

GENERAL TERMS AND CONDITIONS

§ 1 GENERAL PROVISIONS

- 1 Our deliveries, services and offers are made exclusively on the basis of these Terms and Conditions. Therefore, they also apply to all future business relations, even if we do not expressly refer to them again.
- 2 Counter-confirmations of the buyer with reference to their terms and conditions of business or purchase are hereby rejected, also with effect for the future.
- 3 Deviations from these Terms and Conditions will therefore only become effective if we confirm these deviations at least in text form.

§ 2 OFFER AND CONCLUSION OF CONTRACT

- 1 Our offers are subject to alteration and non-binding until the conclusion of the contract.
- 2 Orders require our confirmation in text form to be legally effective; this also applies to supplements, modifications or ancillary agreements.
- 3 Brick products are homogeneous bulk products manufactured in a natural burning process. Unless expressly agreed otherwise, samples of any kind and size are therefore considered to be average samples; colour deviations are possible and therefore do not represent any cause for complaint.
- 4 Declared measurements, weights, and chemical or physical data are approximate or average values only. Likewise, illustrations and descriptions are only approximately relevant. They are not guaranteed characteristics, but descriptions or markings of the delivery or service. Other principles apply only insofar as the usability for the contractual purpose does not require precise conformity and this has been expressly agreed upon. Customary derogations and derogations which are provided for by law or which represent technical improvements, and the replacement of raw materials by equivalent substances, shall be permitted provided that they do not impair the usability for the purpose provided for in the contract.
- 5 If special performance data is required, they must be agreed in text form.

§ 3 PRICES AND COST INCREASE

- 1 The prices apply to the scope of services and delivery listed in the order confirmations. Additional or special services will be charged separately.
- 2 Prices are in EUR ex works plus applicable statutory VAT, packaging, transport costs, customs duties for export deliveries and fees and other public charges.
- 3 If costs increase between the time of conclusion of the contract and time of delivery, which is to take place more than four months after the conclusion of the contract, we shall be entitled to execute the delivery at the then valid list prices. If the delivery takes place within four months after the conclusion of the contract and there are significant cost increases, e.g. for energy, more expensive raw materials, foreign exchange and personnel, which were unpredictable in their extent and make it unreasonable to maintain the agreed prices, we are also entitled to deliver at the increased prices. If it is unreasonable for the buyer to hold on to their order in such case, they shall have a right of withdrawal.

§ 4 DELIVERY AND TRANSFER OF RISK

- 1 Delivery shall be ex works of the seller.
- 2 The risks shall pass to the ordering party at the latest when the delivery item is handed over to the forwarding agent, carrier or any third party intended to carry out the shipment (the starting point of the loading process being decisive). If the despatch or handover is delayed as a result of a circumstance caused by the customer, the risk shall pass to the customer from the day on which the delivery item is ready for despatch and the seller has informed the customer thereof.
- 3 The agreed delivery requires the unloading point to be passable with a heavy cargo trailer and suitable unloading facility. Delivery on site means delivery by lorry with unloading by carried crane or forklift on a firm road, accessible by heavy lorry with trailer or articulated lorry.
- 4 The buyer shall ensure that appropriate unloading facilities are available. They shall be liable for any damage caused if such conditions are not fulfilled.
- 5 They shall also be liable for damages and claims which arise if the delivery vehicle is not unloaded immediately or not properly for reasons for which the buyer is responsible.
- 6 Transport of the consignment to the building, around the building or onto a scaffold or ceiling shall be excluded. Delivery by high crane requires a special agreement.
- 7 The seller is only entitled to partial deliveries if (a) the partial delivery can be used by the customer within the scope of the contractually intended use, (b) the delivery of the remaining ordered goods is ensured and (c) the customer does not incur any significant additional effort or additional costs (unless the seller agrees to assume these costs).

