

Terms and Conditions for the Supply of Machines for Domestic Business

For use with respect to:

- 1. a person who upon conclusion of the contract acts in the performance of its commercial or independent professional work (entrepreneur);*
- 2. legal persons under public law or special funds under public law.*

I. General information

1. All deliveries and services shall be based on these conditions plus any separate contractual agreements. Divergent purchasing conditions of the Purchaser shall not become a part of the contract even upon acceptance of the order.

In the absence of a special agreement, a contract shall come into being with the Supplier's written order confirmation.

2. The Supplier shall retain title and copyright to samples, cost estimates, drawings and similar information in physical and non-physical - including electronic - form; they may not be made accessible to third parties. The Supplier agrees not to disclose any information or documents that were specified as confidential by the Purchaser to third parties without the Purchaser's prior consent.

II. Price and payment

1. In the absence of a special agreement, the prices shall apply ex works, including loading in the works, but not including packing and unloading. Value added tax at the current rate will be added to the prices.
2. In the absence of a special agreement, payment must be paid without any deduction within 30 days.
3. The Purchaser may only withhold payments or offset payments against counterclaims if such counterclaims are determined to be undisputed or legally binding.

III. Delivery time, delay in delivery

1. The delivery time is agreed upon by the contractual parties. Meeting the delivery time 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 and permits 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 the Supplier is responsible for the delay.
2. Compliance with the delivery deadline shall be subject to the proviso of correct and punctual deliveries to the Supplier. The Supplier shall notify the Purchaser as soon as possible of any imminent delays.
3. The delivery deadline shall be construed as met when the delivery item has left the Supplier's facility before the expiration of the deadline or if the Purchaser has been notified of its readiness for dispatch. If acceptance of goods has to be performed, then (except when refusal of acceptance is justified) the date of acceptance shall be definitive, or alternatively notification of acceptance readiness.
4. If the dispatch or the acceptance of the delivery item is delayed for reasons within the Purchaser's responsibility, then he shall be invoiced the costs incurred by the delay, beginning one month after

notification of readiness for dispatch or acceptance.

5. If the delivery is delayed by force majeure, industrial disputes or other such circumstances beyond the Supplier's control, the delivery time shall be extended commensurate to the circumstances. The Supplier shall inform the Purchaser as soon as possible of the beginning and ending of such circumstances.
6. The Purchaser may withdraw from the contract without giving notice if it is ultimately impossible for the Supplier to deliver the goods before passage of risk. The Purchaser may also withdraw from the contract if part of an order cannot be delivered and he has a justified interest in refusing the partial delivery. If this is not the case, the purchaser must pay the applicable contractual cost of the partial delivery. The same shall apply in the event of incapacity of the Supplier. Otherwise Section VII. 2 shall apply.

If impossibility or incapacity occurs during the delay of acceptance, or if the Purchaser is solely or for the most part responsible for these circumstances, he shall be held liable for payment.

7. If the Supplier defaults, and if the Purchaser suffers loss or damage thereby, he shall be entitled to demand a lump-sum compensation for such default. This shall amount to 0.5 % for each full week of delay, but up to a maximum of 5 % of the value of that part of the overall delivery which as a result of the delay could not be utilized on time or in accordance with the contract.

If the Purchaser - taking the statutory exceptions into consideration - sets the Supplier a reasonable deadline after the due date to perform the work, and this deadline is not met, the Purchaser may withdraw from the contract in accordance with statutory requirements. At the Supplier's request, the Purchaser shall be obliged to declare within a reasonable period, whether he wishes to exercise his right to withdraw from the contract.

Further claims due to delay in delivery are exclusively determined by Section VII. 2 of these conditions.

IV. Passage of risk, acceptance

1. The risk shall pass to the Purchaser when the delivery has left the Supplier's works, even if it is only a partial delivery by the Supplier or if the Supplier has been contracted to 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 be carried out immediately at the time of acceptance, or alternatively after the Supplier's notification of readiness of acceptance. The Purchaser may not refuse acceptance if a minor defect is found.
2. Should the dispatch or acceptance be delayed due to circumstances beyond the Supplier's control, the risk shall pass to the Purchaser from the day of notification of dispatch or acceptance readiness. The Supplier is obligated to take out the required insurance at the Purchaser's expense.
3. Partial deliveries shall be permissible, insofar as these are reasonable for the Purchaser.

V. Retention of title

1. The Supplier shall retain title to the delivery item until all payments – including, if applicable, any payments for ancillary secondary services – specified in the delivery contract have been received.

2. The Supplier shall be entitled to insure the delivery item at the Purchaser's expense against theft, breakage, fire, water and other damage, unless the Purchaser can provide proof that he has taken out such insurance cover himself.
3. The Purchaser may neither sell nor pledge the delivery item, nor assign it as security. In the event of attachments, confiscations or other dispositions by third parties, he must notify the Supplier thereof immediately.
4. In the event of a breach of contract on the part of the Purchaser, particularly default of payment, the Supplier shall be entitled to take back the delivery item after prior warning has been given, and the Purchaser shall be obligated to surrender it.
5. Due to the retention of title, the Supplier can demand surrender of the delivery item only if he has withdrawn from the contract.
6. An application to open insolvency proceedings with respect to the Purchaser's assets shall entitle the Supplier to withdraw from the contract and to demand the immediate return of the delivery item.

