

1. General

The following conditions are an integral part of our offer. They apply in particular for purchasing contracts, contracts for work and labour and contracts for work and materials. They also apply for all further contracts, even if they have not expressly been confirmed referring to these conditions.

Each order must be confirmed by us in writing. This applies correspondingly for agreements and assurances given by telegraphic means, telephone or work of mouth, including agreements made with our representatives. Purchasing terms and conditions of the customer are not valid, even if they are not expressly rejected.

2. Offer

The offer is always non-binding. An order is only deemed to be accepted when it has been confirmed by us in writing. Any subsequent change initiated by the customer will be invoiced as an extra item. The documents belonging to the offer, such as illustrations, drawings and statements of weight are only approximate, if not expressly stated by us to be binding.

Tools and models which are purchased and manufactured by us remain our property, even if a proportion of the model costs are invoiced and paid.

3. Price calculation

The prices are stated ex works excluding packaging, without insurance, excluding VAT. The packaging is charged at our own cost price and is not taken back.

Fees and charges and also increases in material prices and wage increases which were not yet taken into consideration in the initial pricing, but which make supply of the goods directly or indirectly more expensive, shall be charged to the customer. If such increases enter into force with retrospective effect, we reserve the right to charge subsequently.

4. Payment

Payments shall be made cash without deduction, irrespective of receipt of the goods and without prejudice to the right for complaints, and without consideration of the time of performance of any assembly work that has been ordered :

- a) for orders of less than € 6.000,-
- aa) within 8 days of date of invoice in cash with 2 % discount or
- ab) within 30 days of date of invoice without any deduction.
- b) for orders of € 6.000,- and above
1/3 deposit on placement of order,
1/3 on notice of readiness for despatch,
the remaining amount within 30 days of delivery.
- c) Payment for foreign orders is always by irrevocable letter of credit.
- d) As an alternative to a-c by means of advance payment with 3 % discount.

However, in special cases we reserve the right to specify other methods of payment, and if appropriate to require advance payment or payment on account. Advance payments do not influence the prices. Counterclaims which have not been recognised cannot be offset by the customer, nor may payment be withheld for this reason. We invariably reserve the right to refuse payment by cheque or bill of exchange. Cheques or bills of exchange are only accepted on account of payment.

If the goods are taken into storage for any reason, the day of completion of the goods is deemed to be the day of despatch. Non-fulfilment of the payment target entitles us to charge interest for arrears of payment from the day when the payment is due up to actual receipt of payment. The interest charges will be 1% above the respective accepted bank base rate.

If the conditions of payment are not adhered to or if circumstances become known to us following conclusion of the contract which reduce the creditworthiness of the customer, all open payments become immediately due regardless of any previous agreements to the contrary. Any performance which has not yet been fulfilled only needs to be provided against advance payment or provision of security; we are entitled at our discretion either to withdraw from contracts or to take back our property at the cost of the customer.

5. Delivery time

Information given with regard to delivery and assembly times are invariably non-binding. The delivery period begins on the day of order acceptance and final clarification of the order with presentation of all the documents to be supplied by the customer, and also following receipt of agreed advance payments or instalments.

Claims for withdrawal, compensation for damages, reduction in price, or contractual penalty based on delayed delivery are excluded. In addition, acts of God, strikes, lockouts, operational disturbances or other causes for which the supplier is not responsible always release the supplier from the obligation to uphold the delivery period. The agreed volumes can also be delivered in the form of partial deliveries.

6. Transfer of risk and despatch

Even in case of delivery carriage paid and if assembly is also to be performed, risk is transferred to the customer as soon as the consignment has left the factory. If the despatch or delivery is delayed due to fault on the part of the customer, the risk is transferred to the customer as from the time when the goods are ready for despatch. Packaging and despatch are implemented according to our best judgement, but without any guarantee. Items delivered must be accepted by the customer even if they are subject to complaints. Goods which have once been delivered are only taken back by special agreement.

7. Retention of title

We retain the title to the item(s) delivered, including all incidental claims, until all payments resulting from the supply contract and the current business relationship have been made. For as long as the retention of title remains in force, the supplier may neither pledge the goods nor offer them as security. If third parties raise a claim to the goods, the customer must inform us immediately by registered letter. Assertion of retention of title by ourselves does not constitute withdrawal from the contract.

The customer is not entitled to assign his claims to a third party. He is authorised to sell on the item supplied to third parties in the course of normal business. In this case, the customer already now assigns his claims resulting from the onward sales contract to us, until all the payments due from the customer resulting from the contract and from the current business relationship have been made. If the items supplied are connected with other moveable items or if the items are processed, the customer already now assigns the resulting claims to us, including any joint ownership.

8. Guarantee and compensation

Complaints are only taken into consideration if submitted immediately or at the latest within 5 days of receipt of the goods or end of assembly. Justified complaints are rectified excluding further claims. We shall not be liable for repairs or replacement(s) that the customer has performed himself or has had performed by third parties.

All guarantee claims lapse within 6 months, or in the case of multi-shift working, within 3 months of commissioning. This also applies if we have performed the assembly work and is regardless of whether the items delivered are moveable items or if the item becomes or has become part of a building. Rectification of the defect is at our cost, however excluding the costs for disassembly and assembly and consequential damages, and shall be performed in such a way that we can select between cost-free repair in our factory or replacement.

Every form of guarantee shall lapse if the complaints are based on work or changes, incorrect attachment, handling or use, overloading or natural wear. If third-party construction elements are attached to fittings or connected with them, we shall only be liable for the parts supplied by us. The goods can only be replaced if the obligation to replace the goods has been determined by means of inspection in our factory. Our guarantee for automatic valves with electric drive or electric signalling devices shall lapse if our instructions are not followed, in particular if the connection was not performed by a trained and qualified electrician and the installation is not in accordance with our regulations, taking the PTB test conditions into consideration.

When supplying third-party products, our liability is limited to assignment of the guarantee claims which we have against our own supplier.

9. Withdrawal

If unforeseen events occur, in so far as they are of economic significance or give rise to major changes as regard to the content of our performance, or if they have an effect on our operations, and in case of real impossibility of execution emerging at a later date, we have the right to withdraw from the contract to a corresponding extent. Claims for compensation on the part of the customer as a result of such withdrawal are excluded.

10. Legal venue and place of fulfilment

The legal venue and place of fulfilment for deliveries and payments and for all conflicts arising from the contractual relationship is Herford.

In the case of foreign business, German law applies.

KFM Regelungstechnik GmbH