

1. Conflicting terms and conditions

We sell and deliver only on the basis of the following terms and conditions. If these terms and conditions do not prescribe a rule, then the rule of law shall govern. Any purchasing, ordering or contract terms and conditions, which are provided by the customers and which conflict with these terms and conditions, do not apply.

2.1. Risk of loss purchase agreement

We shall discharge our obligations on site at either our plant in Frankfurt am Main or our sales offices. Risk of loss shall pass to the customer upon shipment of the goods (Frankfurt am Main plant or sales offices), even if we deliver free to door (ordinary freight and customary packing) on orders exceeding EUR 1,000 net. With respect to orders of less than EUR 1,000 net (excluding value added tax), all shipping and packing costs will be charged. In the event the stipulated destination is outside Germany, we shall assume the shipping and packing costs free to the German border or free port of shipment or free airport (ordinary freight and customary packing). Delivery of heat exchangers occurs work excluding packing. Additional costs for express shipping or special packing will be charged. Minimum order value is EUR 100 (excluding value added tax).

2.2 Risk of loss contract for work and services

Services to be made in accordance with contracts for work and services shall occur free at construction site. The risk of loss shall pass to the customer upon the delivery and services, respectively, being accepted or placed into use.

3. Packing

The customer may at its own costs return any transport packing materials to us. We reserve the right to charge for the disposal of any soiled transport packing materials. We will not indemnify the customer for its removal of such materials.

4. Delay in performance

The delivery schedule will commence once the technical clarification is completed. In the event the customer wishes to make any technical changes after the order has been confirmed, the delivery schedule will be extended accordingly. If a delay in performance has occurred, then after granting us a reasonable grace period with express notice that the performance will be rejected after expiry of the grace period, the customer may rescind the contract following the expiration of such grace period. If the customer incurs damages as a result of our delay, our liability will be limited to $1/2$ % of the value of the delivered goods for each week of the delay, but in any case to no more than 5 % of the value of the delivered good. The limitation on liability will not apply in the event we have acted in a grossly neg-

ligent or wilful manner.

If the failure to meet the delivery schedule is caused by force majeure, labour disputes or other events outside of our control, then the delivery schedule shall be reasonably extended. We agree to notify the customer as soon as possible about the commencement and the conclusion of such circumstances.

5. Payment

Payment must be received in full (no discounts) within 30 calendar days following the invoice date. Any cheques will be accepted subject to their clearance. Any costs related to the collection of the payment will be borne by the customer. If the customer is unable to discharge its payment obligations – specifically does not honour cheques – or if the contractor's financial condition has significantly deteriorated – specifically petitions for bankruptcy or composition have been filed, then we shall have the right to withhold delivery until the customer has provided, at our discretion, either security or an advance payment with respect to our claim under this contract. The customer is entitled to set off or withhold payments only if we have expressly consented thereto or the counter claims are undisputed or reduced to final, non-appealable judgement.

6. Retention of title

We retain the title to and ownership of the delivered goods until all current and future claims have been discharged (Secured Goods). In the event that a Secured Good is processed or co-mingled with another good, we will retain a pro-rata co-ownership interest equal to the proportion of the invoiced value of the Secured Good to the sales value yielded from the co-mingling or processing of the goods, which new good shall be deemed the Secured Good (to the extent of the aforementioned proportion). The sale of the Secured Goods may be made in the ordinary course of business only. The customer here and now assigns to us in full the rights and claims, which related to the Secured Goods and to which it is entitled based on the resale or on other legal grounds. If a co-ownership interest exists as described above, then the assignment will cover only that share of the claim, which is commensurate with our pro rata interest in the new Secured Good. The customer has the revocable right to collect the assigned claims only in the ordinary course of business. The customer's right to exercise control over the Secured Goods or to process or co-mingle such goods (including the collection of any assigned claims) shall expire, if any payment terms are breached, if the customer's financial condition deteriorates significantly, and if bankruptcy proceedings have been instituted against the customer. In such cases, we will have the right to seize and take possession of the Secured Goods without setting a grace period or rescinding

the contract. In the event the value of the collateral provided to us exceeds our claims by more than 20 %, we will be obligated upon the customer's request to release the excessive collateral.

