

1. General provisions

1.1 Only these conditions of sale are valid for the legal relationship between supplier and buyer in connection with supplies and services. Any of the buyer's conditions which are contrary or different to these conditions of sale shall not be recognized unless expressly agreed in writing by the supplier. All of the supplier's offers are subject to change and not binding. A contract is formed with the supplier's written acknowledgement of the order.

1.2 The supplier reserves all property rights and copyright over all designs, cost estimates and drawings without restriction (hereinafter: documents). Any documents can only be made available to third parties with the prior agreement of the supplier and must be returned to the supplier without delay if the order is not placed with the supplier.

1.3 The supplier undertakes not to make available to any third parties any of the buyer's information and documents which the buyer has identified as being confidential.

1.4 All weights and measurements in the catalogue have been carefully calculated and all illustrations were carefully prepared. The information in the catalogue is based on the knowledge and experience of the supplier at the time it was prepared. The supplier expressly reserves the right to make technical improvements and changes. The information in the catalogue is therefore not binding and does not release the buyer from its obligation to check carefully that the supplied article is suitable for the intended purpose.

1.5 The supplier is committed to its corporate social responsibility and has signed the ZVEI Code of Conduct, which can be viewed at www.pflitsch.de/en.

2. Delivery quality and quantity

2.1 The supplier maintains a quality management system which meets the requirements of DIN EN ISO 9001. A separate quality assurance agreement can be concluded at the request of the buyer.

2.2 Partial deliveries are permitted as long as the buyer can reasonably be expected to accept them.

2.3 In the event that the delivery item is a custom-made product, we are entitled for production purposes to over- or under-deliveries of up to 10 %.

3. Transfer of risk, Acceptance

3.1 Risk transfers to the buyer upon the handover of the delivery items to the carrier or shipper, at the latest though once the delivery item has left the factory, even if the supplier is providing partial deliveries or has undertaken additional services, such as the shipping costs, or delivery and installation, for example.

3.2 If the dispatch is delayed or halted due to causes beyond the control of the supplier, risk transfers on the day when the supplier notifies the buyer that the delivery items are ready to be delivered.

3.3 The supplier undertakes, at the buyer's cost, to conclude any insurance which the latter requires.

4. Prices and payment terms

4.1 Prices are ex-works and, unless otherwise agreed, include loading at the factory but exclude packing and unloading. Prices exclude Value-Added Tax at the prevailing statutory rate. Packaging is costed separately and is not returnable.

4.2 A net invoice amount over €500 is treated as carriage paid to the destination in Germany that is to say to the German border, including packing. We supply cable trunking products together with accessories ex-works and packaging is calculated separately. We send the goods on pallets, in cardboard packaging or in bundles. For small orders (net value of goods under €100.00) a surcharge of €25.00 is applied. For quantities which differ from the standard packing unit, we charge an additional €7.50 per changed packing item.

4.3 For brass items, the offer price is determined on the basis of the quoted metal price for Ms 58 l in the amount of €150.00 per 100 kg. If on the day the order is received, the quoted metal price differs from this price by €12.50 or a multiple thereof, the price will change by 5 % for every full €12.50 difference.

4.4 The supplier's invoices are due payable within 30 days net of the invoice date.

4.5 Payments shall be made to the supplier free of transaction charges.

4.6 Discountable and correctly taxed bills of exchange will only be accepted in lieu of payment if this has been expressly agreed in advance. Credit notes against bills of exchange and cheques are issued subject to receipt and minus disburse-

ments at the value on the day when the supplier has access to the proceeds.

4.7 The buyer may set off only those claims that are uncontested or have been determined in a court of law.

4.8 In the event of late payment by the buyer, the supplier is entitled, after having given written notice, to stop fulfilling its obligations until such time as the outstanding amounts have been received.

5. Retention of title

5.1 The delivery items (retained goods) remain the property of the supplier until all of the buyer's obligations arising from the business relationship with the supplier have been fulfilled. If the total value of all security interests to which the supplier is entitled exceeds the amount of all secured claims by more than 20 %, the supplier will, at the request of the buyer, release a corresponding portion of the security rights.

5.2 The buyer is entitled to sell the retained goods in the normal course of business, as long as it is not in payment arrears with regard to the supplier. The pledging or assignment of the retained goods as security are not permitted. The buyer here and now assigns to the supplier, as security, all receivables due from the resale, or any other legal basis, of the retained goods. The supplier grants the revocable authority to the buyer to collect the assigned receivables for its own account and in its own name. This authority to collect can only be revoked if the buyer does not meet its contractual payment obligations.

