



## General Terms and Conditions of Sale

### 1. SCOPE OF APPLICATION

1.1 These Terms and Conditions of Sale shall apply exclusively. Other terms and conditions of the Purchaser which are in contradiction or deviation shall not become part of the contract. This applies without us having to make an express statement to this effect.

1.2 The Purchaser shall recognise the exclusive validity of these Terms and Conditions of Sale, unless he makes an express declaration to the contrary on receipt of these Terms and Conditions.

1.3 These Terms and Conditions of Sale shall also apply in relation to all future business transactions with the Purchaser.

1.4 Any verbally agreed divergences require confirmation in writing in order to become legally valid. A verbal amendment to the clause concerning written agreements is void by law.

### 2. OFFER AND ACCEPTANCE

2.1 Our offers are subject to confirmation. An order shall be considered as accepted when it is confirmed in writing or when a delivery note or invoice has been issued by us. The data which are created in connection with the contractual relationship which exists between the Purchaser and ourselves are to be processed by means of data carriers.

2.2 Our offers cannot replace the professional planning and coordination of an expert planning engineer and are therefore not binding.

The offered products and proposed execution have to be adapted to the given constructional prerequisites. The suitability of the offered products intended for the processing have to be adapted by the person responsible for the planning to the expositions of the structure in an expert manner and to be released for their employment.

### 3. DELIVERY

3.1 Acceptance of an order is subject to delivery possibilities without limitation through cases of force majeure.

#### 3.2 Loading, place of delivery

We take over the loading of the transport vehicles (loading onto the loading surface), but not the security of the load, however. Responsibility for the security of the load during transport and for adherence to restrictions relating to carrying capacity remains the exclusive responsibility of the vehicle driver; the Purchaser releases us from all liability in this context.

3.3 If, at the request of the Purchaser, the goods are transported to a place other than the place of fulfillment (sub-para. 4), all additional costs entailed are to be borne by the Purchaser; any delays in delivery due to forwarding agents engaged by us, do not come within our sphere of responsibility. We are at liberty to select a transport route and forwarding agent of our own choice. With regard to transport and delivery the German Freight Forwarders Standard Terms and Conditions [ADSP.] shall apply.

A transport insurance policy will only be concluded at the express request of the Purchaser and will be invoiced to him as a separate item; any compensation for damages paid to us by the insurance will be reimbursed to the Purchaser by us.

3.4 Providing nothing to the contrary is agreed in writing, the delivery times mentioned are approximate and non-binding; nevertheless we make every effort to adhere to the delivery times indicated. In cases where no agreement about the delivery time has been made, the Purchaser is to arrange complete acceptance of the goods within a reasonable period.

3.5 If delivery does not take place by an agreed delivery date, the right to compensation for damages, cancellation of contract or reduction in price can only be considered, if the purchaser has set us a time limit of at least two weeks for fulfillment or supplementary performance. A due claim by the Purchaser for compensation for damages rather than performance in the case of delay in performance or circumstances within our sphere of responsibility which make it impossible to perform shall be limited to half a percent for every full week of delay, in total, however, to a maximum of 5% of the value of that particular part of the delivery, which, as a consequence of the delay, cannot be used in time or in accordance with the contract. This limitation does not apply in the case of actions which are deliberate or involve gross negligence.

3.6 Providing circumstances outside our sphere of responsibility either impede or delay our execution of the orders, we are entitled to postpone the delivery/remainder of the delivery for the duration of the hindrance or to rescind the contract completely or in part. We shall be released from the obligation to perform if, for reasons of force majeure, this becomes either impossible or unreasonable. This provision applies in particular with regard to events such as: late deliveries of raw materials and supplies from our own suppliers, strikes, lock-outs, shut-downs, work disruptions, traffic disruptions, instructions of higher authority, and indeed irrespectively of whether these incidences of force majeure occur on our premises, those of our pre-suppliers or in external businesses, on which our company depends in order to carry out its business.

3.7 For reasons relating to production, we reserve the right to make excess deliveries or short deliveries within a margin of 10 percent of the quantity ordered. The Purchaser is not entitled to reject part-deliveries unless the Purchaser is not interested in the part delivery. In respect of invoicing, complaints, payment deadlines etc. part-deliveries shall always be considered as individual business transactions.

