

GENERAL TERMS AND CONDITIONS

I. Scope of Deliveries and Services

1. Written acknowledgment signed by both parties prevails with regard to the scope of deliveries and services. If no such agreement exists, our written order acknowledgment prevails. Additional agreements only have effect if they are confirmed in writing.
2. The documents that are part of an offer, such as illustrations, drawings, and specifications of weight and dimensions, are only applicable in general terms inasmuch as they are not expressly designated as binding. We retain copyright and ownership rights to cost estimates, drawings and other documents; these documents may not be made available to third parties. We are likewise obligated not to disclose purchaser-provided plans designated as confidential to third parties without the approval of the purchaser.
3. We reserve the right to make improvements in design in keeping with the current state of the art. If this should cause the specified quantities of Materials to change, there will be no change in price. Other agreements are not affected by such a design change.
4. Competitor firms may not be given access to plants we have constructed without our prior approval.
5. Our designs are based on German standards, such as those established by DIN, VDE, VDI etc. If the purchaser wishes particular local guidelines and standards to be observed in the design, these must be made known to us by the time the contract is signed.
6. The required documentation that is supplied together with our plants is provided only in the language of the contract.
7. Unused materials at the completion of the plant covered by our scope of delivery remain our property.
8. Unless otherwise agreed, deliveries are guided by the INCOTERMS 2000.

II. Prices

Prices are net ex works and do not include packing and shipping, sales tax, customs duties or other charges in the country of destination unless otherwise agreed.

III. Retention of Title

1. The supplier retains ownership of the deliverables until all payments under the contract have been received. Payments by draft or check are considered as having been made only after the draft or check from the purchaser has cleared and no further recourse is possible against the seller.
2. The supplier is entitled to insure the deliverables, at the expense of the purchaser, against theft, breakage, water damage, fire damage and other damage inasmuch as the purchaser has not verifiably obtained insurance coverage.
3. The purchaser may neither put a lien on the deliverables nor assign them as collateral. The purchaser must immediately inform us in the event that a lien or seizure or other disposition by third parties occurs.
4. In the case of purchaser conducts contrary to the terms of the contract, particularly default of payment, we are entitled to repossession after giving notice and the purchaser is obligated to surrender the deliverables. Neither exercising the right to retention of title nor attachment of the deliverables qualifies as rescission of contract on our part.

5. The purchaser agrees that this retention of title be registered with the proper quarters (notary, court or the like) if the laws of the country so specify.

IV. Conditions of Payment

1. Payments are to be made to us net cash at Hildesheim in accordance with the agreed conditions of payment.
2. Retention of payments due to any adverse claims disputed by us is inadmissible, as is offsetting of such claims against payments.
3. If the agreed payment dates are not met, annual interest of 3,5 % over the applicable German Federal Bank discount rate and no less than 8 % shall be charged; no notice of default is required and the exercise of other rights is reserved.

V. Term of Deliveries and Services

1. The term of delivery begins upon mailing of the order acknowledgment, but not before documents, approvals, and releases to be furnished by the purchaser have been provided or before the receipt of any agreed upon deposit or other obligations of the purchaser. The term of delivery is met if the deliverables have left the manufacturing plant or if notification of their readiness for shipment has been given by the end of the term. Shipping instructions must be received by us four weeks prior to the agreed upon shipment date.
2. The term of delivery shall be extended proportionately in the event of labor disputes, in particular strikes and lockouts, as well as in the event of unforeseen obstacles beyond our control, to the extent that such obstacles demonstrably have significant effects on the manufacture or shipment of the deliverables. This shall also apply if such circumstances affect subcontractors. We shall likewise not be liable for the above-mentioned circumstances even if they occur during an already existing delay. The purchaser must be informed as soon as possible of the beginning and end of such obstacles in important cases.
3. If the purchaser incurs damages as a result of a delay for which we are responsible, said purchaser, under exclusion of any other claims, is entitled to compensation for default. This compensation amounts to 0,5 per cent for each full week of delay, but shall not exceed a maximum of 5 per cent of the value of that part of the overall shipment that, as a result of the delay, cannot be used in a timely fashion or in accordance with the contract.
4. If shipment is delayed at the request of the purchaser, or if the letter of credit to be provided by the purchaser is not established, then, starting one month after notification of readiness for shipment, the purchaser will be charged for the costs of storage at our plant, but at least 0,5 per cent of the invoice amount for each month. However, after an appropriate term has been set and has expired without result, we are entitled to make other disposition of the deliverables and to supply the purchaser according to a suitably extended schedule.

