

General Terms and Conditions

for the ESSMANN GmbH, D-32076 Bad Salzufen, valid from June 1, 2002

I. General

- All offers are non-binding. Subject to prior sale. Contracts only become valid upon our written confirmation, and namely according to the conditions confirmed by us.
- On placing this order, you, the customer, shall recognise our General Terms and Conditions. We only recognise your conditions for purchase insofar as these do not deviate from our General Terms and Conditions.
- We are only liable for damages within the framework of the overall contractual relationship when intent or gross negligence on our part can be proven. In cases of slight negligence, we shall not be liable.

II. Scope and Delivery

- Our confirmation of order shall determine the scope of delivery. Alterations and agreements shall require our written confirmation. Changes to the order after order confirmation bring forth internal costs, which must be charged to the client.
- The scope of delivery only includes construction and assembly work when a specific agreement regarding such work has been met and this is comprised in our written order confirmation.
- The delivery of all assembly materials is carried out free building site for assembly orders.
- In case of cancellations of orders for reasons not attributable to us, we have the right to demand 15% of the merchandise value of the order confirmation for labour and administrative costs, unless higher expenses can be proven.
- Place of fulfilment for despatch is - also in case of carriage paid delivery - the loading point.

III. Prices

- You shall receive Essmann products free unloading point including packaging. Unloading is the responsibility of the customer. **In invoice amounts up to EUR 250 after tax, we shall calculate an additional charge of EUR 25 after tax per invoice. The overflow gully programme deviates from the above-mentioned, whereby the following applies: in invoices amounting up to EUR 100 after tax, we shall calculate an additional charge of EUR 10.**
- The prices specified in the sales/service contract are binding up to four months at an agreed delivery date. With longer agreed delivery dates, we reserve the right to make a price adjustment, in case of a change in the prime costs (material, energy and labour costs), according to the changes occurred.
- For delivery (and assembly) of SHE systems or remote controls III. 2. applies accordingly for assembly interruption not attributable to the supplier. Additionally incurring travel costs are also charged to the customer.

IV. Payment Conditions

- Our purchase prices and works remunerations are due and payable:
 - for assembly services and maintenance work invoiced after tax; § 632a German Civil Code applies.
 - for arcade rooftop orders, also in combination with other Essmann products, on the total value of the goods ordered: 1/3 on receipt of our order confirmation, 1/3 on delivery or in cases where delivery on call has not taken place four weeks after the scheduled delivery date, 1/3 after purchase or in cases where delivery on call has not taken place after four further weeks; § 632a German Civil Code applies.
 - for all other invoiced Essmann products, whereby a two percent discount is deemed to have been agreed in case of payment within 14 days after date of invoice.
- In default of payment, we may, according to § 288 BGB, charge an interest rate of 5 % above the basic interest rate or, unless the customer is a consumer, an interest rate of 8% above the basic interest rate.
- The customer can only offset or exercise a right of retention only on the basis of such with an indisputable or legally established claim. If the customer is an entrepreneur and the contract is a business transaction then he waives his right of retention, unless such a waiver shall unduly discriminate against the principles of good faith.
- Should a considerable deterioration in the financial circumstances of the customer occur, through which doubts arise as to his creditworthiness (unsuccessfulness enforcement measures, loan terminations by banks or similar), we may refuse our services until at our own option an advance payment has been made or adequate security has been provided for the payment. Should our demands for an advance payment or security not be met within a reasonable deadline - usually two weeks - then we may, without setting a further deadline, withdraw from the contract or demand payment of damages instead of the service. Should, after completion of a contract, a considerable deterioration in the financial circumstances of the customer occur, (unsuccessful enforcement measures, loan terminations by banks or similar), we may demand to be paid matching payment with delivery of our services. If the transaction is a business transaction for the customer then, on presentation of the preceding premises, we can, at our own choice, either demand the immediate payment in cash of all due or not yet due claims from all contracts existing with the customer or demand securities regarding these claims. We may refuse completion until payment has been made in cash or securities provided.
- On cessation of payments or institution of insolvency proceedings our claims are due immediately.

V. Delivery Date

- Delivery dates are quoted on an approximate basis and without commitment. Default only applies when a special reminder is sent by the customer. In case of default, the customer may, irrespective of the cases governed by Figure 2, within the framework of § 281, German Civil Code, withdraw from the contract after setting an adequate period of grace. The customer may only demand damages instead of services in cases of intent or gross negligence. The same is the case for claims for damages due to delayed delivery. The delivery term begins with dispatch of the order confirmation, however, not before provision of any documents that are potentially required from the customer and are necessary for the processing of the order. Subject to delivery being possible. This shall not apply in the case of intentional or gross negligent cause of an impossibility to deliver by us.
- In case of force majeure or other unforeseeable, extraordinary, and not wrongful circumstances (difficulties in obtaining production materials, disruption of operations, strike, lock-out, lack of transportation, intervention by authorities, difficulties in procuring energy, lack of employees etc.) the delivery period - also if supplier is hindered - shall be extended by a reasonable period when we are hindered in the timely fulfilment of our obligation. Should such circumstances occur to make the delivery or service impossible or unreasonable then we shall become free of our delivery obligation. If the delay in delivery takes over two months, the customer may withdraw from the contract. Should the delivery date be extended or we become free of our delivery obligation then the customer shall not be entitled to any claims for damages. We can only refer to the above-mentioned circumstances, if we inform the customer immediately.

