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1. Standard provisions

These General Terms & Conditions of Delivery apply to all offers, deliveries and services of Ingenieurtechnik und Maschinenbau GmbH (hereinafter referred to as the "Seller") to its customers (hereinafter referred to as the "Buyer"). The legal relation between the Seller and the Buyer is based solely on these General Terms & Conditions of Delivery and Service. Modifications and amendments must be in writing. Any general terms and conditions of delivery and services or general terms and conditions of the Buyer apply only if we have expressly agreed to them. These provisions also apply to all future business between the contracting parties.

2. Offers, orders

- a) Purchase orders and contracts placed by the Buyer are only considered accepted once we have confirmed them in writing. The same applies to agreements on modifications or amendments to contracts and purchase orders.
- b) Any technical documents belonging to the offer, such as drawings, illustrations and dimensions are not binding, unless they have been expressly stated as binding in the contract. The same applies to information in sales brochures, price lists, documents regarding offers or other documentation from the Seller. Any inadvertent errors in this documentation may be corrected by the Seller, without the latter being held liable for any damage incurred as a result of these errors.
- c) Technical documents provided after the conclusion of the contract are definitive and binding.
- d) The Buyer is responsible for the accuracy of the purchase order. He is responsible to ensure that the Seller is provided with all the required information regarding the purchased goods or services within a reasonable period to permit the order to be carried out in accordance with the contract.
- e) Purchase orders from the Buyer are binding. Delivery times are only regarded as agreed if they have been confirmed in writing by the Seller.
- f) The contract becomes effective upon receipt of the Seller's written confirmation or delivery of the goods.

3. Price

- a) Unless there is an individual contractual arrangement, the purchase price is the price specified by the Seller or, if no price has been specified explicitly, the price listed in the Seller's current price list as applicable at the time of purchase.
- b) Unless otherwise agreed in writing, prices are ex works (EXW IMG Rostock, Incoterms® 2010) excluding packaging costs. They are net prices and exclusive of the value added tax applicable at the time of invoicing.
- c) Unless a fixed price agreement has been reached, the Seller reserves the right to increase the price of the goods. The Seller shall notify such a price increase to the Buyer in good time and before delivery of the goods, in a manner and to the extent required as a result of a general price trend that is beyond the Seller's control (such as exchange rate fluctuations, currency regulations, customs-related changes, significant increase in the costs of material or production). The Seller will disclose the relevant calculation basis for the price increases in the notification.
- d) If the basic price factors (in particular raw materials, purchased parts) change by more than 5% within the first 4 months after signing the contract, the parties shall agree on a reasonable adjustment of the contract price. If the parties cannot come to an agreement, the arbitration board of the IHK (German

Chamber of Industry and Commerce) at the Seller's location will decide what a reasonable increase should be.


4. Terms of payment

- a) Payment is due in full on the dates specified in the agreed payment schedule, however at the latest upon delivery. The Buyer is in arrears with the payment without any further notification if payment has not been received within 14 days after the due date.
- b) Regardless of any other claims, the debtor must pay default interest at the rate of 6 percent per annum in the event of a default of payment, without being prevented from providing evidence of a lesser damage, at least however at the statutory interest rate in accordance with § 288 BGB (German Civil Code).
- c) In case of defects, the Buyer is not entitled to a right of retention, unless the delivery is evidently defective or the Buyer is obviously entitled to decline acceptance. In such a case, the Buyer is only entitled to retain payments, if the amount retained is reasonable and in proportion to the defects and the expected costs of the subsequent performance (in particular the elimination of the defects).
- d) The Buyer is not entitled to assert claims and rights for defects, if he has not made the due payments and insofar as the due amount (including any payments made) is reasonable and in proportion to the value of the – defective – delivery or work. The Buyer can only set off those claims that are undisputed or legally valid.
- e) Payments should be made by bank transfer only. Payments by cheque or bill of exchange will not be recognised as an appropriate means of payment unless otherwise agreed individually by the parties to the contract.
- f) If the Buyer does not comply with the terms of payment, the Seller can request advance payments or the provision of securities for outstanding deliveries regardless of statutory rights. After expiry of a reasonable extension of time to provide such securities, the Seller can terminate the contract and demand compensation.

The same applies if, with the due care and diligence of a prudent businessperson, circumstances become known that give rise to justifiable doubts as to the creditworthiness of the Buyer. In particular, if the Buyer has ceased payments, insolvency proceedings have been opened on the assets or such proceedings were rejected due to lack of assets.

