

General terms and conditions of Nolting Holzfeuerungstechnik GmbH

Also referred to below as: "Nolting"

1. General

1.1. All goods and services provided by Nolting are subject to these terms and conditions, as well as to any applicable separate contractual agreements. Any contrary purchasing terms applied by the customer will not form part of the contract, even if the customer's order is accepted. In the absence of any other agreement, a contract will come into effect upon the written confirmation of order by Nolting and at the latest when Nolting begins to implement the order.

1.2. Nolting retains right of ownership and copyright to all samples, cost estimates, drawings and similar information in both tangible and intangible form – including electronic form; such materials may not be made accessible to third parties. Without the consent of the customer Nolting undertakes not to make accessible to third parties any information or documents which are designated by the customer as confidential.

2. Prices

2.1. If its own costs rise as a result of an increase in labour or material costs, Nolting reserves the right to raise the agreed sales prices correspondingly. If the customer is not a commercial entity, any price increase will only be possible if delivery is not to be made until the expiry of four months after the conclusion of the contract.

2.2. Prices are quoted net ex-works. They do not include freight, insurance or VAT. Invoicing is implemented in euros.

2.3. The prices quoted are subject to the condition that the information on which the offer is based (in particular drawings, design plans) remains unchanged.

3. Payment, arrears, rights of set-off and retention

3.1. In the absence of any individual agreement to the contrary, orders of up to 750.-EUR will be delivered and paid for on a COD basis.

3.2. In the case of orders with a value (excluding VAT and incidental costs) of 25,000 EUR and above, 1/3 of the invoice amount will be payable immediately after receipt of the confirmation of order, 1/3 as soon as the customer is informed that the goods are ready for shipment but before the actual delivery, and the balance 30 days from the invoice date.

3.3. In the case of all orders invoices will be payable immediately, unless agreed otherwise in individual cases. In the absence of any individual agreement to the contrary, all payments are to be made by the customer to Nolting without any deduction (cash discount, discount) at the latest within 10 days from receipt of invoice. Payment by the agreed deadline will be determined by the date on which the invoice amount is received on the bank account specified by Nolting.

3.4. Invoices for service operations and maintenance are payable immediately on receipt of invoice.

3.5. Bills of exchange and cheques are only accepted on account of performance, and any costs or charges incurred will be at the expense of the customer. No cash discount is granted in the case of payment by bill of exchange or cheque.

3.6. If the customer is in arrears of payment the statutory rate of interest on arrears will be charged. Nolting reserves the right to claim further damages. In the event of failure to fulfil a long-term payment agreement, the entire balance will fall due immediately if the customer is in arrears with two consecutive instalments.

3.7. The customer will only have the right to withhold payment or set off counterclaims to the extent that such counterclaims are uncontested or have been legally confirmed.

4. Delivery times, delays in delivery

4.1. Delivery times will be in accordance with individual agreements between the contracting parties. The precondition for meeting agreed delivery times on the part of Nolting is that all relevant commercial and technical questions between the parties have been clarified, and that the customer has met all applicable obligations, such as obtaining any necessary certification or permits from the authorities, or made any applicable advance payment. If this is not the case the delivery time will be extended correspondingly. This will not apply if Nolting is responsible for the delay.

4.2. The delivery period will be regarded as having been met if - by its expiry - the goods have been shipped or the customer has been informed that they are ready for shipping. If customer acceptance is required, the date of acceptance will be decisive, or in its place notification that the goods are ready for acceptance. This will not apply if the customer is justified in refusing acceptance of the goods. Nolting accepts no responsibility for delays in delivery resulting from force majeure or other circumstances outside of Nolting's control, such as industrial disputes or the discontinuation of business operations, delays or supply failures on the part of suppliers. The agreed delivery periods will be extended by the period of the obstacle to delivery. Even within the extended

delivery period, any customer who is also a consumer will have the right to withdraw from the contract in accordance with statutory regulations (§§ 437 No. 2, 440 BGB - German Civil Code), in particular if it has proved impossible to meet the original delivery date.

4.3. If the shipping or acceptance of the goods to be supplied is delayed for reasons for which the customer is responsible, one month after notification that the goods are ready for shipping or acceptance the customer will become liable for any costs resulting from the delay.

4.4. In the absence of a contrary agreement, shipping will be implemented by a freight forwarder or carrier selected by Nolting. Nolting will not be responsible for any incorrect selection of freight forwarder or carrier or the packing of the goods, unless Nolting or those operating on its behalf have acted with premeditated wrongdoing or gross negligence.

4.5. If at the request of the customer shipping is implemented later than agreed, one month after notification that the goods are ready for shipping the customer will become responsible for any costs resulting from storage of the shipment at the Nolting works, to a minimum level of 0.5% of the invoice value per month.

The customer will have the right to prove that no damage was incurred or was not incurred to this amount.

