

General Terms of Payment and Delivery

I. Scope of the Terms of Payment and Delivery

- All deliveries and contracts entered into in the course of our business relations, i.e. including all future contracts, shall be governed exclusively by the following terms. The customer explicitly acknowledges these terms to be binding for both the current contract and all future contracts, even if the order form or contract includes a reference to the customer's own terms of purchase or contract and claims priority for the same. The following terms of business shall have priority over any contrary terms brought to bear by the customer. Neither our silence nor our performance of contract shall be deemed to imply consent to the customer's terms of business. Any deviations from the following terms required in isolated cases must be confirmed in writing.
- Unless agreed otherwise in what follows and in the absence of any additional terms, the "General Terms of Delivery for Products and Services of the Electrical Engineering Industry" shall apply.

II. Acceptance of Contract and Scope of Obligations

Our written order confirmation shall govern the scope and content of the contract.

III. Prices, Terms of Payment

- Our prices are based on the prices specified in the order confirmation plus value-added tax at the rate prevailing on the date of delivery.
- Prices are quoted for delivery ex works excluding packing. The minimum invoice amount for small deliveries is €75.00. The prices specified in the order confirmation are based on the nonferrous metal quotations on the day of the order confirmation. The prices are determined according to our nonferrous metal price escalation formula.
- The customer shall be in default if the customer does not make payment after receiving a reminder sent after the price is due or if the customer does not make payment by a calendar date specified in the contract. The legal rule stating that the customer is automatically in default 30 after the due date and receipt of an invoice at the latest remains unaffected. We charge default interest that is 8% above the base rate in accordance with the Discount Rate Transition Act (Section 288(2) of the German Civil Code). A higher interest rate is to be charged if we are charged a higher interest rate. For payments made within 14 days of the date of invoice, we shall grant a 2% cash deduction, free point of payment for the supplier.
- 3.1 Bills of exchange - accepted only at our discretion - shall be accepted only in fulfillment of our claims and subject to discountability, but without cash deduction and subject to the reimbursement of all bank charges, discounting and collection charges incurred. Checks shall likewise be accepted only for the purpose of fulfilling our claims.
- 3.2 Credit notes shall be issued explicitly for the purpose of offsetting claims. There shall be no claim to the payout of the amount.
- 3.3 If a bill of exchange or a check is not cashed on time or if a set payment deadline is not met then all claims still outstanding on that date shall become due for payment immediately.
- 3.4 If, after issuing our order confirmation, we become aware of circumstances regarding the customer's financial situation which cast doubt on the smooth processing of the contract, we shall be entitled to demand immediate payment or the return of the goods delivered as well as payment in advance for all future deliveries. If these types of circumstances apply to a party involved in a bill transaction then we shall be entitled to return the bill of exchange and demand immediate payment. Any costs incurred shall be borne by the customer.
- 3.5 Apart from that, in the event of a default on payment, the customer shall not only pay the default interest but shall also reimburse us for the costs for reminder notices and collection charges.
- 3.6 The customer shall have no right to offset through counterclaims unless these counterclaims are undisputed or definitively legally established. The customer is not permitted to exercise a right of retention due to unrecognized claims or claims which are not definitively legally established unless these claims are based on the same contractual relationship.

IV. Delivery period

- Delivery dates or delivery periods, which can be binding or non-binding as agreed, are to be confirmed in writing. Force majeure, strikes or inability to deliver through no fault of our own or of our suppliers shall result in an extension of the delivery period by as long as the impediment to delivery prevails.
- In the case of framework agreements, our obligation to deliver shall expire if the customer fails to place call orders for approximately identical quantities at approximately regular intervals. Unless otherwise specified, a period of 12 months shall apply as agreed. Even after the expiration of this period, however, we shall be entitled to demand acceptance of the goods or damage compensation.
- Partial deliveries are permitted and do not represent any material defect.
- Any changes to an order made after the order confirmation shall invalidate the original delivery date.

V. Dispatch, Insurance, Packing

The goods shall be dispatched by post or by a forwarder of our choice. We shall insure our shipments as far as the destination and at the customer's expense. Packing shall be invoiced at cost price. It cannot be reclaimed. Deliveries shall be effected at the customer's expense and risk, even if carriage-paid terms have been agreed.

VI. Acceptance

The goods delivered are to be accepted by the customer even if they are not free from defects. Deviations of up to 5% in orders shall be accepted and do not represent any material defect.