5. Delivery

- a) Deliveries are ex works, unless otherwise agreed in writing (EXW IMG Rostock, Incoterms® 2010) excluding packaging costs.
 - a) The goods will always be delivered from the Seller's warehouse/factory.
 - b) The risk is passed on to the Buyer once the shipment has been handed over to the person in charge of the transportation, i.e. before the start of loading. In the case of a delivery or return shipment of goods to the Seller's factory/warehouse, the risk is only passed on once the goods have been handed over to the Seller, i.e. only after the unloading process has been completed.
 - c) Section 8.2. applies irrespective of whether the assembly is carried out by us or not, whether the goods were shipped from the place of performance and who bears the freight costs.

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d) If the goods are ready for shipping and dispatch or approval is delayed for reasons for which the contractor/Seller is not responsible, the risk is passed on to the customer/Buyer upon receipt of the notification that the goods are ready for shipping.

e) There will be no replacement for lost goods. The contractor/Seller does not assume any liability for breakage, theft, etc. Any damages must be determined and verified in writing by the recipient upon receipt for the shipping agent, so that the latter can be made responsible to cover any damages.

6. Partial deliveries

Partial deliveries are permitted, if they are reasonable for the Buyer and unless agreed otherwise in writing.

7. Assembly

a) If the assembly is performed by the Seller's fitters, the costs are borne by the Buyer. Any helpers required will be provided by the Buyer at no charge.

b) The costs are based on the Seller's service rates.

c) If the assembly work is carried out for a lump sum, the estimate includes all individual items listed in article 7 clause 1. Should the duration of the assembly increase for any reason for which the customer/Buyer or one of his suppliers is responsible, the waiting period, any additional working hours, the entire accommodation expenses and the additional travel expenses of the assembly staff will be invoiced separately.

8. Self-supply reservation

The obligation to delivery any products is subject to the condition that we have been supplied correctly and in due time by our suppliers. The Seller will inform the Buyer immediately if the delivery item is not available and in the event of a cancellation, any payments made will be reimbursed to the Buyer immediately.

9. Reservation of title

a) The delivery item remains the property of the Seller until all claims on the Buyer, to which the Seller is entitled as a result of the business relationship, are met.

b) The Buyer is permitted to process or rework ("processing") the delivery item. Any processing is carried out on behalf of the Seller. However, if the value of the delivery item belonging to the Seller is lower than the value of the goods not belonging to the Seller and/or the processing, the Seller will acquire co-ownership of the new product in line with the value (gross invoice value) of the processed delivery item proportional to the value of the remaining processed goods and/or of the processed goods at the time of processing. If, in accordance with the above, the Seller does not acquire ownership of the new product, the Seller and the Buyer agree that the Buyer will grant co-ownership of the new product to the Seller in line with the value (gross invoice value) of the delivery item belonging to the Seller proportional to that of the other processed goods at the time of processing. The aforementioned clause shall apply accordingly if the delivery item is inextricably combined or connected with goods not belonging to the Seller. If the Seller acquires ownership or co-ownership in accordance with this section 9 (reservation of title), the Buyer shall arrange secure storage for the Seller with due professional care.

c) If the delivery item or new product is sold, the Buyer hereby assigns to the Seller by way of security its claims arising from the resale against its customer with all ancillary rights, without any separate declaration being required. The assignment includes any balance claims. However, the assignment applies only for the amount corresponding to the price of the delivery item invoiced by the Seller. The claim amount assigned to the Seller must be satisfied as a priority.

d) If the Buyer combines the delivery item or the new product with land, without the need for any separate declaration it will also assign its claim, to which it is entitled as remuneration for this combination, for the amount that corresponds to the price of the delivery item charged by the Seller.


e) Until cancelled, the Buyer is entitled to collect the receivables assigned to the Seller in accordance with section 9 (reservation of title). The Buyer will immediately pass on to the Seller any payments made towards the assigned claims up to the amount of the secured claim. If there is a legitimate interest, in particular in the case of payment default, a stoppage of payment, opening of insolvency proceedings, bill protest or legitimate indications for over-indebtedness or impending insolvency of the Buyer, the Seller is entitled to revoke the Buyer's collect authorisation. Furthermore, after giving an advance warning and observing a reasonable period of notice, the Seller can also disclose the assignment by way of security, realise the assigned claims and demand that the Seller discloses the assignment by way of security to its customers.

f) When a legitimate interest is substantiated, the Buyer shall give the Seller the information it requires to assert its rights against the customer and to hand out the required documents.

g) For the duration of the reservation of title, the Buyer is forbidden to pledge or transfer by way of security. The Buyer shall notify the Seller immediately of any pledges, seizures or other instructions or interventions by third parties. Resellers are permitted to resell the delivery item or the new product only during the proper course of business and only on the proviso that the Buyer is paid the consideration for the delivery item. The Buyer must also agree with its customer that ownership is acquired only once payment has been effected by the customer.

