

General Conditions of Business

1. General

- 1.1 All offers, deliveries and services from Herrmann AG shall be provided exclusively based on these General Conditions of Business. These General Conditions of Business shall be deemed accepted on ordering goods or services. Conflicting conditions of the customer shall not apply unless agreed otherwise in writing.
- 1.2 Deletions and amendments to these General Conditions of Business shall in any case require written confirmation in order to be valid.
- 1.3 Verbal assurances from Herrmann AG shall only be valid if the latter has confirmed these in writing with its signature.
- 1.4 Offers shall be non-binding and subject to change. The agreement between Herrmann AG and the customer shall not be concluded until Herrmann AG has accepted the order. Herrmann AG shall accept the order either by sending the customer an order confirmation or by delivering the goods ordered.

2. Drawings and technical documents

Brochures and catalogues shall be non-binding. Details in plans and technical documents shall only be binding as far as these have been expressly assured. Herrmann AG shall retain all rights to all drawings and technical documents that it delivers. Drawings relating to any quotation shall be returned to Herrmann AG immediately if no order is placed.

3. Prices

Prices shall be net, in Swiss francs, ex-factory, unpackaged, excluding value added tax and other charges unless described otherwise in writing. Pallets, freight and postage costs shall be charged separately. Deliveries to Switzerland shall be free house unless stated otherwise on the order confirmation or otherwise agreed in writing.

4. Conditions of payment

- 4.1 The purchase price shall be payable, net, 30 days from the invoice date.
- 4.2 The customer shall also adhere to the agreed payment terms if transport, delivery or acceptance of the goods are delayed or made impossible through no fault of Herrmann AG or if non-essential parts are missing or if subsequent work proves necessary without making use of the consignment impossible. The customer shall not be entitled to unilaterally reduce, offset or withhold payments due to complaints, claims or unrecognized counterclaims. This shall also apply in particular if subsequent work on the consignment proves necessary.

- 4.3 If the customer is in arrears with an agreed payment, Herrmann AG shall be entitled without prejudice to its statutory rights, to postpone the further carrying out of the agreement, to suspend manufacture or to withhold deliveries ready for dispatch without the customer being able to claim compensation for this.
- 4.4 If the customer fails to respect the agreed payment terms, he shall be liable to us for interest of four per cent above rate applied by St. Galler Kantonalbank for first new mortgages on residential properties without any demand from the point on which payment becomes due. He shall also be liable for the dunning and collection costs. The compensation of further damage shall remain reserved. Herrmann AG shall also be entitled to withdraw from the delivery of orders already confirmed without the customer being able to demand compensation for this. If the customer is in arrears with a payment or the provision of an agreed guarantee for longer than two weeks, the entire remaining amount shall be due with immediate effect.

5. Delivery

- 5.1 Delivery shall take place when required by the customer if possible. Notified or agreed delivery dates and times shall be adhered to if possible but shall be non-binding unless Herrmann AG expressly states otherwise in writing. Delays in delivery shall not entitle the customer to withdraw from the agreement or to claim compensation.
- 5.2 The delivery date shall start as soon as the agreement has been concluded, Herrmann AG has received all the necessary technical documents from the customer, the agreed payments and guarantees have been made and the required official permits issued. The delivery date shall be considered as adhered to if the customer receives the delivery before the agreed date. The delivery date shall be extended appropriately if circumstances such as epidemics, natural events, mobilization, war, riots, industrial conflicts, boycotts, accidents, considerable industrial disruptions or official measures prevent delivery by the delivery date. The delivery date shall also be extended if the customer subsequently changes the order or enters into arrears with his contractual obligations, fails to make agreed payments and guarantees on time or is in arrears with the work to be carried out.
- 5.3 The customer shall be obliged to compensate Herrmann AG for any loss following default of acceptance. Herrmann AG shall in this case be entitled to deposit the item purchased at the customer's expense and risk or to withdraw from the agreement subject to compensation by the customer of any loss suffered by Herrmann AG. Default of acceptance shall in particular apply if the customer unjustly refuses to accept the item purchased due to a delivery delay.