VII. Material defects

In the event of material defects, the choice to exercise the right to rectify defects through subsequent performance falls to us exclusively. We are liable for material defects as follows:

- Material defect claims shall be barred after twelve months. This shall not apply in cases of injury to life, body or health, in the case of violation of obligation through intentional misconduct or gross negligence by us or in the case of fraudulent concealment of a defect. The statutory provisions regarding the suspension of the statute of limitations as well as the suspension and renewal of the period shall remain unaffected.
- We have the option to rectify, replace or re-perform at no charge all parts or services or objects that are found to have a material defect within the statute of limitations unless its cause already existed at the time of the passing of risk.
- The customer is to notify us of any material defects in writing without undue delay, in any event not later than within three working days of the receipt of the goods. If a defect which was not apparent during the inspection becomes apparent at a later date then we are to be notified of this immediately, in any event no later than within three working days of its discovery. If the customer fails to notify us on time then the goods shall be deemed accepted in view of the defect. The same shall apply if the customer does not enable a professional inspection of the defect in due time upon our request.
- We shall not be liable for the following types of damage:
minor deviations from the agreed properties, minor impairments of usability or deviation from the usual use; for natural wear and tear or damages resulting after the transfer of risk resulting from faulty or negligent treatment or excessive stress or due to particular external influences that are not agreed in accordance with the contract.
If changes are improperly carried out or if other interventions are carried out by the customer or by a third party then there shall not be any claims for defects for these or for the consequences resulting from them either.
Furthermore, no liability shall be assumed for damages resulting due to the reasons below: inappropriate or improper use, faulty assembly or commissioning by the customer or a third party, unsuitable equipment or substitute materials, faulty construction work, unsuitable foundation or chemical, electrochemical or electrical influences, provided that we are not at fault.
- If defects are identified then the customer can withhold payments proportionately to the identified defects. However, the customer can only withhold payments if a defect notification is made without undue delay and there can be no doubt as to its validity. If the defect notification is unjustly made then we shall have the right to demand reimbursement from the customer for the expenses we have incurred.
- We are first to be granted the opportunity to provide subsequent performance within a reasonable period. If the subsequent performance fails then the customer can revoke the contract or reduce the remuneration.
Only in urgent cases of risk to operational safety or in order to avoid disproportionate damage, of both of which the customer shall notify us immediately, or if we have defaulted on the rectification of the defect, the customer shall be entitled to perform the rectification of the defect personally or have it performed by a third party and demand the reimbursement of the costs incurred.
- The customer's claims for expenses necessitated for the purpose of subsequent performance, in particular transport, transit, labor and material costs, are excluded unless the expenses result or increase because the goods delivered were subsequently taken to a location other than the customer's establishment.
- The customer's recourse claims against us in accordance with Section 478 of the German Civil Code only exist if the customer has not concluded any agreements with the customer's recipient beyond the statutory claims for defects. If the defective goods are further processed or worked, if they are mixed with products from a different source or if the customer or a third party which is not our supplier attempts to repair the goods then it shall be up to the customer to prove that the defect in question already existed at the handover of the goods delivered.

The customer is to exempt us from third-party claims in the event of any infringement of third-party rights, especially of patents, ensuing from our execution and delivery of the customer's order according to the customer's specifications and drawings.

- Further claims of the customer against us or our vicarious agents due to a material defect are excluded. This applies for consequential harm caused by a defect in particular. This shall not apply in cases of intentional misconduct or gross negligence where liability is mandatory nor for damages resulting from injury to life, body or health. Nor shall this apply in the event of slight negligence on the part of our executive bodies, legal representatives, key employees or other vicarious agents involving a violation of essential contractual obligations. Essential contractual obligations include the obligations to deliver the goods on time and free of substantial defects as well as the obligations to provide advice, to protect and to exercise proper care that are intended to enable the customer to use the goods delivered as specified in the contract or are in place for the purpose of protecting the customer and the customer's employees and vicarious agents against injury to body or life or for the protection of the customer's property against substantial damages.
- We do not make any guarantees, particularly not with regard to the properties, suitability for intended use, service life, etc.
- We shall provide technical advice to the best of our knowledge and ability. However, this advice is without engagement and shall not exempt the customer from its obligation to perform its own inspections and trials. The customer is responsible for compliance with the statutory and official regulations governing the use of our goods.
Any information provided on the scope, dimensions, weights, materials, appearance and performance of the goods delivered shall be regarded as a description only and do not correspond to suitability for use. Any such agreement must be concluded explicitly and in writing. We do not give any guarantee regarding the properties and/or service life in any event.

