

GENERAL TERMS AND CONDITIONS

1. GENERAL

We conduct all business exclusively on the basis of these Terms and Conditions of Sale, Delivery and Payment. They shall be deemed to be accepted if the customer places orders with us or accepts deliveries from us after becoming aware of and/or after receipt of these Terms and Conditions of Sale, Delivery and Payment and even if no express reference is made to them in a subsequent legal transaction. If deliveries are made without order confirmation, the invoice or delivery bill shall be deemed to be the order confirmation. Any other terms and conditions of our customers shall under no circumstances become part of the contract, even if we do not expressly object to them.

2. OFFER, PRICES

All our offers are non-binding and subject to change. Orders placed with our representatives require our written confirmation. All prices are ex warehouse Bindlach Germany plus the costs for packaging and shipping. The prices and inflation surcharges in EUR valid on the day of delivery shall be decisive for the price calculation. All prices quoted are exclusive of statutory value added tax. Misprints or errors are reserved.

3. DELIVERY, DELIVERY TIME AND TRANSFER OF RISK

3.1 Delivery dates stated by us are always non-binding and refer to departure from the warehouse in Bindlach or, in the case of direct delivery by the manufacturer, from the manufacturer's warehouse. Fixed dates shall not be agreed by us as a matter of principle. Partial deliveries are permissible to a reasonable extent. Force majeure and other events for which we are not responsible (e.g. delays in delivery by our upstream suppliers, strikes, operational disruptions, shortages of materials or energy) shall entitle us to extend the delivery period and the duration of the delay plus a reasonable start-up period. However, we shall also be entitled, at our discretion, to withdraw from the contract in this case. The customer shall then be informed immediately of the non-availability of the subject matter of the contract. Any services already rendered by the customer shall be reimbursed without delay. Claims for damages by the customer due to such a withdrawal do not exist. If the specified delivery period is exceeded by us by more than 4 weeks, the customer has the right to set us a reasonable grace period. If the contract cannot be fulfilled even within this reasonable grace period, the customer shall be entitled to withdraw from the contract by written declaration to us without any further rights, claims or demands of any kind whatsoever, unless we are guilty of intent or gross negligence. We reserve the right to make changes in the technical design of our goods - without special notification to the customer - provided that the value and usability of the goods offered is not impaired thereby.

3.2 Delivery of the goods from our warehouse in Bindlach or from the manufacturer or upstream supplier to the Buyer's destination shall be at the Buyer's expense and risk. This shall also apply in the case of agreed freight-free delivery.

4. LIABILITY FOR DEFECTS, WARRANTY

4.1 All delivered goods are to be inspected immediately upon receipt for visible defects. Defects or other ascertainable deviations from the order must be reported to us in writing no later than 7 days after receipt of the goods. Other defects or deviations are to be reported immediately after detection.

4.2 The warranty period is 12 months from the date of purchase. In the event of justified warranty claims against us, we shall be prepared, at our discretion, to make a replacement delivery or rectify the defect. In the event of failure of the rectification or replacement delivery, the customer shall be entitled to demand a reduction of the purchase price or, at its option, rescission of the contract. Further claims, in particular a claim for compensation for damage that has not occurred to the delivery item itself (consequential harm caused by a defect), are excluded, unless we are guilty of intent or gross negligence.

4.3 The warranty and any liability on our part shall expire if the delivered goods have been tampered with, modified or repaired by the customer or a third party.

5. LIABILITY, COMPENSATION

5.1 We are liable for damages in accordance with the statutory provisions for personal injury and for damages under the Product Liability Act.

5.2 We shall only be liable for other damages if these have occurred due to intentional or grossly negligent actions on our part or on the part of our legal representatives and vicarious agents.

6. TERMS OF PAYMENT

6.1 First-time customers can pay our invoices either in cash (collector), cash on delivery or by prepayment immediately pure net.

