VEOLIA WATER
Solutions & Technologies

BERKEFELD
ELGA
KRÜGER WABAG

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

The conditions of sale and delivery of VWS Deutschland GmbH are binding and are an integral part of the contract of sale. Contradicting or deferring conditions of the buyer shall not apply even in case of unrestricted acceptance or completion of the order, unless such conditions have expressly been accepted in writing. Our terms and conditions of sale shall apply only for entrepreneurs in terms of paragraph 310 section 1 German Civil Code (BGB).

1. Offers/orders

1.1 Our offer is subject to change if not stated otherwise in the order confirmation.

1.2 A contract is deemed to be concluded with our written order confirmation or with the immediate completion of the relevant work. A minimum amount of 50 Euros will be charged for all orders, even if the actual value of the sales items is below that value.

1.3 Any information related to quality, performance or service life shall be considered as a guarantee only if and to the extent that such commitment has been explicitly confirmed by us in writing.

1.4 We reserve the right to change the design or other technical documents provided that the customary use or quality of the sales items or the use and quality as intended under the contract is not affected and the modifications are not unreasonable for the user.

1.5 We retain ownership of and copyright to all drawings, calculations, and other documents delivered to the buyer; disclosure to third parties shall only take place subject to our written consent.

2. Prices/terms of payment

2.1 If not agreed otherwise, prices are ex works plus the value added tax applicable on the invoicing day. Packaging and transport costs will be charged in addition.

2.2 If not stated otherwise in the order confirmation the purchase price shall be payable net (without discount) within 30 days after date of invoice. The statutory regulations concerning the consequences of default of payment shall apply. Payments shall not be considered effected until credited to the account with our bank.

2.3 The deduction of any discount shall only take place subject to a separate written agreement.

2.4 The buyer shall not be entitled to set-off unless its counterclaims have been legally confirmed, are uncontested or acknowledged as correct by us.

3. Delivery time

3.1 The start of the delivery time given by us is subject to settlement of all technical issues.

3.2 The compliance with our delivery commitment is further subject to the timely and orderly completion of the obligations of the buyer. Lack of performance by the buyer shall be a defence available to us.

3.3 The delivery time shall be fulfilled upon delivery ex works even if other trade terms in accordance with the Incoterms have been agreed. If acceptance of the sales item is required prior to delivery then the date of readiness for acceptance shall be decisive for compliance with the delivery time.

3.4 Partial delivery and performance is permitted.

3.5 In case of failure to accept or culpable violation of other obligations of the buyer to cooperate we shall be entitled to claim compensation for the damage caused to us, including any eventual additional expense.

3.6 In case of a delay in delivery we can be held liable for all proven delay damages in terms of liquidated damages of 0.5% for every completed week, however, in total not exceeding 5% of the delivery value, unless the delay in delivery is not attributable to us. The right of the buyer to withdraw from the contract shall remain unaffected after a reasonable grace period has expired effectless. Further delay claims shall be governed exclusively by the provisions in condition 6.

3.7 In case of non-acceptance or return of mass-produced items the buyer will be charged a fixed service charge in the amount of 25% of the order value. Eventually incurred costs for reprocessing will be charged separately. All goods returned are shipped at buyer's risk.

4. Passing of risk/acceptance

4.1 The risk of accidental loss or accidental deterioration shall be passed onto the buyer upon delivery of the sales item. In contracts involving delivery by mail passing of risk takes place at the moment the seller hands over the sales item to the freight forwarder or courier.

4.2 In case of failure to accept or default of the debtor the risk passes onto the buyer at the moment the buyer fails to accept or the debtor defaults.

4.3 Acceptance is deemed to have taken place at the latest with the commissioning of the sales item by the buyer. Such acceptance may not be refused due to immaterial defects.

5. Defects Liability

5.1 Buyer's claims based on defects are subject to due fulfilment of his duties concerning examination and notice of non-conformity according to paragraph 377 German Commercial Code (HGB).

5.2 In case of a defect of the sales item, including but not limited to a default of the agreed or customary quality, all parts, which turned out to be defective due to circumstances which occurred prior to passing of risk, shall be remedied free of charge at our discretion either by repair or replacement. The freight and travel costs up to the German border will be borne by us.

If the composition and/or properties of the raw or waste water agreed upon at conclusion of the contract changes, our liability towards the buyer for defects of the sales item and for compliance with agreed or statutory limits shall explicitly be excluded.

5.3 The buyer shall within the scope of statutory regulations be entitled to rescind from the contract or claim reduction of the contract price if the remedy of defects fails. In the case of a breach of a contractual obligation that is not material the buyer shall merely be entitled to a reduction of the contract price.

5.4 In case of culpable violation of any material contractual obligation we shall be liable according to the statutory regulations; in this case the liability for damages shall be limited to the foreseeable, typically occurring damage.

5.5 Further claims resulting from defects liability shall be governed exclusively by the provisions in condition 6 of these conditions.

5.6 The prescription period for claims for defects shall be 12 months from the passing of risk.

5.7 If the claim for defects is a recourse claim by the buyer after he has been held liable successfully according to the regulations of the sale of consumer goods, then the recourse rights based on the regulations concerning the sale of consumer goods shall remain unaffected. Conditions 5.1 to 5.5 shall apply accordingly.

6. Liability

6.1 In case of culpable damages to life, body or health we shall be liable in accordance with the statutory regulations; this shall also apply for the obligatory liability according to the statute on product liability.

6.2 For other damages which did not affect the sales item itself we shall only be liable for damage caused intentionally or by gross negligence. Unless we are accused of intentional violation of the contract our liability for damages shall be limited to the foreseeable, typically occurring damage.

6.3 Any further liability, due to whatsoever legal reasons, shall be excluded. This particularly applies to claims for damages based on conditions precedent to the conclusion of the contract, due to other breach of duty or due to tortious claims relating to property damage according to paragraph 823 German Civil Code (BGB).

7. Retention of title

7.1 Title to the sales item shall be retained by us until all payments arising from the delivery contract has been received.

7.2 As long as the buyer fulfils its liabilities towards us it will be entitled to deal with the items sold under retention of title in the normal course of business.

7.3 To secure our claims the buyer shall hereby assign to us in advance all claims resulting from a re-sale of the goods, the title of which has been retained, including all ancillary rights and securing interests.

As long as the buyer continues to pay his debts in a timely manner he shall be entitled to collect receivables even after the assignment.

7.4 In case of delay in payment, cessation of payments or if a petition for institution of composition or insolvency proceedings has been filed the buyer must notify his customers of the transfer and shall at our request provide us with all required information and documents.

7.5 In case of processing, combining or mixing of goods subject to retention of title with other goods we shall be entitled to co-ownership of the new property inasmuch as the invoiced value of goods sold with retention of title relates to the invoiced value of the other mixed or processed goods at the time of the processing or mixing. Conditions 7.1 to 7.4 shall apply accordingly.

7.6 You must promptly notify us in writing about: any pawning, seizure of the goods over which title has been retained, or any co-ownership by a third party.

7.7 At the buyer's request we will release securities insofar as their value exceeds the value of the secured claims by more than 10%.

8. Place of jurisdiction/place of performance/applicable law

8.1 Place of jurisdiction shall be our place of business if the buyer is a merchant or a legal person under public law. However, we shall be entitled to take legal action against the buyer at the court of his residence.

8.2 Unless stated otherwise in the order confirmation the place of performance shall be our place of business.

8.3 Governing law shall be the law of the Federal Republic of Germany with the exclusion of the UN Sales Convention.