7. Offers, technical solutions, drawings

shall remain our property, and/or we shall retain the copyright therein, even if such items were physically supplied before the issuance of an order and they entailed only recommendations to a solution. Unless we have granted our express consent, the documents or any portion thereof may not be reproduced in any form or otherwise to third parties. The use thereof is permitted only in accordance with the scope of the contract, and any recommendations will be provided in good faith and to the best of our knowledge. However, we disclaim any liability with respect hereto.

8. Physical defects and defects relating to contracts for work and services

If any product supplied or any service performed by us reveals a physical defect within two years following delivery, we shall, at our election, either remedy the defect or supply a conforming good, provided that the cause of the physical defect already existed at the time the risk of loss passed. If we elect to remedy the defect (cure), then in agreement with us the customer must grant us reasonable period of time in which to remedy the defect. If the subsequent performance fails and notwithstanding any compensatory damage claims it may otherwise have, the customer may generally, at its option, rescind the agreement, lower the purchase price or demand indemnity for its expenditures. The aforementioned shall not apply if the statute prescribes longer periods of time. The customer must notify us in writing of any physical defects within two weeks following delivery of the goods and with respect to latent defects, within two weeks following their discovery. Otherwise, the right to enforce a claim for liability based on physical defects will be waived. The deadline will be deemed to have been met if such notice is seasonably despatched. The customer shall bear the full burden of proof with respect to all elements of the claim, including the existence of the defect itself, the time period for determining the defect and the timeliness of the formal complaint. If the complaint is unwarranted, we reserve the right to demand that the customer reimburse any expenditures we incur. Defect claims will be deemed not exist if the discrepancy between the agreed qualities and the actual qualities is minor, where the usefulness is impaired only insignificantly, where there is natural wear or tear or where there are damages, which arise after risk of loss has passed, as a result of faulty or negligent handling, excessive use, unsuitable operating resources and tools, efforts at self-cure or as a result of certain external influences, which had not been foreseen at the time this agree-

ment was concluded. If the customer or any other third party undertakes improper changes or repair work, then the customer shall have no defect claim based on such efforts and the consequences resulting therefrom. The customer shall not be entitled to any claims based on the expenses – specifically transport, road, labour and material costs – that are required for purposes of subsequent performance, to the extent the expenses increase because the subject matter of the delivery was subsequently directed to a site other than the customer's place of business. Otherwise, section 9 below will govern compensatory damage claims. The customer agrees to waive any additional claims or claims other than those governing physical defects under section 8, and such waiver applies to us and our agents.

9. Liability

In all cases compensation claims by the customer are – irrespective of their legal basis – excluded, particularly for a breach of any material contractual duties and forbidden action.

The above mentioned limitation of liability does not apply to claims arising from product liability law or crass negligence for injury to life, body or health, or a breach of major contractual obligation. Even then, any compensation is limited to the extend of foreseeable damages commensurate with the type of contract, as far there is no case of malintent or crass negligence or in case of injury to life, body or health. The replacement of pecuniary losses, lost profit and the costs of interruption of operation are excluded.

10. Data protection

We point to the fact that the customer data collected in connection with the fulfilment of the contract are processed in accordance with the legal privacy regulations. The data are used for the intended purpose only and are not made available to unauthorised third parties. However, for rendering the services in accordance with the purpose, we reserve the right to have data processed by other partner companies, who have been carefully selected and given an assignment pursuant to Art. 11 BDSG.

11. Severability

If any individual provisions hereof are deemed invalid, the validity of the remaining provisions shall not be affected thereby.

12. Judicial forum and governing law

The judicial forum is Frankfurt am Main. We reserve the right to institute legal action at the customer's principal place of business. The laws of the Federal Republic of Germany apply exclusively.