

General Terms and Conditions

(Status January 2014)

I. Scope

The following General Terms of Delivery shall apply exclusively to all of our – also future – deliveries and services. General Business Terms of the purchaser will not be recognised, in particular not either by the delivery without reservation in the knowledge of contradictory terms and conditions of the purchaser or terms and conditions which deviate from our terms and conditions.

II. Offer, conclusion of contract, rights to documents

1. Our offers are without obligation. The order is a binding offer. The contract – in the absence of special agreements – shall be concluded by our written order confirmation or at the time when the ordered goods are sent to the purchaser.
2. As a rule, we make first offers (proposals for the principle solution of the demanded task) and insofar as not agreed otherwise free of charge. Further offers and blueprint work are only free of charge for the purchaser if a legally effective order is subsequently placed with us. Otherwise, a reasonable and customary remuneration is to be paid to us which is to be determined at our reasonable discretion.
3. The product details contained in our offers as well as information materials (in particular diagrams, drawings, weight and measurement details) are reference values unless they are explicitly described as binding or are recognised as binding in the order confirmation.
4. We are exclusively entitled to drawings, blueprints, cost estimates as well as other documents of our house under property and copyright law and may not be made accessible to third parties without our prior consent. Each use by the purchaser or by third parties requires our prior written consent. In particular reprinting or other use of our General Terms of Delivery, sales documents, price lists, brochures are only permitted with our prior written consent. This shall above all also apply to the use of our marks, such as trademarks and business designations.

III. Delivery, scope of services, passing of risk

1. The delivery is carried out ex works (EXW, Incoterms 2010). Shipment and cartage costs shall be for the expense of the purchaser. The shipments are usually insured by us – however without a legal obligation hereto – against breakage, transport, fire and water damages. The insofar incurred costs shall be borne by the purchaser.
2. The written order confirmation shall apply to our scope of deliveries. Collateral agreements and amendments require our prior written consent. Protective equipment will also be delivered insofar as agreed in writing. Consultancy services requested by the purchaser according to the order, in particular also visits by engineers, will be invoiced separately at our customary rates. The purchaser has no entitlement to our construction drawings being made available with regard to the object of delivery.
3. With the sending of the object of delivery, by no later than when the goods leave our delivery plant, the risk shall pass to the purchaser even if partial deliveries are carried out. This shall also apply with carriage paid delivery or with the use of own transport means or those selected by us insofar as no other type of shipment was agreed in writing as well as further also if we have taken over other services still in addition to the delivery (e.g. assembly). If the shipment is delayed as a result of circumstances for which we are not responsible, then the risk shall pass to the purchaser from the day of the notification that the goods are ready for shipment. This shall also apply to the event that we were induced to stored delivery parts outside of our plant site for reasons for which the purchaser is responsible.

IV. Prices, payment

1. Insofar as not otherwise agreed in writing, our prices are deemed ex our works plus possible packaging and shipping costs, the respective applicable rate of value added tax, with export deliveries customs duties as well as charges and other public duties.
2. We reserve the right to make a price adjustment if essential cost factors – in particular material and energy costs as well as tax rates – change until the execution of the order.
3. Insofar as not otherwise agreed in writing, the following terms of payment shall apply:
 - 50 % down payment after the receipt of the order confirmation
 - 40 % after the notification to the purchaser that the object of delivery is ready for shipment
 - Residual amount within 10 days after the delivery and, insofar as owed by us according to the contract, assembly of the object of delivery.Payments have to be made pure net (without deduction).
4. Bills of exchange and cheque payments must be agreed in advance. Discount and other bill of exchange costs shall be for the expense of the purchaser. Bills of exchange and cheques are merely accepted as conditional payment and will only be deemed as payment after the final

encashment without reservation. We do not assume an obligation to safeguard rights according to bills of exchange or cheques.

