

Delivery and payment terms

1. General:

- 1.1. The following terms - subject to the stipulations of Point 16 - refer exclusively to business transactions with contractors.
- 1.2. Our terms apply for all contracts, deliveries and other services that we provide to the purchaser.
- 1.3. General terms and conditions of the purchaser which vary from our terms are hereby **rejected**; such terms and conditions do not obligate us even if we do not again expressly reject them. We are only bound by such terms and conditions if we declare ourselves in agreement with their application in writing.
- 1.4. Subsidiary agreements, reservations, additions etc. require our written confirmation in order to be valid. This also applies to such agreements by which the agreed written form requirement is to be lifted.

2. Quotations, contracts:

- 2.1. Unless specified otherwise, our quotations are made without commitment.

3. Prices:

- 3.1. All prices stated by us are subject to value-added tax at the applicable prevailing rate.
- 3.2. Unless agreed otherwise, prices will be based on the price list issued by us, and which is in effect at the time of the conclusion of the contract.
- 3.3. Prices include freight charges within the Federal Republic of Germany (mainland), although without unloading and to the loading bay or door of the purchaser.
- 3.4. For orders below € 1,200.-- total invoice value (without VAT and before metal surcharge), delivery is chargeable. The same applies in the event that, on the instructions of the purchaser, part-deliveries are made to different addresses provided by the purchaser, and these part-deliveries or parts thereof do not exceed the amount of € 1,200.--.

4. Metal rates and calculation:

- 4.1. Raw material rates will be calculated on the basis of the rates published by the NE metalworkers. Unless agreed otherwise, the rates published in the daily press on the date of receipt of the order will apply for electrolyte copper for conduction purposes (DEL notice) plus purchasing costs incurred, aluminium for conduction purposes and lead in cables to DIN 17640.
- 4.2. List prices will be adjusted by the product of the NE metal price difference (EURO/kg). The NE metal price difference is obtained from the difference between the basic metal price and the DEL rate including purchasing costs.

5. Retention of ownership

- 5.1. We retain ownership of the goods supplied by us - hereafter referred to as the retained goods - until full settlement of all claims arising from the business relationship with the purchaser. The retention of ownership also remains in effect if individual claims are included in a current invoice.
- 5.2. The purchaser is entitled to resell the retained goods in the normal course of business. For the purposes of security, the purchaser hereby relinquishes in our

favour his claims arising from the sale against his customer, up to the value of the retained goods.

As long as the purchaser fulfils his obligations toward us, he remains authorised to collect such claims, even though they have been relinquished in our favour. In the case of justifiable grounds however, and especially if the purchaser culpably fails to fulfil his contractual obligations toward us, we are entitled to cancel the above authorisation and disclose the relinquishment that has been made in our favour.

In such a case, the purchaser is obliged to provide us immediately with all information and documentation necessary to make such disclosure.

- 5.3. A sale in the normal course of business is not considered to have been made if the purchaser assigns the retained goods to a third party, transfers them as security and/or makes them the object of factoring and/or sale-and-lease-back transactions.

The same applies in the event that the purchaser delivers the retained goods to a customer whose terms of business exclude the relinquishment of the claims due to the purchaser.

In cases such as the above, the purchaser is at all times obliged to obtain our written consent before conducting such business.

- 5.4. In the event of the further reworking and/or processing of the retained goods, this is carried out at our request and on our behalf as the manufacturer in the sense of §§ 950 ff. BGB (German civil code). In this event, we retain ownership of the items created by the reworking and/or processing of the retained goods in the same ratio of the value of the retained goods to the new items created at the time of reworking and/or processing. If other goods not belonging to the purchaser are also processed at the same time, we are entitled to joint ownership of the new items created in the same ratio of the invoice value of the individually processed goods to the total finished value.

If the purchaser then resells the new items manufactured by him, the claims arising to the purchaser are also hereby relinquished in our favour, for the purposes of security, up to the value of the retained goods.

- 5.5. If the retained goods are damaged, destroyed, or if claims accrue to the purchaser on the grounds of reduction in value of the retained goods against third parties, and especially against insurance companies, these claims are also relinquished in our favour, in accordance with the above and the following stipulations, as security for our claims.

We must be notified immediately and in writing if such claims arise.

- 5.6. If the value of the securities given to us - the value being calculated on the basis of the relevant resale value, less value-added tax and any prior claims by third parties - consistently exceeds our outstanding claims by more than 50%, we are obliged, at the request of the purchaser, to release any securities no longer required at our own discretion.
- 5.7. If a cheque/foreign exchange transaction is carried out, payment of the claims due to us is only considered to have been made on the definitive and unreserved fulfilment of all obligations arising in connection with the above payment method, and in the case of a cheque/foreign exchange transaction only after full processing and conversion of the foreign exchange provided.

