

General Terms and Conditions of Delivery and Service

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I. Application of these General Terms and Conditions

- The provision of all goods, services and offers by INGERSOLL-RAND TRADING GMBH is made exclusively on the basis of these general terms and conditions (herein: "these Terms"). General terms and conditions of a contracting party (herein: "Purchaser") that oppose or differ from these shall only apply where these are expressly acknowledged by a member of management or another person who has been authorised by us for this. Purchaser's general terms and conditions are also non-binding where their application is not expressly objected to. Any implied acknowledgement of Purchaser's general terms and conditions (e.g. as a result of the provision of services by INGERSOLL-RAND TRADING GMBH) is excluded.
- These Terms also apply to future contractual relationships.
- Agreements or supplements that differ from these Terms must be in writing. This shall not apply to provisions that are agreed upon with the management of INGERSOLL-RAND TRADING GMBH or other persons authorised to enter into such agreements.

II. Conclusion of Contract, Technical Documentation

- The offers of INGERSOLL-RAND TRADING GMBH are subject to change without notice and are non-binding. A contract is entered into only where INGERSOLL-RAND TRADING GMBH accepts an order by Purchaser by issuing an order confirmation. A contract with INGERSOLL-RAND TRADING GMBH is also entered into where INGERSOLL-RAND TRADING GMBH performs the services ordered and Purchaser accepts the services.
- Technical documents and information concerning weights, capacities, operating costs, etc., shall be binding only if this is made a component of the contract by way of the order confirmation. All information amounts only to information on attributes (*Beschaffenheitsangaben*), but not to warranties or representations.
- INGERSOLL-RAND TRADING GMBH retains ownership of all copyrights, as well as all other protective rights (including any protection of know-how), in all cost estimates, drafts, diagrams, product descriptions and other materials. Third parties may be granted access to these only with the consent of INGERSOLL-RAND TRADING GMBH. Employees of Purchaser may be granted access to these only to the extent necessary to found and perform the contract with INGERSOLL-RAND TRADING GMBH. Accompanying diagrams and other materials must be returned upon request and in any event where no order is placed with INGERSOLL-RAND TRADING GMBH. To the extent that Purchaser has provided diagrams, models, templates or other materials it guarantees that these materials do not infringe protective rights of third parties; it shall indemnify INGERSOLL-RAND TRADING GMBH against all claims of third parties.
- Commercially-customary variations are permitted, even where this is not expressly set out by INGERSOLL-RAND TRADING GMBH in the order confirmation or in an offer.

III. Scope of delivery, transportation; delivery

- Unless otherwise agreed, all deliveries and services of INGERSOLL-RAND TRADING GMBH shall be in accordance with the norms applicable in Germany and the state of the art that is generally acknowledged in Germany.
- Purchaser shall be responsible for compliance with statutory and other regulations at the place of use.
- Incoterms 2010 shall apply.
- Unless otherwise agreed, upon any shipping INGERSOLL-RAND TRADING GMBH shall select packaging and method of shipping exercising its due discretion.
- Any and all state charges (taxes, fees, tariffs, etc.) that become due on the basis of or in connection with the conclusion or performance of the contract outside the Federal Republic of Germany shall be borne by Purchaser.

IV. Price

- Unless otherwise agreed, the prices shall be ex works, excluding packaging, shipping and installation, plus VAT, which shall be shown separately on the invoice at the rate applicable on the date of the invoice. Packaging – with the exception of reusable packaging – shall not be returnable.
- Deliveries and services of INGERSOLL-RAND TRADING GMBH shall be provided at the prices applicable at the date of providing the delivery and/or the service. Where INGERSOLL-RAND TRADING GMBH has provided Purchaser with details on the calculation of prices and one or more of the parameters of these should change, INGERSOLL-RAND TRADING GMBH shall be entitled to adjust the prices to reflect these changes.

