

# Terms & Conditions

## Element chimneys and chimney accessories

### General sales terms and delivery conditions

#### 1. General

The following General Terms & Conditions apply for all contracts between ourselves and other companies (hereinafter referred to as the „Buyer“) as outlined in § 14 of the German Civil Code. The sale and delivery of goods shall occur exclusively under the general sales terms and delivery conditions stated below. Any kind of collateral agreements, deviations and assurances must be confirmed in writing. The purchase conditions of the Buyer are not part of the agreement, even if we do not expressly contradict them. These delivery and payment terms are part of all agreements made with us relating to the delivery of goods and shall also apply to current and future transactions. As part of general business relations, our business partners are obliged to refrain from passing any received information to unauthorised third parties as well as store this information safely and prevent unauthorised persons from accessing and misusing it.

#### 2. Offers and acceptance

Our offers are always non-binding and without obligation. In a legal sense, they only represent a request to the Buyer to submit a contractual offer. The order placed by the Buyer represents an offer made to us to conclude a purchase contract. The Buyer is bound by the offer for ten days after we receive the offer. The contract takes effect when we accept the Buyer's order. The order is considered accepted when we send separate confirmation or the goods are dispatched by us and received by the Buyer.

The contract shall be concluded with the proviso that, if we ourselves are not correctly or properly supplied, we are not obliged to perform the contract, or may only partially perform the same. This shall only apply in cases where we are not responsible for failure to deliver. If the goods are unavailable or only partially available, the Buyer shall be informed immediately. Any payments shall be reimbursed without delay.

#### 3. Terms of payment

Our prices are without obligation and are quoted ex works excluding VAT. Unless otherwise agreed, delivery within Germany shall be free of charge provided the net order value exceeds EUR 1500. If the net order value is less than EUR 1500, a flat-rate freight charge of EUR 150 shall be added to the order value. All discount and payment agreements are revised annually and apply up to 31.12. of the current calendar year at the latest.

#### 4. Payment terms

Unless otherwise agreed, payment must be received within 21 days of the invoice date. If payment is received within 8 days of the invoice date, a 2 % discount can be applied unless otherwise agreed and provided no previous invoices originating from the same contract or other contracts are outstanding. Proof that the invoice has been sent to the supplier by us is sufficient evidence of the invoice being received. 2 working days are added to the date of dispatch to create an adjusted receipt date.

No discount can be granted for payments by bill of exchange. We shall not be obliged to accept bills of exchange as payment. The Buyer is responsible for paying bank discounts and expenses. Bills of exchange and cheques will only be accepted on a conditional basis. If the payment terms are not met, an interest rate of 0.8 % shall be applied for every month or part thereof. Interest is not paid for advance payments. If after conclusion of the contract, circumstances become known that call the creditworthiness of the Buyer into question, we have the right to call in all claims for payment from the Buyer immediately, notwithstanding any other rights. The Buyer is only entitled to set off claims that are defined as undisputed, recognised or legally binding. Furthermore, the Buyer can only assert rights of retention based on counter-claims that are defined as undisputed, recognised or legally binding. Withholding payment based on counter-claims from the Buyer which are not recognised by the supplier is not permitted and neither is offsetting for those claims.

#### 5. Retention of title

The goods are supplied subject to retention of title and the following additional provisions:

- We shall retain ownership of the delivered goods until all claims resulting from the business relationship, either for current or future claims, or other legal grounds between us and the Buyer have been settled. This also applies for deliveries to third-party premises.
- In the case of a running account, the reserved title shall constitute security for our balance claim.
- Handling and processing of our goods shall take place for us, without any obligation on our part and without affecting our right of ownership under § 950 of the German Civil Code. If the Buyer incorporates, combines or mixes the items to which we hold ownership rights with other items not belonging to us, we acquire co-ownership of the new object in proportion to the value of all processed goods at the time of processing. The new product created from the processing shall therefore be considered as reserved goods for the purpose of these general sales terms and delivery conditions.
- The Buyer is obliged to immediately notify us in writing of possible third-party access to the items of which we are owners or co-owners or the demands and claims assigned to us as well as any damage these objects have sustained.
- We are entitled at any time to demand the surrender of goods belonging to us if the fulfilment of our claims appears to be jeopardised or the Buyer or his customer infringe obligations that are incumbent on them. Rights of retention cannot be asserted against this return claim.
- Should the Buyer sell goods to third parties which were created from handling and processing and combining or merging the reserved goods with other goods, he shall assign to us any claims against the third party debtor proportional to the value of the handled, processed, combined or merged reserved goods according to the above-mentioned provisions.
- The Buyer is entitled to sell the reserved goods to third parties as part of day to day business. He already assigns any claims which he has against third parties at the full amount until complete payment of the purchase price.
- The Buyer is authorised to collect the claims assigned to us. At the request of the seller, the Buyer must inform the third party debtor immediately of the assignment s well as provide the seller with the third party debtor's address information without delay.
- We can revoke authorisation for resale and collection of the claim assigned to us if we have good reason to call the creditworthiness or solvency of the customer into question or due invoices (also discounted invoices) have not been settled before the deadline specified.