5. In case of default of payment of the purchaser, we can – irrespective of our entitlement, assert damages beyond this and the entitlement of the purchaser to prove less damages towards us – request interest in the amount of 10 % above the respective base lending rate according to § 247 BGB [German Civil Code]; we can, however, at least assert the statutory interest on default. Our claim for the commercial maturity interest shall remain unaffected towards merchants (§ 353 HGB [German Commercial Code]).
6. The non-compliance with the agreed terms of payment by the purchaser entitles us to revoke agreed terms of payment and to request immediate payment of the outstanding total amount, irrespective of possible bills of exchange taken in by us. If circumstances exist which indicate a substantial deterioration to the financial circumstances of the purchaser and a thus ensuing danger to our claims, we are moreover entitled to render the further execution of the order dependent on provision of collateral or advance payment. Claims for damages on our part shall remain unaffected. The essential deterioration to the financial circumstances of the purchaser and thus resulting danger to our claims shall be deemed as proven if a corresponding information of a bank, credit agency or similar authority is available to us or if attachment or other enforcement measures are carried out against the purchaser. We are not obliged to disclose the source of information towards the purchaser.
7. The purchaser is only entitled to retain payments or to offset against counter-claims if its counter-claims have been recognised by us, are undisputed or have been declared final and binding.
8. All guarantees are exclusively subject to German law.

V. Delivery time, impediments to delivery

1. Delivery deadlines and dates stated by us are only legally binding if they have been explicitly confirmed by us in writing. The adherence to the delivery deadline is subject to the reservation of the timely self-delivery insofar as we are not responsible for the delayed self-delivery.
2. Delivery deadlines shall only begin if the purchaser has satisfied all pre-requisites of our service, in particular has provided all documents, permits and releases which are to be procured by it as well as satisfied its other contractual duties, in particular has made the agreed and due down payment to us.
3. Decisive for the adherence to the delivery deadline is the time when the object of delivery in the plant or the notification of the readiness for shipment is sent by us.
4. Fundamental interferences to operation which are not foreseeable for us, in particular as a result of a deficiency of raw materials or energy, or as a result of lawful industrial dispute measures, or unlawful strikes as well as a result of other circumstances of force majeure, also at sub-suppliers, which prevent or substantially impair the service as per contract shall release from the contractual liabilities for the duration and for the scope of the incurred impediments on both parts, also with regard to the follow-up delivery of failed deliveries. Insofar as such events substantially change the service contents the contractual regulation is incidentally to be adjusted.
5. In case of a substantial deterioration to the financial circumstances of the purchaser and thus ensuing danger to our claims, our contractual service obligations, in particular our delivery obligation, shall be inhibited from our written notification to the purchaser, until collateral or advance payment have been provided to us. Subclause IV.6 applies accordingly.
6. We are entitled to carry out and invoice partial deliveries – also by sub-suppliers – insofar as this is deemed reasonable for the purchaser.
7. If the time of shipment is postponed at the request of the purchaser, then the costs incurred by the storage in our plants shall be charged to it, beginning one month after the report of the readiness for shipment, at least 0.5 % of the net invoice amount for each month. Irrespective of further statutory rights, we are in addition entitled to request a remuneration of the additional costs and expenses, incurred to us by the occurred time postponement.
8. The purchaser has to inform us immediately of any more difficult delivery or assembly conditions. If difficulties of this kind are notified to us, the delivery time shall be extended by a reasonable extent irrespective of our other rights. Insofar as increased costs or expenses are incurred to us by more difficult delivery and assembly conditions these are to be reimbursed by the purchaser.
9. We shall only be deemed in default by a reminder. Reminders and the setting of deadlines of the purchaser require a written form in order to be valid. Final deadlines must be reasonable and as a rule be at least 10 workdays.

VI. Assistance of the purchaser

1. Insofar as necessary or useful for the fulfilment of the contract, the purchaser shall support us with the execution of the contract by the fact that it makes e.g. employees, the technical environment, in particular machines and tools, available in the customary extent in time and to the necessary scope and assists with specifications, tests, acceptances, among others.
2. Insofar as we owe the installation and assembly of the objects of delivery, the purchaser shall make premises and assembly equipment available with such peripheral items which satisfy the necessary technical pre-requisites for the installation. The same shall apply with regard to functional electrical and telecommunications equipment.
3. If the purchaser does not satisfy its acts to provide assistance and if additional costs are incurred to us hereby, e.g. travelling, personnel and accommodation costs, the purchaser has to reimburse us for all expenses and damages incurred to us hereby. Waiting times owing to the non-satisfaction of acts to provide assistance will be remunerated at our customary rates.