5. Transfer of risk, customer acceptance

If the customer is not a consumer, the following will apply.

5.1. Subject to Sentence 3 the risk will be transferred to the customer as soon as Nolting has provided notification of readiness for shipping, but at the latest when the goods leave the Nolting works. This will also apply in the case of part shipments, or if Nolting has assumed responsibility for other services, e.g. the shipping costs or delivery and installation. If customer acceptance has been arranged, this will apply as the transfer of risk. This must take place without delay on the agreed date, or alternatively after Nolting has provided notification that the goods are ready for acceptance. If the customer is not a consumer there will be no right to refuse acceptance on the grounds of minor defects.

5.2. If shipping or acceptance is delayed because of circumstances for which Nolting is not responsible, the transfer of risk to the customer will take place on the date of notification that the goods are ready for shipping or acceptance.

5.3. Part shipments will be permitted, unless the customer cannot reasonably be expected to accept them.

6. Withdrawal from the contract/cancellation

Subject to the provisions of 8.1.3 the customer will not have the right to withdraw from or cancel the contract. This will not apply if Nolting or its legal representatives or anyone acting on its behalf is responsible for the withdrawal or cancellation.

7. Retention of title and right of withdrawal in the case of insolvency

7.1. In order to secure its claim on the purchase price, Nolting will reserve title to all goods supplied (referred to below as the "reserved goods") until the purchase price has been paid in full.

7.2. The customer will be obliged to treat the reserved goods with care and insure them to the level of the purchase price at the customer's own cost against damage from fire, water and theft. If the reserved goods are seized by a third party, the customer will be obliged to notify such third party that they are the property of Nolting and to notify Nolting of the seizure without delay.

7.3. The customer will have the right to sell the reserved goods in the normal course of business. If the goods are sold the customer hereby assigns to Nolting, as security for Nolting's claim on the purchase price, the resulting claim on the purchaser of the goods to the level of the gross invoice value.

7.4. In the normal course of business the customer will have the right to process the reserved goods and sell any resulting new product.

7.5. If the customer processes the reserved goods, this processing will be implemented on behalf of and for the account of Nolting as the manufacturer. Nolting acquires direct ownership of the new product. If the processing involves materials owned by several parties, Nolting will acquire part ownership of the resulting product to the value of the reserved goods. If Nolting acquires ownership or part ownership of the new product, Nolting will assign to the customer its ownership or part ownership of this product subject to prior payment in full of the purchase price.

7.6. If the reserved goods are combined or mixed with other goods owned by the customer, and if the goods owned by the customer are regarded as the main product, the customer will assign to Nolting part ownership of this main product to the value of the reserved goods until payment in full of the purchase price.

7.7. If the customer sells the new product or the product created by combining or mixing the various materials, the customer hereby assigns to Nolting as security for payment of the purchase price whatever claim arises from the sale of the goods against the purchaser of the goods. If Nolting has acquired part ownership of the product, the customer will assign to Nolting a proportion of any claim to the level of the value of such part ownership.

7.8. Nolting authorises the customer to collect any claims assigned to Nolting in its own name and for the account of Nolting.

7.9. If the customer is in arrears of payment, Nolting will have the right to withdraw from the purchase contract and require the customer to return the reserved goods.

7.10. If the value of the security provided exceeds Nolting's outstanding claims by more than 20%, at the request of the customer Nolting will be obliged to return such securities to the corresponding level at its own discretion.

7.11. Any application for insolvency proceedings relating to the customer will entitle Nolting to withdraw from the contract and require the immediate return of the goods supplied.

8.1 Warranty

To the exclusion of any further claims Nolting will be liable for any material or legal defects on the part of the goods as follows, subject to Section 9 and the warranty requirements specified below.

8.1.1. In the event of defects arising from circumstances before the transfer of risk, Nolting will at its own discretion correct the defects or replace the defective goods free of charge. If such defects are detected Nolting must be notified in writing without delay. Any parts which are replaced will become the property of Nolting.

8.1.2. After consultation with Nolting the customer must provide Nolting with the required time and opportunity to implement any follow-up improvement work and replacement deliveries which Nolting regards as necessary. If this is not done Nolting will be released from liability for any consequences. The customer will have the right to correct any defects itself or have these corrected by a third party - and then require Nolting to provide compensation for the costs involved - only in urgent cases where operating safety would be at risk or to avert unreasonably extensive damage. In such cases Nolting must be notified immediately. This provision will not apply if the customer is a consumer.

8.1.3. In accordance with statutory regulations the customer will have the right to withdraw from the contract if in the case of material defects Nolting - taking account of the statutory exceptions - has been given a reasonable period of time to correct any defects or provide a replacement delivery and fails to do so. In the case of minor defects any customer who is not a consumer will only have the right to a reduction in the contractually agreed price. In other respects there will be no right to any reduction in the contractually agreed price. Further claims will be subject to Section 9 of these provisions.

