



1.0. Scope of application, offers, confirmation of orders, scope of deliveries

- 1.1. Any offer, sale or delivery effected by Supplier shall be governed by these General Terms and Conditions of Sale and Delivery. Any diverging terms and conditions of Purchaser shall be deemed accepted only and only insofar as expressly accepted and confirmed in writing by Supplier.
- 1.2. Contents and scope of any offer shall be construed solely in accordance with the model description. In particular, any documentation, illustration, drawing, specifications of weights or measurements and of similar data forming part of an offer shall constitute mere guidelines, except where expressly declared binding. Supplier retains all titles, copyright, other industrial property rights and know-how regarding any documentation provided in conjunction with an offer; such documentation shall not be made available to third parties, unless supplier consents, and may only be used by offeree as permitted.
- 1.3. The scope of a delivery shall be construed in accordance with supplier's written confirmation of the order, in the absence of such with supplier's order. This provision shall not affect supplier's right to carry out technical modifications to the delivery item, provided that its technical function is not impaired as a result.
- 1.4. In case of an ongoing business relationship, the current version of supplier's General Terms and Conditions forms part of the agreement even if express reference has not been made any more.

2.0. Delivery period, delay, impossibility

- 2.1. Compliance with delivery periods is conditional upon Purchaser's performance of its own contractual obligations. Delivery periods commence upon dispatch of the confirmation of the order, but not before all of the details concerning the execution of the order have been clarified, not before purchaser has supplied all documents, permissions and releases, not before supplier has received any down payments agreed upon and not before any other requirements agreed upon by the parties in the individual contract for the seamless execution of the order have been complied with. Otherwise the time for delivery shall be reasonably extended except where supplier is responsible for the delay.
- 2.2. The agreed delivery dates shall be considered as fulfilled, should the goods for delivery have left supplier's plant prior to its expiry or should purchaser have been given notice that the goods are ready for shipment.

Correct and punctual supply to supplier by its own auxiliary suppliers is reserved. Should delivery be delayed due to the occurrence of unforeseeable and/or unusual circumstances on the part of supplier, which could not be avoided with due care, the delivery deadlines shall be extended accordingly. The aforesaid applies irrespective of whether such delay occurs in the plant of supplier or in one of its auxiliary supplier's plants. Such delaying circumstances are, for example, sanctions and intervention by governmental authorities, delayed delivery of parts from auxiliary suppliers, difficulties in power supply or other kinds of operational disturbances. These provisions shall apply mutatis mutandis in cases of strike and/or lockout.

Should such delay continue for more than two months, purchaser shall be entitled to cancel the contract with respect to the part of the contract not yet performed. Any claims for damages on the grounds of an extension of the delivery period or due to a release and discharge from the obligation to deliver shall be determined solely in accordance with Section 5.

Supplier may only invoke the aforementioned circumstances, if supplier has notified purchaser thereof without delay.



- 2.3. Should supplier be responsible for delayed delivery and should purchaser suffer a loss as a result, purchaser may claim a compensation for each full week of delay in the amount of 0.5%, not exceeding, however, a total of 5% of the value of that part of the total delivery which, due to the delay, could not be used on time or not in conformity with the contract. Any claims for compensation apart from this shall be governed solely by Section 5. The right to terminate the contract after ineffective expiry of a reasonable period of grace granted by purchaser, or where the law does not require such period of grace, shall remain unaffected.
- 2.4. Should the entire delivery or performance of the contract become finally impossible for supplier prior to the passing of risk, purchaser may rescind the contract. Should delivery only become partly impossible and should purchaser have a justified interest in refusing a partial delivery, or should supplier become incapable of the contractual delivery, such circumstances shall be deemed equivalent to an impossibility. Should purchaser claim compensation for loss arising from such impossibility, liability shall be governed by Section 5.
- 2.5. If shipment is delayed for reasons which are the responsibility of purchaser, purchaser will be charged for any cost and expenses arising from storage beginning 10 days after notification of readiness for dispatch; in case of storage at Supplier's plant a minimum amount of 0,5% of the invoice value shall be charged for each month. Following the ineffective expiry of a reasonable deadline set by supplier, supplier is, however, entitled to otherwise dispose of the goods for delivery and to supply purchaser within an appropriately extended delivery period with the ordered goods or with goods of the same generic product group.