3.8 Providing delivery is made to an agreed point, unloading is to take place immediately. If the Purchaser is a businessman pursuant to the German Commercial Code [HGB], the persons signing the delivery note shall be considered by us as being authorised to accept and confirm receipt of the goods. In the case of refusal to accept, delayed acceptance or other improper form of acceptance, the Purchaser shall owe us compensation irrespective of his obligation to pay the purchase price.

3.9 Delivery as from 2,000 kg shall take place carriage paid free German building site or free German border, providing no other agreement to the contrary has been made.

### 4. TRANSFER OF RISK

Place of fulfillment for the delivery is the unloading point of the delivery works agreed in each individual case. The risk of the fortuitous destruction and the fortuitous deterioration of the goods is transferred to the Purchaser at the point in time when the goods have been put to one side at our loading point and made ready for transport and the Purchaser has been informed about this. This also applies in the case of a "carriage paid" delivery.

### 5. PACKAGING

Ownership of packaging which has been invoiced is transferred to the Purchaser and has to be paid for with the goods. By way of fulfillment of our obligation to take return good in accordance with current packaging regulations we use the collection points of REPASACK. We only accept return of packaging which we have supplied. Also we only accept transport packaging materials returned in a cleaned, re-usable state to the above-mentioned collection point during normal business hours – in doubt at the place of fulfillment (sub-para. 4). The costs for the return transport and the disposal of the transport packaging is borne by the Purchaser. There is no remuneration for the disposal of packaging within the terms of the packaging directive. Euro exchange pallets are to be exchanged on receipt of the goods. It is also possible to return them later. If they are not returned free of charge, an invoice will be issued to cover the cost of the pallets.

### 6. STATUTORY REGULATIONS GOVERNING DEFECTS

The quality of our products conforms to the generally recognised engineering regulations (relevant standards, guidelines, test and acceptance conditions, as well as general building authority approval in the applicable cases) and the indications in the technical data sheets.

6.1 The Purchaser is to inspect the supplied for defects immediately following receipt. Complaints about defects in the goods are to be made to our Administrative Office in Essen. Complaints made verbally or by telephone must be confirmed in writing. The Purchaser must lodge complaints about obvious defects immediately on receipt of the goods, within 4 days at the latest; in the case of concealed defects the complaint must be made immediately after these have become visible. The Purchaser is to grant us the opportunity immediately to investigate the defect complained about again, in particular to make the goods complained about available immediately. If the obligations pursuant to nos. 1 to 5 are not fulfilled, the goods shall be considered as accepted. If the Purchaser is a businessman pursuant to the German Commercial Code [HGB], the goods shall be considered as approved if he mixes, adds, combines, processes or re-forms them himself, or has this done by others, unless it is precisely within the scope of this process that the defect first becomes obvious.

6.2 The presentations in brochures, advertising material, descriptions etc. are not to be considered as indications of quality. They do not constitute a guarantee of quality or durability.

We reserve the right to make variations. Advice about application of our products is given to the best of our knowledge and on the basis of our wide-ranging experience, without this involving any obligation, however.

The possibility to enforce claims against us on the basis of our consultancy is herewith excluded.

6.3 If the Purchaser accepts defective goods, although he is aware of the defects, he is only entitled to enforce claims and rights if he expressly reserves the right to do so on acceptance of the goods.

6.4 In the case of a defect in the goods, we are only obliged, in the context of supplementary fulfillment, to supply impeccable goods (replacement delivery). The Purchaser has to grant us a reasonable period of time and opportunity to do this. The Purchaser is not entitled to reduce the price or to rescind the contract, according to his choice, unless the supplementary performance fails. The supplementary performance is not to be considered a failure until at least two attempts have been made by us. The obligations of the Purchaser pursuant to sub-para. 6.1. exist after every supplementary performance.

6.5 The rights and claims of the Purchaser on account of defects in the goods expire one month following rejection of the complaint by us, in the case of consumers three months following disclaiming of the defect, at the latest two years as from delivery of the goods; in the case of the goods being used in the way in which they are intended for use for a construction, not before expiry of five years.