V. Terms of Payment

- Where no payment dates are agreed on payments shall be made to INGERSOLL-RAND TRADING GMBH within 30 calendar days of receipt of the invoice by Purchaser.
- Purchaser shall be entitled to set off its claims against claims of INGERSOLL-RAND TRADING GMBH or assert a right of retention only if Purchaser's counterclaim is undisputed or has been determined by a court with legally binding effect.
- The date on which payment is received by INGERSOLL-RAND TRADING GMBH, and not the date when payment is sent, shall determine whether the cashless payment of the invoice amount is made in due time. In the event of default of payment – without prejudice to other statutory claims – interest at a rate of 9 percentage points above the basic interest rate of the European Central Bank will be charged.
- If and to the extent the purchase price for goods has been deferred in whole or in part by INGERSOLL-RAND TRADING GMBH, the relevant remainder to which INGERSOLL-RAND TRADING GMBH is entitled shall become due and payable immediately when such goods have been resold by Purchaser. In the event of a deferral of the purchase price for more than one item, any partial payments rendered shall apply first to the item delivered earlier.
- Where Purchaser fails to fulfil its duties toward INGERSOLL-RAND TRADING GMBH, in particular payment duties or duties arising under retention of title, INGERSOLL-RAND TRADING GMBH shall be entitled to all of its contractual rights on an unlimited basis. This includes, in particular, but not limited to, the right to render all outstanding claims due and payable, rescission or damages claims. The rights to which INGERSOLL-RAND TRADING GMBH is entitled pursuant to § 321 of the German Civil Code (*Bürgerliches Gesetzbuch*) (refusal of performance, security or revocation of the contract) remain unaffected.

VI. Retention of Title

- The delivered item shall remain the property of INGERSOLL-RAND TRADING GMBH until full satisfaction of all claims arising from the business relationship between INGERSOLL-RAND TRADING GMBH and Purchaser.
 - Any treatment and processing of a delivered item subject to retention of title by Purchaser or third parties acting on behalf of Purchaser shall be done on behalf of INGERSOLL-RAND TRADING GMBH without this giving rise to any obligations for INGERSOLL-RAND TRADING GMBH. INGERSOLL-RAND TRADING GMBH shall be entitled to co-ownership of such newly created products in the proportion of the value of the item supplied by INGERSOLL-RAND TRADING GMBH.
 - Purchaser hereby assigns its claims arising from any resale of the delivered goods to INGERSOLL-RAND TRADING GMBH as security for its claims and up to this value. Purchaser shall not be entitled to assign such claims to third parties.
 - Purchaser shall be entitled to collect debts owed to it. INGERSOLL-RAND TRADING GMBH reserves the right to collect such debts.
 - In the event of conduct by Purchaser in breach of contract, in particular: default of payment, INGERSOLL-RAND TRADING GMBH shall be entitled to disclose the assignment. In addition, INGERSOLL-RAND TRADING GMBH shall be entitled to repossess and Purchaser shall be obligated to surrender the delivered goods.
 - If the delivered goods have been used, INGERSOLL-RAND TRADING GMBH shall be entitled to claim a reduction in value of 25 per cent for the first six months of use and a reduction in value of 10 per cent for each additional six-month period, which shall be borne by Purchaser. Purchaser is at liberty to prove that the actual loss or reduction in value is lower. In turn, INGERSOLL-RAND TRADING GMBH is at liberty to prove higher damages and/or a greater reduction in value.
 - If the law of a country does not allow retention of title, but allows a reservation of comparable rights, INGERSOLL-RAND TRADING GMBH may exercise all rights of this type. Purchaser shall be obligated, upon request, to take measures at its expense that are necessary to make such rights to the delivered goods valid and to uphold them.
- In the event of garnishment or any other impairment of owner's interests, especially by way of dispositions of third parties, Purchaser shall notify INGERSOLL-RAND TRADING GMBH without delay and initiate security measures at its expense. Purchaser shall be obligated to inform the third party of INGERSOLL-RAND TRADING GMBH's ownership.
- In any case, Purchaser shall be responsible for the safe and appropriate storage of goods owned or co-owned by INGERSOLL-RAND TRADING GMBH and insures them at Purchaser's expense against theft, fire and other damage. INGERSOLL-RAND TRADING GMBH shall be entitled to demand the return of goods belonging to it at any time if the satisfaction of its claims by Purchaser is at risk or if Purchaser culpably breaches its obligations.

- Purchaser shall be obligated to provide compensation for all losses and costs - including court costs and lawyers' fees – that are incurred by INGERSOLL-RAND TRADING GMBH because of a culpable breach of duty by Purchaser or caused by intervention measures taken against third-party seizures. Where the security to which INGERSOLL-RAND TRADING GMBH is entitled exceeds the claims secured by more than 20 %, INGERSOLL-RAND TRADING GMBH shall be obliged upon a request by Purchaser to release security selected by INGERSOLL-RAND TRADING GMBH exceeding the foregoing threshold.

