

General Terms and Conditions of Sale and Delivery for exclusive use in business transactions with companies

1. General remarks

The following terms and conditions exclusively are applicable to all offers, services and deliveries. Any conditions of the Customer which are contrary to these General Terms and Conditions shall apply only if they are expressly accepted by us in writing.

2. Offers

Our offers are non-binding. The orders placed shall not be binding until confirmed by us in writing. Supplements, amendments or subsidiary agreements require written confirmation by us in order to be effective.

3. Prices and payment/default

All prices shall apply ex site of the Contractor, including loading at the factory, but excluding packaging, plus VAT, unless otherwise agreed.

Payment must, unless otherwise agreed, be made at the latest within 30 days from the invoice date or within 10 days from the invoice date with a 2 % discount. In case of later or deferred payment, Sections 286, 288 of the BGB (German Civil Code) shall apply in other respects.

In case of non-compliance with the terms of payment or if the Contractor becomes aware after contract closing that the payment claim is jeopardised due to a lack of solvency on the part of the Customer, the Contractor shall be entitled to perform any pending deliveries or services only against payment in advance or securities. If the Customer is in arrears with payment of an amount due for more than 10 days, all of our claims shall become due.

The retention of payments or set-off of any claims of the Customer which are contested by the Contractor is excluded.

4. Quality characteristics, quantities and design tolerances

Specified dimensions, weights, images and drawings as well as other documents belonging to the offers are only approximately applicable, unless they were expressly declared binding in writing.

We reserve the right to perform excess or short delivery of up to 10 % of the ordered quantity, insofar as this is deemed acceptable to the Customer.

We shall not guarantee the physical properties and chemical resistance of our products unless a property was expressly agreed. Particularly in case of cold-formed elbow pipes or pipe bending work, the following customary, production-related dimensional tolerances are permissible and must be considered by the Customer:

- radius tolerances of up to 10 % in medium bending radii up to 3 times the outside pipe diameter;
- radius tolerances up to 5 % in medium bending radii more than 3 times the outside pipe diameter;
- ovalness in the bending area up to 10 %;
- wall thickness tapering in the bending area depending on the ratio of the bending radius to the pipe diameter and original pipe wall thickness up to 20 %;
- in rolled elbow pipes, the outside pipe diameter in the rolling area can be up to 5 % lower than the diameter of the insertion tube.

The observance of tolerances shall be deemed binding only if this was expressly agreed in writing.

5. Delivery period and time of performance

The delivery period shall run upon receipt of the order confirmation, but not before all execution details have been clarified. The delivery period shall be deemed met if the delivery item left our warehouse or readiness for dispatch was notified before its expiry.

The observance of the delivery period shall depend on the fulfilment of the Customer's obligations from the purchase contract.

In case of labour disputes or in case of the occurrence of unforeseen events which are beyond our sphere of influence, the delivery period shall be extended appropriately. This shall also apply if the obstacles occurred during an existing default.

If the Customer incurs a loss due to a delay caused by the Contractor, particularly in case of an agreed delivery deadline, the Customer shall be entitled to claim compensation. In case of slight negligence, said compensation shall amount to 0.5% for every week that the deadline is exceeded, in total however not more than 5 % of the partial or total net order which was not delivered in time owing to the delay. All further claims due to a culpable delay shall be excluded in case of slight negligence.

If dispatch is delayed owing to circumstances for which the Customer is responsible, the storage costs incurred at third parties shall be charged to the Customer from the 14th day after the date of notification of readiness for dispatch. Storage at our premises shall be charged with 0.5 % of the invoice amount per month. Storage required on a daily or weekly basis shall be invoiced proportionately.

We are entitled, after granting a reasonable extension which lapsed fruitlessly, to make other use the delivery item and/or to make deliveries to the Customer with an adequate extension of time.

6. Tools and trade mark rights

The Customer shall bear the share in the costs for the provision (purchase, production, modification or repair) of tools and tool parts which was stipulated in the order confirmation.

The Customer's obligation to bear the agreed share in the tool costs shall arise upon order confirmation; the payment obligation shall arise when the tools are ready for use. We shall also retain title to the tools after the charges have been paid by the Customer.

If the Customer's or third party trade mark rights are violated by a different use of tools by us, we must be informed of this in writing, at the latest upon order confirmation. In this case, the full costs for tool procurement, maintenance and normal wear renewal must be borne by the Customer.