#### 6. Dispatch and transfer of risk

Once the goods are transferred to the dispatcher/haulier, risk is transferred to the Buyer. In the case of damaged parts, the Buyer shall in his own interest obtain a certificate with respect to such damage upon receipt of the goods in order to safeguard his claims for damages. Transport insurance shall only be concluded at the request and cost of the Buyer.

#### 7. Warranty

In the case of defects in the supplied goods, the following warranty regulations apply:

- The properties and intended purpose of the purchased items are based solely on the product description provided by the seller. Deviating agreements require written confirmation.
- The Buyer is obliged to immediately inspect all deliveries, including partial deliveries. All identifiable defects, including missing items and incorrectly delivered parts, must be reported in writing within two weeks at the latest, but always prior to processing, installing or reselling. Hidden defects must be reported immediately after being discovered. Other obligations outlined in § 377 of the German Commercial Code remain expressly unaffected.
- If the Buyer identifies defects on the goods, he shall not be authorised to make use of the goods, i.e. the Buyer may not split, resell or further process the goods, until agreement has been reached as to how to deal with the complaint or the warranty claim has been definitively rejected by us.
- We shall meet the warranty claims of the buyer at our own discretion to the exclusion of ongoing claims through subsequent performance or new delivery. If the defect cannot be rectified after two reasonable deadlines and we reject sending a replacement delivery, the Buyer can request a reduction in the purchase price or withdraw from the contract. The special provisions outlined in these general sales terms and delivery conditions apply for claims for damages.
- Warranty claims do not exist in the case of negligible deviations from the agreed characteristics or if usability is only insignificantly affected.
- Liability for material defects are subject to the statute of limitations. In cases of subsequent performance, the statute of limitation period does not start anew.
- It is expressly noted that DIN EN 13384 forms the contractual basis between the seller and the Buyer. The seller cannot be held liable for defects resulting from a failure to observe DIN EN 13384.

#### 8. Claims for compensation

In all cases in which we are obliged to reimburse damage or expenditure on the basis of contractual or statutory claims, we shall only be liable to the extent that we, our executive employees and vicarious agents are guilty of wilful intent, gross negligence or death or injury or an impairment to the health of another. No-fault liability in accordance with the product liability law shall not be affected. Liability for the culpable breach of fundamental contractual obligations also remains unaffected. However, liability is limited to typical damage as may be predicted in such contractual situations, except for the cases outlined in clause 1. An alteration of the burden of proof to the disadvantage of the Buyer is not associated with the above provision.

#### 9. Delivery times

Specified delivery times are initially non-binding and only become binding on confirmation of the order by the seller. Delivery times and dates must be agreed in written form. Terms of delivery shall commence with the conclusion of contract. If we are waiting for assistance or information from the Buyer or are otherwise delayed in performing our obligations through no fault of our own, the delivery dates and times can be extended to compensate for the duration of the delay and may include an appropriate preparatory period at the end of the delay. We are obliged to inform the Buyer of the delay prior to such extension. Partial deliveries are permitted, provided they are reasonable for the Buyer.

#### 10. Manufacturing according to customer instructions

In the event of manufacture in accordance with drawings, samples or other instructions from the Buyer, we shall provide no warranty and assume no liability with regard to the functionality of the product and other defects, provided such circumstances are based on the instructions of the Buyer. The customer indemnifies us from possible claims by third parties, also arising from product liability, against us because of damage caused by the goods, unless we have caused such damage deliberately or out of gross negligence.

#### 11. Final provisions

Only formal and substantive German law applies to this contract, with the exclusion of international trading rules (UN Convention on Contracts for the International Sale of Goods, CISG) as well as the exclusion of references to foreign law from German private international law. The place of performance for delivery and payment is 91717 Wassertrüdingen in Germany. If the Buyer is a merchant or legal person as defined in public law, our business headquarters are agreed as the place of jurisdiction. Should individual clauses of this agreement become invalid, partially invalid or impracticable, the validity of the remaining provisions remains unaffected. The parties shall agree to replace the invalid, partially invalid or impracticable clause with a provision that most closely approximates the purpose of the invalid, partially invalid or impracticable clause. Should the parties fail to come to an agreement and if the parties so desire, the invalid, partially invalid or impracticable clause shall be replaced by the statutory provision that most closely approximates the purpose of the invalid, partially invalid or impracticable clause.