

General Terms and Conditions of Sale**I. General Provisions**

1. The scope of deliveries or services (hereinafter: deliveries) shall be governed by the mutual written declarations. However, the customer's general terms and conditions (terms and conditions of purchase) shall only apply insofar as we have expressly agreed to them in writing.
2. We reserve unrestricted ownership and copyright exploitation rights to cost estimates, drawings and other documents (hereinafter: documents). They may only be made available to third parties with our prior consent and must be returned immediately if the order is not placed with us. We are entitled to make the Customer's Documents available to third parties to whom we are authorised to place a supply order.
3. The customer has the non-exclusive right to use any software developed by or for us in connection with the order. Furthermore, the customer may make backup copies even without an express agreement.
4. Partial deliveries are permitted, provided they are reasonable for the customer.

II. Quotation and Conclusion of Contract

1. Our quotations are subject to change without notice with regard to availability, delivery time and price. We reserve the right to prior sale. A delivery obligation arises only after an order has been placed/our order confirmation has been issued.
2. Where we do not manufacture the goods ourselves, the following applies: We assume no procurement risk; we are entitled to withdraw from the contract if and to the extent that, despite having previously concluded a purchase/supply contract on our part, we do not receive the goods to be supplied. Our liability for intent or gross negligence remains unaffected. We shall inform the customer immediately of any delay in the availability of the goods and, if the customer wishes to withdraw, shall exercise the right of withdrawal without delay.
3. Orders placed with us by a customer are binding. Unless already accepted informally, they shall be deemed accepted at the latest when confirmed by us in writing or, in the case of prompt delivery, by the issue of an invoice, provided that no objection has been raised in writing without delay.
4. Specifications regarding the goods to be delivered, in whatever form, are to be regarded as approximate; they shall only be deemed to constitute an agreed guarantee of quality or durability if this is expressly stated for individual specifications. The areas
 - Engineering
 - Documentation
 - Manufacturing
 - Delivery
 - Assembly
 - Commissioning
 - Trial operationare separate stages of performance and are to be remunerated separately. They are only part of the contract if they are expressly agreed.
5. If the customer provides dimensional drawings to define the delivery item, any errors or ambiguities leading to faulty manufacture or delivery shall be at the customer's expense. The same applies to the specification of quantities, net weights, materials, quality and the indication of the intended use. This also applies to material strength, surface hardness and finish. The customer shall be liable for the accuracy of such information even if we have provided engineering assistance; it is therefore the customer's responsibility to verify the accuracy and completeness of their information, provided that we have resubmitted it to the customer for approval.
6. The obligations of the contracting parties shall remain unaffected by public or private law approvals, conditions and declarations by third parties. The customer may not demand a temporary suspension of services.
7. Verbal side agreements must be in writing; this also applies to any agreement to waive the written form requirement. If one of the contracting parties invokes a fixed-price agreement, it must provide evidence thereof.

III. Prices and Terms of Payment

1. Prices are quoted ex works, excluding packaging, plus the applicable statutory value added tax.
2. If we have undertaken the installation or assembly, commissioning or participation in trial operation and nothing else has been agreed, the customer shall bear, in addition to the agreed remuneration, all necessary ancillary costs for technicians, assembly staff, commissioning engineers, electricians and fitters in accordance with our standard hourly rates. The hourly rates apply to a working day of ten hours. Assignments exceeding ten hours shall be remunerated with the standard surcharges. The customer shall also bear ancillary costs such as travel expenses, costs for the transport of tools and personal luggage, as well as subsistence allowances. It is the customer's responsibility to arrange for the countersigning of timesheets and to inform us accordingly.
3. Payments are to be made to the contractor, free of charge, at the Munster payment office.
4. The Client may only set off claims that are undisputed or have been legally established.

IV. Retention of title

1. The items of delivery (goods subject to retention of title) shall remain our property until all claims to which we are entitled against the customer arising from the business relationship have been satisfied. Insofar as the value of all security interests to which we are entitled exceeds the amount of all secured claims by more than 20%, we shall release the portion of the security exceeding 20%.
2. While the retention of title remains in force, the purchaser is prohibited from pledging or transferring ownership by way of security, and resale is permitted only to resellers in the ordinary course of business and only on condition that the reseller receives payment from their customer or stipulates that ownership shall not pass to the customer until the latter has fulfilled their payment obligations.
3. Furthermore, the following applies: The purchaser hereby assigns to us, as of today, his future claims arising from the sale of goods subject to retention of title to his customers and undertakes to safeguard our rights, in particular to notify us immediately of any resale. The assigned claim serves as security for us only to the extent of the value of the goods subject to retention of title sold in each instance.