VII. Delivery Period; Force Majeure

- Unless contractually agreed on, information on the delivery date is indicative and non-binding.
- Compliance with contractual delivery deadlines requires the fulfilment of all duties and obligations by Purchaser.
- Should shipment be delayed for reasons for which Purchaser is responsible, Purchaser shall bear any costs incurred for storage, in the event of storage on the premises of INGERSOLL-RAND TRADING GMBH at least 0.5 per cent of the invoice amount for each month, beginning one month after notification that the goods are ready for shipment. Purchaser remains at liberty to prove that actual damages are lower in an individual case.
- If Purchaser is in default of acceptance or if Purchaser negligently violates any other duties to co-operate, INGERSOLL-RAND TRADING GMBH shall be entitled to demand compensation for incurred losses, including any additional expenses, from Purchaser. INGERSOLL-RAND TRADING GMBH reserves the right to assert further claims over and above this.
- Interruptions of business due to force majeure, strikes or lock-outs which are not the responsibility of INGERSOLL-RAND TRADING GMBH as well as shortages of materials or raw materials shall entitle INGERSOLL-RAND TRADING GMBH to rescind a contract that has not yet been performed where those circumstances make the provision of the deliveries or services impossible for a period that is not merely temporary and where these circumstances were not foreseeable when the contract was concluded.

- Purchaser shall not be entitled to rescind the contract due to delays in delivery for which INGERSOLL-RAND TRADING GMBH is not responsible. Where Purchaser is entitled to a right of rescission due to a delivery delay for which INGERSOLL-RAND TRADING GMBH is responsible, Purchaser shall provide written notice to INGERSOLL-RAND TRADING GMBH of whether Purchaser will rescind the contract or insists on the delivery or service within a reasonable period of such a request by INGERSOLL-RAND TRADING GMBH. Where Purchaser fails to provide such notice within the period notified to it Purchaser shall set a further reasonable period for the provision of deliveries or services and may only rescind the contract where this period has also expired without performance.

VIII. Transfer of Risk

- Risk shall pass to Purchaser upon delivery to the agent responsible for shipment (e.g., forwarding agent, freight carrier), at latest, when the shipment has left the supply works. Should shipment be delayed and Purchaser is responsible for the delay, the risk shall pass to Purchaser upon notification that the goods are ready for shipment.
- At the request of Purchaser, shipments will be insured in Purchaser's name and on Purchaser's account.

IX. Performance

- The obligation to deliver shall be deemed satisfied when the risk pursuant to Article VIII passes to Purchaser.

- Partial shipments shall be permissible, provided that it is possible for Purchaser to accept these and are notified in advance by INGERSOLL-RAND TRADING GMBH on a timely basis.
- From the date of performance on, INGERSOLL-RAND TRADING GMBH shall bear responsibility under the provisions of Article XI (Liability for Defects of Supplied Goods) of these Terms.

- Delivered goods, even if they show insignificant defects, are to be accepted by Purchaser without prejudice to rights under Article XI.

X. Assembly and Service Obligations

INGERSOLL-RAND TRADING GMBH provides assembly and service performance, including consulting services, generally only on the basis of a separate agreement. Where a separate agreement is not concluded in an individual case these Terms shall apply to the provision of such services.

