

## 1. Acceptance of the order

The offers of Cryotherm GmbH & Co KG (=CRYOTHERM) are subject to confirmation. Orders shall only be deemed to have been accepted if CRYOTHERM provides the purchaser with a written confirmation, which can also be produced by machine and is valid without a signature. If the Customer refers to terms and conditions of business other than those of CRYOTHERM, these shall only apply insofar as they do not contradict CRYOTHERM's terms and conditions of business and do not extend the Customer's statutory rights, even if the contrary is stipulated in the Customer's terms and conditions and CRYOTHERM does not object, performs the delivery and service without contradiction or these are accepted by the Customer.

## 2. Place of performance and price

- 2.1 Unless otherwise stated in the delivery contract, the place of performance for all deliveries shall be CRYOTHERM's delivery plant.
- 2.2 CRYOTHERM's prices shall apply "ex works". Packaging and shipping costs as well as the value added tax applicable at the time of execution shall be added.
- 2.3 The prices do not include taxes, fees, customs duties or similar levies arising outside the Federal Republic of Germany as a result of the conclusion or performance of the transaction. If CRYOTHERM is required to pay such levies, the Customer shall reimburse these expenses.
- 2.4 Payments by bill of exchange are only permissible with the approval of CRYOTHERM. In the absence of any other agreement, all costs shall be borne by the customer.

## 3. payment

- 3.1 Payment shall be made net cash immediately after receipt of the invoice. Payments - even if they are made by bill of exchange or cheque - shall only be deemed to have been made when CRYOTHERM is finally able to dispose of the invoice amount plus all ancillary claims after deduction of all costs incurred by it and is released from any liability under a bill of exchange.
- 3.2 In the case of an order value of more than € 10,000 and a delivery period of more than two months, the following payments shall apply net cash in each case:  
1/3 on conclusion of the contract  
1/3 after expiry of half of the agreed delivery time, the remainder one week after notification of readiness for dispatch. Value added tax at the applicable rate shall be added to all payments.
- 3.3 In the event of default in payment, CRYOTHERM shall be entitled to charge default interest in the amount of 10%, unless the Customer proves to CRYOTHERM that no damage has been incurred at all or that the damage is significantly less than the above-mentioned interest rate. CRYOTHERM shall be entitled to assert a demonstrably higher loss.
- 3.4 The Purchaser shall have no right of retention or right to refuse performance in relation to CRYOTHERM's claims. \*) The Purchaser may only offset claims against CRYOTHERM if its counterclaim is undisputed or has been established as final and absolute.

## 4. delivery and performance time

- 4.1 The date of the order confirmation shall be decisive for the delivery and performance periods. However, they shall not commence until all details of the order have been fully clarified and all information and documents to be supplied by the Purchaser have been submitted. The delivery period shall be deemed to have been complied with if CRYOTHERM has notified the Customer that the goods are ready for dispatch by the time it expires.
- 4.2 If the deliveries and services are culpably not provided on time, the purchaser shall be entitled to withdraw from the contract if the exceeding of the delivery and performance period is not insignificant, after it has set CRYOTHERM a reasonable period of grace in writing to no avail. The setting of a period of grace shall not be required if the deliveries and services are no longer usable for the purchaser as a result of the period being exceeded. The purchaser shall also be entitled to the same right if the deliveries and services are culpably not provided on time in part and only complete deliveries and services are meaningful for him according to the content of the contract.
- 4.3 Claims for damages due to delay or impossibility or inability for which CRYOTHERM is responsible shall be limited to 0.5% per calendar week or part thereof, but in total to a maximum of 5% of the value of that part of the total delivery which cannot be used on time or in accordance with the contract as a result of the delay or impossibility for which CRYOTHERM is responsible, to the exclusion of further claims - unless a case of intent or gross negligence exists. Any right of withdrawal of the consumer \*\*) shall remain unaffected by sentence 1.
- 4.4 Partial deliveries or partial performance shall be permissible if CRYOTHERM has a justified interest in them and they are reasonable for the Customer.

## 5. retention of title

- 5.1 CRYOTHERM shall retain title to the goods delivered by it until receipt of all payments under the delivery contract.
- 5.2 If payments are made in whole or in part against sureties or guarantees, the retention of title shall not expire until the deeds have been returned.
- 5.3 If an item of CRYOTHERM becomes an integral part of another item as the main item as a result of combination, CRYOTHERM shall be entitled to co-ownership of the main item in the ratio of the invoice value of its goods to the invoice value or, in the absence of an invoice value, to the current market value of the main item. To this extent, the main item shall be held in safe custody for CRYOTHERM by the customer free of charge and with due care.
- 5.4 The Purchaser shall be entitled to resell the reserved goods in the ordinary course of business only subject to the proviso that the purchase price claim from the resale shall pass to CRYOTHERM. The Customer shall not be entitled to dispose of the reserved goods in any other way. At CRYOTHERM's request, the Customer shall be obliged to disclose the assignment to a third-party purchaser for payment to CRYOTHERM, to provide CRYOTHERM with the information required to assert its rights and to hand over documents.
- 5.5 The Purchaser's claims, including claims under credit insurance policies, arising from the resale of the reserved goods shall be assigned to CRYOTHERM here and now together with all ancillary rights, irrespective of whether the reserved goods are resold to one or more purchasers. If the assigned claim against one or more purchasers has been included in a current account, the agreed assignment shall also relate to the claims from the current account. \*)
- 5.6 If the reserved goods are used by the purchaser together with other goods which do not belong to CRYOTHERM, either without or after combination with other goods, sold, the assignment of the purchase price claim in the amount of the invoice value of the reserved goods shall be deemed agreed.
- 5.7 If the value of the securities existing for CRYOTHERM exceeds its claims by a total of more than 20%, CRYOTHERM shall be obliged to release securities of its choice to this extent at the Buyer's request.