§ 5 DELIVERY TIME AND HINDRANCE TO DELIVERY

- 1 Projected deadlines and dates for deliveries and services are always only approximate, unless fixed deadline or a fixed date is expressly assured or agreed upon.
- 2 If a fixed delivery date has been agreed and this date is postponed more than once by the buyer, the seller reserves the right to charge 5% of the order value as processing and scheduling costs for the repeated change of the order.
- 3 If the customer is also in default with the retrieval, acceptance or collection of the goods, we are entitled to demand compensation for the damage caused to us; upon occurrence of the delay in acceptance, the risk of accidental deterioration and accidental loss shall pass to the customer.
- 4 If the seller is responsible for non-compliance with binding agreed deadlines and dates or is in default, the buyer may assert a claim for compensation for delay of 0.5% per calendar week up to a maximum total of 5% of the invoice value (only material price without freight) of the delivery or service affected by the delay. Furthermore, § 7 of these terms of delivery shall apply.
- 5 Delays in delivery and performance due to force majeure and other events which were not foreseeable at the time of conclusion of the contract or circumstances significantly deteriorating and which make delivery significantly more difficult or impossible for the seller (this includes e.g. shortage of materials, energy, labour and transport space, as well as production disruptions (incl. misfire), industrial action, delivery delays of sub-suppliers, traffic disruptions, official orders, strike and lockout, even if they occur at suppliers of the seller or sub-suppliers as well as (recurring) pandemic and epidemic events), shall not be in the seller's responsibility, even in the case of binding deadlines and dates.
- 6 The seller is entitled to postpone the delivery or performance by the duration of the obstruction plus a reasonable start-up period or, if the obstruction is not only of temporary duration, to withdraw from the contract in whole or in part concerning the contractual section not yet fulfilled.
- 7 The seller shall inform the buyer immediately of the occurrence of such event.

§ 6 PAYMENT

- 1 Payment term: 30 days net from the invoice date, the date of payment shall be the date of receipt by the seller.
- 2 We shall be entitled to execute or provide outstanding deliveries or services only against advance payment or security if circumstances become known after conclusion of the contract which are capable of significantly reducing the creditworthiness of the customer and which endanger the payment of the seller's outstanding claims by the customer from the respective contractual relationship. We shall also be entitled to demand immediate payment of all outstanding, even deferred, invoice amounts and to demand immediate cash payment or security.
- 3 Payments made by the buyer shall always count towards the oldest debt. If costs and interest have already been incurred, a payment which is not sufficient to cover the entire debt is first set off against the costs, then against the interest and finally against the [oldest] main payment.
- 4 If the buyer is in default with the payment, legal regulations shall apply.
- 5 Invoiced rental pallets are to be paid just as the delivered goods. Only after freight-free return to any of our brick plants in a reusable condition may the respective amount be credited and offset.

§ 7 NOTICE OF DEFECTS, WARRANTY

- 1 The buyer must inspect the delivered goods immediately. Defects, differences in quantity or incorrect deliveries which are obvious or which can be identified during a careful examination must be notified to the seller in text form at the latest within one week, in any case before mixing or processing; otherwise, they shall be deemed to have been approved. With regard to other defects, the delivery items shall be deemed to have been approved by the buyer if the notice of defects is not received by the seller within one week of the date on which the defect became apparent; if the defect was already apparent at an earlier date in the case of normal use, however, this earlier date shall be decisive for the commencement of the period of notice. The seller shall be given the opportunity to jointly determine the complaints reported and to be present at the removal for material tests.
- 2 Missing quantities and other defects which can be identified during delivery must be noted in writing on the factory delivery note and the International Consignment Note.
- 3 Complaints shall be excluded concerning any slight damage or colour deviations occurring during the production, transport or processing of coarse ceramic products, which do not significantly impair their usual usability; the same shall apply to customary breakage and shrinkage. A breakage portion of 2–3% for roofing tiles and 3–5% for facing tiles is considered to be customary.
- 4 In the event of material defects in the delivered items, the seller shall be obliged and entitled to repair or replace the goods at

its option within a reasonable time. In case of failure, i.e. impossibility, unreasonable effort, refusal or unreasonable delay of repair or replacement, the customer may withdraw from the contract or reduce the purchase price appropriately.

