

Terms and Conditions

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Place of performance and jurisdiction: Cham

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Continuous monitoring of linked content is not reasonable without specific evidence of a legal infringement. If we become aware of any infringement, we will remove the relevant links immediately.

Terms and Conditions

1. The following terms form the contractual basis of our business relationships with purchasers of our products and become part of the contract when we accept a contractual offer. Version: August 2013. Any conflicting or differing terms of the purchaser are excluded. We expressly object to any prohibition on assignment that conflicts with these terms. We accept purchasers' offers solely on the basis of our terms of sale and delivery, installation and repair.

2.1 We may assign claims arising from our business relationship. Our receivables have been assigned to BFS finance GmbH, Verl. Payments discharge the debt only if made to BFS finance GmbH. Bank details are provided in the notice on the invoice.

2.2 Our offers are non-binding unless expressly declared legally binding; otherwise they constitute an 'invitatio ad offerendum', an invitation to submit offers. In such cases, a contract is formed only upon our written confirmation of the order. Oral side agreements and assurances made by our employees or representatives require our written confirmation to be legally effective.

3. The place of performance for our obligations is our registered office or the relevant dispatch warehouse. Our obligation to hand over the goods is fulfilled by identifying and making the goods available and handing them to the carrier (section 243 of the German Civil Code, BGB). Shipping costs are borne by the purchaser, not by us. These include taxes, customs duties and similar charges arising from shipment.

4. Once the goods are identified and made available, the risk relating to performance passes to the purchaser. In the absence of specific instructions from the purchaser, we select a suitable forwarding agent. This does not create any liability on our part.

5. Our prices are net prices, excluding statutory VAT, ex works or warehouse. Packaging, any on-site installation and incidental costs are charged separately. If more than four months elapse between order confirmation and delivery, we may charge the price applicable on the day of delivery.

6. Delivery periods are binding only if expressly designated as such in our order confirmation. Otherwise they are indicative periods; an overrun of up to six weeks is permitted without giving rise to any rights for the purchaser. If, after confirming the order, we discover that we cannot perform, cannot perform on time or cannot perform within an additional period, we may withdraw from the contract without claims for recourse against us. Any advance payments received must be refunded. Partial deliveries are permitted where economically reasonable for the purchaser.

7. If the purchaser withdraws from the contract without grounds attributable to us that entitle them to do so, they owe liquidated damages of 12.5% of the net order value (including VAT), without our having to substantiate the damage.

8. The same obligation applies if circumstances relating to the purchaser that become known later require us to withdraw from the contract. Such circumstances include, in particular, the purchaser's inability to pay, without an insolvency application being required; the submission of a sworn declaration of assets; other material circumstances affecting creditworthiness; or unsuccessful financing or leasing arrangements, unless these have expressly been made a condition subsequent.

9. Our liability is limited to intentional misconduct and gross negligence.

10. The purchaser must notify us in writing of obvious defects within two weeks of receiving the goods; otherwise warranty claims are excluded. Timely dispatch of the notice is sufficient. The purchaser bears the full burden of proving all requirements of the claim, including the defect, when it was discovered and that notice was given in time.

11.1 For defective goods, we initially provide remedial performance by repair or replacement, at our discretion. If we seriously and finally refuse performance, refuse rectification or remedial performance because the cost is disproportionate, if remedial performance fails or is unreasonable for the purchaser, the purchaser may choose only a reduction in the price or rescission of the contract. Rescission is excluded for a merely minor breach, particularly a minor defect.

11.2 Warranty period: 12 months.

11.3 Liability is excluded for unauthorised servicing of products from Herrmann Innovations GmbH.

12. If, after failed remedial performance, the purchaser rescinds the contract because of a legal or material defect, they have no additional claim for damages arising from that defect. If the purchaser instead claims damages, the goods remain with them where reasonable. Damages are limited to the difference between the purchase price and the value of the defective goods. This does not apply if we caused the breach fraudulently.

13. Claims for defects that do not concern a building or services consisting of planning and supervising its construction become time-barred one year after delivery. This does not apply if the purchaser failed to notify us of the defect in time.