- 5.8 The Customer must notify CRYOTHERM without delay of any seizure or other impairment of CRYOTHERM's property by third parties.
- 5.9 The Purchaser shall insure the reserved goods at its own expense against loss and risk at replacement value and shall assign all claims arising therefrom to CRYOTHERM upon request.

## 6. shipping and return of goods

- 6.1 The Customer shall bear the risk of dispatch in all cases, even if CRYOTHERM assumes the shipping costs, carries out the dispatch itself or has it carried out. Insurance of shipments shall be the sole responsibility of the Customer and shall be borne by the latter. It shall be left to CRYOTHERM to determine the type of dispatch and the dispatch route without guarantee for the fastest and cheapest transport.
- 6.2 If dispatch is delayed due to circumstances for which CRYOTHERM is not responsible, the risk shall pass to the Customer from the date of notification of readiness for dispatch; in this case CRYOTHERM shall insure the delivery items at the request and expense of the Customer. The costs of storage of the delivery items shall be borne by the Buyer.
- 6.3 If, as a gesture of goodwill, CRYOTHERM exceptionally takes back goods delivered in accordance with the contract, CRYOTHERM shall be entitled to make a deduction for the administrative expenses it has incurred when crediting the value of the goods.

## 7. complaints about the calculation

Objections to the calculation of the deliveries and services must be made in writing to CRYOTHERM no later than two weeks after receipt of the invoice. Failure to raise objections in good time shall be deemed acceptance of the correctness of the calculation.

## 8. warranty

- 8.1 The warranty period for all contractual deliveries and services shall be 12 months from delivery of the relevant delivery item or acceptance of the relevant service. If dispatch or acceptance of the delivery or service is delayed for reasons for which CRYOTHERM is not responsible, the warranty claims shall end 15 months after notification by CRYOTHERM of readiness for dispatch or acceptance.
- 8.2 For replacement parts and rectifications, warranty claims shall become statute-barred 12 months after completion of the warranty measure, but no later than 15 months after the start of the original warranty period.
- 8.3 Clauses 8.1 and 8.2 shall apply vis-à-vis a consumer \*\*) only in the case of delivery of used goods.
- 8.4 In the event of repeated failure of a replacement delivery or rectification of defects, the Purchaser may, at its discretion, demand a reduction of the remuneration or rescission of the contract. Beyond this, CRYOTHERM shall only be liable in accordance with clause 9.
- 8.5 Normal wear and tear and/or wear and tear are not subject to the warranty.

## 9. liability

- 9.1 CRYOTHERM shall be liable up to an amount of € 1 million per damaging event for damage not occurring to the object of delivery and performance itself arising from delivery and performance not in accordance with the contract, breach of ancillary obligations and tort, unless otherwise regulated above. Liability for loss of production and loss of profit is excluded.
- 9.2 The limitations of liability in clause 9.1 do not apply in the case of:
  - a) intentional or grossly negligent causation of damage as well as fraudulent Concealment of defects
  - b) culpable injury to life, body or health
  - c) Breach of guarantees
  - d) Defects in the delivery item or service that cause personal injury or property damage exceeding € 500 to privately used items.
- 9.3 The above liability provisions shall also apply in favour of CRYOTHERM's employees and legal representatives.
- 9.4 If the Purchaser has CRYOTHERM representatives sign liability waivers in respect of damage caused to them on the construction or operating site, it shall be liable to CRYOTHERM for indemnification if claims are asserted against CRYOTHERM by these representatives as a result.

## 10. statute of limitations

Claims due to damage not caused to the object of delivery and service itself or due to tortious acts shall become statute-barred one year after expiry of the warranty period. This provision does not apply to claims for personal injury or property damage exceeding € 500 to privately used items caused by defects in the object of delivery and performance.

## 11. deliveries and services by third parties

CRYOTHERM may also have its delivery and performance obligations carried out by third parties without this affecting the Customer's rights against CRYOTHERM.

## 12. amendment of the contract

- 12.1 No agreements other than those set out in CRYOTHERM's order confirmation or in the contract for deliveries and services or in these General Terms and Conditions have been made. \*)
- 12.2 Cancellation, amendment and supplementation of the agreed conditions must be in writing. The proof for the cancellation or annulment of the written form also requires the written form. \*)

## 13. Jurisdiction

The place of jurisdiction for all legal disputes arising between the Buyer and CRYOTHERM shall be Montabaur \*)

\*) This clause shall only apply vis-à-vis an entrepreneur or a legal entity under public law or a special fund under public law.

\*\*\*) A consumer is any natural person who enters into a legal transaction for a purpose that is neither commercial nor self-employed.