

plant purchasing conditions

machines and systems including assembly work

1. conclusion of the contract

- 1.1. The contract between the Contractor and the Client shall be based exclusively on these Terms and Conditions for the Purchase of Equipment. The Contractor's general terms and conditions are hereby rejected.
- 1.2. Orders, agreements and amendments are only binding if they are issued or confirmed in writing by the client. Correspondence shall be conducted with the purchasing department. Agreements with other departments require express written confirmation by the purchasing department in the form of an addendum to the contract if agreements are to be made that change the points stipulated in the contract.
- 1.3. The Contractor shall treat the conclusion of the contract as confidential. He may only name the client as a reference to third parties with the client's written consent.

2. scope and execution

- 2.1. Unless otherwise agreed in the order text, the Contractor shall deliver a complete machine or system containing all parts necessary for faultless operation in compliance with the warranted characteristics, even if the individual parts required for this are not listed. The information provided by the customer must be checked by the contractor on his own responsibility. Machine elements and parts must be designed and arranged in such a way that they can be easily and quickly maintained, inspected and replaced. Wearing parts must have a long service life.
- 2.2. The client shall provide electrical energy at the installation site at a distance of no more than 100 metres at the respective available voltages and water without charge. The heating of construction accommodation with electrical energy is permitted within the scope of the given possibilities; electrical energy may not be used for heating purposes in other respects.
- 2.3. The contractor shall install, maintain and later remove the necessary supply lines and connections in accordance with the technical regulations at his own expense.
- 2.4. The scope of the order shall include the provision of all machinery, equipment, scaffolding, lifting gear, construction accommodation, etc. required for the fulfilment of the order. Insofar as the Client provides such items in individual cases, the Contractor shall be liable for the item and its use, unless the Client is (jointly) responsible.
- 2.5. Any additional hourly wage work that becomes necessary (attached hourly wage) may only be carried out on the express instructions of the Client's local construction management. The hours shall be recorded by the Contractor on the Client's hourly wage statement forms and submitted daily to the Client's local site management for countersignature; this relates exclusively to the number of hours.
- 2.6. If the Contractor wishes to use third party contractors to fulfil its obligations, it shall require the Client's consent before concluding the subcontracts

3. work in the client's plant area

- 3.1. Work that is to be carried out on the client's premises must not hinder the client's operations or third parties more than is unavoidable.
- 3.2. The sequence of the work must be agreed in good time with the client's responsible technical project manager.
- 3.3. Before the start of assembly and/or installation work, the Contractor must take over the construction site with all foundations, connections, markings, etc. that are important to him and check that they are correct.
- 3.4. When carrying out work, the Contractor shall have a special duty of care with regard to environmentally hazardous substances. If the contractor releases pollutants during the execution of the work, finds pollutants or suspects the presence of such substances, it must inform the client immediately.
- 3.5. The local construction management appointed by the client shall have the right to issue instructions on the construction site during the construction period. Instructions from other departments of the client may only be followed after consultation with the site management.
- 3.6. The Contractor must staff the construction site with a competent and experienced supervisor and provide this person with the necessary powers of attorney.
- 3.7. The Contractor shall submit to the local construction management a list with the names of the labour force it intends to employ in the works area. The list must be kept up to date at all times. If requested, the contractor must provide evidence that all labour employed has the legally required social security cover. For good cause, the Contractor may deny access to the Client's premises to any labour force deployed by the Contractor.
- 3.8. The Contractor shall ensure that the labour deployed by it follows the Client's instructions to maintain order and safety and submits to the usual inspection procedures.
- 3.9. All objects that are brought onto the client's premises are subject to factory inspection. Prior to transport to and from the premises, a written list of all items must be submitted to the Client's responsible technical site manager for signature and deposited with him. The Contractor and its subcontractors must label their tools and equipment as well as the assembly equipment clearly and unalterably with their name or company logo beforehand. Wagons and other means of transport shall only be dispatched during normal working hours.

