



General Terms of Delivery and Payment

§ 1 General information

- (1) These Terms of Delivery and Payment are a part of all offers and contracts concerning goods deliveries and services of the seller also in a current and future business relationship.
- (2) Deviating agreements and business terms are only binding if they are confirmed by the seller in writing.
- (3) Incidentally we refer to our assembly conditions, which are valid for the execution of assemblies, commissioning, repairs and maintenance services.

§ 2 Offers, conclusion of contract

- (1) Our offers are always without obligation and non-binding. The right is reserved to an interim sale.
- (2) Documents which belong to the offer such as diagrams, drawings, weight dimension, performance and consumer details are only approximately decisive. Cost estimates, drawings and other documents shall remain the property of the seller until the conclusion of the contract and may not be made accessible to third parties.
- (3) Amendments, deviations and oral agreements require a written confirmation by the seller.

§ 3 Scope of the delivery obligation

- (1) The written order confirmation is decisive for the type and scope of the delivery. Brochures, drawings, dimensions and weight details are only approximate. With the sale of serial articles we owe goods of the same kind and quality, slight deviations from the ordered goods shall be deemed as approved.
- (2) The execution of the order will be realized on the basis of our project drawings, dimension sheets, respectively, which have to be addressed to the customer latest with the order confirmation. If these documents had not yet been present with placing the order they will be valid for both parties as soon as the purchaser accept these or if he does not inform the supplier of any request for changes in writing within 30 days upon receipt. In case the purchaser expresses such requests for changes incidentally the contract has to be renegotiated.
- (3) Our delivery obligation does not include possible required earth, concrete, cutting or other masonry work or the establishment of the necessary electrical connections.

§ 4 Delivery deadline, right to cancellation

- (1) Agreed delivery and service deadlines are only binding if they have been explicitly confirmed by the supplier.
- (2) Delays with deliveries or services, for which the supplier is not responsible – in particular industrial disputes as well as cases of force majeure both at the supplier as well as at its sub-suppliers – shall extend the delivery deadline accordingly. The orderer is only entitled to cancellation if he has issued a warning about the delivery in the past cases and the delivery is not carried out within 8 weeks after receipt of the letter of warning.
- (3) If the supplier does not deliver for other reasons then the orderer can declare the cancellation, however only assert a claim for damages in cases of wilful intent or gross negligence. Possible claims for damages from delay in delivery are limited to 10 % of the order value insofar as the assumption of liability is mandatory by law owing to wilful intent or gross negligence.
- (4) Default of payment and/or circumstances in the person of the orderer, which allow the security of the purchase price claim, the wage claim or other claims of the supplier to appear in danger, shall entitle it to cancel the contract irrespective of its statutory rights to cancellation and to assert its rights from the reservation of title agreed below or to request damages owing to non-fulfilment. The supplier is also entitled to render the fulfilment of the contractual obligations dependent on the orderer providing collateral or to terminate the contract.

§ 5 Passing of risk, acceptance

- (1) The risk of the accidental loss of the ordered objects shall also pass to the orderer at the time of the delivery to him. If objects are sent to the orderer at his request then the risk shall pass to the orderer with the hand-over through the supplier or a third party named by him. In case of possible return shipments, which are carried out with the consent of the supplier, the orderer shall bear the risk.
- (2) After completion of the plant the orderer has to accept the plant on application of the supplier either himself or through an authorized agent within 10 days. This acceptance is done through confirmation of the assembly by means of assembly reports. Possible reservations of defects are to be recorded in writing.
- (3) In case of non-acceptance of the plant despite a request of the supplier the plant shall be deemed as accepted with the expiry of the tenth day after receipt of the request. The acceptance will be valid with start of using the equipment.

§ 6 Warranty

- (1) If the orderer asserts damages in transit a certificate of the carrier or freight forwarder, the railway or postal company is required concerning the suffered damages. For the purpose of a complaint the certificate of damages is to be submitted to the supplier together with a declaration of assignment with regard to all claims against the transport company or other damaging party.
- (2) The supplier takes over the warranty for the delivered and/or assembled equipment within the limits of the statutory provisions.
- (3) The warranty claims of the orderer are principally limited to his right to request subsequent performance. However, the orderer reserves the right to reduce the purchase price or the wage or at his choice to cancel the contract in case of failure of the subsequent performance.
- (4) In case of any obvious defects the orderer has to report this to the supplier in writing but no later than within two weeks. Any liability is excluded in case of a report of a defect which is not reported in time. The same shall apply if faulty objects are removed, parts are removed from shipments for which a complaint is filed or faulty shipments or such goods are changed by third parties or by installation of parts of a third party origin.

§ 7 Prices, terms of payment

- (1) The supplier reserves the right to change prices accordingly if cost increases occur after conclusion of the contract. Similarly, the supplier is obliged to handle cost reductions.
- (2) The agreed prices are net prices on which cash discount or other deductions are not granted. Cheques are only collected by the supplier in payment. Bank charges shall be for the expense of the customer.
- (3) The orderer can only assert a right to offset or retention owing to an undisputed counter-claim or counter-claim which was determined final and binding.
- (4) The invoices of the supplier are due and payable within 2 weeks from the invoice date insofar as not otherwise agreed. In case of default of payment of the orderer the supplier is entitled to charge interest on default in the amount of 5 % per annum over the respective base lending rate.

§ 8 Reservation of title

- (1) The purchased objects shall remain the property of the supplier until the full payment of all claims from the existing business relationship including interest and costs. During the reservation of title the orderer has to report the destruction, damage or attachment as well as the transport of the object of purchase, or parts thereof to a location, to the supplier immediately.
- (2) If reserved goods are processed to form a new object by the buyer then the processing shall be carried out for the supplier without this leading to an obligation for the supplier. The new object shall become the property of the supplier. In case of processing with other reserved goods the seller shall acquire co-ownership to the new object according to the ratio of the value of the reserved goods to the other good at the time of the processing. The same shall apply to the event of connection, mixing or combination.
- (3) If reserved goods are sold by the orderer he hereby now already assigns the claims established from the resale in the amount of the value of the reserved goods with all secondary rights to the seller, which accepts the assignment.
- (4) If reserved goods are installed by the buyer as an essential part in the property of a third party the buyer hereby now already assigns the claims for remuneration established against the third party, or the party which it concerns, for remuneration in the amount of the value of the reserved goods with all secondary rights to the seller, which accepts the assignment. If the installation is carried out in a property of the buyer then he assigns, for the event that the property is sold, the thus ensuing claim in the amount of the value of the reserved goods with all secondary rights to the seller, which accepts the assignment.
- (5) If the value of the collateral rights of the seller exceeds its claim by more than 20% then the seller shall release excessive collateral rights at its choice at the request of the orderer.

§ 9 Place of Performance, Legal Venue

- (1) The place of performance for all obligations of closed purchase or service contracts is Bocholt insofar as not otherwise explicitly agreed.
- (2) If the pre-requisites exist for a place of jurisdiction agreement according to § 38 of the ZPO (Code of Civil Procedure) then the place of jurisdiction for all claims of the contractual parties, also for actions relating to cheques, is Bocholt.