



## General Conditions of Sale

### I. Bids

1. The following General Conditions of Sale shall only apply insofar as no contrary stipulations are contained in the bid.
2. All documents and information that form part of the bid such as illustrations, drawings, weights and dimensions shall be considered provisional only, unless they have been expressly designated as being final. The vendor reserves his title and copyrights to all cost estimates, drawings and other documents. They may not be made available to a third party even after completion or termination of the contract and may be used only within the scope of said contract.

### II. Scope of supplies

1. The scope of supplies shall be as specified in the vendor's written order acknowledgement.
2. In the event that the vendor submits a bid containing a time limit and this is accepted within the specified time, the bid shall be decisive for the scope of supplies if no acknowledgement is received from the vendor in due time.

### III. Price and payment

1. Prices quoted shall be ex works excluding packing, unless otherwise agreed upon. V.A.T. at the legally applicable rate shall be added to these prices.
2. Unless otherwise stipulated in the purchase contract, payments shall be made without deductions directly to the vendor's bankers.  
The terms of payment are normally as follows:
  - 1/3 down-payment on receipt of order acknowledgement,
  - 1/3 as soon as the customer has been informed that the major parts ordered are ready for shipment,
  - 1/3 within 30 days after the second payment.
3. The vendor is entitled to demand a surety for payments due at a later date or for deferred payments.
4. In case of an increase of material prices, wages and other expenses which may occur after the order has been placed, the vendor reserves the right to adjust prices in accordance with the escalation clause stipulated in the contract.
5. If the customer is in arrears with his payments, the vendor may suspend the fulfillment of his obligations until the outstanding payments have been effected, or he may fix a time limit for these payments and, if this expires without payment having been made, terminate the contract. If the vendor terminates the contract, then he is entitled to compensation that corresponds to all the expenses he has incurred and services he has rendered to date. If, however, the customer is responsible for a delay in payment, then the vendor is entitled to the total contract price, less expenses not yet incurred.
6. The customer is not entitled to withhold or offset payments on account of possible counterclaims contested by the vendor.

### IV. Time of delivery

1. The time of delivery commences on the date when the order acknowledgement is dispatched, but not before the customer has furnished the necessary documents, permits and approvals, nor until the receipt of the agreed down-payment.
2. The material is considered to have been delivered on schedule if it has been dispatched from the manufacturer's works before the expiry of the stipulated time of delivery or if notice of readiness for dispatch has been given.
3. Partial deliveries shall be permitted.
4. The time of delivery shall be extended by a reasonable period in the event of measures taken within the framework of labour disputes, particularly strikes and lock-outs, as well as if unforeseen difficulties arise that are beyond the control of the vendor provided that it can conclusively be proved that these difficulties had a considerable influence on manufacture or delivery. This also applies if the difficulties occur in subcontractors' works. The conditions described above are likewise not the responsibility of the vendor if they occur during an already existing delay. In important cases, the vendor shall notify the customer as soon as possible of the beginning and termination of such difficulties.
5. If the customer has a proven financial loss because of a delay in delivery imputable to the vendor, then the customer may claim compensation therefor, to the exclusion of all other claims. This compensation shall not exceed ½ % for each full month of delay and 5 % of the total value of the portion of the delivery which due to the delay cannot be used at the time, or for the purposes, stipulated in the contract.
6. If shipment is delayed for reasons attributable to the customer, the costs incurred for storage shall be invoiced to him. If such material is stored on the vendor's premises, the customer will be invoiced with at least ½ % of the invoice value for each month after the date the material was ready for dispatch.  
The vendor reserves the right, after having set an appropriate time limit and after this period has elapsed to dispose of the material at his own discretion and to effect delivery at a reasonably later date.
7. The observation of the delivery time implies the fulfillment of the contractual obligations on the part of the customer.

### V. Passing of risk and taking of delivery

1. The risk shall pass to the customer, at the latest, on dispatch of the material to be supplied. This also applies to partial deliveries or if the vendor has assumed other obligations such as transportation costs, conveyance or erection. At the request

of the customer, each shipment will be insured by the vendor at the customer's expense against any damage that occurs due to breakage, fire and water, or in transit.

2. If dispatch is delayed for reasons beyond the vendor's control, the risk will pass to the customer on the day of notification that the shipment is ready for dispatch. The vendor, however, is obliged to obtain appropriate insurance cover at the request and expense of the customer.
3. Without prejudice to his rights under Clause VII, the customer shall take delivery of all material delivered even if it exhibits insignificant defects.
4. The International Rules for the Interpretation of Commercial Terms (INCOTERMS 2010) shall apply for additional clarification of these General Conditions of Sale.

