

Terms of delivery in foreign countries

General

All transactions are subject to the international Rules for the interpretation of Commercial Terms (Incoterms 2010) issued by the International Chamber of Commerce and the following conditions:

1. Quotations without time limit terminate on the 45th day after the date of their issue. Any quotation may be withdrawn up to such time as the declaration of acceptance has been mailed by the customer.
2. Quotations are valid only for the country specified therein. The customer shall be liable to Neue Herbold for any prejudice and obligation that may arise to Neue Herbold from disposal of the goods involved in a country other than that specified.
3. Neue Herbold shall be entitled to terminate a contract in the event of its execution becoming impossible or if its execution cannot be reasonably expected in view of changed circumstances. Neue Herbold shall especially be entitled to refuse execution, if, owing to circumstances occurred after conclusion of the contract, it is to be apprehended that the payments to be effected by the customer cannot be obtained in full and / or in time.

Scope and Prices

4. Neue Herbold are only responsible for the execution of orders the acceptance of which has been confirmed by Neue Herbold; assembly work is subject to separate conditions.
5. All prices are quoted net and in the absence of other arrangements are understood ex works inclusive of packing.
6. C.I.F. deliveries do not include landing costs and port and dock fees.
7. Import duties, Consular fees or any other fees imposed in the country of destination are included in the price only if such inclusion has been expressly specified.
8. In the event of Customs duties and similar charges being included in the price, the price stated will be based on current rates applicable at the time. Only actual costs will be charged.
9. Neue Herbold will undertake to comply with foreign regulations regarding packing and weights and Customs duties only in the event of accurate specifications having been received from the customer.
10. In the case of fluctuations in the value of the currency or in the costs of labour or materials Neue Herbold may demand that the original ratio of the value of the goods involved and payment therefor be maintained.

Specifications and Drawings

11. Statements regarding weights and dimensions, drawings, descriptions and other details supplied by Neue Herbold are only approximate and without obligation. Accurate outline drawings are supplied free of charge on request after the order has been placed.
12. Neue Herbold or their sub-contractors retain the right of ownership and copyright in respect of all drawings. No drawings may be made available to third parties without Neue Herbold's prior consent.

Terms of Payment

13. Unless other arrangements have been made in writing all payments are to be made to Neue Herbold in cash without deductions and in the agreed currency in such a manner that 50 per cent of the price is paid when the order is placed and the remaining 50 per cent as follows:
 - a) for deliveries ex works and f.o.b. when the goods are reported to be ready for dispatch;
 - b) for deliveries c.i.f. and c + f at presentation of the invoices and shipping documents with a German Bank, but no later than one month after the goods have been reported to be ready for dispatch.
14. Delays in the time of delivery occurring through no fault of Neue Herbold shall not affect this method of payment.
15. Neue Herbold are entitled to ask for an irrevocable letter of credit to be opened with a bank of their choice and for security for outstanding payments.
16. Payments shall be deemed as having been effected as soon as the corresponding amount has been credited to Neue Herbold's account with a German bank. In the event of payment being delayed Neue Herbold are entitled without prejudice of their other rights to make a charge to five per cent over and above the current discount rate of the Central Bank of Federal Republic of Germany but at least eight per cent interest per annum.
17. Retention or setting-off of payments in respect of any counterclaims on the part of the customer is permissible only subject to prior approval by Neue Herbold.
18. All obligations on the part of Neue Herbold are subject to the customer's observance of the agreed terms of payment and other liabilities.

Retention of Ownership

19. All the goods supplied shall remain the property of Neue Herbold until such time as all the liabilities of the customer under the contract in question shall have been met in full. This reservation shall also apply to any claims arising in connection with the goods supplied, in particular claims arising from repairs, supplies of spare parts and accessories, costs of storage or insurance and costs arising from granting credits, if any, in respect of deliveries when these have been contractually taken over by the customer. If in order to comply with regulations applying in the country of destination such reservation in respect of the retention of ownership requires a special agreement or authorization, this should be arranged by the customer and the respective documents should be handed to Neue Herbold.
20. During the period for which the reservation of ownership is in force the goods supplied must not be sold, pawned, transferred by way of security, hired out or surrendered in any other way without Neue Herbold's written consent.
21. In the case of interference by third parties with the goods supplied, the customer shall notify Neue Herbold accordingly without delay by registered letter.
22. During the period for which the reservation of ownership is in force the goods supplied are at Neue Herbold's request to be insured by the customer against fire, theft, burglary, and the customer shall also take out a liability insurance. Neue Herbold are also entitled to arrange for such insurances to be taken out at the customer's expense, to advance the premiums and to charge the amount of such premiums to the customer when collecting the instalments. Expenses, insurance contributions and the like are considered as part of the price. Any claims arising from such insurances shall be surrendered by the customer to Neue Herbold for as long as Neue Herbold have any claims under the delivery contract.
23. The customer undertakes to keep the goods involved in a proper and satisfactory condition for such period of time as the reservation of property shall be in force and to have any necessary repairs carried out without delay.
24. In the event of the customer failing to meet his obligations in respect of payments and insurance and obligations arising from Neue Herbold's reservation of property the entire balance shall fall due and Neue Herbold shall be entitled to demand the immediate surrender of the goods supplied without any rights of retention on the part of the customer being entertained and to dispose of the said goods by private contact in any way Neue Herbold may think expedient.

