

# General Business Conditions

## § 1 Applicability

- All agreements and offers are subject to our conditions. They are recognised through granting of a contract or acceptance. Deviating or extending conditions from the customer which we do not expressly recognise are not binding to us, even if we do not expressly object to them. Counter-confirmations and other customer statements with regards to its own terms and conditions are hereby rejected.
- Deviations from these business terms are only in effect if they have been confirmed by us in writing. The same applies for extensions of these business conditions.

## § 2 Delivery and Performance Time

- The delivery times named by us apply only as approximate unless they are expressly agreed in writing.
- To the degree that a binding delivery time has been agreed contractually, this begins with the sending of the contract confirmation, however not before the customer provides the necessary documentation, approvals, releases as well as the receipt of the agreed payment. This delivery time is to be adhered to up to the time that the object is delivered to the factory or its availability for shipment has been communicated.
- The delivery time as referred to in point 3 of this condition is appropriately extended if there are work disputes, especially strikes and lock-outs, as well as the occurrence of unforeseen obstacles which lie outside our span of control, as long as such obstacles can be shown to have a significant influence on the manufacturing or supply of the delivery of the object. This also applies if circumstances occur with subcontractors. The aforementioned circumstances need not be presented by us if they occur during an existing delay. The beginning and end of such obstacles will be communicated as soon as possible.
- If there are subsequent amendments to extend the contract which could influence the delivery or service time, these will be extended by a reasonable time period, unless special arrangements have been made so far.
- When the equipment is delivered by us with our own transport vehicles, the customer must supply support staff, forklifts, etc. for unloading.
- We deliver spare parts and storable goods within 96 hours. For binding, more rapid deliveries, we charge an Express Delivery Fee of 15% on the net price of the material.

## § 3 Price / Order Confirmation

- Our written contract confirmation provides the scope for our supply and prices. Subsidiary agreements and changes require our written confirmation.
- The prices shall apply in the absence of special agreements, without assembly and installation, and without packaging, FOB the factory. Prices are subject to the relevant VAT at the statutory rate. Additional supplies and services will be specially billed.
- All changes made after the conclusion of a contract in an agreed foreign currency or the exchange rate shall be converted to Euros for our customers.
- In the case of successive delivery contracts, we are bound to the contractually agreed prices for only three months after the conclusion of the contract. If there is a later call, our currently applicable prices according to the price list are to be applied, as long as these are not 20% over the agreed prices.
- We will not assume the costs for the return shipping of packing material.
- For single orders with a net value of < 100.00 EUR we charge a Small Quantities Surcharge of 25.00 EUR, with the exception of repair, spare parts / consumables and service orders, as well as project-related re-orders made before acceptance of the installation.

## § 4 Payment

- As long as nothing else is agreed, our invoices are due immediately and paid net. If a payment deadline is set, if this deadline is exceeded, however at the most 30 days after the receipt of the invoice, this will be regarded as a late payment (§ 286 paragraph 3 of the Civil Code).
- Payment applies only as having been made when we have free access to the payment. Cheques and drafts are only accepted as conditional payment. In the case of cheques, payment only applies as having been made if the cheque has been irrevocably credited to our account. Drafts are accepted without any liability for protest, and only after agreement, and under condition that they may be discounted. Discount fees are invoiced from the due date of the invoice amount.
- If the buyer does not meet its payment obligations, is in arrears, stops its payments or other circumstances are known to us which could place the customer's credit in question, we have the right to make the entire remaining due amount due immediately, even if checks or bills of exchange were accepted. In this case, we also have the right to demand prepayments or security payments.
- Notwithstanding any other provision of the customers, we are entitled at any time to invoice in accordance with Sections 366, paragraph 2 and 367, paragraph 1 of the BGB (German Civil Code). If there is a delay in payment, interest will be billed in accordance with Section 288, paragraph 2 of the BGB (German Civil Code) at an amount of eight percentage points over the basic interest rate. Any additional claims to loss of interest remain hereby unaffected.

## § 5 Hazards, Shipping and Freight

- If the goods are sent to the customer at its request, with their delivery to our shipping agent, at the latest, however, after departure from the factory or the warehouse, liability for utter destruction and deterioration of the goods is transferred to the customer, regardless of whether the shipment arrived at the place of fulfillment, and regardless of who bears the freight costs. If the goods are ready for shipment and the shipment or acceptance are delayed for reasons which cannot be attributed to us, the liability transfers with the receipt of the notification of readiness to ship by the customer.
- At the express written request of customers, we will insure the shipment against theft, breakage, transport, fire and water damage insurance at the customer's expense.

