

# WEIDMANN TRANSFORMER SUPPLIES BV

## GENERAL CONDITIONS OF SALE AND DELIVERY

### Definitions:

In these General Conditions the following definitions apply:

**'WEIDMANN'**: the user of these General Conditions, namely Weidmann Transformer Supplies B.V., with its registered office according to its Articles of Association in Wijchen (Ch. of Comm. no. 09168833);

**'CUSTOMER'**: the counterparty of WEIDMANN.

### 1 Time of conclusion of the contract and scope of the contract

A contract for the delivery of products and services of WEIDMANN comes into existence only with the written order confirmation from WEIDMANN. The order confirmation from WEIDMANN alone is the decisive factor for the content of the contract, including the enclosed application and operating instructions as well as the technical datasheets. When inviting WEIDMANN to submit a quotation, the CUSTOMER must notify WEIDMANN in writing of all the applicable specifications, regulations and standards required to undertake delivery and provide the other services.

### 2 Delivery date

The decisive date is the date in accordance with the written order confirmation. It will be extended appropriately if the CUSTOMER fails to arrange official formalities or provide securities or if WEIDMANN receives important technical specifications only after the order confirmation. The delivery date is considered to be met if as part of the procedure WEIDMANN has handed over the products that have been ordered on site in accordance with the applicable INCOTERMS (see Section A4 of INCOTERMS 2010).

### 3 INCOTERMS

Unless there is a different written agreement, deliveries will be undertaken by WEIDMANN to the CUSTOMER in accordance with EXW WEIDMANN premises (INCOTERMS 2010). Special requests regarding packaging, dispatch and insurance are to be notified to WEIDMANN in plenty of time. If any provision in these General Conditions is incompatible with a provision in the INCOTERMS, the General Conditions will prevail.

### 4 Delay in delivery

Failure to meet the delivery date by WEIDMANN entitles the CUSTOMER to withdraw only if delivery does not take place after the expiry of an appropriate period of grace set to WEIDMANN. The CUSTOMER is entitled to compensation for losses caused by the delay, insofar as he can provide evidence to WEIDMANN of intent or gross negligence. In the event of force majeure as meant in Section 6:75 of the Dutch Civil Code, WEIDMANN is entitled to an appropriate extension of the agreed delivery dates. Force majeure is considered to mean unavoidable events such as natural disasters of any kind, in particular severe weather, earthquakes, floods, volcanic eruptions, but also fire, traffic accidents, hostage-taking, war, unrest, civil war, revolution, terrorism, sabotage, strikes etc. If the force majeure continues for more than six months, the CUSTOMER can withdraw from the corresponding delivery contract. In this case the CUSTOMER is not entitled to compensation.

### 5 Prices

Unless something to the contrary has been agreed in writing, WEIDMANN's prices are understood to be in Euro and EXW premises Wijchen (INCOTERMS 2010).

### 6 Terms of payment

Without a written agreement to the contrary, the payment deadline is 30 days net from the date of the invoice. Offsetting of any counterclaims of the CUSTOMER with accounts receivable of WEIDMANN is ruled out of this contract. The CUSTOMER is not entitled to suspend or postpone for any reason whatsoever the payment of a claim of WEIDMANN on the CUSTOMER.

### 7 Arrears of the CUSTOMER

If the CUSTOMER is in arrears with the payment of the purchase price or a purchase price instalment from a contract, the CUSTOMER will be invoiced for all the consequential charges as well as interest on arrears of 8% as of the due date of the invoice. The CUSTOMER must not withhold payments owing to complaints.

Weidmann Electrical Technology Netherlands BV

Edisonstraat 18, 6604 BV Wijchen, Netherlands

T +31 24 355 86 81, F +31 24 355 17 12, [www.weidmann-electrical.com](http://www.weidmann-electrical.com)

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In addition, WEIDMANN has the right to retain deliveries from other contracts, which have already been concluded or to withdraw from these contracts.

## **8 Transfer of risk**

The benefits and risk are transferred to the CUSTOMER in accordance with the selected INCOTERMS, unless there is an agreement to the contrary in accordance with EXW (INCOTERMS 2010, Section A5).