4. prices and weights

- 4.1. The agreed prices are fixed prices plus VAT at the applicable rate.
The prices do not include necessary measures against frost, snow, heat and water damage.
- 4.2. If the agreed weights are undercut by more than 5% in the case of unit and flat-rate prices, the invoice amount shall be reduced by the full average price per kilometre for the excess weight. Additional

weights shall not be remunerated.

- 4.3. In the case of unit prices, only the weight actually delivered, but no more than the weight on the parts list, shall be paid.
- 4.4. The incoming weights determined by the client's weighing masters on the client's factory scales shall apply for determining the weight. If weighing at the client's premises is not possible, the weights determined by the railway authorities or, in the case of lorry deliveries, the weights determined on public scales shall apply. If weighing is not possible or not expedient for the client, the parts list weights shall apply.
- 4.5. If delivery parts with different unit prices or partly with unit, partly with piece or total prices are loaded together on one wagon, this must be emphasised in the dispatch note, stating the individual weights. If this is omitted, the weight distribution carried out by the client to the best of his knowledge shall apply. Construction and assembly equipment must not be weighed together with parts belonging to the delivery.
5. **trade terms**
The INCOTERMS in the version valid at the time of conclusion of the contract shall apply to the interpretation of the trade terms.
6. **proof of origin, proof of VAT, export restrictions**
 - 6.1. The Contractor shall provide any proof of origin requested by the Client with all necessary details and duly signed without delay. The same shall apply to VAT-related proofs for foreign and intra-Community deliveries.
 - 6.2. The Contractor shall inform the Client immediately if a delivery is wholly or partly subject to export restrictions under German or any other law.
7. **deadlines, delays**
 - 7.1. If the Contractor realises that the agreed deadlines cannot be met, it must inform the Client of this without delay. The obligation to meet the agreed deadlines remains unaffected.
 - 7.2. If the Contractor culpably fails to meet the agreed deadline or other deadlines agreed in the contract as subject to a contractual penalty, the Client shall be entitled to demand a contractual penalty of 0.1% of the total order value per calendar day of delay, up to a maximum of 5% of the total order value.
 - 7.3. In the event of default on the part of the Contractor, the Client may also, following the fruitless expiry of a reasonable grace period set by it, provide the goods and services not yet provided by the Contractor itself or have them provided by a third party at the Contractor's expense. If documents in the possession of the Contractor are required for this purpose, the Contractor shall hand them over to the Client without delay; if industrial property rights prevent the provision of the deliveries and services by the Client or a third party, the Contractor shall be obliged to procure a corresponding release from these rights without delay.
 - 7.4. Instead of the measure in accordance with the above paragraph, the client may withdraw from the contract after the fruitless expiry of a reasonable grace period set by him. Any contractual penalty that has become due by the time of cancellation shall remain unaffected.
 - 7.5. In addition to the provisions set out in the above paragraphs, the statutory provisions shall apply.
8. **settlement in the event of cancellation due to breach of contract**
If the Client exercises a right of cancellation to which it is entitled under the contract or by law due to a breach of contract by the Contractor, the deliveries/services performed up to that point shall only be invoiced at contract prices to the extent that they can be used by the Client as intended. Invoicing shall be on a contractual basis. Any damages to be paid to the client shall be taken into account in the settlement. The same shall apply with regard to any forfeited contractual penalty.