3.0. Dispatch, passing of risk, acceptance of delivery

- 3.1. Delivery shall be effected ex works (EXW Incoterms 2000) unless otherwise expressly agreed. If supplier has to dispatch the goods, supplier is entitled to choose the means and route of transportation. Supplier is a SLVS/no-client. This means that in such a case the risk of transport always is insured by Supplier.
- 3.2. Risk shall – even in cases of partial delivery - pass to purchaser no later than upon dispatch or collection of the goods, even if supplier agreed on additional services such as payment of the costs of transport, delivery or assembly.
- 3.3. Should dispatch be delayed due to circumstances, supplier is not responsible for, risk shall pass to purchaser 10 days after notification of readiness for dispatch; Supplier, however, has to take out the insurance cover as requested by purchaser at purchaser's expense.
- 3.4. Without prejudice to any claims to warranty, purchaser has to accept the goods delivered, even if they evidence insignificant defects.
- 3.5. Supplier may carry out partial deliveries.
- 3.6. Unless otherwise agreed, packaging is arranged for by supplier and not requested from purchaser. Therefore, it is transport packaging. Place of performance for the return of transport packaging is at supplier's registered office. Purchaser shall bear the costs of the returning of the transport packaging as well as the costs of collection incurred by supplier. Furthermore, purchaser has to keep the transport packaging clean and to return it during supplier's regular business hours without it being intermingled with other components.



4.0. Warranty

- 4.1. For defects of goods delivered or of services rendered, including the absence of warranted qualities, Supplier shall be liable as follows:

Only reasonably substantial impairments of the work and deliveries regarding their quality or contractual use shall constitute a defect. All parts that prove to be defective, due to a cause set prior to the passing of risk – in particular on account of defective engineering, poor construction material or faulty workmanship -, within twelve months of the passing of risk shall be, at Supplier's discretion, either repaired or replaced free of charge. Notice of the discovery of such defects after delivery shall be given without delay and in writing. Any parts replaced become the property of supplier. Minor impairments within the meaning hereof do not form an obstacle for performance of the contract.

- 4.2. In particular, the warranty does not cover damages arising from the following: incorrect or negligent use, faulty assembly and/or faulty installation respectively putting into operation, either by purchaser or by third parties, natural wear, defective or negligent handling, inappropriate production equipment and facilities or inappropriate operating supply items, faulty construction work, inappropriate foundation soil, chemical, electro-chemical or electrical influences, as long as supplier is not liable for such reason.
- 4.3. Purchaser shall, after consulting with Supplier, provide supplier with the necessary time and opportunity to carry out any repair work or replacement delivery, that seems necessary to supplier in its own discretion. Otherwise, supplier shall be released from liability. Should industrial safety or the prevention of disproportionately high damages require to urgently remedy such defect, Purchaser shall advise so immediately indicating the relevant circumstances, whereupon Supplier shall grant Purchaser permission in good time according to the circumstances, but at any event after three working days, to remedy the defect itself or have it remedied by third parties and to demand from Supplier compensation for the necessary costs. If Supplier should be in default in remedying the defect, Purchaser shall have the same right irrespective of such separate permission. In case of unjustified denial of such permission, Supplier undertakes to compensate for any damage ensuing as a result.
- 4.4. In so far as the notification of defects proves justified, Supplier shall pay the following direct costs arising in conjunction with the repair work or replacement delivery: The costs of the replacement part including its shipping and the adequate costs of removal and installation, furthermore the costs of providing mechanics and auxiliary personnel, as may be necessary. All other costs are to be borne by Purchaser. In particular, the latter includes any costs arising from the fact that the goods delivered have been moved to a different location.
- 4.5. This warranty shall not cover defects resulting from a faulty modification or repair work effected by Purchaser or third parties without the prior written consent of Supplier.
- 4.6. Should the repair work prove unsuccessful despite a reasonable period of grace having been granted, or should Supplier refuse to remedy the defect although Purchaser is entitled to such and/or should a replacement not be delivered, Purchaser may reduce the purchase price or cancel the contract using its own discretion.
- 4.7. The warranty period concerning repair work carried out and replacements delivered is six months and begins after the finishing of the repair work or the delivery of the replacement. The warranty period shall, however, end no later than upon expiry of the initial warranty period applicable in relation to the original goods delivered.