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4. Furthermore, the following applies: If goods subject to retention of title are incorporated by the purchaser as an integral part into the property of a third party, the purchaser hereby assigns to us, with immediate effect, the claim for remuneration arising against his customer in the amount of the value of the goods subject to retention of title, together with all rights, with priority over all other claims. If goods subject to retention of title are incorporated by the purchaser as an integral part into their own property, they hereby assign to us the claim arising from the sale of the property or property rights in the amount of the value of the goods subject to retention of title, together with all rights, with priority over all other claims.
5. In the event of the processing or treatment of the goods subject to retention of title, or in the event of combination, we shall be entitled to ownership of the resulting item in proportion to the value of the goods subject to retention of title to the value of the new item. Our ownership rights shall continue in the claims of the purchaser against its contractual partners in the event of sale or, in the case of incorporation, as set out above.
6. In the event of breaches of duty by the customer, in particular in the event of default in payment, we shall be entitled to withdraw from the contract or to reclaim the goods after the expiry of a reasonable period set for this purpose; the statutory provisions regarding the dispensability of setting a deadline remain unaffected. The customer is obliged to surrender the goods. A mere request for surrender does not constitute a declaration of withdrawal.

V. Delivery times; delay

1. Compliance with delivery deadlines is subject to the timely receipt of all documents to be supplied by us, necessary approvals and clearances, in particular drawings, as well as compliance by the purchaser with the agreed terms of payment and other obligations. If these conditions are not met in good time, the deadlines shall be extended accordingly; this shall not apply if the delay is attributable to us.
2. If failure to meet deadlines is due to force majeure, e.g. mobilisation, war, civil unrest, or similar events, e.g. strikes, lockouts, the deadlines shall be extended accordingly.
3. Delivery dates (including documentation dates and completion dates) are only binding on us if they are expressly specified in writing and in accordance with the calendar. If delays arise because the subcontractors commissioned by the customer have fallen into default with their services or have performed them defectively, our liability is excluded; their default is attributable to the customer.
4. Claims for damages by the customer due to delayed delivery, claims for damages by the customer due to delayed delivery, and claims for damages in lieu of performance are excluded in all cases of delayed delivery, even after the expiry of a set deadline. This shall not apply in cases where liability is mandatory due to intent, gross negligence or injury to life, limb or health. The customer may withdraw from the contract within the framework of the statutory provisions only to the extent that we are responsible for the delay. The above provisions do not entail a shift in the burden of proof to the detriment of the customer.
5. The customer is obliged, at our request, to declare within a reasonable period of time whether they wish to withdraw from the contract due to the delay in performance or insist on delivery.
6. If dispatch or delivery, or furthermore assembly, is delayed at the Customer's request by more than 14 days after notification of readiness for dispatch, we shall be entitled to charge the Customer a storage/order fee of 0.5% of the price of the items to be delivered for each week or part thereof, up to a maximum of 10%. The contracting parties remain free to provide evidence of higher or lower storage/order costs.

VI. Transfer of risk

1. The risk shall pass to the customer as follows, even in the case of carriage paid delivery:
 - a) In the case of delivery without installation or assembly, upon handover to the carrier (freight forwarder) or the party collecting the goods. At the customer's request and expense, we will insure deliveries against the usual transport risks;
 - b) for deliveries including installation – irrespective of any acceptance proceedings – on the day of actual handover or installation in a building or – in the case of component delivery – in a complete system; it is the customer's responsibility to protect the products, components and units delivered by us or brought for installation against damage.
2. If dispatch, delivery, the commencement or performance of assembly is delayed for reasons for which the customer is responsible, or if the customer is in default of acceptance for other reasons, the risk shall pass to the customer upon the occurrence of the default.