6. Packaging

Packaging shall generally not be taken back. Exceptions include cardboard boxes delivered to Switzerland collected in the customer's own vehicle as far as this has been agreed with the customer.

7. Free advice

Free technical advice may be given subject to best knowledge but outside any contractual or pre-contractual obligations. Herrmann AG shall accept no liability for this, especially not for the intrinsic accuracy of such advice.

8. Transfer of risk and insurance

The risk shall pass to the customer no later than on delivery even in the case of part deliveries or if Herrmann AG has also undertaken other services, e.g., dispatch costs. Dispatch and transport shall be at the customer's expense and risk. The customer shall be responsible for insurance against loss of all kinds. Deliveries to Switzerland shall be free house unless agreed or confirmed otherwise.

9. Place of performance

Place of performance for all contractual services shall be Walzenhausen, Switzerland unless agreed otherwise.

10. Acceptance

Acceptance of the goods shall be considered necessary if the customer does not submit a well-founded written notification of defects within two weeks of delivery. The goods shall also be considered accepted if the customer refuses to assist in an arranged joint acceptance test or refuses to sign an acceptance protocol corresponding to the facts. Part deliveries shall be permitted.

11. Claims relating to defects/warranty

- 11.1 Subject to the following requirements, the warranty period shall be six months from delivery to the customer. The warranty from Herrmann AG shall require timely satisfaction of the agreed payment conditions by the customer.
- 11.2 Herrmann AG shall be obliged on written request from the customer to repair or replace at its discretion as soon as possible, the delivery or parts thereof that are clearly defective or unusable due to defects of material, construction or design. There shall be no right to cancellation or reduction. If any delivery remains defective despite replacement delivery or repair, Herrmann AG may take back the defective delivery against repayment of any payments received. Material replaced shall be the property of Herrmann AG. The warranty period shall not be extended due to individual replacement deliveries in accordance with art. 11, para. 1.
- 11.3 Excluded from the warranty and liability shall be damage not occurring clearly due to poor material of Herrmann AG, defective construction or defective design but, e.g., due to natural use, failure to observe instructions for use, excessive wear, unsuitable equipment and other reasons not attributed to Herrmann AG.
- 11.4 Assured properties shall be only those expressly described as such in the specifications.

12. Consequential damage

The customer's warranty and liability claims shall be definitively regulated in these General Conditions of Business. Subject to mandatory legal provisions, there shall under no circumstances be any contractual or non-contractual claims by the customer for the compensation of damage such as loss of production, loss of use, loss of orders, loss of profits or other direct or indirect losses.

13. Reservation of ownership

- 13.1 Herrmann AG shall remain the owner of the item purchased until full payment of the purchase price including interest and any further costs and shall be authorized by the customer to enter the reservation of ownership of the item purchased in accordance with art. 715 of the Civil Code.
- 13.2 The customer shall refrain from selling, pledging, lending or leasing the item purchased until full payment of the purchase price including all interest and costs. In the event of any pledging, retention or arrest, the customer shall draw attention to the reservation of ownership and shall inform Herrmann AG without delay.
- 13.3 The customer shall be obliged to assist at his own expense in the case of measures for protecting the property of Herrmann AG.
- 13.4 Herrmann AG shall be entitled for the duration of the reservation of ownership to conclude insurance for its benefit and at the customer's expense against all possible risks.

14. Place of jurisdiction/applicable law

- 14.1 The exclusive place of jurisdiction for all disputes from relations between the parties shall be Walzenhausen. Herrmann AG shall be entitled, at its discretion to also file proceedings against the customer at its place of business.
- 14.2 Legal relations shall be governed by Swiss law. The United Nations Convention on Contracts for the International Sale of Goods of 1 April 1980 (the Vienna Convention) shall not apply. In the case of a necessary interpretation or in case of any dispute, only the German version of these General Conditions of Business shall apply.

Walzenhausen, 3 June 2009/BA