5.0. Liability

- 5.1. Purchaser shall not be entitled to assert any claims for damages or for compensation of expenses (hereinafter: claims for damages) arising from a breach of contractual duties or tort, save as otherwise provided herein below.
- 5.2. Purchaser shall be entitled to claims for damages on the grounds of mandatory liability (in particular under the German Product Liability Act), in cases of death, injury or detriment of health, in cases of wilful damage or gross negligence, in conjunction with breaches of cardinal obligations also in cases of ordinary negligence, in cases of malicious non-disclosure of defects and on the grounds of a guarantee. In such cases Supplier is liable for its legal representatives and executive employees and in conjunction with breaches of cardinal obligations also for other persons employed in performing its obligation. Apart from liability on grounds of intent/gross negligence or cases of death, injury or detriment of health, liability in conjunction with breaches of cardinal obligations is limited to the foreseeable damage typical of the type of contract.
- 5.3. Supplier has taken out sufficient worldwide insurance for third party product liability to cover for personal injury and property damage. Claims for compensation of property damage based on product liability are therefore limited to the amounts owed by the insurance. As far as legally possible, Supplier assigns these insurance claims to Purchaser.
- 5.4. These provisions shall not affect the distribution of the burden of proof in legal action.
- 5.5. Purchaser's claims for damages shall elapse after 12 months. Liability under the Product Liability Act or on grounds of intent or fraudulent misrepresentation shall be time-barred in accordance with the statutory period of limitation.

6.0. Prices and payment

- 6.1. Unless otherwise agreed, prices shall be ex works (EXW Incoterms 2000) plus the statutory value added tax payable at the time. Additional costs such as packaging, freight, insurance, customs duties and the installation costs shall be charged separately.
- 6.2. Unless otherwise agreed, payments shall be made in cash within ten days of the date of invoice without any deductions, free at Supplier's payment office.
- 6.3. Should Purchaser fall into arrears with payments, interest at a rate 8 percentage points above the respective base interest rate shall be charged. Interest on arrears is to be charged at a higher rate should Supplier prove further legal entitlement for higher interest rates.
- 6.4. Purchaser may not exercise a right of retention and/or set off counterclaims, unless such counterclaim is undisputed or has been adjudicated by non-appealable judgement. Furthermore, the said shall not apply to claims based on defective delivery. If the delivery is divisible, the latter exception only relates to the part of the partial performance affected. In the case of a minor impairment, this exception does not apply, however, to that part of the payment exceeding the amount representing the loss of value of the goods delivered.
- 6.5. Supplier may suspend performance of delivery and service, should after formation of the contract it transpires that Purchaser will not fulfil a considerable part of its obligation due to its considerably impaired creditworthiness. Should Supplier suspend the performance of the contract, Supplier shall communicate so to Purchaser immediately and continue the performance, should Purchaser provide adequate security for the performance of its own obligations.



- 6.6. With regard to business transacted overseas, Supplier may also suspend performance of delivery, should foreign exchange turbulences result in currency disadvantages for Supplier of more than 10 %. Such currency disadvantage shall only have occurred after formation of the contract and before the first contractual delivery.

7.0. Retention of Ownership

- 7.1. Ownership of the goods delivered, that is title to and right of disposal of, does not pass onto Purchaser until each and every claim of Supplier against Purchaser on the basis of the delivery contract have been duly fulfilled. Supplier also claims the extended reservation of title under German law. Should the parties have agreed on the drafts and cheques payment procedure and should Supplier be liable to third parties, in particular to a bank, due to such bill of exchange, Purchaser's obligations shall not be considered fulfilled until such liability of Supplier out of said bill of exchange has finally ceased.
- 7.2. Pending final and due fulfilment of each and every claim of Supplier against Purchaser on the basis of the delivery contract, Purchaser shall not give the goods delivered in pledge or as security, resell these goods or assign rights to third parties that relate to these goods.
- 7.3. Should Purchaser resell the goods delivered in violation of this agreement or with the consent of Supplier, Purchaser now already assigns to Supplier each and every claim arising from such sale. Supplier accepts this assignment. Supplier may collect such claim against such third party directly. Supplier may also invoke its extended reservation of title to the goods delivered. In such a case, Purchaser shall inform Supplier of the claim assigned to Supplier and of the debtor, provide all information necessary for the collection of such claim, deliver to Supplier all of the respective documentation and inform the debtor of such assignment.
- 7.4. Any mixture, combination or adjunction of the goods delivered with other goods, shall always only be effected in the name of Supplier. Should the goods delivered be connected in such way with goods not belonging to Purchaser, Supplier shall be entitled to joint ownership in the new product in the ratio of the value of the goods delivered and the other goods' value.