VII. Installation and assembly

Unless otherwise agreed in writing, the following provisions shall apply to installation and assembly:

1. The customer shall bear the costs and provide in good time:
 - a) All foundation, construction and other ancillary work not specific to the industry in accordance with the structural requirements applicable to the plant, including the necessary skilled personnel, building materials and tools,
 - b) the items and materials required for assembly and commissioning, such as scaffolding, lifting equipment and other fixtures, fuels and lubricants,
 - c) energy and water at the point of use, including connections, heating and lighting,
 - d) sufficiently large, suitable, dry and locked rooms at the installation site for the storage of machine parts, repairs, materials, tools, etc., and appropriate work and rest areas for the installation personnel, including sanitary facilities appropriate to the circumstances; Furthermore, the customer shall take the measures to protect the property and the delivery personnel on the construction site that he would take to protect his own property,
 - e) protective clothing and protective equipment required due to special circumstances at the installation site.
2. Before installation begins, the customer must provide the necessary information regarding the positioning of the systems, system parts and sub-components, as well as the location of concealed electricity, gas and water pipes or similar installations.
3. Before installation begins, the supplies and items required to commence work, connections required for the commencement of work must be in place at the installation site, and all preparatory work must be sufficiently advanced prior to the start of construction so that the installation or assembly can be commenced as agreed and carried out without interruption. The access route and the installation and assembly site must be levelled and cleared.
4. If the installation, assembly or commissioning is delayed due to circumstances for which we are not responsible, the customer shall bear the costs for waiting time and additional travel to a reasonable extent.
5. The customer must certify to us on a weekly basis the duration of the working hours of the assembly personnel and the completion of the installation, assembly or commissioning without delay.

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6. If we request acceptance of the delivery upon completion, the customer must carry this out within one week; thereafter, acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place if the delivery has been put into use; this shall also be the case if the customer or third parties commissioned by the customer have carried out connection work.
For the avoidance of doubt: Acceptance is not dependent on commissioning or the performance of a trial run.

VIII. Acceptance

The customer may not refuse to accept our delivery on the grounds of minor defects.

IX. Material defects

We shall be liable for material defects as follows:

1. All workpieces which, within the limitation period – irrespective of the duration of use – exhibit a material defect, provided that the cause of such defect already existed at the time of the transfer of risk, shall, at our discretion, be repaired, replaced or re-performed.
2. Claims for material defects shall become time-barred after 12 months. This shall not apply where the law prescribes longer periods pursuant to Sections 438(1) No. 2 (buildings and items for buildings), Section 479(1) (right of recourse) and Section 634a(1)(2) (construction defects) of the German Civil Code (BGB) prescribe longer periods, as well as in cases of injury to life, limb or health, in the event of an intentional or grossly negligent breach of duty on our part, and in the event of fraudulent concealment of a defect.
The statutory provisions regarding the suspension, interruption and recommencement of time limits remain unaffected.
3. The customer must notify us of material defects in writing without delay.
4. In the event of a notice of defects, the customer may withhold payments only to an extent that is proportionate to the material defects that have arisen and where there is no doubt as to their justification. If the notice of defects was unjustified, we are entitled to demand reimbursement from the customer for the expenses incurred by us.
5. We must first be given the opportunity to remedy the defect within a reasonable period.
6. If the subsequent performance fails, the customer may – without prejudice to any claims for damages pursuant to Clause XII (other claims for damages) – withdraw from the contract or reduce the remuneration.
7. Claims for defects shall not apply in the case of only minor deviations from the agreed quality, in the case of only minor impairments to the technical specifications and functions expressly stated in the contract, nor in the case of only minor impairments to usability, natural wear and tear, or damage arising after the transfer of risk as a result of faulty or negligent handling, excessive strain, unsuitable operating materials, defective construction work, unsuitable building ground, or damage caused by special external influences not provided for in the contract. If improper modifications or repair work are carried out by the customer or third parties, no claims for defects shall arise in respect of such work or the resulting consequences.
8. Claims by the customer for expenses necessary for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded insofar as the expenses increase because the subject of the delivery has subsequently been moved to a location other than the agreed place of delivery.
9. The customer's claims for recourse against us pursuant to Section 478 of the German Civil Code (BGB) (recourse of the contractor) shall only exist to the extent that the customer has not entered into any agreements with its customer that go beyond the statutory claims for defects. The above clause 8 shall apply mutatis mutandis to the scope of the purchaser's right of recourse against us pursuant to Section 478(2) of the German Civil Code (BGB).
10. For claims for damages, Section XII (other claims for damages) applies in all other respects. Any further claims or claims other than those governed by this section which the purchaser may have against us and our vicarious agents on account of a material defect are excluded.
11. In the case of boiler repairs, we shall only provide a warranty for welds manufactured by us insofar as the customer proves that the defect claimed is due to wilful misconduct or gross negligence on our part.