XI. Liability for Defects of Supplied Goods

- Purchaser is obliged to carefully inspect goods supplied immediately upon delivery. This shall also apply where INGERSOLL-RAND TRADING GMBH delivers the goods to a third party at the direction of Purchaser. The goods supplied shall be deemed to be approved where a defect would have been discovered upon such careful inspection and is not objected to in writing immediately (within three workdays of delivery). Where a defect was not identifiable upon careful inspection the deadline for the timely written objection shall commence as of the date the defect is discovered. The following shall apply where a defect is not deemed to be approved:
 - Where a delivery is defective INGERSOLL-RAND TRADING GMBH may, at its election, provide supplementary performance (*Nacherfüllung*) by remedying the defect (rectification - *Nachbesserung*) or by delivering a non-defective item (replacement delivery). Purchaser shall afford INGERSOLL-RAND TRADING GMBH time and opportunity to provide supplementary performance, in particular rectification.
 - The expenses required for the purposes of inspection and subsequent performance, in particular shipping, handling, labour and materials costs (but not including removal and installation costs) shall be borne by INGERSOLL-RAND TRADING GMBH where a defect exists. In the event of an unjustified request by Purchaser to remedy a defect, INGERSOLL-RAND TRADING GMBH shall be entitled to claim reimbursement for the costs of subsequent performance unless Purchaser is not responsible for the incorrect objection to a defect.
 - INGERSOLL-RAND TRADING GMBH shall be liable for repair work and replaced parts to the same extent as for the original goods.
- With regard to third-party products that are used by INGERSOLL-RAND TRADING GMBH without significant processing in the production of its products, INGERSOLL-RAND TRADING GMBH assigns claims to which it is entitled against suppliers based on defects to Purchaser. Purchaser is obligated to raise the claims based on a defect that have been assigned to Purchaser against the relevant supplier before raising claims against INGERSOLL-RAND TRADING GMBH. Purchaser shall not be obligated to raise claims in court. INGERSOLL-RAND TRADING GMBH shall be liable with regard to such claims based on defects only if claims raised against the relevant supplier have been unsuccessful. Should the relevant supplier satisfy the claims of Purchaser, INGERSOLL-RAND TRADING GMBH shall be released from its liability to the same extent.
- Claims based on material or legal defects against INGERSOLL-RAND TRADING GMBH shall expire one year after delivery to Purchaser or a third party designated by Purchaser. The limitation period pursuant to this provision shall also apply to damages claims based on the delivery of a defective item. Damages claims due to intentional acts or gross negligence, as well as claims based on damage to life, bodily integrity or health, are excluded from this one-year limitation period.
- For the purpose of carrying out work on necessary subsequent improvements, Purchaser must:
 - Give INGERSOLL-RAND TRADING GMBH the necessary time and opportunity.
 - Provide assistants, equipment and facilities and perform ancillary work at Purchaser's own expense.
 - Perform any work outside the scope of the original commission at Purchaser's own expense.
 - Purchaser shall comply with all specifications of INGERSOLL-RAND TRADING GMBH for the use and operation of delivered goods.

- Liability for defects is excluded to the extent that delivered goods are subject to wear and tear or consumption as a result of their nature or in the event of improper storage, handling or use, incorrect assembly or operation, excessive use, unsuitable operating materials, faulty construction work or foundations, unsuitable building land, chemical, electro-chemical or electrical influences. The same applies to other circumstances that occur after the passing of risk without INGERSOLL-RAND TRADING GMBH being responsible.

- In cases in which the sold goods are operated electrically, INGERSOLL-RAND TRADING GMBH shall not be liable for feedback effects of initial current on the grid of the power centre or on electrical equipment or machines that are connected to this grid.

- Purchaser may raise claims against INGERSOLL-RAND TRADING GMBH based on defects only to the extent that the defect is not based on the following:
 - Purchaser failed to comply with INGERSOLL-RAND TRADING GMBH's rules on the handling and maintenance of the sold goods and, in particular, failed to have the prescribed inspections duly carried out.
 - Repair works were carried out without the approval of INGERSOLL-RAND TRADING GMBH.
 - Non-original replacement parts were installed.

- Purchaser shall not be entitled to rescind the contract based on a defect unless an attempt to cure the defect by way of repair or replacement has ultimately failed. This is deemed to be the case if at least two attempts to cure the defect have failed or repair was refused unjustifiably. Purchaser shall not be entitled to reduce the price.
- The foregoing provisions of this article shall not be applicable to the sale of already used goods. The delivery of such goods shall be made under the exclusion of claims for defects. To the extent that these goods were refurbished by INGERSOLL-RAND TRADING GMBH, a limitation period for liability for defects shall apply for the period of six months commencing as of the delivery of the respective goods. The provisions of clause 2 of this article shall apply *mutatis mutandis*.

XII. Returns

- No duty to accept the return of goods delivered shall be incumbent upon INGERSOLL-RAND TRADING GMBH provided that the delivery or service took place on the part of INGERSOLL-RAND TRADING GMBH in accordance with the contract and/or the contract on which it is based is not legitimately contested by Purchaser or is invalid or ineffective on other grounds. Where INGERSOLL-RAND TRADING GMBH nevertheless accepts the return of sold machines and/or devices, it shall issue a credit for the purchase price to Purchaser. INGERSOLL-RAND TRADING GMBH shall be entitled to make deductions to the purchase price in the event that it issues a credit. These include 20 % of the purchase price as lost profits of INGERSOLL-RAND TRADING GMBH, the costs of any collection at Purchaser, all possibly necessary costs for restoring the goods to a saleable condition and any reductions in value due to use or passage of time (e.g. due to a change in model). Provided that an expert is required to be involved in order to determine reductions in value, Purchaser shall bear the fees thereof. Purchaser shall be at liberty to provide evidence of lesser deductions in the individual case.
- Purchaser shall bear any costs incurred for shipping and insurance. Shipping shall take place at the risk of Purchaser. INGERSOLL-RAND TRADING GMBH shall not be liable for any damage caused solely by loading or unloading during transport. Purchaser shall be obligated to prove that any damage that is discovered did not occur during transport, loading or unloading or during the storage period before the discovery of the damage.
- This shall not have any effect on the provision set out in § 346 of the German Civil Code (*Bürgerliches Gesetzbuch*).