- 5 The warranty shall cease to apply if the customer alters, processes or has the delivery item altered or processed by third parties without the consent of the seller and the rectification of defects is thereby rendered impossible or unreasonably difficult.
- 6 If a defect is due to a fault on the part of the seller, the customer may claim damages under the conditions specified in § 8.

§ 8 LIABILITY

- 1 The liability of the seller for damages, irrespective of the legal grounds, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and unauthorised actions, is limited in accordance with the provisions of this § 8, insofar as it is a fault in each case.
- 2 The seller shall not be liable in the case of simple negligence of its corporate bodies, legal representatives, employees or other vicarious agents, insofar as this does not represent a breach of contractual obligations. The obligation to deliver the delivery item in time, its freedom from defects in title and such material defects that affect its functionality or suitability for use to a not only insignificant extent shall be essential foundations of the contract.
- 3 Insofar as the seller is liable for damages in accordance with § 8 (2), this liability is limited to damages which the seller anticipated at the time of conclusion of the contract as a possible consequence of a breach of contract or which it should have anticipated when applying customary due diligence. Indirect damage and consequential damage resulting from defects in the delivery item moreover only provide a claim to compensation insofar as such damage is typically to be expected when the delivery item is used in accordance with its intended purpose.
- 4 The above provisions of paragraph 3 shall not apply in the case of intentional or grossly negligent conduct on the part of board members or executive employees of the seller. They also do not apply to liability due to guaranteed characteristics, injury to life, body or health or according to the German Product Liability Act.

§ 9 RETENTION OF TITLE AND SECURITY FOR CLAIMS

- 1 The delivered goods shall remain the property of the seller (goods subject to reservation of title) until full payment of all claims arising from the business relationship.
- 2 Processing or mixing by the buyer takes place on behalf of the seller, without this resulting in any obligations for the latter. Insofar as the seller does not already acquire ownership or co-ownership by operation of law, already now, the buyer shall transfer co-ownership of the resulting item to the Seller in the value of the reserved goods and shall mark it as reserved goods and keep it with commercial care on behalf of the seller.
- 3 The buyer is entitled to sell and process the reserved goods in the ordinary course of business as long as the buyer is not in default. Already now, the buyer assigns the claims arising from the resale or any other legal ground with respect to the reserved goods, including all balance claims from current accounts, to the seller in full for security purposes. The assignment shall include the rights pertaining to the receivable, including the right to a collateral mortgage. The seller revocably authorises the buyer to collect the claims assigned to the seller for the seller's account in the buyer's own name. Such collection authorisation may only be revoked if the buyer does not properly fulfil its payment obligations. The buyer is not entitled to other dispositions, in particular pledges, assignment of security or further assignment.
- 4 The buyer is obliged to inform the seller immediately of any type of third-party access to the reserved goods or to the assigned claims, as well as to hand over the information and documents required for legal proceedings.
- 5 If the buyer does not fulfil its obligations towards the seller or if there are reasonable doubts about the buyer's creditworthiness, the buyer shall, at the request of the seller, release the reserved goods and disclose the assigned claims and hand over to the seller all documents and information necessary for the collection of these claims.
- 6 We shall be obliged to release the securities to which we are entitled insofar as the realisable value of our securities exceeds the claims to be secured by more than 20%; we shall be responsible for selecting the securities to be released.

§ 10 PLACE OF PERFORMANCE AND JURISDICTION

The place of performance shall be Brüggen.
The place of jurisdiction for all disputes arising from or in connection with this contractual relationship is the registered office of the company. However, we are entitled to sue the customer at its place of business as well.

Randers Tegl Laumans GmbH, Brüggen, 1 January 2023