Should, due to such processing, mixing or combination, Supplier's ownership cease and Purchaser's new product be the principal product, it shall be deemed agreed that Purchaser assigns to Supplier proportionate joint ownership in this product.

Should the goods delivered be permanently connected with land and/or buildings, Purchaser also assigns to Supplier the claim(s) arising from or in connection with such connection as a further security for Supplier's claims against Purchaser.

- 7.5. If the behaviour of Purchaser is in breach of contract, in particular in case of not inconsiderably delayed payment, pledging or assigning the goods delivered as security or other assignment to third parties, Supplier has the right to recover the goods delivered; Purchaser is obliged to surrender possession. The recovery by Supplier of the goods delivered does not constitute rescission of the contract.
- 7.6. In cases of seizure or other interventions by third parties, Purchaser shall inform Supplier in writing immediately in order to enable Supplier to file legal action in accordance with Section 771 of the German Code of Civil Procedure (ZPO). Should such third party be unable to reimburse Supplier including its in and out of court costs of such action pursuant to Section 771 ZPO, Purchaser is liable to Supplier for the respective costs and expenses.
- 7.7. Supplier undertakes to release, at the request of Purchaser, its securities insofar as their value in terms of collection of such exceeds the secured claim by more than 10 %.



- 7.8. During the duration of the retention of title, Supplier may insure the goods delivered at Purchaser's expense against theft, breakage, fire, water and other damage, unless Purchaser proves to have taken out sufficient insurance cover to such effect itself. At Supplier's request, Purchaser shall provide such prove by producing the actual insurance policy to Supplier.
- 7.9. In case of a delivery to a foreign Purchaser, the foreign Purchaser shall secure Supplier's ownership of the goods to be delivered in accordance with the statutory provisions of the delivery country and shall also assist where and to what extend may be necessary to secure Supplier's retention of ownership. In addition, such foreign purchaser shall also comply with German Law.
- 8.0. Place of performance, applicable law, venue, data protection, confidentiality, written form and partial invalidity**
- 8.1. Place of performance both regarding payment and delivery is at the registered office of Supplier.
- 8.2. These General Terms of Sale and Delivery and the entire legal relationships between Supplier and Purchaser shall be governed solely by German law with the application of the UN Convention on the International Sale of Goods (CISG) excluded.
- 8.3. In the event of any dispute arising from the contractual relationships between the parties, venue shall be Stuttgart. However, Supplier may choose to bring an action against Purchaser at the statutory venue of Purchaser.
- 8.4. The following provisions shall apply to the contractual relationships in the following priority:
- a) Individual contractual Agreements entered into between the parties.
 - b) These General Terms of Sale and Delivery.
 - c) Statutory law, in particular the German Commercial Code (HGB) and the German Civil Code (BGB).
- 8.5. Purchaser is advised, in accordance with Section 33 of the German Federal Data Protection Act (BDSG), that Supplier saves the contractual data in machine-readable form and processes these data as required according to the purpose of the contractual relationship. All data shall be kept in confidence. Both Purchaser and Supplier shall keep in confidence any information, of which it becomes aware of in the course of carrying out this contract, that is not known to the public and emanates from the other party's sphere.
- 8.6. Additional agreements, provisos, amendments and supplements require written confirmation by Supplier in order to be effective.
- 8.7. Should any of the provisions of these General Terms of Sale and Delivery or any other provision in connection with other stipulations be invalid or become invalid, the validity of all other provisions or stipulations shall remain unaffected.