### VI. Retention of title

1. The vendor retains the title to the material supplied until all payments under the contract have been received. The customer is responsible, at his own expense, for compliance with particular conditions and regulations of his country governing the validity of the title.
2. The vendor is entitled to arrange, at the customer's expense for insurance covering any damage to the ordered material by fire, water and other causes, unless the customer has already obtained insurance cover for these materials and produced sufficient proof thereof.
3. The customer shall not have the right to pledge or transfer any title to the material supplied as collateral surety. In case of seizures and distraints or any other warrant by a third party, the customer shall immediately inform the vendor accordingly.
4. In the event that the customer acts in a way contrary to the provisions of the contract, particularly in the event of a delay in payment, the vendor is entitled to repossess the goods after giving notice thereof, and the customer is obliged to surrender them. The assertion of retention of title and the vendor's seizure of the material shall not be considered as a withdrawal from the contract unless the law covering deferred terms of payment is applied. In the case of an international transaction, the vendor reserves the right to stipulate appropriate additional or deviating provisions under the legislation of the country concerned, in order to secure the title to the material.

### VII. Warranty

The vendor warrants the use of satisfactory material and the correct design and fabrication of the equipment and machinery to be supplied.

The liability of the vendor, which includes his responsibility for characteristics expressly warranted, shall be limited as follows, to the exclusion of any further claims:

1. The vendor shall at his own discretion and at no cost to the customer either repair or replace any parts, which have become unserviceable or whose serviceability has been greatly impaired due to incorrect design, faulty material or poor workmanship within 6 months (3 months if in continuous day and night operation) dating from the first day of utilization, providing these defects become apparent during this period. The vendor must be notified of these defects in writing without delay. Any parts replaced shall become the property of the vendor.  
In the event of a breakdown in plant operation caused by circumstances that are the responsibility of the vendor, the warranty period for those parts that cannot be used due to such stoppage shall be extended by the period of the stoppage.  
If shipping, erection or start-up is delayed for reasons not attributable to the vendor, the liability will expire at the latest 12 (twelve) months after the passing of risk.
2. The vendor's liability for failure to reach the warranted performance or consumption figures shall be limited to making the necessary improvements without charge, insofar as such failure can be proved to be due to faults imputable to the vendor. The vendor is considered to have met all his liabilities with respect to performance and consumption figures on the successful completion of the performance test run or, if no performance test run takes place, on acceptance of the plant by the customer.
3. The warranty of any material that is not provided by the vendor is limited to the particular warranty given by its manufacturer.
4. If the vendor supplies drawings or other documents for work to be executed by the customer, the vendor shall not be liable for any faults attributable to such drawings or documents except where such drawings or documents are supplied against the payment of a fee, in which case the vendor's liability shall be limited to half the amount of such fee.
5. The customer's right to raise claims for defects shall lapse within 6 (six) months from the date on which a notification in due form was made, or on expiry of the warranty period whichever is later.
6. No liability will be accepted for defects resulting from one or more of the following causes:  
Unsuitable or improper utilization and use of unsuitable or defective material or parts supplied by the customer, improper or incorrect design specified by the customer, incorrect assembly or start-up by the customer or any third party, normal wear and tear, incorrect or negligent treatment, use of inappropriate utilities, inadequate civil works, unsuitable building site, inadequate erection, chemical, electro-chemical, or electrical influences, provided that such causes are not attributable to the vendor.  
Furthermore, no liability will be accepted for defects due to corrosion insofar as these can be considered normal under the prevailing operating conditions.
7. The customer shall grant the vendor the required time and opportunity to make such repairs and replacements as the vendor may consider necessary. If the customer fails to do so, the vendor shall be relieved of his liability. The customer shall be entitled to do repair work or have repairs carried out by a third party at reasonable

expense to the vendor only in urgent cases where the safety of operation is in danger – in which case the vendor must be immediately notified – or, if the vendor has failed to correct a defect, within a reasonable time.

8. The provisions concerning time of delivery and warranties shall be applied analogously in case of unsatisfactory repairs or replacements. However, the vendor shall not accept any claim for delays. The warranty period for the replacement and the repairs shall end 3 (three) months after replacement/repair or on expiry of the original warranty period, whichever is later.
9. The vendor shall be relieved of his liability in the event that the customer or any third party carries out repair work or modifications in an improper manner or without the previous consent of the vendor.
10. If the performance test run or acceptance of the plant by the customer are delayed for reasons not attributable to the vendor, the vendor's liabilities as listed in items 1 and 2 above will be terminated within 2 months after the expiry of the agreed period, provided a period was agreed upon for these services.
11. The vendor has the right to refuse to correct defects as long as the customer has not met his obligations.  
The vendor shall not accept liability for defects that are not mentioned in these General Conditions of Sale or which are not covered by the warranties expressly agreed upon in the contract, whether they be defects or material or title.  
Further claims on the part of the customer, particularly claims in respect of any damage not caused to the goods themselves, are excluded.