Time of Delivery

25. Neue Herbold undertake to deliver any goods ordered and the time of delivery is understood to count from the date the order has been completely clarified and all the necessary documents and the agreed initial payment have been received by Neue Herbold. It shall be understood to have been duly fulfilled if the goods are declared ready for dispatch ex works within the period specified as the delivery time and the customer has been notified accordingly.
26. The customer shall be entitled to withdraw from the contract only in the event of delivery having been delayed by Neue Herbold and a reasonable extension of the delivery time granted by the customer under pain of cancellation of the contract having expired and the customer no longer being interested in the delivery; no claims for compensation will be entertained.
27. In the case of delayed dispatch of shipping instructions Neue Herbold shall be entitled to put the goods involved into storage and to charge for storage one half per cent of the amount of the invoice for each incipient month, as well as proportionate insurance costs. In the event of delayed acceptance of the goods by the customer Neue Herbold shall be responsible only for cases of intentional damage or gross negligence.
28. In the case of interruptions of the work caused by the customer the latter shall bear the extra costs resulting therefrom.

Tests and Acceptance

29. Any acceptance tests by the customer must be carried out at the works of Neue Herbold.
30. Special tests or tests in the presence of the customer or his representatives require prior agreement. Neue Herbold are entitled to charge the resulting costs to the customer.
31. If the customer expressly or tacitly dispenses with an acceptance test or he or his representatives fail to appear at the proper time in spite of due notification by Neue Herbold then the test carried out by Neue Herbold alone shall be effective.
32. In the event of it having been agreed upon that the goods supplied are to be tested on site such tests must be carried out immediately on arrival of the goods in the presence of local agents of Neue Herbold and any faults established must be reported without delay.

Guarantee

33. Neue Herbold guarantee the properties of the goods as specified and further guarantee a state of freedom from faults commensurate with the actual state of technical knowledge both in respect of material and workmanship for the period of time agreed upon but give no guarantee as to the suitability of the goods for the individual purposes of the customer.
 34. Claims under guarantee will be considered only if submitted immediately after establishment of a fault in writing to Neue Herbold or their representatives. Neue Herbold may refuse to remedy faults for such period of time as the customer fails to meet his obligations.
 35. Neue Herbold shall be entitled to decide whether to remedy complaints by repair or replacement of the part or parts in question. The place to be selected by Neue Herbold for carrying out the repair work must be selected with due consideration to the customer's interests. Parts of replacement shall be sent in freight paid. Only the parts actually containing the fault in question in respect of material or workmanship and the parts directly damaged as a result of such fault in spite of proper treatment of the goods will be replaced. The parts to be replaced or the entire object of the delivery if it repair has to be carried out at the works of Neue Herbold will be returned at the customer's risk and expense. Replaced parts revert to Neue Herbold's property.
 36. Where Neue Herbold expressly acknowledge a case of warranty the costs of installation will be borne by Neue Herbold provided that such installation is carried out by Neue Herbold or a firm appointed by them.
 37. Neue Herbold will be liable for goods supplied by their sub-contractors only to the same extent and for the same period as goes the liability of the sub-contractors towards Neue Herbold.
 38. Actions for abatement of the purchase money in consequence of inferior value of the goods or for cancellation will not be recognized unless there is evidence that Neue Herbold are not in a position to remedy the shortcomings involved.
- Claims
- in respect of direct or indirect damage especially such due to injury of persons, interruption of work, employment of a substitute, lost profit, or else will not be entertained.
39. Neue Herbold's guarantee will expire in the event of the goods supplied being modified by third parties or by the installation of parts of outside origin and the damage can be traced to such modification or in the event of lead seals having been removed. The guarantee also expires in the event of Neue Herbold's instruction for the treatment of the goods (instruction for use) being disregarded and especially in the event of the specified checks not being properly carried out, or in the event of the maximum capacity specified in the purchase agreement being exceeded. Neue Herbold are neither liable for damages caused by customer or his representative during erection, installation or putting into service of the goods.
 40. Fair wear and tear and damage due to negligent or improper treatment are excluded from the terms of the guarantee.

Transport Insurance

41. In the case of deliveries ex works or f.o.b. the goods after the transfer of risks are insured only at the request and in the name of the customer at the customer's expense. In the case of c.i.f. deliveries Neue Herbold will arrange for an insurance to be taken out. In the absence of a written agreement Neue Herbold will take out insurances only on the conditions customary at the place of Neue Herbold's residence and not against risks of insurrection and war-like actions and Force Majeure. Instead of the Insurance Policy Neue Herbold may submit another document in evidence of an insurance having been taken out with a recognized insurance company. On receipt of a report of damage Neue Herbold will take all the necessary steps to claim the loss from the insurance company to such an extent as the company is liable for such loss.

Patent Rights

42. In the event of Neue Herbold supplying goods which are not listed in their production schedule but are manufactured according to drawings or models or to the customer's specifications Neue Herbold cannot be held responsible for infringement of foreign patents; responsibility for such claims by third parties shall be solely the customer's.
43. In no case of infringement of foreign patent rights can Neue Herbold be held responsible for the payment of compensation in respect of loss of profits on the part of the customer.

Liability, Legal Competency, Place of Settlement and Jurisdiction

44. The agreement shall remain binding even in the event of some of its conditions being ineffective.
45. All contractual relations are governed by German law. An order shall be deemed as having been received on the date such order has arrived at the establishment of Neue Herbold and shall be looked upon as having been placed at the place of arrival. Sinsheim is to be considered as place of settlement for all obligations covered by contract. In the event of tax payments being imposed on Neue Herbold in connection with the delivery in the country of destination Neue Herbold shall be exempt from such payment of taxes and the amount be paid by the customer in full.
46. Any disputes arising from an agreement shall be submitted to a Sinsheim law-court but Neue Herbold shall be entitled to bring an action at the place of the customer's head office.