VI. Return of Goods

Goods may only be returned after prior agreement. We accept no liability for returns that have not been agreed. In case of agreed return of goods, the customer is bound to insure the shipment for the full amount of the invoice taking into account the regulations of the public carrier. Reimbursement takes place at 15% deduction for administrative costs. Furthermore,

carriage and packaging for outward and return transport shall be fully borne by the return deliverer.

VII. Reservation of Title

- All goods supplied by us and all products obtained from the processing of the goods supplied shall remain our property until payment of all debts resulting from this contract has been made in full and, if the customer is an entrepreneur and the contract is regarded as a business transaction, settlement of a resulting balance borne by the customer from the existing current account conditions (§ 449 German Civil Code). Should the delivered goods have been processed by the customer, the new product obtained from the machining or processing of the goods shall become our property. Acquisition of property of the customer according to § 950 German Civil Code shall be excluded. In the event of the original goods being processed with goods not in the property of the customer, we shall become co-owner of the new product in accordance with the proportion of value of the goods delivered by the customer and the other goods at the time of processing (§§ 947, 948 German Civil Code).
- The customer is only entitled to sell goods delivered by us and the goods manufactured from their processing in the course of his regular business transactions. Any other appropriation of the goods such as pledging or collateral assignment is not permitted.
- The customer hereby transfers to us all claims resulting from the resale, processing or installation of the goods subject to reservation of title. Transferred claims serve as a security until full payment of all claims resulting from this contract and, if the customer is an entrepreneur and the contract is regarded as a business transaction, settlement of a resulting balance borne by the customer from the existing current account conditions. Should the goods subject to reservation of title be incorporated into the real estate property of a third party by the customer then the customer hereby transfers to us all rights regarding the claims of the customer against the third party. Should the customer be entitled to create a legal mortgage according to § 648 German Civil Code, this claim is transferred to us.
- The customer is entitled to collect the receivables transferred to us. We shall not exercise our authority to collect receivables for as long as the customer complies with his payment obligations.
- The customer shall immediately inform us of any access made by third parties on the goods subject to retention of title.
- In the event of the securities provided by the customer in this contract exceeding our overall claims by over 20 %, we shall be committed to reassignment or clearance if requested by the customer. Clearance can, however, only be considered for such services and their replacement values, which have been paid in full.

VIII. Right of the customer in case of defects

- We assume liability for the buyer for the products delivered by us according to the below-mentioned numbers 4 a to d (skylight domes, arcade rooflights, smoke and heat extraction systems, skylight dome accessories as well as other Essmann products) that these observe a) the recognised rules of construction technology and b) fulfil the functions assigned to them in the roof. Assumption of liability shall not be regarded as express warranty in terms of § 443 paragraph 1 German Civil Code.
- Should the products delivered by us be defective, we shall, after receiving notification from the customer, at our option either clear the faults or to supply replacement goods at not additional charge. The customer is only entitled to further rights arising from the product after expiration of an appropriate deadline of at least four weeks after admission of the demand for subsequent fulfilment. The right to withdraw from the contract shall only be excluded in case of minor defects. Otherwise, the customer shall not be entitled to any damages when withdrawing from the contract. Should the customer be entitled to claim damages then such damages are limited to the difference between the purchase price and the value of the defective goods whereby the defective goods shall remain with the customer if this is deemed as reasonable by the customer.
- Both Essmann and the person responsible for asserting rights in case of defects are bound to do their utmost to clarify the reasons for a defect forthwith and notwithstanding the above-mentioned conditions, to keep any damages caused to a minimum and to eliminate such damages immediately.
- Granting of rights in case of defects for that fact that the products delivered by us fulfil the functions assigned to them in the roof assumes that
 - installation and assembly have been carried out according to the currently applicable regulations for roofing contractors and factory specifications.
 - ascertained damages shall be reported to us immediately.
 - we shall have the opportunity of viewing the object and checking it on site with regard to a lack of proper operation,
 - in case of smoke and / or heat extraction systems, maintenance has been regularly carried out according to the regulations of the association of property insurers and according to the special regulations as specified by the manufacturer.
- The limitation periods for rights of the customer in case of defects shall be as follows for the following products sold by us:

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| a) skylight domes and skylight bases | 2 years, |
| b) all pneumatic and mechanical units required for operation and accessories | 1 year, |
| c) all electrical units required for operation and accessories | 1 year, |
| d) all other Essmann products as of the passing of risk or acceptance (contract for service) | 2 years. If the customer is a consumer, the limitation period of his rights in case of defects shall be two years in all cases. |
- The customer cannot assert any rights in case of defects when the defect complained about is attributed to improper interventions by the customer or third parties, especially non-authorised maintenance companies.

IX. Jurisdiction, Applicable Law

The place of jurisdiction for all disputes of the contractual parties is Bad Salzufen. All disputes arising out of or, in connection with, this contract must be brought before the court in Germany. The privacy of contract in connection to the contract shall be exclusively subject to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

X. Partial invalidity

Should any individual provisions in the above options terms be or become invalid, either in part or in full, or impracticable, this will not affect the validity of the General Terms and Conditions.

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