### 7. ENTREPRENEUR'S RECOURSE

If the Purchaser has to respond to claims on account of a defect in the newly manufactured product, he is obliged to inform us about this immediately. He is also obliged to agree on an obligation to provide information with his customers and to oblige them to pass on such an obligation to provide information, providing they are entrepreneurs. The costs which arise for the purchaser in connection with fulfilment of the obligation to provide information, will be borne by us up to an amount of 20.00 euros per delivery.

Guarantee and recourse claims of the Purchaser following sale of a newly manufactured item to a consumer through him or any other business customer are subject to the reservation that the Purchaser had complained to us about recognisable defects following receipt of the good within the time period stipulated in sub-para 6.1.

### 8. LIABILITY

8.1 We are liable pursuant to the statutory regulations in so far as the Purchaser enforces claims for damages or reimbursement of expenses (hereinafter referred to as claims for compensation) which are based on intent or gross negligence – including intent or gross negligence on the part of our representatives or vicarious agents. We are furthermore liable pursuant to the statutory regulations in the case of us culpably having violated an essential contractual obligation, the fulfilment of which is required before execution of the contract becomes possible and on which the Purchaser may regularly rely (a so-called "cardinal obligation"), such as in cases of injury to life, bodily harm or damage to health and for which we have thus taken over guarantees.

8.2 Compensation for damages for violation of a "cardinal obligation" is restricted to the predictable damage which typically occurs, which we had to expect would come about when concluding the contract on the basis of circumstances of which we were aware at that time, unless there is a case of intent or gross negligence and providing no liability exists for injury to life, bodily harm or damage to health or from guarantees taken over. Furthermore a more extensive liability, in particular for lack of economic success, lost profit, direct damages, consequential harm caused by a defect and claims made by third parties, irrespective of the legal reason, are excluded.

8.3 The above, standardised liability limitations apply also in the case of fault or negligence of one of our staff, employees, representatives or vicarious agents, providing the cause of the damage is not based on intent or gross negligence on our part or on the part of our staff, employees, representatives or vicarious agents.

8.4 The above-mentioned regulations do not involve a shifting of the burden of proof to the detriment of the Purchaser.

8.5 The Purchaser is only entitled to rescind in cases described in sub-para. 3.6 and 6.4 as well as when the reason for rescinding lies within our sphere of responsibility.

8.6 Liability pursuant to the Product Liability Law as well as for claims ensuing from tortious producer's liability shall remain unaffected.

### 9. PRICES

Prices are non-binding and subject to an increase in our production costs between submitting the offer or accepting the order and executing it. If the Purchaser does not raise an objection to the increased price within three days of receiving our notification of the increase, this price shall apply to all deliveries subsequent to our communication. If the Purchaser raises an objection, we are not obliged to continue delivering. Furthermore our price offers automatically become invalid after a period of three months unless a longer period of validity has been agreed in writing.

### 10. PAYMENT

10.1 Our invoices are due for payment immediately following receipt, unless an arrangement to the contrary has been made in writing or has already been granted by us in the invoice.

10.2 Irrespective of sub-para. 10.1 all our claims – including deferred claims – shall become due immediately if the Purchaser goes into default with the fulfilment of other accounts payable to us following conclusion of the contract, is heavily indebted, bankruptcy proceedings have been opened concerning his assets or the opening of such proceedings has been rejected due to lack of assets, or we are aware of other circumstances which are appropriate to considerably reduce the Purchaser's credibility.

10.3 In cases stated in sub-para. 10.2 we are entitled, at our own discretion, either to make further deliveries dependent on advance payments or, following the lapse of a reasonable period for making payment, to demand compensation for damages instead of the performance or to rescind the contract; we shall be entitled to return any bills of exchange which the Purchaser has submitted prior to expiry, and to request immediate payment.

10.4 Set-off arrangements and the enforcement of rights of lien by the Purchaser are excluded, unless the counter-claims of the Purchaser have been recognised or legally ascertained.

