

I. General

1. These conditions as well as any separate contractual agreements shall apply to all sales and services. If the purchaser has any other terms and conditions, these do not form part of the contract even upon acceptance of an order.
2. We reserve the right to title and copyright of samples, cost estimates, drawings or similar information in physical or non-physical form, including electronic form. These may not be made available to third parties.
3. The following conditions are supplementarily applicable, in so far as commercial clauses, in particular the INCOTERMS, are used in the contractual relationship.

II. Offer

1. Offers are without obligation. Cost estimates are not binding, subject to prior sale.
2. A contract shall be deemed to have been entered into on receipt of our written order acceptance.
3. We reserve the right to technical design changes as well as size and weight data as far as they are reasonable to the purchaser.

III. Price and Payment

1. The prices are valid ex works including loading but excluding packaging and unloading unless there is a separate agreement. The applicable sales tax must be added.
2. Invoices are payable in Euro:
 - within 30 days net;
 - or in the case of machinery, special models, designs, software and engineering services, 30 % on receipt of the order confirmation, 60 % on readiness for dispatch, 10 % within 10 days of being put into operation.
 - The purchaser only has the right to withhold payments or to set off claims as long as his counterclaims are determined as undisputed and non-appealable.
 - If there is a delay in payment we are entitled to charge late fees of 8% above the base rate. Any further orders must be paid for in advance of delivery.

IV. Delivery Period, Delivery Delay

1. The delivery or service period is agreed upon by the contractual parties. Meeting the delivery time on our side is conditional upon clarification of all commercial and technical questions by the contractual parties and the purchaser having fulfilled all his obligations, such as for example submission of all the official documents required or the receipt of an advance payment. If this is not the case, the delivery period will be extended as appropriate. This does not apply as long as we are responsible for the delay.
2. If there are open invoices which the purchaser has withheld without authorisation, we are not obligated to any further deliveries until these outstanding payments have been made or guaranteed by the purchaser.
3. The delivery time has been met if the goods have been dispatched from the supplier's works by the specified date or notification given of readiness for dispatch. If acceptance of goods must take place, except when refusal of acceptance is justified, the acceptance date is definitive, also notification of acceptance readiness.

4. If the delivery is delayed by force majeure, industrial disputes or other such circumstances beyond our control, the delivery period shall be extended commensurate to the circumstances. We will inform the purchaser of the beginning and ending of such circumstances as soon as possible. If the delay is more than a month, the purchaser is entitled to withdraw from the contract due to the failure in having the goods or services delivered on time.
5. If dispatch is delayed due to the purchaser, we are entitled after a reasonable period of time to dispose of the ordered goods elsewhere and to deliver to the purchaser at a reasonable later date. If the purchaser does not accept the goods when notified of dispatch/readiness of acceptance, we may charge for costs incurred due to the delay.
6. The purchaser can withdraw from the contract without setting a deadline if it is ultimately impossible for us to deliver the goods before passing of risk. The purchaser can also withdraw from the contract if part of an order cannot be delivered and he has a justified interest in refusing the part delivery. If this is not the case, the purchaser must pay the applicable contractual cost of the partial delivery. If the impossibility occurs during the delay in acceptance or if the purchaser is solely or for the most part responsible for these circumstances he is still held liable for payment. Inability is equal to impossibility.
8. If we delay and the purchaser incurs costs due to this, he is entitled to claim compensation up to a maximum of 5 % of the value of that part of the total delivery which due to the delay could not be used on time or in accordance with contract.

If the purchaser sets a reasonable deadline after maturity, taking the statutory exceptions into consideration, and this deadline is not met, the purchaser can withdraw from the contract in accordance with statutory requirements.

Further claims due to delay are exclusively determined in Section IX.2. of these conditions.

V. Passing of Risk – Acceptance

1. The risk passes to the purchaser when the delivery has left the works, even if it is only a partial delivery or if we provide other services, e.g. delivery costs or delivery and installation. If acceptance of goods must take place, this is the point when risk passes. It must take place immediately at the time of acceptance, preferably after our notification of readiness of acceptance. The purchaser may not deny acceptance due to minor defect.
2. Should the dispatch or acceptance be delayed due to circumstances beyond our control, the risk passes to the purchaser on the day of notification of dispatch or acceptance readiness. We are obligated to take out the required insurance at the purchaser's cost.
3. Partial deliveries are permissible as long as this is reasonable for the purchaser.

VI. Packing

As long as the seller is obligated under the German packing law to accept return of the packing materials used for transportation, the purchaser is liable for the costs of the return transportation and disposal of such.

