptance by the TÜV, for instance, go at the expense of either the operator or the customer.

Art. 9 Reservation of proprietary rights

- (1) We reserve the right of property of the goods delivered up to the complete payment of all contractual claims. This also applies to all future deliveries, even if not always expressly mentioned. We are entitled to retrieve the purchased goods, if the customer acts in any way contrary to the terms of the contract.
- (2) As long as the customer is not the legal owner of the goods, he is obliged to handle the purchased goods with care. The customer is obliged to effect a replacement value insurance of said goods at his expense against the risk of fire, water damage and theft (note: this applies only to high-value goods). If maintenance and inspection work must be carried out, the customer is obliged to conduct these in

a timely manner and at his expense. As long as the customer is not the legal owner of the goods, he is obliged to inform us immediately in writing, should the supplied object be impounded or be subject to interference by third parties. As long as the third party is not in a position to reimburse us for the judicial and out-of-court costs incurred by an action according to Art. 771 ZPO, the customer shall be liable for our loss.

(3) The customer is entitled to resale of the reserved goods in the normal course of business. The customer assigns to us the receivables from the resale of the reserved goods in the amount of the final invoice total agreed with us (including VAT). This assignment shall apply regardless of whether the goods have been resold without or after processing. The customer remains authorized to collect the claim, even after the transfer. Our authority to collect the claim ourselves, remains unaffected. However, we will not collect the claim, as long as the customer meets his payment obligations from the proceeds collected, is not in default of payment and, especially, if no request for the opening of insolvency proceedings has been made or there is no suspension of payments.

(4) The processing or reworking of the goods by the customer is always on our behalf and by our order. In this case, the underlying entitlement of the customer is extended to the remodelled goods. Provided that the purchased goods are processed with other objects that do not belong to us, we acquire co-ownership of the new item at the ratio of the objective value of the purchased goods to the other processed items at the time of processing. The same applies to the mixing or bonding of our goods with other goods not owned by us. If mixing takes place in such a way that the item of the customer is to be regarded as the main item, it is deemed to be agreed that the customer proportionately assigns co-ownership to us and holds the thus created sole property or joint property in safe custody for us. To secure our claims against the customer, the customer also assigns to us any such claims from third parties that arise for the customer as a result of the incorporation of the reserved goods in real property; we hereby accept this assignment.

(5) We undertake to release securities that we are entitled to at the customer's request, insofar as their value exceeds the claims to be secured by more than 20 %.

Art. 10 Warranty and notification of defects

(1) The customer's statutory warranty rights shall be dependent upon the customer having properly complied with the duties of inspection and complaint in accordance with Art. 377 of the German Commercial Code [HGB]. If, despite the utmost care, reason for complaint should be detected, it is necessary to report apparent defects immediately or within 14 days at the latest upon receiving the goods, and subsurface defects immediately upon detection in accordance with Art. 377 of the German Commercial Code [HGB]; otherwise the goods shall be considered approved by the customer.

(2) All warranty rights lapse 12 months after delivery of the goods to the customer. (Note: in the case of sale of used goods, the warranty period is to be ruled out entirely). The foregoing provisions shall not apply, as long as the law in accordance with Art. 438 (1), no. 2 of the German Civil Code (BGB) (Civil engineering and construction materials), Art. 479 paragraph 1 of the BGB and Art. 634a, paragraph 1 of the BGB (Construction Defects) prescribes obligatory longer periods. The customer is to obtain our written consent before any return of goods.

(3) Should the delivered goods, in spite of all exercised care, have any defects on the moment of risk transfer, our warranty covers repairs and replacements upon our choice, under the condition that the customer has claimed in due time and form. We shall at all times be granted opportunity for subsequent performance within a reasonable period of time.

(4) If we subsequently fail to ensure proper repair or replacement of the defect goods, the customer may - without prejudice to any of his claims for damages - rescind the contract or reduce the remuneration. The customer cannot demand reimbursement for expenses incurred in vain.

(5) The customer may not assert any claims for defect if the condition of the goods only slightly deviates from the agreed quality, if usability is only slightly affected or in cases involving natural wear and tear or damages occurring after the risk is passed as a result of erroneous

or negligent use, excessive use, use of unsuitable production equipment, defective construction works, or inappropriate building ground or due to special outside influences, which are not provided for in the contract. If the initial start-up or modifications are carried out improperly by the customer or a third party, claims for defects cannot be accepted for immediate or latter consequences.

(6) Customer's claims concerning necessary expenditures for the purpose of the subsequent performance, in particular costs for transport, infrastructure, labour and materials shall be excluded, as long as the expenditures increase because the delivered goods were subsequently moved to a different location than the customer's own, unless their transfer complies with their intended use.

(7) The customer's rights of recourse against us are only admissible if the customer has not entered into any agreements with his own customers going beyond the mandatory statutory claims based on defects. As to the scope of the customer's right of recourse against the supplier of the goods, Paragraph 6 applies accordingly.

(8) Any claims on the part of the customer against us or our vicarious agents that go beyond or are not included in the claims governed by Art. 9 are excluded.

(9) Exempt from any warranty are parts made of rubber, glass, or ceramic, as well as probes or sensors according to the manual.

(10) In the event that a defect should be fraudulently concealed or if a warranty should be provided for the quality of the goods at the time of transfer of risk within the meaning of Art. 444 of the BGB (declaration by the seller that the purchased goods have a specific property at the moment of transfer of risk and that the seller is willing to be answerable for all consequences deriving from the absence of said property), the customer's rights are determined solely by the provisions of law.

Art. 11 Other

(1) This contract, as well as the entire legal relationship between the parties, is subject to the law of the Federal Republic of Germany, to the exclusion of UN purchase law (CISG).

(2) Place of performance and exclusive court of jurisdiction for all disputes arising from this contract is Hamm.

(3) Changes and additions to this contract must be made in writing. This also applies to changes to this written form clause. Additional verbal agreements have not been made.

(4) Should individual provisions of this contract be or become ineffective or contain a loophole, the other provisions shall remain unaffected. The parties undertake to replace the ineffective provision or fill the loophole contained within it by agreeing on a legally permissible regulation which comes closest to the commercial purpose of the invalid provision.

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