X. Industrial property rights, copyright, legal defects

1. Unless otherwise agreed, we are obliged to deliver the goods free from third-party industrial property rights and copyrights (hereinafter: property rights) solely within the country of the place of delivery. If a third party asserts justified claims against the customer on the grounds of an infringement of property rights by deliveries made by us and used in accordance with the contract, we shall be liable to the customer within the period specified in Section IX, No. 2, as follows:
 - a) At our discretion and at our expense, we shall either obtain a right of use for the deliveries in question, modify them so that the intellectual property right is not infringed, or replace them. If this is not possible for us on reasonable terms, the customer shall be entitled to the statutory rights of withdrawal or reduction.
 - b) Our obligation to pay damages is governed by Clause XII.
 - c) The aforementioned obligations shall apply only insofar as the Customer informs us immediately in writing of the claims asserted by third parties, does not acknowledge any infringement, and we reserve the right to take all defensive measures and conduct settlement negotiations. If the customer ceases use of the delivery for the purpose of mitigating damage or for other important reasons, they are obliged to inform the third party that the cessation of use does not constitute an acknowledgement of an infringement of property rights.
2. Claims by the customer are excluded to the extent that the customer is responsible for the infringement of property rights.
3. Claims by the Customer are further excluded insofar as the infringement of property rights is caused by specific requirements of the Customer, by an application not foreseeable by us, or by the fact that the delivery has been modified by the Customer or used in conjunction with products not supplied by us.
4. In the event of infringements of property rights, the claims of the customer as set out in No. 1a) above shall apply; in all other respects, the provisions of Section IX, Nos. 4, 5 and 9 shall apply mutatis mutandis.
5. In the event of other defects of title, the provisions of Section IX shall apply mutatis mutandis.
6. Any further claims or claims other than those set out herein by the customer against us and our vicarious agents on the grounds of a legal defect are excluded.

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1. Where delivery is impossible, the customer shall be entitled to claim damages, unless we are not responsible for the impossibility. However, the customer's claim for damages shall be limited to 5% of the value of that part of the delivery which, due to impossibility, cannot be put into service for a similar purpose. This limitation shall not apply in cases where liability is mandatory due to intent, gross negligence or injury to life, limb or health; this does not entail a shift in the burden of proof to the detriment of the customer. The customer's right to withdraw from the contract remains unaffected.
2. Insofar as unforeseen events have a significant impact on the economic significance or on our operations, the contract shall be adjusted appropriately in accordance with the principles of good faith. Insofar as this is economically justifiable, we shall be entitled to withdraw from the contract.

XII. Other claims for damages

1. Claims for damages and reimbursement of expenses by the customer (hereinafter: claims for damages), regardless of the legal basis, in particular due to breach of obligations arising from the contractual relationship and from tort, are excluded.
2. This shall not apply where liability is mandatory, e.g. under the Product Liability Act, in cases of intent or gross negligence, in the event of injury to life, limb or health, or in the event of a breach of material contractual obligations. However, the claim for damages for the breach of essential contractual obligations is limited to the foreseeable damage typical for the contract, provided that there is no intent or gross negligence or liability arises from injury to life, limb or health. The above provisions do not entail a shift in the burden of proof to the detriment of the customer.
3. Insofar as the customer is entitled to claims for damages under the above provisions, these shall become time-barred upon expiry of the limitation period applicable to claims for material defects. In the case of claims for damages under the Product Liability Act, the statutory limitation provisions shall apply.
4. Claims for damages by the customer, regardless of the legal basis, are excluded in respect of the employment or commissioning of third parties (e.g. insulators, scaffolders, electricians), loss of production and loss of profit.

XIII. Place of jurisdiction and applicable law

1. The general place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship, where the customer is a merchant, a legal entity under public law or a special fund under public law, is Twist. However, we are also entitled to bring an action at the customer's registered office.
2. The legal relationship in connection with this contract shall be governed by German substantive law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XIV. Binding nature of the contract

The contract shall remain valid in its remaining parts even if individual provisions are legally invalid. This shall not apply if adherence to the contract would constitute an unreasonable hardship for one of the parties.