We undertake to provide tools whose costs shall be borne proportionately by the Customer for the fulfilment of further orders with the Customer for the period of normal wear and tear. These obligations shall expire if no further order of this kind is placed within 2 years after conclusion of the last order for whose fulfilment the tool is required.

This shall not affect the Customer's obligation to bear the proportionate tool costs for tool replacement following the period of normal wear and tear.

With regard to parts which are manufactured according to any samples, drawings or specifications of the Customer, the Customer shall assume full liability in case of violation of third party trade mark rights and shall indemnify us against any and all third party rights. We are not obligated to undertake any investigations.

7. Liability for defects

If the delivered goods have a material defect, the Contractor is obligated to repair the delivered goods or make a new delivery at its option and using equitable discretion.

The liability for material defects shall amount to 12 months since delivery of the purchase item. The discovery of such defects must be reported to us in writing without delay.

The liability for defects shall, for whatever legal reason, become statute-barred after 12 months since delivery or passing of risk. This shall not apply if said defects are defects in a building or are items for a building and they have caused the material defect.

Damage which occurs as a result of inappropriate handling or due to normal wear does not constitute a material defect. Any liability for this is excluded. The Customer is obligated to give us the required time and opportunity to perform all repairs and compensation deliveries which seem necessary to us using equitable discretion. Otherwise we shall be discharged from our liability for defects. The Customer is entitled to remove the defect or have it removed by third parties and to request adequate reimbursement of its costs only in urgent cases which we must be informed of without delay or if we are behindhand with the removal of the defect.

Any further claims of the Customer, in particular a claim to compensation for damages which did not occur in the delivery item itself, shall exist only

- in case of intent or grossly negligent behaviour,
- in case of violation of physical integrity or personal injury,
- in case of defects which the Contractor maliciously concealed or whose absence was guaranteed.

8. Dispatch and packaging

We shall be responsible for packaging, dispatch routes and means of transport in the absence of a special agreement. If packaging is agreed, it shall be carried out in the manner customary for an additional charge.

The risk shall pass to the Customer upon handover to the forwarder, carrier or collector or during transport with the Contractor's means, at the latest however upon leaving our warehouse or the factory.

If dispatch is delayed due to circumstances beyond our control, the risk shall pass to the Customer from the date of readiness for dispatch. At the Customer's request, the Contractor is obligated to insure the delivery item against damage. The costs for said insurance shall be borne by the Customer.

The Customer is obligated to accept delivered items, even if they have insignificant defects, regardless of the rights in Section 7 (liability for defects).

Partial deliveries are admissible. In case of a delay due to partial services, no rights can be asserted due to the other services. Partial inspections or requests for partial services must be made in a timely manner to allow proper delivery.

Should the Customer fall behind with partial inspection or with requests for partial services, we shall be released from our delivery obligations due to the remaining partial services and entitled to claim damages for non-fulfilment.

9. Reservation of title/ extended reservation of title

We shall retain title to all delivery items until complete payment of all accounts receivable due to us from the business relationship with the Customer. In case of an open account, the entire reserved property shall serve as security for the balance claim.

If the estimated value of the reserved property serving as security for us exceeds the as yet unpaid services to the Customer by more than 50 %, we are obligated to release securities of the Customer's choice at its request.

The Customer is not allowed to pledge or assign the delivery item by way of security. In case of attachment as well as seizure or other dispositions by third parties, the Customer is obligated to inform us without delay and to provide to us all the necessary information which can be used for asserting our property claims.

Should Customer fail to fulfil its obligations from the contract towards us, particularly in case of default in payment, we shall, following a reminder, be entitled to reclaim the reserved property. The Customer is obligated to surrender said property. The assertion of our rights arising from reservation of title as well as the attachment of the delivery item by us shall not be considered as a withdrawal from the contract.

The Customer is entitled to sell or process the reserved property in the course of its business operations. In this case, the claim of the Customer against the third party which originates from the sale or processing of said property shall replace our reservation of title, which the Customer shall already transfer to us now as a security. In any case, we are entitled to assert the claim on our own behalf.

We are entitled to insure the reserved property against all risks at the Customer's expense, unless the Customer proves that it has taken out a corresponding insurance policy.

10. Place of performance and jurisdiction

Oberursel is deemed the place of performance for deliveries and payments. Bad Homburg is the place of jurisdiction.

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