6.2 Regular customers are supplied on account with a payment term of 8 days net. The payment period begins with the receipt of the invoice or equivalent request for payment. The customer is in default if the agreed payment term is exceeded. In that case, all further claims of the supplier shall become due immediately. We reserve the right to demand payment in advance or the provision of security if circumstances become known which appear to jeopardize our claims. Any special payment terms, discounts or other benefits agreed with the customer are subject to the condition that the customer does not default on payment or suspend payment.

We shall be entitled to charge interest on arrears in accordance with § 353 of the German Commercial Code (HGB) in dealings with merchants as well as interest on arrears in the amount of the bank interest payable on the basis of the credit actually taken up, but at least 5% interest above the prime rate in accordance with §1 of the Discount Rate Transition Act (Diskontsatz-Überleitungs-Gesetz) plus the statutory value added tax. This shall not affect the assertion of any damage caused by default that demonstrably exceeds this amount.

6.3 Regular customers who have given us a direct debit authorization receive a 2% discount. The invoice amount minus discount will then be debited from the customer's account after 8 days at the earliest. In the event of a return debit note from the customer or his bank, we will charge the return debit note fees incurred by us plus a processing fee of 10.00 EUR.

7. OFFSETTING, RETENTION

The purchaser may only offset a counterclaim if it is undisputed by us or has been legally established.

8. PACKAGING, TRANSPORT

8.1 The packaging will be charged at cost price and will only be taken back if it is delivered to us free of charge.

8.2 The Buyer shall immediately notify the carrier of any obvious as well as possibly detected transport damage. We hereby assign any claims for damages against the carrier to the customer, who accepts the assignment. We will not provide free compensation for damage or loss during transport. Transport insurance will only be taken out at the request and expense of the customer, unless this is customary.

9. RESERVATION OF OWNERSHIP

9.1 The goods remain our property until full payment has been made. Ownership shall not pass to the purchaser until he has fully repaid all his liabilities arising from his business relationship with us, including those arising in the future.

9.2 The claims arising from a resale of the goods or new products manufactured therefrom are already now assigned to us with first priority in the ratio of the value of the goods delivered by us to the entire new item. The assignment is hereby accepted. In the event of default, we shall be entitled to demand surrender of the goods subject to retention of title for the purpose of safekeeping; this shall not constitute withdrawal from the contract; the demand for surrender shall only be made to secure our payment claims. If, in order to save our rights and claims, we have to take back, segregate or otherwise secure goods delivered to the Buyer by the Buyer, the associated costs shall be borne by the Buyer. We shall be entitled to make deductions of up to 30% of the invoice value on the goods taken back, segregated or otherwise secured. In addition, the Buyer shall be fully liable to pay compensation for any depreciation in value suffered by the delivered goods. The right of the buyer to prove that lower deductions would be justified is not affected by this.

10. NON-PERFORMANCE, REFUSAL OF ACCEPTANCE

In the event of non-acceptance of the goods, the purchaser is obliged to compensate for the additional expenses incurred. In this case, we are entitled to demand 20% of the order amount - but at least EUR 25.00 - as compensation without further proof. We reserve the right to claim demonstrably higher damages. The purchaser reserves the right to prove that no damage or less damage has been incurred.

11. RETURNS, EXCHANGES

In exceptional cases, returns will only be accepted after prior consultation and written consent using an RMA number, unused in unopened original packaging, with a copy of the invoice, the reason for the return and free delivery only accepted. We reserve the right to make a deduction of at least 20% of the invoice value in addition to the transportation costs when taking back faultless goods, but not less than EUR 25.00. Under no circumstances will electrical components or drop shipments be exchanged or returned.

12. JURISDICTION, FINAL PROVISIONS

The place of performance and jurisdiction shall be Bayreuth or another statutory place of jurisdiction of our choice, insofar as the customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity or a corporation under public law. These terms and conditions are binding even if individual points are or become legally invalid. The omission of individual ineffective conditions shall not affect the validity of the other conditions. The law of the Federal Republic of Germany shall apply. German law shall also be deemed agreed for deliveries abroad.

Proflamm Heiztechnik e.K.
Sitz: Bindlach
Amtsgericht Bayreuth
HRA 3652
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