VII. Collateral rights

1. We reserve the property to the goods (hereinafter referred to as "reserved goods") as long as we are still entitled to receivables, no matter of what kind, from the current or future business relationship with the purchaser. In case of current account, this reservation of title also serves to secure our respective balance claim. With a sustainable default of payment or with an essential deterioration to the asset circumstances of the purchaser, we are also entitled to temporarily take the reserved goods back at the costs of the purchaser without exercising the right to cancellation and without setting a final deadline. The assertion of the reservation of title as well as the attachment of the reserved goods by us shall not be deemed a cancellation of the contract.
2. The purchaser can resell or process the reserved goods in the proper course of business. A proper course of business does not exist if the reserved goods are not resold under reservation of title or if a ban on assignment is agreed with the second buyer or the customer of the purchaser. The authorization shall lapse as soon as the purchaser is in default of payment or there is a substantial deterioration to its asset circumstances. The purchaser hereby now already assigns us all claims from the resale of the reserved goods together with secondary and collateral rights in the amount of the invoice value of the reserved goods. If the purchaser has sold its receivable by real factoring, it assigns the receivable which replaces this against the factor to us. The afore-mentioned assignments are hereby accepted by us.
3. With the processing of our goods by the purchaser, we shall be deemed as producer and acquire ownership to the newly produced goods. If the processing is carried out together with other materials, we shall acquire the co-ownership in the ratio of the invoice value of our goods to that of the other materials. If our ownership lapses by the connection, mixing or processing, then the purchaser hereby now already assigns us the ownership or expectant rights to which it is entitled to the new stock or the new object in the scope of the invoice value of the reserved goods in the event of the processing in the ratio of the invoice value of the reserved goods to the invoice value of the other used goods and shall store these free of charge on our behalf. Our co-ownership rights shall be deemed as reserved goods. The purchaser hereby now already assigns us all receivables from the resale together with secondary and collateral rights with rank before the rest. If the purchaser has sold its receivable by real factoring, it assigns the receivable which replaces this against the factor to us. The afore-mentioned assignments are hereby accepted by us.
4. Until the lapse of the authorization granted in Subclause VII.2, the purchaser is also authorized to collect the assigned receivables. With the lapse of the authorization, we are authorized to inform the buyers or customers of the purchaser of the assignment and to collect the receivables ourselves.
5. Transfer or assignment as collateral, as well as pledge of the reserved goods or the assigned receivables, are not permitted. The purchaser has to inform us of attachments or other attacks of third parties immediately in writing.
6. The purchaser has to hand over a precise list of the goods subject to our reserved ownership to us upon request at all times as well as of the receivables assigned to us. With the lapse of the direct debit mandate granted in Subclause VII.2, the purchaser has in addition to provide us all information and hand over all documents which are required for the assertion of the assigned receivables.
7. The purchaser shall store the reserved goods free of charge on our behalf. It has to sufficiently insure these against the customary risks such as fire, theft and transport as well as pipe water damages at the value as new. The purchaser assigns claims ensuing from a damaging event against insurers and third parties to us in advance in the amount of the – if applicable pro rata – invoice value of the goods concerned. We accept this assignment.
8. If the value of the collateral to which we are entitled exceeds the value of our claims by a total of more than 20%, we are obliged at the request of the purchaser or a third party, which is impaired by the over-protection, to accordingly release collateral items at our choice.

9. Should the reservation of title regulated in this Subclause VII. and/or the other collateral items granted to us be invalid for legal reasons or should their substantiation or their validity towards third parties depend on pre-requisites the satisfaction of which would be impossible, deemed unreasonable or unprofitable for us or the purchaser, then we can request the granting of our collateral which is customary for the business and render the delivery of the goods dependent on the furnishing of such collateral. The purchaser undertakes to assist with all measures which are necessary for the granting of such collateral.