VI. Transfer of Risk

1. Risk transfers to the purchaser once the individual shipment has left the manufacturing plant, even in the case of prepaid freight. Packing and shipping are done with the greatest of care. At the request and cost of the purchaser, we will insure the shipment against breakage, transport damage, fire damage, and water damage, as well as other insurable hazards.

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2. Our assumption of responsibility for assembly or supervision of assembly has no effect on the transfer of risk for the shipment.
3. If shipment or delivery are delayed for reasons for which the purchaser is responsible, the risk transfers to the purchaser in both cases with the date of readiness for shipment; however, we are prepared, at the purchaser, to obtain insurance coverage as directed by the purchaser.
4. Delivered items, even with minor defects, shall be received by the purchaser without injury to the rights under Section VIII.
5. Partial shipments are permissible.

VII. Transfer/Acceptance of the Plant

Our deliverables and services must be accepted by the purchaser upon our notification of completion. Kilns must be accepted a) upon completion of construction and b) upon readiness for production. If for reasons under the purchaser's control, readiness for production does not occur by four weeks after assembly has been completed, the plant is nonetheless considered ready for production and must be accepted. Acceptance is accomplished through signing of the appropriate acceptance reports which must also note any possible defects. Minor defects not impairing the production capabilities of the system are not grounds for refusal of acceptance. If a performance test at full capacity of the plant is not to be carried out until a later date for reasons which are the purchaser's responsibility, we will, at the request of the purchaser and after timely advance notice, carry out said performance test for a charge. Such a delay outside of our responsibility is not grounds for delays in payments due.

VIII. Handling of Defects

1. After notifying us, the purchaser must allow us the time and opportunity required to perform all repairs and replacements that we deem necessary, otherwise we are released from liability for defects. Only in urgent cases when operating safety is endangered or to prevent excessively great damages, in which cases we must be notified immediately, or when we are in default with correcting the defect, does the purchaser have the right to correct the defect himself or have it remedied by a third party and to demand compensation from us for the costs incurred.
2. Of the immediate costs resulting from the repairs and replacements - insofar as the complaint is shown to be justified - we are responsible for the costs of the replacement parts including shipping as well as the appropriate costs of disassembly and installation, and additionally, if this can reasonably be demanded in the particular situation, the costs of any necessary furnishing of our technicians and support personnel. The purchaser is responsible for any other costs.
3. The guarantee period for the replacement parts and repairs is three months, but at least as long as the original guarantee period for the deliverable. The period of liability for defects in deliverables will be extended by the length of time for which production has been interrupted as a result of the repair work.
4. We are released from all liability for the consequences of any alterations or installation work done without our prior approval by the purchaser or third parties.

IX. Liability for Subsidiary Obligations

If through our fault the delivered item cannot be used by the purchaser as specified in the contract as a result of failed or improper execution of proposals and advice before or after conclusion of the contract, as well as other subsidiary contractual obligations - particularly instructions for operation and

maintenance of the deliverables - the appropriate provisions of Sections VIII. and X. apply to the exclusion of other remedies for the purchaser.

X. Right of the Purchaser to Rescission and Other Liabilities on Our Part

1. The purchaser can terminate the contract if overall performance becomes definitively impossible for us before the transfer of risk. This also applies in the case of incompetence on our part.
2. If a default of performance exists as defined in Section V. and if the purchaser grants us an appropriate grace period with the express declaration that he will refuse to accept performance after expiration of this period, and if the grace period is not met, the purchaser is entitled to terminate the contract.
3. If the impossibility arises during a default of acceptance or through the fault of the purchaser, the purchaser remains obligated to compensation.
4. The purchaser further has a right to rescission if we allow an appropriate grace period given by the purchaser for repair or replacement of a defect for which we bear liability, as defined in the conditions of delivery, to expire without result. The purchaser's right of rescission also applies in other cases of our failure to repair or supply replacements.

XI. Assembly

Assembly is covered by our conditions for assembly and break-in of plants and the assembly rates in effect at the time the assembly is performed.

XII. Patents

For deliverables manufactured by us, we are liable for infringement of patents only to the extent that they have been granted in the Federal Republic of Germany and only in that we support the purchaser in disputes with the patent holder both in and out of court, reimburse him for the costs of a patent action and exempt him from damage claims awarded in final judgment to the patent holder. For patents covering deliverables not manufactured by us, our liability is limited to the assignment of claims to which we are entitled from our subcontractors.

XIII. Jurisdiction and Law

The place of jurisdiction for all actions resulting from this contractual relationship is Hildesheim. We are also entitled to take legal action at the principal location of the purchaser. The contractual relationships are governed by German law with the exception of the law concerning general business conditions. The UNCITRAL trade law is excluded.

XIV. Binding Nature of the Contract

Even if individual provisions of this contract should be legally invalid, it remains binding in its other provisions.

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