6. Payment terms:

- 6.1. Our invoices are payable 30 days after invoice date, without deduction.
- 6.2. The purchaser may only deduct settlement discount if we have agreed this with him in advance and in writing.
A further requirement for claiming settlement discount is that the purchaser is not in arrears with any of his other payment obligations, and that the invoice amount due to us is either transferred within the agreed period or we receive relevant notification of payment within the agreed period.
- 6.3. In the event of failure to observe the above payment terms, we are entitled to charge interest at a rate of 8% above the basic interest rate. This does not affect our right to claim further damages, particularly in the event of demonstrably higher interest rates.
- 6.4. Irrespective of any other payment agreements, all our outstanding claims become due for immediate payment if circumstances occur in the person of the purchaser which give grounds to assume that the payment agreements made cannot be observed (for example insolvency, application for bankruptcy proceedings etc.). In this event, we are also entitled to make delivery of further goods subject to the provision of the appropriate securities and/or advance payment.
- 6.5. The claiming of any rights of retention and/or reconciliation of claims against us is excluded, unless such claims are undisputed and/or have been established in law.

7. Delivery reservations:

- 7.1. All delivery commitments on our part, unless specifically agreed otherwise in writing, are subject to correct and timely delivery of goods to us.
- 7.2. If delivery cannot be made for reasons which are the responsibility of our suppliers, both we and the purchaser may withdraw from the contract, if the agreed delivery date has been, or in all probability will be, exceeded by three months.
- 7.3. We reserve the right to make part-deliveries. In this case, no additional costs will be charged to the purchaser.
- 7.4. We also reserve the right to make the normal, accepted over- or under-deliveries of up to 10% of the quantity ordered.

8. Delivery schedules

- 8.1. Goods will only be supplied to fixed delivery schedules if these have been confirmed in advance in writing.
- 8.2. If we fail to meet agreed delivery schedules and/or times, the purchaser is first obliged to grant us, in writing, an appropriate supplementary period to make delivery. This supplementary period should be not less than 4 weeks. If we also fail to meet this delivery period, the purchaser is entitled to withdraw from the contract.
- 8.3. In the event of force majeure and/or unforeseeable and extraordinary circumstances and/or other events beyond our control, even if they occur to our suppliers, any delivery date agreed by us is extended until the problems mentioned above are rectified. If this time cannot be forecast, and especially if such problems are expected to last for more than 3 months, both we and the purchaser are entitled to withdraw from the contract. In this case, claims for

compensation for damages by either party are excluded. We undertake to notify the purchaser immediately if we become aware of any of the above circumstances.

- 8.4. If the observation of a particular delivery date is subject to our being provided with certain information and/or plans, approval declarations etc. by the purchaser, the agreed delivery time begins only from the time when the complete written information from the purchaser has been made available to us.
- 8.5. If delivery is postponed at the request of the purchaser beyond the contractually agreed delivery date, we are entitled, beginning 10 working days at the earliest from notification that the goods are ready for delivery, to charge the purchaser storage costs of 0.5% of the invoice amount for every month or part of a month, up to a maximum of 5% of the total invoice amount.
- 8.6. Return deliveries that have not been confirmed in advance by us, are made at the sole risk of the purchaser.

9. Call-off orders:

If the purchaser places a call-off order with us, and if no separate written agreements are made with respect to the call-off dates, the purchaser is obliged to notify us of the call-off dates in such a way that we have at least 14 working days between receipt of the call-off notification and delivery, and the last delivery is made 90 days after our order confirmation.

10. Size and weight information:

All information on diameter, weight, technical design, manufacture and extent of the goods to be delivered by us are subject to the reservation of variance within the normal, permitted tolerances.

We also reserve the right to make technical changes at any time in the interests of technical improvement. Colour variations and/or variances in the outer properties of goods delivered by us, which do not however impair the quality or technical features, do not constitute grounds for guarantee claims by the purchaser.

11. Transfer of risk:

- 11.1. Place of fulfilment for our delivery obligations is the delivery warehouse from which the goods are dispatched to the purchaser, and in the event of delivery ex-works, the works from which the deliveries are made.
- 11.2. The risk of the accidental damage and/or loss of the goods is transferred to the purchaser as soon as the goods are handed over to the person carrying out the delivery and/or have left our premises or the manufacturer's works for the purposes of delivery.
- 11.3. If the goods ordered are made ready by us for delivery, and/or delivery and/or call-off is delayed for reasons beyond our control, the risk is transferred to the purchaser on his receipt of notification that the goods are ready for delivery.
- 11.4. We are entitled, although not obligated, to take out separate insurance against the risks associated with transport, on behalf of and on the account of the purchaser.

12. Guarantee:

- 12.1. Guarantee claims by the purchaser first require that the goods delivered are checked immediately to ensure they are in order, that any obvious faults are

notified to us immediately in writing, and that any concealed faults are notified to us as soon as they are detected.