5.3 Processing and transformation of the retained goods shall always be carried out on behalf of the supplier as manufacturer, but without any obligation on the supplier. Should the supplier's (co)ownership of the retained goods expire due to their combination, it is here and now agreed that the buyer's (co) ownership share of the combined item transfers proportionately (invoice value) to the supplier. The buyer will act as custodian of the supplier's (co)ownership free of charge.

5.4 The buyer must immediately inform the supplier in the event of any attachments, seizures or any other dispositions by third parties.

5.5 In the event of the failure of the buyer to meet its contractual obligations, in particular with regard to payment arrears, the supplier is entitled, following a reminder, to take back the retained goods and the buyer is obliged to surrender them. The enforcement of the retention of title and the seizure of the delivered goods by the supplier do not represent a withdrawal from the contract.

5.6 An application for insolvency or the start of insolvency proceedings for the buyer's assets shall entitle the supplier to withdraw from the contract and demand the immediate return of the retained goods.

6. Delivery lead-time and delay

6.1 Adhering to delivery lead-times requires the timely receipt of all documents to be supplied by the buyer, required permits and clearances, in particular of plans, as well as the adherence by the buyer to the agreed payment terms and other obligations. If these requirements are not met in a timely manner, the delivery lead-time will be correspondingly longer; this does not apply if the delay is the fault of the supplier.

6.2 If the failure to meet the delivery deadline is due to force majeure, strike, lockout or other events, which are beyond the control of the supplier, the delivery lead-time will increase correspondingly.

6.3 If the supplier goes into arrears, the buyer can – providing it can substantiate the claim that damage to it has arisen from the arrears – claim compensation for every full week of arrears of 0.5 % of the price but not exceeding 5 % in total for that part of the delivery that could not be brought into service because of the arrears.

6.4 Both claims for damages by the buyer because of delayed delivery, and compensation claims in place of performance, that exceed the figures set out in clause 6.3, are in all cases of delayed delivery, even after expiry of any legal delivery period, excluded. This does not apply in cases of intent, gross negligence or injury to life, body or health, where liability is legally mandated. The buyer can only withdraw from the contract to the extent permitted by law in so far as the supplier is responsible for the delay in delivery. No change to the burden of proof to the disadvantage of the buyer is connected with the preceding provisions.

6.5 The buyer is obliged to clarify, upon request of the supplier and within a reasonable time, whether it wishes to withdraw from the contract because of the delay or wishes to continue with the performance of the service.

6.6 If, at the request of the buyer, shipping or delivery are delayed by more than one month after notice that the goods are ready to ship, the supplier can

invoice the buyer for storage fees for every commenced month at a rate of 0.5% of the price of the goods awaiting delivery, though not exceeding 5% in total. The right of each contracting party to prove higher or lower storage costs remains unaffected.

7. Material and legal defects

The supplier is liable for material defects as follows;

7.1 All of those parts or services, that show a material defect within the limitation period - irrespective of the number of operating hours elapsed – are at the choice of the supplier to be either improved, resupplied or reproduced, provided that the cause of this defect was already present at the time of passing of the risk.

7.2 Claims for repair or replacement are subject to a statute of limitations of 12 months calculated from the start of the statutory statute of limitations. This does not apply in cases where longer periods for claims are provided for in §§ 438 par. 1 no. 2 (construction work and objects for construction work) and 634 a para. 1 no. 2 (construction defects) of the German Civil Code (“BGB”), as well as in cases of intent, gross negligence on the part of the supplier, or injury to life, body or health, non-compliance with guaranteed characteristic (“Beschaffheitsgarantie”) and in cases of fraudulent concealment of a defect.

Claims for the reimbursement of expenses on the part of the Purchaser in accordance with Sec. 445a BGB (entrepreneur’s right of recourse) shall likewise be subject to a statute of limitations of 12 months from the start of the statutory statute of limitations, provided the last contract in the supply chain is not a sale of consumer goods. Statutory provisions concerning the suspension, interruption and recommencement of the limitation periods remain unaffected.

7.3 The provisions set out in the German Commercial Code (HGB) shall apply for the examination of goods and the notification of defects, subject to the following conditions:

- a) The buyer is obliged to examine the properties of the goods relevant for the respective use immediately after delivery for evident defects and to notify the supplier of any evident and/or detected defects without delay in writing following the immediate termination of processing. In the case of intended installation or attachment of the goods, the properties relevant for the installation or attachment also include the inner properties of the goods and therefore, a random functional test or trial installation is to be performed prior to installation or attachment.
- b) The breach of the examination and notification obligation represents in the relationship to the supplier a particularly serious disregard of the due diligence required in the course of business as well as gross negligence, and deficiency claims shall be excluded. Any other regulation shall only apply if the supplier has fraudulently concealed such defect and/or has assumed a guarantee for the quality of the item.