VI. Warranty claims

With regard to defects and defective titles, the supplier guarantees the following, with the exception of further claims, subject to Section VII:

Defects:

1. All parts which become defective due to circumstances occurring before the passage of risk must be repaired or replaced free of charge at the Supplier's discretion. The Supplier must be notified immediately in writing if any such defects are discovered. Replaced parts shall become the property of the Supplier.
2. After consulting with the Supplier, the Purchaser is to allow the Supplier the necessary time to carry out repairs and provide replacement parts; otherwise the Supplier shall be released from liability for the resulting consequences. 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 the Supplier must be informed immediately.
3. With respect to the direct costs incurred by the repair or replacement delivery, the Supplier shall bear the costs of the replacement piece including dispatch - insofar as the complaint proves to be justified. The Supplier shall also bear the direct costs of removing and installing, plus the costs for any necessary provision of the required fitters and assistants including travel costs, insofar as this does not entail an unreasonable burden for the Supplier.
4. The Purchaser has the right by law to withdraw from the contract if the Supplier – taking legal exceptions into consideration – does 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 right of reduction of the purchase price shall otherwise be precluded.

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

5. No warranty will, in particular, be given for the following cases:

Unsuitable or improper use, faulty installation and/or commissioning by the Purchaser or third parties, natural wear and tear, faulty or negligent handling, inadequate maintenance, unsuitable equipment, defective construction work, unsuitable subsoil, chemical, electro- chemical or electrical influences – unless they fall within the Supplier's scope of responsibility.

6. If the defect is rectified improperly by the customer or a third party, the Supplier shall bear no liability for the consequences arising thereof. The same shall apply for changes to the delivery item made without the Supplier's prior consent.

Defective titles:

7. If the use of the product supplied causes a breach of commercial proprietary rights or domestic copyrights in Germany, the Supplier shall at his own expense in all cases either provide the Purchaser with the right to continue use or modify the delivery item in such a way that is reasonable for 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 within a reasonable period of time, the Purchaser shall be entitled to withdraw from the contract. Under the above-mentioned preconditions, the Supplier shall also be entitled to withdraw from the contract.

In addition, the Supplier shall release the Purchaser from undisputed or non-appealable claims from affected copyright holders.

8. The obligations as defined in Section VI. 7 shall be final, subject to Section VII. 2, in the event of industrial property rights or copyrights being violated.

They shall only be 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 VI. 7 respectively,
- the Supplier is entitled to all rebuttal measures including out-of-court settlements,
- the defective title is not based on an instruction from the Purchaser and
- the breach of rights was not caused by a change made to the delivery item by the Purchaser himself or use which was not covered under the contract.

VII. Supplier's liability, exclusion from liability

1. If the delivery item cannot be used by the Purchaser for the contractually agreed purpose, due to negligence or fault on the part of the Supplier in the 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 delivery item – then the arrangements specified under Sections VI and VII. 2 shall apply correspondingly with the exception of further claims from the Purchaser.
2. For damage which is not to the delivery item itself the Supplier shall only be liable, for whatever legal reasons, in the following situations:
 - a) in the event of wrongful intent,
 - b) in the event of gross negligence on the part of the owner/the Boards or senior executives,

- c) in the event of culpable injury to life, body, health,
- d) in the event of defects which the Supplier maliciously did not reveal,
- e) within the framework of a warranty assurance,
- f) in the event of defects in the delivery item, insofar as liability exists under the German Product Liability Act for personal injury or property damage in privately used items.

In the event of culpable violation of significant contractual obligations, the Supplier shall also be liable in the event of gross negligence of non-senior executives and in the event of slight negligence; in the latter case, liability shall be limited to reasonably foreseeable loss or damage typical of the contract.

Further claims are excluded.

VIII. Statute of limitations

All claims of the Purchaser – for whatever the legal grounds – shall lapse within 12 months. Claims for damages under Section VII. 2 a – d and f shall be governed by the statutory period of liability. These shall also apply to defects in a structure or to delivery items which have been used for a structure in accordance with their customary manner of utilization, and have caused the structure concerned to be defective.

IX. Software usage

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 delivery item. Usage of the software on more than one system is prohibited.

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 shall be obligated not to remove or change any manufacturer's information, especially pertaining to copyright, without the prior explicit permission of the Supplier.

All other rights to the software and its documentation including copies remain the property of the Supplier or that of the software supplier. The granting of sub-licenses shall not be permissible.

X. Applicable law, place of jurisdiction

1. All legal relationships between the Supplier and the Purchaser shall be governed solely by the law of the Federal Republic of Germany.
2. The place of jurisdiction shall be the court competent for the headquarters of the Seller. The Supplier shall, however, be entitled to file a lawsuit at the Purchaser's head offices.