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9. performance verification and acceptance

- 9.1. If joint acceptance has been agreed, it shall take place at the place of receipt specified by the Client. The Contractor must request in writing that the acceptance date be set. Acceptance shall take place immediately and, in the case of machines and systems that require prior trial operation, within a period requested by the Contractor of no earlier than 4 weeks and no later than 3 months after the start of trial operation. As far as possible, the machine or system can also be used for production during the trial operation.
The material costs incurred during acceptance shall be borne by the Contractor. The Contractor and the Client shall each bear their own personal acceptance costs.
- 9.2. If the acceptance test shows that the machine or system has not been manufactured in accordance with the contract, the contractor must immediately restore the condition in accordance with the contract and request a repeat acceptance test within 3 months at the latest. All costs incurred in repeating the acceptance test shall be borne by the contractor.
- 9.3. If defects are found which do not affect the performance and function of the machine/plant or the safety and health of the employees, acceptance may be granted subject to the immediate rectification of these defects. An appropriate amount will then be withheld from the final payment until the defects have been rectified. However, the prerequisite for acceptance is in any case the conformity of the machine/plant with the Machinery Ordinance (9, Ordinance to the Product Safety Act (Machinery Ordinance/9th ProdSV)).
- 9.4. Acceptance shall be confirmed to the Contractor with the Client's acceptance report.

10. warranty

- 10.1. The machine/system must have the agreed quality, function and performance and comply with the relevant laws, regulations, directives and standards relating to occupational health and safety, environmental protection and fire protection.
Insofar as no deviating requirements arise from this or from the contract, the generally recognised rules of technology must be complied with.
- 10.2. The warranty period shall be 2 years² and shall commence on the acceptance date specified in the written declaration of acceptance by the Client. In the event that acceptance is delayed through no fault of the Contractor, the Client is prepared to agree a reasonable extended period at the request of the Contractor. The warranty period for spare parts, which are specifically designated as such in the contract, is 2 years after commissioning and ends no later than 30 months after delivery to the customer.
- 10.3. The Contractor shall remedy defects free of charge by rectification. If this is not possible, or if the client cannot reasonably be expected to accept improved deliveries and services, the contractor shall replace the defective deliveries and services free of charge
- 10.4. In urgent cases or if the Contractor is in default with the rectification of defects, the Client may carry out the necessary measures itself or have them carried out by a third party at the Contractor's expense. The Client shall notify the Contractor before the measures are carried out. If this is not possible, in urgent cases the measures required to prevent damage may be carried out without prior notification; in such cases the Client shall notify the Contractor without delay. The Contractor's warranty obligation shall remain unaffected; this shall not apply to defects that are attributable to measures carried out by the Client or a third party.
- 10.5. For repaired and replaced deliveries and services, a new warranty period shall commence upon written acceptance of these deliveries and services. If the customer does not submit the written declaration of acceptance within 15 working days of the contractor's written notification of the proper completion of the rectification of defects, the new warranty period shall commence upon expiry of the aforementioned period of 15 working days. The warranty period for repaired and replaced deliveries and services shall end no later than 12 months after the expiry of the original warranty period for the machine/system.
- 10.6. The warranty period shall be extended by the duration of this interruption for all parts of the machine/plant that cannot be used as contractually intended due to the interruption in operation caused by the need for repair work or the delivery of spare parts.
- 10.7. If it is not possible to remedy the defect or if the client cannot reasonably be expected to accept this, the right to cancellation or reduction shall remain unaffected.
- 10.8. The provision of § 377 HGB (German Commercial Code) shall be deemed waived.
- 10.9. In addition to the provisions set out in the above paragraphs, the statutory provisions shall apply.

11. drawings and other documents, tools

- 11.1. The content of all drawings must be discussed with the Client prior to commencement of the workshop work. After the work has been carried out, the Contractor must send the Client the drawings, calculations and other technical documents relating to the delivery/service in the required number and design by the time of acceptance at the latest. They must be brought up to date as soon as subsequent changes are made by the Contractor. The Contractor is obliged to transfer ownership of them to the Client free of charge. Intellectual property rights shall not be affected by this. The Client or third parties may use them free of charge to carry out maintenance and modifications and to manufacture spare parts.
- 11.2. The Client's approval of drawings, calculations and other technical documents shall not affect the Contractor's responsibility for the deliveries and services. Unless the Contractor objects in writing, this shall also apply to suggestions and recommendations of the Client and to changes discussed between the Contractor and the Client.
- 11.3. All execution documents, devices, tools, models and other items provided to the Contractor shall remain the property of the Client. Ownership of tools and other items paid for by the Client shall be transferred to the Client.
- 11.4. The aforementioned items may not be scrapped or made available to third parties - e.g. for the purpose of production - without the written consent of the client. They may not be used for purposes other than those contractually agreed - e.g. delivery to third parties. They shall be carefully stored by the Contractor at the Contractor's expense for the Client during the performance of the contract.