XIII. Purchaser's Right of Rescission

Purchaser may rescind the contract only where it has become altogether impossible for INGERSOLL-RAND TRADING GMBH to fulfil the contract. In the event of partial impossibility, Purchaser shall only be entitled to rescind the contract if it can be proven that Purchaser has no interest in the partial delivery; otherwise, Purchaser may demand a reasonable reduction of the purchase price. If the impossibility arises during a delay in acceptance or is caused by Purchaser, Purchaser shall remain obligated to pay the consideration. If neither party to the contract is responsible for the impossibility, INGERSOLL-RAND TRADING GMBH shall be entitled to the part of the compensation corresponding to the work that has been done.

XIV. Liability

- INGERSOLL-RAND TRADING GMBH shall be liable for intentional acts and grossly negligent behaviour on the part of its corporate bodies and agents as well as – without regard to the degree of fault – for damage to life, bodily integrity or health.
- INGERSOLL-RAND TRADING GMBH shall further be liable for the negligence of its corporate bodies and agents in the event of impossibility, delayed performance, failure to comply with a warranty or the breach of another essential contractual duty. Essential contractual duties are those where the fulfilment thereof permits the due performance of the contract at all and those which Purchaser is usually permitted to rely on being complied with. In these cases, the liability of INGERSOLL-RAND TRADING GMBH is limited to damages that are typical for the contract and which INGERSOLL-RAND TRADING GMBH was reasonably expected to foresee when concluding the contract.
- Claims under the Product Liability Act (*Produkthaftungsgesetz*) remain unaffected.
- Any further liability is expressly excluded.
- To the extent that INGERSOLL-RAND TRADING GMBH's liability is excluded or limited, this shall also apply to the personal liability of INGERSOLL-RAND TRADING GMBH's employees, staff, representatives and vicarious agents.

XV. Non-Transferability of Contractual Rights

Purchaser may not transfer contractual rights to third parties without the express consent of INGERSOLL-RAND TRADING GMBH. § 354a of the German Commercial Code (*Handelsgesetzbuch*) shall remain unaffected.

XVI. Compliance/ Violation of Law/ Nuclear Liability

- Purchaser will not sell, export or re-export either directly or indirectly to persons or territories prohibited by the export laws of the United States of America, European Union or other applicable export regulations.
- INGERSOLL-RAND TRADING GMBH shall not be bound by or required to adhere to any term of a purchase order, quotation, bid, letter of credit or like document or any legal or customs regulation which would cause INGERSOLL-RAND TRADING GMBH or a business affiliated with it to be in violation of or fail to comply with the export laws, taxing statutes or regulations of a country of manufacture, import or export.
- In the event that delivered item sold hereunder is intended for use in a nuclear facility, Purchaser and/or the owner of the facility hereby agrees to indemnify INGERSOLL-RAND TRADING GMBH and its suppliers against any compensation for nuclear damage, occurring on site or off-site, including loss of use or other damages resulting from nuclear damages irrespective of whether INGERSOLL-RAND TRADING GMBH or its suppliers are responsible for these, in whole or in part.

XVII. Place of Performance and Place of Jurisdiction

- The place of performance for all claims arising from the contract shall be Oberhausen or the site specified in the order confirmation.
- Sole place of jurisdiction for all disputes arising from this contractual relationship – including litigation concerning bills of exchange, checks and documents – shall be Düsseldorf. INGERSOLL-RAND TRADING GMBH may also file a lawsuit at Purchaser's place of residence/business.

XVIII. Applicable Law and Liabilities of the Contract

- German law shall apply to the contractual relationships; the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- Should a part of the contract be invalid, this will not affect the validity of the remaining parts unless the invalidity has an effect on the essential basic principles of the contract.