VII. Reservation of Ownership

1. Until the fulfillment of all claims (including all balances from open accounts) due us from the purchaser now or in the future, the securities listed in the following paragraphs are guaranteed. These securities are released on request by choice of the purchaser, in so far as their value exceeds the sum and value of all lasting claims by more than 20%.
2. The delivered services remain our property until complete payment of all debts due to us resulting from the business relationship with the purchaser.



3. The purchaser is revocably entitled to claim debts incurred by a resale within the framework of a normal business process. We have the right to claim these debts ourselves if the purchaser has breached this contract, in particular regarding a delayed payment. The purchaser must name the debtor and to notify such of the assignment. The assertion of reservation of ownership and in particular the claim to possession constitute a cancellation of contract.

VIII. Guarantee

With regard to defects and bad title the supplier guarantees the following, with exception of further claims, subject to Section IX:

Defects:

1. If damage is incurred in transit the recipient is obligated to inform the carrier and to list it in the delivery note.
2. It is our decision whether to repair or replace free of charge all parts which are defective due to circumstances before passing of risk. Such defects must be reported to us in writing immediately. Replaced parts are our property.
3. After informing us of the fault, the purchaser is to allow us the necessary time to carry out repairs and provide replacement parts. If he does not, we are not liable for consequences incurred. The purchaser only has the right to claim expenses incurred in repairing the damage himself or by a third party in urgent cases where safety is endangered or disproportionate greater damage could be prevented, in which case we must be informed immediately.
4. The purchaser has the right by law to cancel the contract if we, taking legal exceptions into consideration, do not meet a reasonable deadline set for the repair or replacement delivery due to a defect. If the defect is minor, the purchaser is only entitled to a reduction in the contractual price. The purchaser does not otherwise have the right to a reduction in contractual price.

Further claims are determined in Section IX.2. of these conditions.

Bad Title

5. If the use of the product supplied causes a breach of commercial proprietary right or domestic copyright we will at our cost provide the purchaser with the basic right to continued use or modify the product supplied in such a way that is reasonable to the purchaser and ensures that the proprietary right is no longer breached.

If it is not financially viable to do this or to do it in a reasonable period of time, then the purchaser is entitled to cancel the contract. We also have the right to cancel the contract under the given conditions.

In addition we will release the purchaser from undisputed or non-appealable claims from affected copyright holders.

6. The suppliers' liabilities given in Section VIII.5. are subject to Section IX.2. in the case of breach of proprietary right or copyright.

They are only valid if

- the purchaser informs the supplier immediately of any claims of breach of proprietary rights or copyrights
- the purchaser supports the supplier to a reasonable extent in rebuttal of claims or enables the supplier to carry out modifications according to Section VIII.8.
- the supplier is entitled to all rebuttal measures including out of court settlements
- the bad title is not based on an instruction from the purchaser
- the breach of rights was not caused by a change made to the product by the purchaser himself or a useage which was not according to contract.

IX. Liability

1. If the product or service cannot be used by the purchaser in accordance with the contract due to negligence or fault on our part in execution of suggestions or advice before or after completion of contract or by breach of other contractual subsidiary obligations, particularly instructions for use and maintenance of the product or service, then the regulations of Sections VIII. and IX.2. apply with the exception of further claims from the purchaser.
2. For damage which is not to the supplied product itself we are only liable, for whatever legal reasons, for
 - a. culpable injury to life, body, health
 - b. defects which we maliciously did not reveal or the absence of which we guaranteed
 - c. defects in the supplied product in so far as being claimed according to product liability law for personal or property damage in privately used items.

Further claims are excluded.

X. Statutory Limitation

1. All claims made by the purchaser, for whatever reason, become statute-barred after 12 months. The statutory time limits apply to compensation claims according to Section IX.2. a – d. These limits also apply to defective construction or for supplied products which according to their normal use were used for construction and were the cause of its defectiveness.

XI. Use of Software

1. If software is included in the delivery, the purchaser is granted a non-exclusive right to use the supplied software including its documentation. It is provided for use with that particular product. It is not permissible to use the software on more than one system.
2. The purchaser may only re-produce, modify, translate the software or transfer from the object code to the source code in as far as it is legally permissible (§§ 69 German Copyright Law). The purchaser is obligated not to remove or change any manufacturer's information, especially pertaining to copyright, with out the prior explicit permission of the supplier.

All other rights to the software and its documentation including copies remain our property or that of the software supplier. The granting of sub- licenses is not permitted.

XII. Applicable Rights – Place of Jurisdiction

1. For all legal proceedings between us and the purchaser the law of the Federal Republic of Germany for legal proceedings between domestic parties applies exclusively to the exclusion of the CISG.
2. Place of jurisdiction is the court which has jurisdiction over Dresden. We are however entitled to file a claim where the purchaser has their headquarters.