VIII. Assignment of rights, export

1. The assignment of rights from the delivery relationship by the purchaser requires our prior written consent in order to be legally valid.
2. Our prior written consent is further required for the export of the product delivered by us, in particular beyond the borders of the country, into which we made the delivery.

IX. Warranty: Scope, pre-requisites

1. Under the pre-requisite that the purchaser satisfies its contractual obligations, in particular made agreed payments, we shall assume warranty for the goods which as proven since the commissioning have become useless or substantially impaired in their usability as a result of a circumstance which lies before the passing of risks – in particular owing to faulty construction, faulty material or improper execution. In the absence of another agreement, DIN standards shall apply. The using of DIN or other standards as a basis as well as the using of or stating of certain properties in particular also performance values of the object of delivery are no guarantees of condition.
2. For third party products (e.g. electrical motors, electrical or electronic component parts and groups, hydraulic parts and units, wire ropes) we hereby assume warranty for assignment of our warranty claims against our supplier carried out in advance. If the assertion of a claim against our supplier remains unsuccessful in full or in part, we shall assume warranty according to our General Terms of Delivery. This shall not apply if we are at fault for wilful intent or gross negligence with the selection or installation of third party products. With regard to parts or equipment, which we do not deliver, which however owing to installation or affixation by the purchaser have a functional connection with our object of delivery, we are not obliged without an explicit order confirmed by us in writing, to examine the suitability for the intended purpose.
3. With systems with which a trial operation is not possible for us in our plant, we are to be given the opportunity to carry out setting and change work within the framework of the assembly. Such work is counted as assembly time which is liable to remuneration.
4. The purchaser has to inspect the object of delivery immediately after the delivery and, if this is not yet possible, immediately after the commissioning – irrespective of the acceptance. Defects recognised hereby as well as false and shortfalls in deliveries are to be reported to us immediately within 8 workdays after the delivery or if an examination is only possible after the commissioning, to report these by no later than within 8 workdays after the commissioning in writing or by telex. If a defect is determined during the examination which was initially not recognisable or a false or shortfall in delivery only at a later time then this is to be reported to us likewise within 8 workdays in writing or by telex. If the timely report is missed, then this shall apply in all cases as an approval without reservation. Warranty claims of the purchaser shall thus cease to apply. Likewise these claims shall cease to apply if changes or other interventions are made to the object of delivery without our consent, in particular for example also attempts are made at repair, or the purchaser deviated from the operating instructions handed over with the plant unless the non-causing of such measures is obvious for the asserted defect or proven by the purchaser. The regulations of § 377 HGB (inspection and reporting obligations) shall incidentally remain unaffected.
5. Statutory claims for recourse of the purchaser against us shall only exist to the extent that the purchaser has not reached any agreements with its buyers which go beyond the statutory claims for defects.

X. Warranty: Rights of the purchaser

1. In the event of a substantiated complaint of defects, for which we have to assume responsibility, we are at our choice entitled either to remedy the defect or to deliver faultless goods within a reasonable period of time, which also takes the time for the procurement of goods and materials from the sub-suppliers into consideration (subsequent satisfaction). If the subsequent satisfaction does not succeed within a reasonable period of time, then the purchaser can request a reduction of the remuneration or, if the use of the delivered object is not only insignificantly impaired, the reversal of the contract.
2. The purchaser has to give us time, opportunity and support for the subsequent improvement measures and substitute deliveries which are necessary or useful at our discretion after agreement with us. Only in urgent cases of the danger to the operational safety, about which we are to be informed immediately, as well as if we are in default with the remedy of the defects after the setting of a reasonable deadline, is the purchaser entitled

to remedy the defect itself or have it remedied by third parties and to request reimbursement of reasonable costs from us.

