

## **1. Offer**

Offers made by the firm FÜLL Systembau GmbH are not binding and are subject to change without notice.

## **2. Documents**

The firm FÜLL Systembau GmbH reserves the title and copyright of any offer or documents enclosed, respectively, such as drawings, samples, brochures, etc. Furthermore, they must not be submitted to third parties or competitors. Documents such as drawings, descriptions, illustrations, brochures, etc., are only decisive and not binding to a limited extent, provided that they are not explicitly declared as binding by the FÜLL Systembau GmbH. Where modifications are necessary as far as the technical progress is concerned under consideration of the interests of FÜLL Systembau GmbH, FÜLL Systembau GmbH reserves the right to such modifications as far as they can reasonably be expected to be accepted by the customer.

## **3. Terms of contract**

Agreements and collateral agreements with FÜLL Systembau GmbH made verbally or by telephone, in particular those that deviate from our general business terms or from the conditions of exportation must be confirmed in writing by FÜLL Systembau GmbH. Where an order is accepted, the general business terms or the conditions of exportation, respectively, become part of the respective purchase agreement. They will also be valid where the purchase conditions of the customer provide other regulations, which were communicated to FÜLL Systembau GmbH. Any order must be confirmed in writing by FÜLL Systembau GmbH to become effective. Only those parts of contract are legally binding for FÜLL Systembau GmbH which are listed in the confirmation of order or in its supplements. As basis serve the German HGB (Commercial Code) and BGB (Civil Code).

## **4. Delivery**

FÜLL Systembau GmbH will not guarantee the compliance of a delivery date provided that the compliance was not guaranteed in writing. The delivery period will start when the confirmation of order is posted, but not before the customer has handed over the documents, permissions or releases to be provided and not before a deposit that has been agreed upon is received. The delivery will be effected ex works. The customer has the complete risk of delivery.

FÜLL Systembau GmbH, in any case, reserves the right to decide on the way of delivery, provided that no special agreements have been made in writing. The customer is free to effect insurances for transportation or other purposes. The obligation of delivery of FÜLL Systembau GmbH will be fulfilled to its complete extent as soon as the goods have left the works or have been handed over to the rail or to a forwarder, respectively. As soon as the goods have been handed over to the forwarder or carrier, at the latest, however, when the goods leave the works, the risk will pass to the customer. Force majeure such as interruption of operations, raw material shortage, subcontractor delays, disturbance of traffic, restraints of rulers, etc., liberates FÜLL Systembau GmbH from the obligation of delivery for the duration of the disturbance and the extent of its consequences. In this case the customer has no right to claim damage. The costs of shipment and packaging must be paid by the customer.

The INCOTERMS in the version that is valid at the time when the agreement is concluded will be applied to the interpretation of the trade terms. The means of transportation and the ways of transportation are subject to the decision of FÜLL Systembau GmbH. The same regulation is applied to choosing the forwarder or carrier. FÜLL Systembau GmbH has the right to effect partial deliveries and to charge them. Where the delivery is delayed on the customer's request, he is charged at least 0,5% of the invoice amount of the costs that result from storage in the supplier's works or in the works of an agent for each month, starting 14 days after he has been informed that the goods are ready to be delivered. Goods delivered must also be accepted where they have insignificant defects; the rights contained in clause IV (prices and payment) remain unaffected.

## **5. Notification of defects**

Possible defects in quality and quantity must be notified without undue delay after the customer has received the goods. In case of defects that are reasonable and for which an orderly complaint is filed, FÜLL Systembau GmbH is merely obliged to exchange the goods delivered or, where this is not possible for FÜLL Systembau GmbH, to take them back and to reimburse the purchase price. Where the goods delivered are handled improperly, the liability of FÜLL Systembau GmbH will be cancelled. Complaints about the delivered goods must be notified to FÜLL Systembau GmbH without undue delay, in case of obvious defects at the latest within 8 days after the goods have been received. Any necessary details such as part number, invoice number and delivery note number and the kind of defect must be indicated.

## **6. Warranty, liability in case of false deliveries**

FÜLL Systembau GmbH is liable for defective deliveries including the lack of features promised as described in the following:

FÜLL Systembau GmbH will rectify or take back defective delivery goods according to their own choice and replace them by delivery goods that are free from defects. FÜLL Systembau GmbH will rectify or renew defective deliveries according to their own choice. The customer must pay costs for exchange, transportation accelerated shipments, such as express, air mail, or other costs. Only in urgent cases of the industrial safety being jeopardized, the customer has, after prior consent of FÜLL Systembau GmbH, the right to have the defects rectified himself or through third parties, and to claim a reasonable compensation of the costs from FÜLL Systembau GmbH after presenting proof of the works executed, unless after the notification of the customer, FÜLL Systembau GmbH takes the obligation to rectify the defects themselves in due time. If FÜLL Systembau GmbH is in default as far as the subsequent improvement, the delivery of replacement parts or the renewal of the delivery is concerned, the customer has the right to claim the reduction of the purchase price or the rescission of sale, after a reasonable period for the subsequent improvement that had been set in writing has passed without results. If the customer cannot use also the rest of the delivery, he has the right to cancel the whole contract. The rights mentioned above exist also in other cases where the subsequent improvement, replacement deliveries or the renewal of delivery fail. FÜLL Systembau GmbH will not be liable for further claims, in particular damage claims such as costs that result from loss of production, disposal costs, defects that have not been emerged on the delivery goods itself, etc..