## **9 Retention of ownership (“in Dutch: “eigendomsvoorbehoud”)**

Until full payment has been made, the goods remain the property of WEIDMANN. It is entitled to arrange for retention of title for the goods delivered to the CUSTOMER to be entered if applicable in the corresponding register, without any further involvement of the CUSTOMER.

## **10 Warranty and liability**

### **10.1 Requirement to give notice of defects**

The CUSTOMER must check the delivery within 10 days of receipt and notify WEIDMANN in writing immediately of any defects discovered, indicating precisely the circumstances and type of defects being notified.

### **10.2 Scope of the warranty**

WEIDMANN assumes the risk that its products are free of material, design and manufacturing faults. This warranty includes repair or replacement delivery for defective products as selected by WEIDMANN, excluding further statutory options. In the event of a warranty for guaranteed characteristics, the CUSTOMER is entitled to an appropriate reduction in the purchase price or withdrawal from the contract if the defect is so serious that it cannot be corrected within an appropriate period. WEIDMANN is liable for guaranteed characteristics which are expressly described as such in the written order confirmation. WEIDMANN assumes no warranty if the CUSTOMER has undertaken inappropriate changes or repairs to the products delivered, disregards the instructions for use of WEIDMANN or insofar as the damage was caused during transport. Any further warranty including liability for auxiliary persons is excluded.

### **10.3 Duration**

The warranty is for 24 months calculated as of the day of delivery ex works, subject to a longer period that has been agreed separately.

### **10.4 Liability**

WEIDMANN is not liable to CUSTOMER for loss caused as a result of any failure in the performance of its obligations to the CUSTOMER or for any other reason whatsoever, unless in the event of intent or gross negligence on the part of WEIDMANN or in the event of the abovementioned warranty. The liability of WEIDMANN is in any event limited to the maximum amount that the liability insurance of WEIDMANN would cover, should the occasion arise. In the event that the liability insurance of WEIDMANN does not provide any cover, the liability of WEIDMANN will be limited to the value of the underlying contract.

## **11 Terms and conditions of the CUSTOMER**

WEIDMANN recognises no other terms and conditions than its own. The CUSTOMER expressly waives asserting his own terms and conditions.

## **12 Intellectual property rights**

12.1 WEIDMANN is the party entitled to all intellectual property rights such as, but not limited to, copyrights, trademark rights, patents and other intellectual property rights with regard to (parts of) the goods or services delivered by WEIDMANN.

12.2 WEIDMANN is not liable to the CUSTOMER for loss suffered by the CUSTOMER due to third parties holding the CUSTOMER liable because the delivered goods infringe any intellectual property right of third parties.

12.3 The CUSTOMER is obliged to inform WEIDMANN immediately about any claims as referred to in the previous subclause or about any rights of third parties which could infringe the intellectual property rights of WEIDMANN.

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## 13. Dissolution

13.1 WEIDMANN is entitled to dissolve any contract with the CUSTOMER without a notice of default being required, if:

- the CUSTOMER does not, not properly or not within due time fulfil any obligation arising from the contract entered into with WEIDMANN or WEIDMANN has valid reasons to fear that the CUSTOMER will not fulfil its obligations;
- the CUSTOMER has been declared bankrupt or its bankruptcy has been applied for;
- the CUSTOMER has been granted a moratorium or its moratorium has been applied for.

13.2 In the event of dissolution of a contract pursuant to the previous subclause WEIDMANN will not owe any compensation to the CUSTOMER. WEIDMANN retains the right to claim compensation from the CUSTOMER in the event of dissolution of the contract pursuant to the previous subclause.

## 14 Amendment

Amendments and deviations from these contractual conditions, cancellation of and withdrawal from contracts as well as amendments to the latter require the express written consent of WEIDMANN for their legal validity.

## 15 Law to be applied and place of jurisdiction

All disputes which might arise between WEIDMANN and the CUSTOMER are exclusively governed by Dutch law and will exclusively be settled by the District Court of Gelderland, situated in Arnhem.

Wijchen, August 2016