## § 6 Retention of Title

- The delivered goods remain our property until full payment of all claims from the business relationship between us and the customers. Individual claims in a current account as well as relationship to the balance and its recognition does not affect our retention of title.
- The customer has the right for further conditional sales of inventory goods; shipping, security or suitability for security purposes is not permitted. The customer is obligated to ensure our rights as a conditional seller upon resale of reserved goods on credit.
- The customer's claims for further conditional resale of goods is assigned to us, and we accept this assignment. Regardless of the assignment and our right to collect, the customer continues to have the right to resale as long as he fulfills his obligations to us and has not become insolvent. At our request, the customer must collect the information required on the assigned claim and notify the debtor of the assignment.
- Any working or processing of reserved goods can be undertaken by the customer without incurring any obligations to us. In processing, combining or mixing the goods with other goods not belonging to us, the resulting co-ownership right to the new object is established in proportion to the invoiced value of the goods to the other processed goods at the time of processing, combining, mixing or blending. If our customer acquires sole ownership of the new object, then the parties agree that the customer will notify us in relation to the invoice value of the processed, combined, mixed or combined reservation, conferring ownership of this new thing and without cost for us.
- If the reserved goods are resold together with other goods, namely, whether resold with or after processing, combining or mixing, the aforementioned advance assignment applies only to the amount of the invoiced value of the reserved goods resold together with other goods.
- On execution activities for third parties with the reserved goods, or the advanced assignment of claims, the customer must immediately inform us by handing over the documents necessary for an intervention.
- We undertake to release to the customer under the above conditions, the securities according to his choice at his request so far as their value exceeds the secured claims by 20% or more.
- The customer is obligated to insure the reserved goods at its cost against theft, breakage, fire, water and other damage.

## § 7 Liability for Defects

- If the supplied object is defective, we can either repair the defect or supply a defect-free good, at our choice.
- If we are given a reasonable period to address this defect without remedy of the defect or arranging for the delivery of defect-free goods, if it is refused by us or is unreasonable for us, the customer can request a reduction of remuneration (reduction) or cancellation of the contract (withdrawal).
- The determination of defects must be immediately communicated to us—with recognised defects however at the latest within 14 days after acceptance or receipt, with non-recognised defects, immediately after they are recognised—in writing. Otherwise, any warranty claims are excluded.
- The limitation period for warranty claims will be reduced to one year.
- No liability will be assumed for damages which occur after acceptance or delivery: unsuitable or improper use, faulty assembly or commissioning by the customer or third party, failure to follow operating or maintenance instructions, normal wear and tear, faulty or negligent handling, unsuitable operating materials, defective construction work by the customer or third party, unsuitable chemical, electrochemical or electrical influences, unless such damage was not due to negligence on our part.
- If the customer or a third party changes or repairs the goods without our permission, the liability for resulting damage is excluded.

- Further customer claims, especially claims for damages, which did not occur on, the delivered object itself, are excluded.

This disclaimer does not apply in cases of intent or gross negligence on our part or on the part of our employees, and culpable violation of essential contractual obligations.

In case of culpable violation of essential contractual obligations, we are liable—except in cases of wilful intent or gross negligence—for typical, reasonably foreseeable damages. This disclaimer also does not apply in cases where there is liability under product liability law for defects of the delivered goods for personal injury or property damage for privately-used objects. The disclaimer furthermore does not apply to damages resulting from injury to life, limb or health caused by a culpable breach of duty on our part or that of our legal representative or a vicarious agent.

- For replacements and repairs, we adhere to the same extent to the original delivery date; for replacements, the date limitations as contained in Sections 437, 634a of the BGB (German Civil Code) apply. The customer will give us all necessary time and opportunity to undertake with all reasonable discretion the repairs and replacements with prior agreement. Otherwise, we are released of our warranty liability. Only in urgent cases of hazard to operational safety and to prevent excessive damage, whereby we must be notified immediately, or if we are in default with the removal of the defect, the customer has the right to rectify the defect itself, or to have it remedied by third parties, and to demand reimbursement of necessary expenses.

- Rights due to defects in the delivered goods can only be attributed to our direct contractual partners and are not transferrable.

