

§ 1 General

- (1) Our terms of sale, delivery and installation (referred to herein as: „general terms and conditions“) apply exclusively for all current business relationships with the Purchaser and for all future business relationships insofar as these are of a legal nature. Earlier general terms and conditions, which may or may not differ from the present terms, lose their validity.
- (2) The offer, offer acceptance, order confirmation and/or the sale of all products shall be governed by the general terms and conditions set forth below. General terms and conditions of the Purchaser that are contrary to or differ from the following terms and conditions are rejected; we shall only recognise these if we have given express written consent.
- (3) Warema reserves the right to correct errors in its sales brochures, price lists, offer documents or other documentation without our being held liable for these errors.

§ 2 Offer and conclusion of contract

- (1) Our offers, regardless of the form in which they are made, are - until we receive the reply - without engagement, unless otherwise expressly agreed. They are based on the specifications of the Purchaser, which must precisely describe the local conditions insofar as they affect the products we are to deliver.
- (2) The quantity, quality, description and any specific characteristics of the goods are in accordance with the our offer. The content and scope of our deliveries and services are defined solely by our written order confirmation. All sales documents, specifications and price lists are to be treated confidentially and may not be disclosed to any third parties without prior our express written consent. We reserve all proprietary rights and copyrights in respect of all sales documentation, specifications and price lists and similar documentation.
- (3) Placement of the order is a binding declaration that the Purchaser will purchase the ordered item. Changes to the order are no longer possible after order receipt. Additional agreements or assurances are only valid insofar as they have been confirmed by us in writing.
- (4) We reserve the right to make technical changes and improvements even after the contract has been effectively concluded that are within a reasonable scope, provided that these changes do not detract from the product with respect to its form, function or price.
- (5) The Purchaser is aware that the products we manufacture are individually made-to-measure and therefore cannot be exchanged or returned. If the Purchaser does not accept the ordered goods, we shall charge the Purchaser for any costs already incurred by us in connection with the order that we can document, any incurred extra expenses and any loss in profit.

§ 3 Delivery dates, delivery of goods

- (1) Specific delivery times are only binding if our written order confirmation contains a calendar date for delivery and if this date has been expressly confirmed in writing as a binding delivery date.
- (2) The delivery period only begins after all technical questions and other particularities of the order have been clarified with the Purchaser and the Purchaser has duly fulfilled any other obligations in a timely manner. These obligations on the part of the Purchaser include making available the necessary documentation and the settlement of any agreed advance payments. Plea of unfulfilled contract shall remain reserved.
- (3) The delivery period shall be extended by a reasonable period in the event of unforeseeable obstacles beyond our control, such as force majeure, strike action, lockouts and business disruption. The Purchaser shall be immediately informed of the reason and predicted duration of the delay. If the hindrance is not expected to end within a reasonable period of time, we shall be entitled to declare the contract avoided in its entirety or partially.
- (4) In the event of a delivery delay, the Purchaser can only declare the contract avoided, if he first fixed an additional period of time of reasonable length for performance in the declaration of avoidance and no performance is rendered within this period of time.
- (5) Partial services and partial deliveries are permissible within a reasonable scope and can be invoiced accordingly.
- (6) Should the Purchaser come into acceptance delay or should he culpably be in breach of other duties to cooperate, we shall be entitled to make claims for any damage we incurred, including any extra expenses. This has no influence on the duties of the Purchaser to settle the purchase price when due. In the event of an acceptance delay, we shall store the goods at the risk and expense of the Purchaser. At the request of the Purchaser, we shall insure the goods at the Purchaser's expense. Further claims shall remain reserved.

§ 4 Purchase price

- (1) The purchase price is the price specified in the order confirmation. If no price is specified there, the purchase price is the price in our current price list that is valid at the time of order placement, or the price contained in the offer.
- (2) For receiving locations within the Federal Republic of Germany, the purchase price includes delivery to the receiving station via normal freight including the costs of packaging, plus the respective statutory value-added tax.
- (3) Expenses that arise from changes requested by the Purchaser after our order confirmation to the type or scope of delivery or that arise from the fulfilment of new or unforeseeable statutory requirements shall also be invoiced separately from the quoted purchase price.

- (4) We reserve the right to make reasonable price changes due to changes in wages, materials and sales costs for deliveries that take place four months or more after conclusion of the contract. We reserve the right to raise the price of goods, after timely notification of the Purchaser and prior to delivery of the goods, as necessary due to general price trends that are beyond our control (such as fluctuations in currency exchange rates, currency regulations and changes in customs duties) or due to changes in the delivery data.