14. We do not provide guarantees in the legal sense. Manufacturer's guarantees remain unaffected.

15.1 We retain ownership of the goods until all outstanding claims have been paid in full.

15.2 The purchaser must treat the goods with care. Required maintenance and inspections must be carried out regularly at the purchaser's expense.

15.3 The purchaser must inform us immediately of any third-party access to the goods, such as seizure, and of any damage to or destruction of the goods. They must also immediately notify us of any change in possession of the goods or change in their own address.

15.4 In the event of a breach of contract by the purchaser, particularly late payment or breach of an obligation under clauses 16.2 and 16.3 of this provision, we may withdraw from the contract and demand return of the goods.

15.5 The purchaser is authorised, subject to revocation, to dispose of the goods in the ordinary course of business. However, they hereby assign to us all purchase-price claims against their customers or third parties arising from resale or processing, up to the final invoice amount including VAT, whether the goods are resold before or after processing. We accept the assignment. If a current-account relationship exists between us and the purchaser under section 355(2) BGB HGB, the advance assignment also covers the acknowledged balance. We remain authorised to collect these claims after assignment. Our authority to collect the claims ourselves remains unaffected. We undertake not to collect the claims while the purchaser meets their payment obligations from the proceeds received, is not in default and, in particular, no application has been made to open insolvency proceedings or conduct an out-of-court settlement with creditors for debt adjustment under section 305(1)(1) InsO, and no cheque or bill-of-exchange proceedings or suspension of payments exist. If any such circumstance arises, we may require the purchaser to disclose the assigned claims and their debtors, provide all information needed for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. The authority to collect extends to the entire outstanding balance.

15.6 When the authority to collect under paragraph 5 of this clause ends, the purchaser is no longer entitled to install, inseparably mix or process goods subject to retention of title.

15.7 If the purchaser installs goods subject to retention of title as an essential component of their own land or property, they hereby assign claims arising from the commercial sale of that property or property rights, up to the value of those goods, with all ancillary rights and priority over the remaining claim. We accept the assignment.

15.8 At the purchaser's request, we must release securities to the extent that their realisable value exceeds the secured claims by more than 20%. Unless the purchaser proves a lower realisable value, that value is based on their purchase prices or, if the goods have been processed, the manufacturing costs of the secured goods or co-ownership share, less a permissible valuation discount of up to 45% of the secured claim to account for potentially lower proceeds. We select the security to be released.

16.1 Our invoices are payable within two weeks of issue. Unless otherwise expressly permitted in writing, payment must be made without deduction.

16.2 The supplier may assign claims arising from deliveries and services for financing purposes.

17.1 Where instalment payments have been agreed in writing, the remaining balance becomes immediately due if an instalment is more than one month overdue or if, for the third time, an instalment is not paid in full and/or on time.

17.2 If the purchaser defaults on a payment, all other claims become immediately payable without a separate notice of default.

18. Set-off against the purchaser's counterclaims is excluded in all cases unless those claims are undisputed or have been established by a final court judgment.

19. Replaced parts become our property. A credit is given only if expressly agreed in writing.

20. Repair costs are calculated on the basis of labour time and materials used. Our technicians must prepare work reports, which the purchaser must countersign. Labour is charged at the daily rates applicable on the invoice date.

21.1 These terms also apply to business with customers abroad. The Hague Convention on International Sales of 1 July 1964, the EKG and the EKAG of 17 July 1973 are excluded.

21.2 For deliveries and services to purchasers abroad, it is expressly agreed that all costs incurred by the supplier in pursuing claims following the purchaser's default in payment, whether in or out of court, are borne by the purchaser.

22.1 If the contracting party is a merchant, the courts at the supplier's registered office have jurisdiction over all disputes. The supplier may also bring proceedings in the courts having jurisdiction over the contracting party.

22.2 The contractual relationship is governed exclusively by German law for both parties.

23. If any individual provision is invalid, the invalidity is limited to that clause. Such provisions shall be interpreted, by supplementary contractual interpretation and taking into account both parties' intentions and the statutory rules, as closely as possible to the purpose of the original clause.

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