3. In case of subsequent improvement or substitute delivery, we shall bear the costs for the spare parts, including their shipment. We shall further make a fitter available free of charge for the installation at our costs in Germany. The further required unskilled workers and devices have to be made available by the purchaser at its costs. For deliveries outside of Europe, as well as if there is a substantial misunderstanding between the delivery value and installation costs, we shall take over the costs for the provision of a fitter up to the maximum amount of 3% of the net delivery value of the plant. If it can be foreseen that this maximum amount will be exceeded, we can request a reasonable advance payment of costs. We are entitled to request the sending of the parts and units for which an objection was filed to our plant insofar as repair appears more unfavourable directly on site.
4. Measures on our part to minimize damages, examination of complaints and negotiations in this respect are no legal recognition of a warranty obligation. Our legal position, also with regard to ongoing warranty deadlines, shall remain unaffected hereby.
5. For the scope of claims for damages and claims for reimbursement of fruitless expenses – also by way of the recourse – Subclause XI. of these General Terms of Delivery shall apply.

XI. Damages, reimbursement of fruitless expenses

1. Insofar as not otherwise derived from these General Terms of Delivery including the following provisions, we shall be liable with a breach of contractual and non-contractual obligations according to the relevant statutory regulations.
2. We shall be liable for damages – no matter for what legal grounds – with wilful intent and gross negligence. With simple negligence, we shall only be liable
 - a) for damages from the injury to life, the body or the health,
 - b) for damages from the breach of an essential contractual obligation (obligation, the fulfilment of which makes the proper execution of the contract possible at all and on the compliance with which the contractual partner may as a rule and depend); in this case, our liability is however limited to the compensation of the foreseeable typically occurring damages.
3. The liability restrictions ensuing from the afore-mentioned Subclause XI.2 shall not apply insofar as we have maliciously failed to disclose a defect or have taken over a guarantee for the condition of the goods. The same shall apply to claims of the purchaser according to the Product Liability Act.
4. Insofar as our liability is excluded or limited, this shall also apply to the liability of our employees, workers, representatives and vicarious agents.

XII. Statute-of-limitations

All warranty, damage and expense reimbursement claims of the purchaser shall become statute-barred in 12 months from the passing of risk insofar as not otherwise regulated below. In cases of gross negligence or wilful conduct, with claims according to the Product Liability Act, with claims for recourse in the supply chain according to §§ 478, 479 BGB as well as in cases of the injury to life, the body or the health the statutory deadlines shall apply.

XIII. Cancellation

1. Irrespective of statutory rights to cancellation, we are entitled to cancel the order if unforeseeable events occur for which we are not responsible which prevent our contractual service, also if such events make our contractual service more difficult or change the contents so substantially that the execution of the order, also at changed conditions, is not feasible for us from a financial point of view. If we intend to exercise this right to cancellation, then we have to notify this to the purchaser immediately after knowledge of the extent of the event, irrespective of agreed delivery deadlines. The purchaser is on its part then entitled to cancellation if we do not finally inform it within a reasonable deadline whether we intend to cancel the order or make the delivery still.
2. Claims for damages or reimbursement owing to a cancellation according to Subclause XIII.1 above do not reciprocally exist.

XIV. Miscellaneous

1. The place of performance irrespective of other agreements concerning the terms of delivery and payment is our registered seat in 68766 Hockenheim, Germany. This shall also apply to deliveries and services to purchasers overseas.
2. For all current and future claims from the business relationships with merchants including bill of exchange and cheque claims, our registered seat is the excluded place of jurisdiction. The same place of jurisdiction shall apply if the buyer does not have a general place of jurisdiction in the domestic country, after conclusion of the contract it relocates its domicile or customary place of above from the domestic country or its place of residence or customary place of abode is not known at the time when the action is filed.

Our registered seat is the exclusive place of jurisdiction for all disputes ensuing indirectly or directly from the contractual relationship; we are however entitled to also file action against the purchaser at its head office or branches.

3. The entire contractual relationship is subject to the law of the Federal Republic of Germany. Excluded however is the application of the "Viennese UN Convention on Contracts for the International Sale of Goods" (CISG) of 11 April 1980.
4. Should individual provisions of these General Terms of Delivery be invalid, null and void of feature loopholes, this shall have no effect on the validity of the other provisions. The parties shall – if applicable in the proper form – replace the invalid or null and void provision by such a regulation or fill the contractual loophole by such a regulation with which the commercial purpose intended by them can be satisfied most.