§ 5 Conditions of payment

- (1) The purchase price is due as of the day of invoice placement. For payments within 14 days from the invoice date, a 2% cash discount is permissible. Interest on late payment will not be charged for payments effected within 30 days of the invoice date. Customer-specific or order-specific agreements regarding the size of the discount, the discount deadline or interest on late payment shall only take precedence if these have been confirmed in writing by us. The discount regulation does not affect the due date pursuant to Section 1 and does not include extension or standstill agreements. For new customers we require that payment be made prior to delivery.
- (2) Payments should be made by bank transfer or by cheque; cheque payments are accepted in lieu of performance. We only accept bills of exchange in lieu of performance and only if agreed in writing. All costs arising from the acceptance of bills of exchange shall be borne by the Purchaser.
- (3) If it is agreed that the Purchaser is to open a documentary credit via his bank (or another bank that is acceptable to us), it is stipulated that the credit opening be made aligned with the Uniform Customs and Practice for Documentary Credits, Revision 1993, ICC Publication No. UCP 500.
- (4) If the Purchaser fails to effect payment by the due date, we shall have the right to perform any further deliveries to the Purchaser against advance payment only. Further claims shall remain reserved. Interest on late payment shall be 8 percent above the respective base rate p.a. The claiming of higher damages shall remain reserved, likewise the claiming of further damage or loss incurred, including legal costs incurred for the claim.
- (5) If, after the effective conclusion of the contract, the business circumstances of the Purchaser change to the point where they cast doubt on the creditworthiness of the Purchaser on the grounds to reasonable business judgement, or if Warema only acquires knowledge of this situation at that time, we are entitled to delay delivery of the goods until the goods are paid in advance or we have been given a commensurate security for the payment. For new orders, in addition to being entitled to demand advance payment, we also have the right to effect delivery versus payment. Furthermore, we are entitled to rescission of the contract.
- (6) The Purchaser shall have no right to make offset except in respect of the Purchaser's counterclaims that have been established at law and are undisputed. The right of retention is excluded if the Purchaser knew of the defect or any other reason for complaint at the passage of risk without having reserved his rights in writing to this effect or if it remained unknown to him due to gross negligence. This does not apply if we acted fraudulently or if we granted a guarantee for the quality of the item/work.

§ 6 Passage of risk, transport, packaging

- (1) The route and means of dispatch shall be determined at our discretion. The packaging is not determined on an item-related basis but on the grounds of transport-related, production-related and environmental considerations. Reusable packaging is on loan to the Purchaser. Within three weeks, the Purchaser shall notify us in writing of return of the packaging units and make the packaging available. Failure to do so shall give us the right to charge a rental fee retroactively or to invoice the value of the packaging, which must be paid immediately upon receipt. This regulation does not apply to one-way packaging. It becomes property of the Purchaser and is not taken back.
- (2) Risk of coincidental loss and coincidental deterioration of the purchased item shall pass to the Purchaser no later than upon arrival of the goods with our vehicle on the Purchaser's company premises or at a destination specified by the Purchaser on a firm road surface; if the transfer location is not navigable, passage of risk shall take place at the nearest location where arrival and departure are readily possible. If the goods are shipped to a place other than the place of performance at the instruction of the Purchaser, the risk of coincidental loss and coincidental deterioration of the purchased item shall pass to the Purchaser upon handover of the purchased item to the forwarder. The undisputed acceptance of the consignment by the forwarder shall be deemed as proof of the perfect quality of the packaging and proper loading, provided that the Purchaser does not prove that the packaging exhibited defects when the consignment was handed over or the consignment was not properly loaded.
- (3) If the Purchaser delays acceptance, risk of coincidental loss and coincidental deterioration of the purchased item shall pass to the Purchaser from the day of readiness for dispatch.
- (4) In the case that we deliver the goods with our own transport vehicles, we shall take out a transit insurance policy within the framework of our general policy.
- (5) The above Sections 1 to 4 also apply to partial deliveries.

§ 7 Reservation of ownership

- (1) The delivered item shall only become the Purchaser's property upon complete payment.
- (2) If the Purchaser is in breach of the contract, in particular in default of payment, we shall be entitled to declare the contract avoided after expiration of an additional period of time of reasonable length and require the surrender of the purchased item. After taking back the purchased item, we are authorised to reuse it. The earnings from its utilisation are credited to the liabilities of the Purchaser - minus reasonable utilisation costs.