8.2 Warranty requirements

In the absence of any individual contractual agreements to the contrary, Nolting will provide a warranty in accordance with statutory regulations. Such a warranty will not cover defects or damage resulting from improper operation or faulty installation or commissioning on the part of the customer. Avoidance of such defects will require the proper installation and commissioning of the boiler plant by Nolting or an installer commissioned by Nolting, together with proper operation of the plant. Both must be implemented in accordance with the section below on "Installation, commissioning and operation", which is an integral part of these general terms and conditions.

Excluded from warranty are all parts of the plant which are subject to fire or wear and tear, e.g. fireclay sections, grate bars, seals and spiral conveyor sheets, as well as damage caused by outside causes and operating errors.

8.3 Warranty and extended warranty:

provided that the fuel expressly approved in Appendix 1 is used, Nolting guarantees that the boiler plant will meet the statutory emissions requirements of 1. BImSchV, § 5.1. In addition to the statutory requirements Nolting provides the following warranty from the date of commissioning of the plant:

- 5 years on all parts of the plant connected with the building, in particular the body of the boiler,
- 1 year on all mechanical moving parts (to a maximum of 2,500 operating hours),
- 1 year on all electrical/electronic components (to a maximum of 2,500 operating hours),
- 1 year on all repairs, replacement work and maintenance in the case of customers who are not consumers.

9. Liability

9.1. Regardless of the legal basis Nolting will only be liable for damage which is not caused to the supplied goods themselves:

- a. in the case of premeditated wrongdoing,
- b. in the case of gross negligence on the part of the company's bodies or senior employees,
- c. in the case of culpable injury to life, limb and health
- d. in the case of defects which Nolting has fraudulently concealed or guaranteed not to exist,

e. in the case of defects on the part of the goods supplied, where Nolting is liable under product liability legislation for personal and material damage to privately used property.

f. In the event of a breach of significant contractual obligations Nolting will also be liable for gross negligence on the part of personnel who are not senior employees and for minor negligence, with liability in the latter case limited to the kind of damage which is typical for the type of contract and can reasonably be predicted in advance.

Any further claims are excluded.

10. Periods of limitation

If the customer is not a consumer, all guarantee claims arising from contracts for the purchase of goods or services expire after 12 months. In other respects statutory provisions relating to limitation periods will apply.

11. Returns

If the customer is not a consumer the following will apply: returns must be agreed with Nolting and must be free of charge on the part of the customer. For inspections/storage etc. Nolting will charge 15% of the value of the material. The customer will have the right to prove that the storage costs were lower.

12. Closing provisions

12.1. The laws of the Federal Republic of Germany will apply, to the exclusion of the United Nations Convention on International Contracts of Sale and its reference norms. If the contractual documents are in multiple languages, the German version will prevail.

12.2. If the customer is not a consumer the following will apply: the place of fulfilment will be Detmold. The place of jurisdiction for all claims will be Detmold, but Nolting will also have the right to initiate court proceedings at the customer's registered location.

12.3. If any provision of this agreement is or becomes invalid, this will not affect the validity of the remaining provisions. Instead of the invalid provision, the parties will apply whatever valid provision comes closest to fulfilling the business purpose of the invalid provision and would have been agreed by the parties if they had recognised the invalidity. The same applies correspondingly in the event of any omission in the agreement.

Installation, commissioning and operation

The proper commissioning and use of the equipment provided by Nolting require the following:

- the technically correct installation and commissioning of the boiler plant by Nolting or an installer commissioned by Nolting,
- the technically correct provision of a water supply to the boiler plant in accordance with DIN/EN 12828,
- the technically correct implementation of the hydraulic connection plan provided by Nolting,
- the use of a correctly functioning return flow riser,
- filling and supplement quality in accordance with VDI 2035,
- the technically correct electrical installation of the entire combustion plant in accordance with DIN/VDE 0100,
- operation of the plant in accordance with the operating instructions supplied, and exclusively by trained and technically qualified personnel,
- regular cleaning and maintenance of the entire combustion plant in accordance with the operating instructions supplied, and exclusively by trained and technically qualified personnel,
- the use of the correct fuel for the specific combustion plant.
- only fuel as specified by 1. BImSchV, § 3.1 Groups 4, 5, 5a, 6, 7 (in accordance with the specifications of the order confirmation) may be used. Other materials such as paper, cardboard, substances which are difficult to burn and any other expressly prohibited substances and materials must not be fed into the combustion plant.
- under-pressure in the storage tank is not permitted. If there is under-pressure this must not have an effect on the combustion plant. In the event of under-pressure Nolting must be notified immediately, because in this event special equipment has to be fitted to the plant. The same applies to over-pressure of more than 150 PA.