The following restrictions must be observed:

- a. The warranty does not refer to natural wear: this applies in particular to sealings and other wearing parts. It is also not applicable, if defects result from improper handling, use or inappropriate equipment, insufficient maintenance, improper installations made by the customer or other actions taken by the customer or third parties.
- b. The warranty expires 12 months after the goods have been taken into test run, at the latest, however, 15 months after the delivery has been effected by FÜLL Systembau GmbH.
- c. FÜLL Systembau GmbH is liable for rectified parts, replacement deliveries or the renewal of deliveries in the same way as for the original delivery. This warranty expires 3 months after the subsequent improvement, the replacement delivery or the renewal of deliveries has been terminated, but not before the original expiry date.
- d. Further rights that result from defects are excluded; this applies, in particular, to contractual or extra-contractual claims for damages that have not emerged on the delivery goods themselves. This exclusion of liability does not apply to intent or gross negligence of legal representatives or managing employees of FÜLL Systembau GmbH, as far as FÜLL Systembau GmbH is compulsory liable according to the Product Liability Act. It does also not apply to the lack of features promised, where the promise is destined to protect the customer against the defects emerged.

- e. If a notification of defects results unreasonable, the customer will compensate any expenses that have there-upon arisen for FÜLL Systembau GmbH.
- f. Additionally, any warranty right will fail, if the warranty seals, of whatever kind they are, placed on the goods by FÜLL Systembau GmbH or by our subcontractors have been violated (opened).

The above mentioned regulations are accordingly applicable, if other delivery goods are delivered instead of the goods agreed upon in the contract (false delivery).

## **7. Payment**

If no other provisions have been made, the invoices of FÜLL Systembau GmbH must be paid within 14 days after the invoice has been made out without any deduction. If the payment date has been exceeded, usual trade default interests will be charged, which must be paid immediately after placement. FÜLL Systembau GmbH is not obliged to effect a delivery before due invoice amounts have been paid. Bills of exchange will only be accepted as a means of payment on the basis of explicitly made agreements and with consideration of the charge of all the related costs. Setting off a contested claim is not admissible.

## **8. Reservation of title**

Until the complete payment of any claim of FÜLL Systembau GmbH plus costs and interests has been effected, the goods delivered by FÜLL Systembau GmbH remain the property of FÜLL Systembau GmbH, until there is no balance at the expense of the customer and until there is no liability on a bill of the customer. The customer must not pledge the goods delivered of a conditional sale with reservation of title or hand them over as security to another person. The customer must inform FÜLL Systembau GmbH without undue delay on pledges, commencement of bankruptcy proceedings or other legally relevant incidents that could impair the rights of FÜLL Systembau GmbH.

## **9. Withdrawal from the agreement**

FÜLL Systembau GmbH has the right to withdraw from the agreement without prior notice:

- a. if FÜLL Systembau GmbH receives disadvantageous information on the customer's solvency after the agreement has been concluded
- b. if the commercial enterprise of the customer passes to another owner after the agreement has been concluded
- c. if the customer is in default with the payment of previous deliveries

## **10. Violation of property rights**

FÜLL Systembau GmbH is not liable for the possible violation of property rights as far as objects are concerned that have been produced according to the drawings or drafts sent by the customer. If FÜLL Systembau GmbH should be claimed on suchlike by third parties, the customer must liberate FÜLL Systembau GmbH from such claims to their complete extent.

## **11. General exclusion of liability**

The liability of FÜLL Systembau GmbH depends merely on the agreements made in the previous sections. Any rights that have not been conveyed explicitly in these sections, such as withdrawal, termination, rescission or reduction as well as the replacement of damages of any kind, no matter of the legal ground, in particular due to impossibility, tortious acts, positive violation of contracts, and culpa in contrahendo are excluded. This exclusion of liability does not apply to intent or gross negligence of legal representatives or managing employees of our firm.

## **12. Limitation of liability**

The liability of FÜLL Systembau GmbH is limited to a maximum of 10% of the contract value, regardless of courses or legal grounds. FÜLL Systembau GmbH shall be exempted from liability for consequential damages or lost income.

## **13. Transportation packaging material**

Where the customer gives back the packaging material used for the transportation of the delivery goods to the supplier according to the packing instructions, the customer must pay the costs for the transportation back to the supplier and for the recycling.

## **14. Partial ineffectiveness**

If single agreement regulations are ineffective, the other regulations will remain binding.

## **15. Acceptance of the conditions of sale and delivery**

Any orders placed with FÜLL Systembau GmbH are considered as acceptance of the above mentioned regulations and oblige the customer to observe them.

## **16. Place of performance and venue**

The place of performance and the venue for both parts is Idstein, Germany.

## **17. Conditions of exportation**

Any general business terms do also apply to the exportation to foreign countries. Any additional costs that arise from the exportation, such as customs costs, customs clearance, turnover tax on imports, export fees, etc. must be paid by the customer. The invoice of the costs will be issued in Euros (€). As basis serve the German HGB (Commercial Code) and BGB (Civil Code).

**February 2016**

**FÜLL Systembau GmbH  
D-65510 Idstein**