- 11.5. The Client reserves all rights to drawings or products manufactured according to its specifications and to processes developed by it.

12. accident prevention, emission limitation, immission damage, fire protection

- 12.1. The Contractor is obliged to comply with the laws, ordinances and regulations concerning the safety and health of employees, the protection of the environment, the transport of dangerous goods and fire protection, including the leaflets of the employers' liability insurance associations and the Association of Property Insurers, insofar as they are relevant to the performance of the delivery/service.
- 12.2. The Contractor shall obtain information from the Client's responsible specialists for occupational health and safety, environmental protection and fire protection about existing requirements, accident prevention, environmental protection and fire protection regulations for the place of fulfillment.
- 12.3. The Contractor shall ensure that all workers employed by him behave in an environmentally friendly, safety and fire protection-conscious manner.
- 12.4. Fire protection requirements of the plant/company fire brigade or the fire protection officer must be met in all cases. If work associated with fire hazards on or in the vicinity of systems at risk of fire and/or explosion, such as oil containers, cable systems, etc., cannot be avoided, it may only be carried out with the authorisation of the responsible plant manager. Unless otherwise agreed, the contractor shall provide a trained fire watch. After completion of the work, follow-up inspections must be carried out. This also applies to dismantling and scrapping work.
- 12.5. The Contractor shall indemnify the Client and the persons entrusted by the Client with the implementation or supervision of accident prevention, environmental protection, plant safety, fire protection, hazardous goods regulations and construction management against all claims asserted against the Client or the aforementioned persons for damages arising from a breach of the regulations to be observed by the Contractor in connection with the performance of the delivery/service. This shall also apply to claims for damage caused to third-party facilities (e.g. supply and disposal lines) during the execution of work; the Contractor must obtain detailed information about such third-party facilities from all competent authorities before commencing work. If damage occurs, the client and other responsible bodies must be informed.

13. delivery and shipping instructions, packaging

- 13.1. The specified delivery and shipping instructions as well as the Client's material specifications for packaging must be observed. Packaging shall be limited to the extent necessary to protect the goods and may only consist of environmentally compatible and recyclable materials. Unless otherwise agreed, packaging must be taken back.
- 13.2. Any costs incurred by the Client as a result of non-compliance with the delivery, dispatch and packaging regulations shall be borne by the Contractor.

14. payment

- 14.1. The client shall only make payment against invoice in accordance with the provisions of VAT law. All payments made by the client shall be listed in the final invoice.
- 14.2. Payments by the Client shall not constitute recognition of the invoice.
- 14.3. The Client may offset all claims that the Contractor has against it against all claims that it has against the Contractor.
- 14.4. Claims of the Contractor arising from this contract may not be assigned to third parties without the written consent of the Client.

15. place of fulfilment, partial invalidity, place of jurisdiction, applicable law

- 15.1. The place of fulfilment for deliveries and services is the place of use, for payments the registered office of the client.
- 15.2. In the event that individual provisions of the contract are invalid, the remaining provisions shall remain binding.
- 15.3. The place of jurisdiction shall be the registered office of the court with general jurisdiction for the Client. However, the Client may also sue the Contractor at its general place of jurisdiction.
- 15.4. In addition to the contractual provisions, the law of the Federal Republic of Germany applicable to the legal relationships of domestic parties shall apply exclusively, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

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