§ 8 Warranty, notice of defects

- (1) Warranty rights are subject to the Purchaser having properly complied with his examination and notification obligations pursuant to Art. 38 f CISG. If there are any complaints, apparent faults are to be reported immediately, however within 8 days after receipt of the goods at the latest, hidden faults immediately after their discovery, otherwise the goods shall be deemed approved. Art. 39 Para. 2 CISG shall remain unaffected.
- (2) In the event of a notice of defects, the Purchaser is obligated to accept and properly store the goods. Prior to the processing, destruction, etc., of the goods, the Purchaser must grant us adequate time to check the defects of which notice was given and perform an independent procedure for taking of evidence if necessary, provided that this is not unreasonable for the Purchaser and that evidence is not lost. If the Purchaser fails to do so, this shall void his rights, unless Art. 40 CISG applies.
- (3) For defects on the goods that can be traced back to a goods description or specification of the Purchaser, we shall not assume responsibility; our responsibility does not extend to parts, material or other equipment that are manufactured by the Purchaser or contracted by him and are made available to us. The Purchaser is responsible for checking the quality and load-bearing capacity of the installation substructure and to select appropriate fixing materials; we shall not assume responsibility for defects that are due to incorrect selection.
- (4) Warema meets the stipulations for CE labelling of the products on the basis of the DIN EN standards that are applicable in each case. Responsibility for use of the product rests with the Purchaser. The Purchaser may only use the product under the conditions specified in the technical documentation and operating and installation manuals.
- (5) This warranty does not encompass product defects or include liability for damage caused by faulty installation, improper use or storage, unintended use, negligence, incorrect commissioning, alterations or repairs, normal wear and tear, faulty electrical connection, operation in connection with unsuitable control components or other reasons. Warranty is excluded if the necessary maintenance work stipulated in the operating manuals was not performed to the required extent by specialist companies. The specialist companies must verify transfer of the operating manuals to the user and performance of the maintenance work by means of a signature from the user or the person assigned with the maintenance work.
- (6) We have the right to rectify defects by removing the defect or by subsequent fulfilment at our own discretion. If we declare subsequent rectification or fulfilment as having definitively failed, the Purchaser - without prejudice to any claims for damages - can declare the contract avoided pursuant to Art. 49 CISG, if a fundamental fault within the meaning of Art. 25 CISG is involved, or reduce the price pursuant to Art. 50 CISG. The Purchaser cannot demand compensation for futile expenses.
- (7) The quality of the purchased item is always based entirely on the product description of the manufacturer. Public statements and advertisements by the manufacturer do not represent a contractual specification of the quality of the goods. However, we provide assurance that the delivered goods are free of material and processing faults.

- (8) In the event of wilful intent or gross negligence, we can be held liable as per the legal regulations. Unless we committed an intentional or grossly negligent breach of duty, liability is limited to typically occurring damage. This does not apply to liability arising from the culpable injury of a person, damage to health or bodily harm, including the killing of that person. Liability arising from the product liability law also remains unaffected. If we are guilty of a culpable breach of an essential contractual duty, we are also liable under the legal regulations.
- (9) The Purchaser's claims for expenses incurred for the purpose of subsequent fulfilment or rectification, in particular freight charges, travelling expenses, labour and material costs, are excluded, in so far as the expenses are higher because the goods we delivered were later moved to a place other than that stated as the Purchaser's delivery address; if we bear such costs during the course of subsequent fulfilment or rectification, these have to be reimbursed by the Purchaser.
- (10) The expiry period for defect claims of the Purchaser is two years. The warranty period begins at the date on which the goods are actually handed over to the buyer.

§ 9 Limitation of liability

- (1) We shall render damages for the goods' lack of conformity only if we are at fault with respect to the said lack of conformity. Claims for damages under non-fundamental breaches of contract are excluded.

§ 10 Final conditions

- (1) Alterations and amendments to the contract including these general terms and conditions shall require written form. This shall also apply to an alteration of this written form clause. Additional oral agreements have not been made.
- (2) The UN Convention for the International Sale of Goods (CISG) shall apply unless anything to the contrary arises from these general terms and conditions. German law shall apply for those areas not covered by the CISG.
- (3) The sole place of jurisdiction for all disputes arising from the contract shall be our principal place of business in Marktheidenfeld, Germany.
- (4) The Purchaser is informed herewith that all personal data obtained in regard to the business relationship shall be processed within the scope of the German Data Protection Act.
- (5) Should individual provisions of the contract, including these general terms and conditions, become wholly or partially ineffective, this does not affect the validity of the remaining provisions. The partially or wholly ineffective regulation is to be replaced with a provision by means of which the intended economic purpose can be achieved to the greatest possible extent.

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