## § 8 Liability, Right to Refuse Payment and Set-Off Rights

- Claims for damages for breach of duty and tort are—as long as the provision does not apply otherwise—excluded, unless they are based on intent or gross negligence or breach of contract on our part.
- In case of culpable violation of essential contractual obligations, we are liable—except in cases of wilful intent or gross negligence—for typical, reasonably foreseeable damages. This disclaimer also does not apply in cases where there is liability under product liability law for defects of the delivered goods for personal injury or property damage for privately-used objects. The disclaimer furthermore does not apply to damages resulting from injury to life, limb or health caused by a culpable breach of duty on our part or that of our legal representative or a vicarious agent.
- Set-off and retention of goods rights of the customer are excluded so long as the counter-claims of the customer have not been legally established, are undisputed or acknowledged.
- When we are entitled to claims damages instead of performance, we have the right to demand a compensation fee for processing costs and lost profits amounting to 15% of the net contract value.
- In the case that we have legally declared the rescission of the contract, Section 8, no. 4 of these contract conditions applies.
- The customer is expressly permitted in the cases of Section 8 numbers 4 and 5 of these business conditions to prove that a loss or impairment is generally not created, or is significantly lower than the lump sum.

## § 9 Installation Conditions

If we carry out the installation, unless there are other agreements, the following conditions apply:

- Every installation and means hours which the mechanic spends over an 8-hour working time are calculated at the rates shown overleaf. If there is overtime and work on Sundays and holidays, proper tariff surcharges apply. Release for each mechanic per day is paid according to the agreement.

If needed, accommodation must be provided. Accommodation costs are to be borne by the customer, or will be billed by us to the customer.

- If a fixed price installation is agreed, the customer must provide flawless workflow as well as the provision of support staff. If the customer does not fulfil this obligation, the respective additional work including waiting time will be billed to the customer.

- The following work is not attributed to installation:

- Brick work
- Joinery
- Electrical work
- Providing scaffolding, lifting equipment and crane trucks.
- Roofing work
- Cleaning work machinery
- Disposal of waste / old material

## § 10 Spare Parts

We will supply spare parts for the machines for a period of up to five years after delivery at the then respective spare parts price (daily prices).

## § 11 Patents

- We will indemnify the customer and their customers from claims arising from infringement of copyrights, trademarks or patents unless the design of a delivery item is originated by the customer.

Our release obligation is limited according to the contract to foreseeable damages. An additional condition for release is that we will have exclusive leadership of litigation and that the alleged infringement of the exclusive design of the delivery items is not connected to or used with other products.

- We have, at our choice, the right to release ourselves from the obligations assumed under paragraph 1 of this section by the fact that we either

- a) purchase the required licenses in regards to the alleged violated patents or
- b) object the customer with an amended delivery time or parts of it available in the case of replacement of the object concerned or eliminate the part, which is subject to the accusation of infringement with respect to the delivered item.

- We retain the right to make changes in design at any time, but are not obliged to make such changes to products which have already been delivered.

## § 12 Confidentiality

Unless otherwise expressly agreed in writing, the following applies to us in connection with orders that there are no conditions of confidentiality.

## § 13 Applicable Law, Legal Venue, Severability

- The legal venue for performance of all obligations under the contract is our headquarters.
- These terms and conditions and all legal relationships between us and the customer are regulated under the laws of the Federal Republic of Germany; UN purchase rights are excluded.
- The legal venue for all the items related to the contractual relationship, its existence and the effectiveness of legal disputes, is regulated by the laws of our headquarters site; or, at our election, by the laws at the location of the customer, as long as our customer is a commercial enterprise within the definition of the Commercial Code or a legal person with public rights, or special public assets.
- Should any provision of these business conditions or any provision of any other agreement become or be invalid, the validity of the remaining provisions or agreements shall not be affected.

## § 14 Data Protection

According to Section 22 of the Federal Data Protection Act, we will store our customer data as a part of the intended purpose for the order process, and will observe legal retention requirements. The ordered declares his agreement with this.

## § 15 Return of Materials Supplied

The return of materials not based on warranty rights or claims for compensation, at a period which is greater than six months after acceptance of the constructed facility, is excluded. A credit for the returned materials for the respective line item is to be in a defect-free state, less a handling fee of 5%, but at least 10 Euros, of the returned goods. We reserve the right to make further reductions from the total bill, depending upon the condition of the goods. Acceptance of returns of special parts is excluded.