10.5 If the Purchaser gets into default with the payment, we make a claim – if the business transaction is a commercial for the Purchaser pursuant to the German Commercial Code [HGB], as from the date due, otherwise as from commencement of default – for default interest to the amount of the bank credit interest charged to us, otherwise at least to the amount of the legal rate of interest, as well as compensation for other damage in relation to the default. In the case of default the Purchaser has to pay at least 8 euros per reminder plus VAT and default interest.

10.6 Bills of exchange and cheques will only be accepted on the basis of special prior agreement and only by way of fulfillment.

### 11. SECURITY INTERESTS

11.1 The goods delivered shall remain our property until claims have been settled in full – including claims which arise in future – ensuing from the business relationship with the Purchaser. The Purchaser does not have the right to pledge or to transfer them by way of security. He may, however, sell them on or process them within the scope of normal business activity, unless he has already effectively assigned his claim vis à vis his customer beforehand.

11.2 In the case of culpable conduct contrary to contract on the part of the Purchaser, we are entitled to take back the goods. Our reclaiming of the goods does not constitute rescission of the contract, unless this had been expressly agreed in writing beforehand. After taking back the object of purchase, we are entitled to re-sell it. The profit which remains after deduction of the costs entailed in re-selling is to be set-off against the debts incurred by the Purchaser.

11.3 Processing of our goods by the Purchaser into non movable property is done on our behalf and with effect for us, without any liabilities ensuing for us as a consequence.

Already at this stage we grant the Purchaser co-ownership in the new object in the proportion of the value of the new object to the value of our goods. The Purchaser is to keep and safeguard the new object free of charge with the due care of a businessman.

11.4 In the case of the Purchaser acquiring either exclusive or co-ownership of the goods through connection adding or mixing of our merchandise with other moveable objects to constitute one single new object he shall assign to us our claims stipulated under sub-para. 11.1 by way of security already now this right of ownership in the proportion of the value of our goods to the value of the other objects and agrees to keep and safeguard the entire object on our behalf carefully and correctly and free of charge.

11.5 In the case of selling on our goods or new goods being created by processing pursuant to sub-para.11.3 or combining, adding or mixing pursuant to Sub-para. 11.4, the Purchaser already now assigns all claims to us which ensue from the selling on with all ancillary rights to the amount of the value of the invoice covering our goods, with a priority rating. The Purchaser may not assign the claims against his customers to third parties, nor may he pledge them nor agree a ban on assignment with his customers. Until it is specifically revoked, the Purchaser is entitled to collect the assigned claims ensuing from the selling on of the products. In cases in which our assured claims pursuant to sub-para. 10.2 become due immediately, we are entitled to revoke the Purchaser's authority to collect. Moreover, in such a case, following prior warning and under adherence to a reasonable time limit, we may disclose the assignment of security, realise the assigned claims and also demand disclosure of the assignment of security by the Purchaser vis à vis his customer.

11.6 In the case of a current account, our securities shall be considered as security for our payment balance request.

11.7 The Purchaser is to inform us immediately about any restriction to our above-mentioned security interests. He is to hand over all documentation to us which may be required in the case of intervention and he is also to bear the costs of any intervention measures which are justifiably implemented by us, unless these can be recovered from third parties.

11.8 At the Purchaser's request we shall release the securities owing to us insofar as the realised value of our securities exceeds the assured claims pursuant to sub-para 11.1 by more than 20%. We are entitled to decide which securities are to be released in this context.

### 12. DATA PROTECTION

All of the data that accrues during the process of initiating business contact and thereafter, such as, e.g. shipping data, must be treated as confidential and not passed on to any third parties.

### 13. PLACE OF JURISDICTION AND APPLICABLE LAW

Insofar as it is legally permissible, place of jurisdiction for all legal disputes with business people ensuing from this contract shall be Essen, the location of our administrative head office. The contractual relationship is subject to German substantive law exclusively; application of the UN Sales Convention is excluded. For the interpretation of the usual commercial contract clauses the INCOTERMS (2010) shall apply.

### 14. PARTIAL INVALIDITY

If, for any reason whatsoever, one of these provisions should transpire to be invalid, the validity of the remaining provisions shall not be affected as a result.