#### VIII. Liability for collateral obligations

If, for reasons attributable to the vendor, the material supplied cannot be used in accordance with the contract due to omissions or faults in proposals made or advice given before or after the signing of the contract as well as any other collateral obligations, in particular, instructions for operation and maintenance of the material, the stipulations of Clause VII shall apply, to the exclusion of other claims by the customer.

#### IX. Impossibility of delivery; customer's rights

1. If, in consequence of unforeseen events as referred to in Clause IV (4) or due to Force Majeure, the vendor is prevented from executing the contract, be it either wholly or in part, the customer may, in case of complete impossibility and to the exclusion of other rights, terminate the contract and, in case of partial impossibility, demand a reasonable reduction in price.  
Should the customer terminate the contract under this clause, the vendor shall be entitled to compensation for all expenses and services rendered by him until such termination.
2. If the impossibility of execution arises through the customer's fault, or while there is a delay in acceptance of delivery, the customer shall pay the full contract price less any expenses not incurred by the vendor because of such impossibility.

#### X. Impossibility of delivery; vendor's rights

The vendor shall have the right to terminate the contract if unforeseen events, or those defined in Clause IV above, considerably modify the economic significance or the scope of services or considerably affect the works of the vendor, or if after conclusion of the contract, the impossibility of its execution is established. The vendor shall then be entitled to compensation for expenses incurred and services rendered by him until such termination.

#### XI. Taxes and other dues

The prices do not include any present or future taxes, levies and customs duties payable outside the Federal Republic of Germany in connection with the conclusion and/or execution of the contract. The customer shall assume financial responsibility for any taxes, levies or other duties which might be imposed on the vendor and meet any and all formal commitments connected therewith. The same shall apply with regard to the taxes and dues on remuneration for personnel assigned by the vendor to other countries.

#### XII. Plant visits

1. The vendor shall have the right to visit after prior notice, the plants supplied by him when they are in operation, as well as to inform himself of operational results and to show such plants to prospective customers, unless it is proved that such inspection would conflict with the owner's interests in the observance of secrecy or other essential interests.
2. The customer shall not have the right to allow any third party to inspect any plant supplied by the vendor, unless he has previously obtained the vendor's consent.

#### XIII. Assignments of rights

The customer and the vendor may not assign their contractual rights to any third party except by mutual consent. This does not affect the right of the vendor to transfer his claims for payment to financial institutions.

#### XIV. Erection and start-up

The conditions for erection and start-up shall be agreed upon separately in each particular case.

#### XV. Jurisdiction

Any disputes arising hereunder shall be settled before a competent Dortmund Court of Law, unless arbitration has been agreed upon in the contract. The vendor also reserves the right to bring a case before a Court of Law at the customer's legal domicile.

#### XVI. Negotiations with subcontractors

1. All negotiations with subcontractors shall be conducted by the vendor. As far as direct discussions between the customer and a subcontractor are necessary, they will be initiated by the vendor.
2. If the customer deems it necessary to procure any parts beyond the scope of supplies as outlined in the contract, whether for exchange, modification or replacement purposes, such items shall be procured through the vendor only.
3. This provision shall remain in force until the expiry of the warranties. Materials which, according to the contract, are to be provided by the customer are excluded from this clause.

#### XVII. Miscellaneous

1. With the exception of the rights explicitly granted to the customer under the contract and the General Conditions of Sale, the customer shall have no further rights under this contract, or as a result of any precontractual relations, to demand compensation for property damage.
2. If peremptory right precludes the application of specific conditions, such preclusions shall not affect the validity of the other conditions. The invalid conditions shall be newly interpreted in a sense that will render the desired economic result possible.
3. The vendor presumes that the customer is in a position to provide all raw materials, feedstocks, utilities and other auxiliary materials necessary for the continuous operation of the plant in sufficient quantity and quality.  
The customer is responsible for ascertaining which restrictions, patents or official regulations constitute a hindrance or might be invoked to hinder the erection of the installation or its continuous operation.
4. Any deviations from these General Conditions of Sale agreed upon between the parties are to be set forth in writing in the contract. Deviations, subsidiary agreements and conflicting provisions of the customer are only effective if they have been explicitly confirmed by the vendor in writing.

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