7.4 In the case of claims for defects, the buyer can only withhold payments at a value that is proportionate to the defect that has occurred.

7.5 The supplier shall first be granted the opportunity to rectify the defect within a reasonable time.

7.6 If the supplier fails to rectify the fault - regardless of any compensation claims set out in clause 8 - the buyer can withdraw from the contract or reduce the payment.

7.7 Claims about defects do not exist if based on, among other things, immaterial deviations from the agreed quality, immaterial impairment of usability, faulty or negligent handling after the transfer of risk, excessive operational demands, the use of unsuitable equipment, defective workmanship, unsuitable building ground, or if arising from special influences which are not provided for in the contract, as well as software faults which cannot be reproduced. Equally, if the buyer or a third party carries out improper modifications, installation/removal or maintenance, no claim of a defect exists for the resulting consequences.

7.8 The Purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, to the extent that expenses are increased because the subject-matter of the Supplies has subsequently been brought to another location than the Purchaser’s branch office, unless doing so complies with the normal use of the Supplies. This applies accordingly to claims for the reimbursement of expenses on the part of the Purchaser in accordance with Sec. 445a BGB (entrepreneur’s right of recourse), provided the last contract in the supply chain is not a sale of consumer goods.

If the buyer has installed the defective item or attached it to another item in accordance with its type and purpose, then the buyer can demand reimbursement for the expenses incurred for the removal of the defective item and the installation or attachment of the repaired or newly delivered defect-free item. Consequential damage to the buyer resulting from the defect such as

loss of profit, downtime costs or additional costs for replacement purchases are not deemed to be de-installation and installation costs and are therefore not eligible for reimbursement in accordance with § 439 par. 3 German Civil Code (BGB).

7.9 The Purchaser’s right of recourse against the Supplier pursuant Sec. 445a BGB (entrepreneur’s right of recourse) is limited to cases where the Purchaser has not concluded an agreement with its customers exceeding the scope of the statutory provisions governing claims based on Defects.

7.10 In addition, in the case of claims for damages, clause 8 of this agreement applies (other claims for compensation for damages). Further claims or claims other than the claims stipulated here by the buyer or its vicarious agents against the supplier due to a material defect are excluded. In the case of a defect in title, the previously stated provisions (clauses 7.1 - 7.10) apply.

7.11 We are not obliged to take back goods which have been delivered in accordance with the contract. Any return of goods requires the prior agreement as to the goods to be returned and the amount to be paid by us for this purpose. The return of any custom-made products will not be considered.

8. Other claims for compensation for damages

8.1 Compensation claims for damages and expenses made by the buyer (hereinafter: “claims for damages”) irrespective of any legal grounds, especially because of breach of obligations resulting from the contractual relationship and tort, are excluded.

8.2 This does not apply where liability is legally mandated, e.g. in accordance with product liability law, cases of intent, gross negligence or injury to life, body or health, or the breach of material contractual obligations. Claims for damages for the breach of material contractual obligations are however limited to the foreseeable damage typical of the contract, unless statutory liability exists for cases of intent, gross negligence or injury to life, body or health. No change to the burden of proof to the disadvantage of the buyer is connected with the preceding provisions.

8.3 To the extent that the buyer is entitled to claims for damages under the provisions of this clause, these will expire with the applicable expiry date of the right to claim for material defects set out in clause 7.2. With regard to claims for damages regulated by product liability law, the statutory expiry terms apply.

9. Industrial property rights, defects of title

9.1 Unless otherwise agreed, the supplier is obliged to perform the delivery free of any industrial property rights and copyrights of third parties (property rights) only with respect to the country to which delivery is to take place. In the event that a third party raises a legitimate claim for infringement of property rights against the buyer as a result of the actions of the supplier in the pursuance of its contractual duties, the supplier will bear liability in accordance with clause 8.

10. Fulfilment proviso

10.1 The fulfilment of the contract is subject to there being no barriers due to contraventions of German, USA or any other applicable EU or international regulations, embargoes or other sanctions. The buyer is obliged to supply all information and documentation necessary for export, shipment and import.

11. Applicable law, place of jurisdiction

11.1 German substantive law applies to all legal relations between the supplier and buyer, to the exclusion of the United Nations convention on contracts for the international sale of goods (CISG).

11.2 The place of jurisdiction shall be the court competent for the head office of the supplier. The supplier is however entitled to place a claim at the competent court of the head office of the buyer.

12. Binding nature of the contract

12.1 In the event that one part of the contract is legally invalid, the remainder of the contract remains binding. This shall not apply if adherence to the contract would cause undue hardship for one of the parties.