- 12.2. If the fault is our responsibility, we are entitled, at our own discretion, to either rectify the fault or provide a replacement delivery.
- 12.3. If we are not prepared or not in a position to rectify the fault or provide a replacement delivery, or if such rectification is delayed beyond a reasonable time for reasons which are our responsibility, or if rectification/replacement proves unsuccessful for any reason, the purchaser is entitled, at his discretion, either to withdraw from the contract or require an appropriate reduction in the purchase price.
- 12.4. Unless specified otherwise below, any further claims by the purchaser, on whatever legal grounds, are excluded. We are consequently not liable for damages not sustained to the actual goods delivered; we are in particular not liable for loss of profits or other financial damages sustained by the purchaser.
- 12.5. The above limitation of liability does not apply if the damage is caused by deliberate or gross negligence. Nor does it apply if the purchaser claims compensation for damages due to non-fulfilment because of the lack of an assured property.

If we infringe our contractual obligations due to negligence, our liability for material and personal damages is limited to the coverage amount of our product liability insurance. The purchaser may inspect this insurance policy at his request.

- 12.6. The guarantee period is in accordance with legal requirements.

13. Compensation for damages/liability:

- 13.1. Liability for damages on our part, on whatever legal grounds, is excluded in cases of only simple negligence. This restriction does not apply if the damage occurs in or as a result of the fulfilment of any of our principal contractual obligations.
- 13.2. The amount of compensation for damages is restricted to instances of damage typical in such contracts and which might reasonably have been foreseen by us. Liability for atypical and/or unforeseeable damages, on whatever legal grounds, is excluded.

Our liability, on whatever legal grounds, is further restricted to 30% of the goods value invoiced, provided that the damage was caused by an occurrence which can typically result from business of the type in question.
- 13.3. The stipulations of Points 13.1 and 13.2 do not apply to claims under § 1.4 of product liability laws. The same applies for initial inability or culpable impossibility.

14. Cable drums:

- 14.1. Unless agreed otherwise, all cable drums, whether they belong to us or to third parties, are supplied under the following conditions, and where these do not apply, under the conditions of the firm of Kabeltrommel GmbH & Co. KG, as is normal commercial practice. The conditions applied by the firm of Kabeltrommel GmbH & Co. KG can be inspected on our premises at any time, or will be provided to the purchaser on request.
- 14.2. Drums which do not become the property of the purchaser are supplied under the following conditions:

- a) During the first 12 months following delivery, or notification of readiness for delivery, the drums are left with the purchaser free of charge.
 - b) From the 13th to the 17th month inclusive, the purchaser will be charged 15% of the deposit value of the drums per month.
 - c) If the purchaser retains the drums beyond the 17th month, the full deposit value will be charged, and the drums then become the property of the purchaser on settlement of the relevant invoice. These charges are subject to value-added tax at the prevailing rate.
 - d) The charge to be paid by the purchaser within the period from the 13th to the 17th month is cancelled from the time that the purchaser requests collection of the drums in writing, stating the cable drum no. Up to the time of collection, and at the latest up to 3 months after receipt of the collection request, the purchaser remains obliged to store the cable drums with the same care as if they were his own property.
 - e) In the event of insolvency, liquidation, closure of the company etc. of Orderer, Klaus Faber AG shall be entitled to charge a security for the deposit value.
- 14.3. In case of the return of drums not belonging to us or to Kabeltrommel GmbH & Co. KG, we are liable only for the care that we would apply to our own affairs.
- 14.4. The return of empty cable drums will be handled by us and at our cost. If the purchaser returns a cable drum to us without our prior agreement, he acts at his own risk and cost.
- 14.5. On collection, the purchaser undertakes to provide the necessary loading assistance and to pay any such costs incurred. The purchaser is further obliged to insure the cable drums against the normal risks and with all due businesslike care until the end of the period defined in Point 14.2 d).
- 14.6. Irrespective of the above conditions, we expressly reserve the right to supply non-returnable cable drums. If non-returnable cable drums are supplied, the purchaser will be notified accordingly, and at the latest by the time of delivery. Unless otherwise agreed, non-returnable cable drums become the property of the purchaser on delivery.

15. Miscellaneous:

- 15.1. This contract is subject exclusively to the law of the Federal Republic of Germany. In case of international orders, the application of the stipulations of the uniform law on the international purchase of movable goods is expressly excluded.
- 15.2. Seat of adjudication is, at our discretion, either Saarbrücken or the court responsible for the purchaser's head offices, if the purchaser is a businessman, legal person under public law or special asset under public law or has no general seat of adjudication within Germany.
- 15.3. If any of the above stipulations are or become invalid, this shall not affect the validity of the remaining stipulations. In this case, and instead of the invalid stipulations, those legal stipulations shall apply which most closely approximate the commercial intent of the initial stipulation.

These terms and conditions of business replace all earlier versions.

16. Area of application for consumers:

If the purchaser is not a contractor, the above conditions apply accordingly, with the exception of the binding clause on prices quoted by us. In the latter case, we will be bound by the prices quoted (before the metal surcharge) for a period of 4 months. After the end of this period, our relevant list prices apply accordingly, unless scheduled delivery within the 4-month period could not be made for reasons that are our responsibility. The interest rate as defined in Point 6.3 and late payment interest for consumers in general is 5% above the basic interest rate.

Date: December 2005