VIII. If we are unable to honor our contractual obligations, the general statutory provisions shall apply subject to the following terms:

- If the delivery of the goods or services is rendered impossible by gross negligence, the customer shall be entitled to cancel the contract or demand damages. The damages, however, shall be restricted to 10% of the value of those goods or services which cannot be used for the purpose for which they were intended. Gross negligence on the part of one of our suppliers shall entitle the customer to damages only if we failed to monitor our supplier properly.
- To the extent that unforeseen circumstances such as strikes, lock-outs, war etc. result in a drastic change in the economic significance or content of the goods or services to be delivered or have a serious impact on our operations, we shall be entitled to cancel the contract. If we exercise this right, the customer shall be notified immediately of the scope of the circumstances in question, even if the customer has already agreed to an extension of the delivery period.
- If the customer revokes the contract without just cause or refuses to honor it, we shall be entitled to claim damages in the amount of the invoice total, minus any expenses saved, notwithstanding our right to provide evidence of higher damages.
- The customer shall have no claims on us or our vicarious agents going beyond this, irrespective of the legal basis of the claims. This shall not apply in cases of intentional misconduct or gross negligence where liability is mandatory nor for damages resulting from injury to life, body or health.

IX. Reservation of Title

- We shall retain our title to the goods delivered pending the receipt of all payments ensuing from our contractual relations with the customer. This reservation of title shall also cover the customer's balance, to the extent that our claims on the customer are settled by current account.
 - Our reclaiming of the goods delivered shall not constitute a cancellation of contract unless we have made an explicit declaration to the contrary. The attachment of the goods delivered shall always constitute a cancellation of contract. The customer shall notify us immediately of the attachment of the goods or similar intervention by a third party, thus enabling us to enforce our claims on the said third party. To the extent that the said third party is not in a position to reimburse the court costs or out-of-court expenses incurred by such a suit pursuant to Section 771 of the Code of Civil Procedure (ZPO), the customer shall be liable for the said costs.
 - The customer is entitled to sell the goods delivered in the course of its normal business operations. The customer hereby assigns to us any claims on the buyer or other third party accrued as a result of the sale of the goods in the amount of the invoice total (including value-added tax), irrespective of whether the goods delivered were sold before or after processing. We accept this assignment. The customer is empowered to collect these claims even after assigning the same. Our right to collect these claims ourselves is not affected by this, although we undertake not to collect the claims for as long as the customer duly meets its payment obligations and is not in default.
If the customer is in default, we can require the customer to notify us of the claims assigned and to provide us with the name of the creditor and the necessary documents as well as informing the creditor (third party) of the assignment of claims.
 - Any processing or transformation of the goods delivered by the customer shall always be undertaken on our behalf.
If the goods delivered are combined with other goods not supplied by us, we shall acquire co-ownership of the new product in proportion to the value of the goods delivered in relation to the other goods in the said product at the time of its creation. Instead of handing over the new product, the customer shall safeguard our co-ownership of the same by keeping the said product on stock on our behalf. The new product created by the combination of our goods with other goods shall be subject to the same terms as the goods subject to a reservation of title.
 - The customer shall assign to us any claims to collateral security to secure its claims on a third party after the goods delivered have been incorporated in real estate.
 - The supplier undertakes to release the collateral security to which it is entitled at the customer's request to the extent that this collateral security exceeds the value of the outstanding claims by 20%.
 - The customer consents to the registration of this reservation of title at the office responsible (notary public, court or the like), to the extent that the state laws provide for such a registration.
- X. **Surrender of the Goods, Settlements, Bankruptcy**
If the customer fails to honor its commitments to us, if it handles the goods delivered in an improper manner or defaults on payment, we shall be entitled to demand the immediate surrender and return, carriage paid, of the goods delivered subject to a reservation of title. If the customer suspends payments before the goods delivered have been paid for in full, we shall be entitled to reclaim those goods or parts thereof which have not been paid for.

XI. Place of Performance and Jurisdiction

- Our contractual relations shall be governed by the laws of the Federal Republic of Germany to the exclusion of laws on the international purchase of commodities (in particular the United Nations Convention on Contracts on the International Sale of Goods (CISG), even if the customer's registered place of business is located abroad. However, HEIDRIVE has the right to select the application of foreign law. The selection of law is to be exercised at the latest when any claims are pursued by judicial process.
- The place of performance is Kelheim and the place of jurisdiction is the Local Court of Kelheim or, if the customer is a trader, the Regional Court of Regensburg. This place of jurisdiction shall also apply for all proceedings in connection with bills of exchange and documents which relate to the delivery in some way. We can also file suit at the customer's place of jurisdiction.

XII. Final provisions

If one or more of the provisions above should be or become invalid in whole or in part, this shall not affect the validity of the other provisions. The invalid provision is to be replaced by a valid provision that best corresponds to the original economic intent. The same shall apply if a gap that needs to be filled is discovered during the execution of the contract.

Kelheim, March 2014