

## **Conditions of Sale and Delivery**

As of: 01.10.2014

Only our conditions of sale and delivery which follow apply to all deliveries. The conditions of our customers at variance to this only hold good when we have expressly accepted and confirmed them in writing.

For both parties, the place of fulfilment for delivery and payment as well as the place of jurisdiction is Aachen.

### **I. Quotation**

1. The documents belonging to the quotation such as illustrations, drawings, weight and dimensional particulars are only approximate unless expressly declared as binding. We reserve the right of ownership and copyright to cost estimates, drawings and other documents; they are not to be made accessible to third parties. Only with the purchaser's agreement do we undertake to make plans - which the purchaser has treated as confidential - accessible to third parties.
2. We reserve the right to make changes to the illustrations and drawings since the machines are constantly subject to improvements. The buyer or customer cannot invoke any rights or objections from these changes.

### **II. Scope of Delivery**

1. Our written order confirmation applies as to the scope of delivery. Any additional agreements or modifications require written confirmation.
2. Given punctual adherence to the stipulated terms of payments, delivery is effected ex-works Aachen. Despatch is carried out at the recipient's risk even in the case of free delivery. All kinds of operating trouble, a scarcity of workers, raw materials or energy etc. exonerate us from the obligation to effect a complete or timely delivery to the exclusion of any compensation claims. This is also true of official decrees which prevent us from carrying out the delivery or undertaking it in good time.
3. Given that the customer wants the items assembled or placed into operation which we have supplied, then charging is done separately on the basis of our terms of assembly.

### **III. Price and Payment**

1. If not otherwise stipulated, the prices hold good ex-works including loading in the works, but to the exclusion of packing.
2. Payment is to be directly effected to us, which in the case of domestic deliveries means:
  - 1/3 on receipt of order confirmation
  - 1/3 at the time of readiness to effect despatch
  - The rest 30 days from date of invoicing – in each case net

in the case of deliveries abroad:

- By irrevocable letter of credit
  - ½ at the time of ordering
  - Rest on acceptance of the documents or in keeping with a particular arrangement.
3. A 1,5% default interest per month is charged when payment limits are exceeded.

#### **IV. Delivery Time**

1. The delivery time begins with the order confirmation being sent off but not before the customer has provided the documents, approvals, clearances which are to be acquired and not before the stipulated advance payment has been received.
2. A delivery time requirements is that of trouble-free production. It is appropriately lengthened in the event of unforeseen obstacles arising which we cannot influence – irrespective of whether they occur at our works or at our sub-contractors. They include force majeure, operational trouble, unuseability of principal components, delays in the delivery of materials and components, strikes and lock-outs and given that it can be demonstrated that these obstacles have a substantial role to play in the manufacture or supply of the item of delivery. In such an instance, the customer is not entitled to any right of withdrawal from the contract. At the same time, we do not compensate for any damage that has possibly arisen due to a delay in delivery.
3. Should the customer request a delay in despatch, then we will charge him – beginning one month following the notification of readiness to effect despatch – with the costs of storage in our works for each month which will be a minimum  $\frac{1}{2}$  % of the invoice amount.
4. However, we are authorised after the setting and expiry of a reasonable term without effect to dispose of the item in a different manner. Even so, we still reserve the right to a compensation claim.
5. A pre-condition for adherence to the delivery time is that the customer fulfils his contractual obligations.

#### **V. Passage of Risk and Acceptance**

1. Risk is passed to the customer when readiness to effect despatch is notified. This is also the case when part deliveries are involved and when we have taken on other services/costs such as despatch costs or carriage and construction.
2. At the customer' request we will insure the consignment at his expense against breakage, damage in transit, fire and water damage.
3. Should despatch be delayed for circumstances which we are not responsible for, then the risk is passed onto the customer from the day of readiness to effect despatch. However, we are obligated - at the request and expense of the customer - to arrange any insurance demanded by the customer.
4. Items delivered are to be accepted by the customer even if they display minor defects - without prejudice to the rights in Section VII.

#### **VI. Retention of Title**

- 1. The item of delivery remains our property up to the receipt of all payments from the contract of delivery.**
2. We are entitled to insure the item of delivery for fire, water and other damage at the customer's expense unless he can demonstrate that he has himself taken out the insurance.
3. The customer is neither to pledge the item of delivery nor to transfer its title by way of security. We are to be immediately informed by the customer in the case of attachments, confiscations or other dispositions by third parties.
4. Our enforcement of the right of title and attachment of the item of delivery is not held to be a withdrawal from the contract – unless the instalment act is applied.

## **VII. Liability for Delivery Defects**

We are liable as follows for defects in the delivery to the exclusion of other claims:

1. We are to repair or re-supply all those parts free of charge at our sole discretion which come to light within 12 months after being placed in service as a result of a circumstance which can be proved prior to the transfer of risk – in particular due to inadequate design, flawed materials or faulty manufacture – that has made them unusable or substantially impaired in their usefulness. We are to be immediately informed in writing on these kinds of defects becoming apparent. Parts replaced remain our property and are to be returned carriage-paid.

If we are not at default for a delay in despatch, construction or commissioning, then liability ceases to apply 12 months at the latest after the passage of risk. For external products, our liability is limited to the assignment of the claims against the manufacturer of the external product.

2. No liability is assumed for damage arising for the following reasons:

unsuitable or non-proper use, flawed assembly or placing into service by the customer or third parties, natural wear-and-tear, incorrect or careless treatment – in particular excessive loading/stressing – inappropriate operating media, substitute materials, fitting replacement parts we have not supplied, unsatisfactory construction work, unsuitable subsoil, chemical, electronic or electrical effects unless they are culpably attributable to us.

3. In consultation with us, the customer is to give us the time needed and opportunity to undertake all improvements or substitute deliveries which appear necessary to us, otherwise we are released from liability for defects.

4. Given justified complaints, we take on replacement part delivery free of charge. Costs over and above this are at the expense of the customer.

5. The same liability is involved for the replacement part and the improvement as for the item of delivery. The defects liability period for the item of delivery is extended by the length of the service interruption caused by the corrective work.

6. We can refuse to rectify defects until the customer has met his obligations.

7. Liability is lifted for the consequences of changes or repair work done incorrectly by, for instance, the customer or a third party without our previously sought approval.

8. Other claims of the customer, especially a claim to compensation for damage not arising on the item of delivery itself are ruled out.

9. Any warranty commitment ceases to apply on the stipulated terms of payment not being adhered to.

Retaining payments due or offsetting on the basis of warranty claims is not admissible.

**10. A warranty is only possible given the sole use of genuine DREHER cutter bars and other genuine DREHER replacement parts for DREHER plastic cutting mills and granulators.**

## **VIII. Right of the Supplier to Withdraw from the Contract**

We are entitled to withdraw totally or in part from the contract in the event of unforeseen incidents arising as envisaged by Section IV of the conditions of delivery to the extent that they considerably modify the economic importance or the content of the performance or have a substantial impact on our plant and in the event of the subsequently arising impossibility of manufacture.

No claims of any kind on the part of the customer exist in view of this type of withdrawal from the contract. The customer is to be immediately informed about our wish to exercise the right to withdraw from the contract once the scope of the incidents is known - even when an extension of the delivery time has been agreed to with the customer.

**HEINRICH DREHER GmbH & Co.KG**  
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