h) If the realisable value of all security interests, to which the Seller is entitled, exceeds the amount of all secured claims by more than 10 %, the Seller will release a corresponding part of the security interests at the Buyer's request. It is assumed that the requirements mentioned in the previous sentence are met, if the estimated value of the securities to which the Seller is entitled, amounts to or exceeds 150 % of the value of the secured claims. The Seller has the right to select which of the various security interests will be released.

i) In the event of breaches of contract on the part of the Buyer, in particular payment default, the Seller is entitled, even without a deadline, to demand the handing over of the delivery item or new product and/or – if necessary, after setting a deadline – to withdraw from the contract; the Seller is obliged to hand over the delivery item. The demand for the delivery item/new product to be handed over does not constitute a declaration of withdrawal on the part of the Seller, unless this is explicitly declared.

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10. Defects

- a) Minor deviations from the agreed quality or slight impairments of usability do not constitute claims for defects.
- b) The Seller is entitled to choose between the elimination of the defects and a replacement in each case. The Buyer must make any requests for supplementary performance in writing. The Seller must be granted a period of 60 days for supplementary performance. If the goods are to be repaired, the rectification of the defects is only deemed to have failed after a second fruitless attempt. If the supplementary performance fails, the Buyer is entitled to a reduction or, provided the liability for defects does not relate to construction services, to withdraw from the contract as it deems fit. This does not affect the statutory provisions on the dispensability of setting deadlines. The application of §§ 478, 479 BGB (contractor's right of recourse) remains unaffected.
- c) Any expenses required for the supplementary performance shall be borne by the Buyer, insofar as such expenses are increased by the shipment having to be transported to a location other than the Buyer's subsidiary, unless the transportation is consistent with the intended use. Irrespective of further claims by the Seller, the Buyer must reimburse the Seller for expenses incurred for inspecting and, if requested, for eliminating the defect in the case of unjustified complaints.
- d) All deliveries provided by the Seller shall be inspected by the Buyer immediately for visible defects.
- e) Defects must always be notified to the Seller within 10 working days after they have been determined.
- f) Defects arising from improper handling, operation and storage are excluded from the warranty. During the defects liability period, warranty will expire if repair work or other alterations and/or adaptations/processing are performed by the Buyer or a third party on the contractual products supplied by the Seller without its consent.

11. Liability

- a) The Seller is liable in accordance with statutory provisions in cases of intent or gross negligence on the part of the Seller or one of its representatives or vicarious agents, as well as in the case of injury to life, body or health caused by slight negligence. In cases of gross negligence, the Seller's liability is limited to the typical contractual, foreseeable loss unless any exceptions other than those listed in clause 1 or clause 3 of this para. a) exist. Otherwise the Seller is only liable according to the Product Liability Act due to a culpable breach of an essential contractual obligation or insofar as the Seller has fraudulently concealed the defect or has assumed warranty for the quality of the delivery item. Damage claims for the violation of significant contractual obligations, however, are limited to the typical contractual obligations foreseeable loss, unless any exceptions other than those listed in clause 1 or clause 3 of this para. a) exist.
- b) The provisions of the abovementioned para. a) apply to all damage claims (in particular to damages in addition to performance and damages in lieu of performance), irrespective of the legal grounds, in particular for defects, for the breach of obligations resulting from the contractual relationship or for unlawful actions. They also apply to claims for the reimbursement of wasted expenditure. The liability for delay, however, is determined in accordance with section 13 of these Terms & Conditions, the liability for impossibility pursuant to section 15 of these Terms & Conditions.

- c) Any changes to the burden of proof to the detriment of the Buyer is not connected with the abovementioned provisions.
- d) The total liability of the Seller for each delivery is limited to the contractual price.

12. Third-party industrial property rights

- a) If the production or other processing or adaptation of the item to be delivered turns out to be a violation of a patent, copyright, trademark right or other industrial property right of a third party due to a specification submitted by the Buyer, the Buyer shall indemnify the Seller from such claims. This includes all losses, damages, costs or other expenditure, which the Seller must pay or is prepared to pay as a result of the infringement of the industrial property right. The Buyer shall inform the Seller immediately of any industrial property right claims from third parties regarding the delivered objects. The Seller is entitled but not obliged to take over the legal defence at its own costs.
- b) The Seller reserves the right to modify the product description with regard to the specification so that it complies with legal requirements, provided the quality and usability of the ordered product is not impaired by this change.

13. Delay

In cases of intent or gross negligence on the part of the Seller or a representative or vicarious agents, as well as in the case of injury to life, body or health caused by slight negligence, the Seller is liable for delay in performance according to statutory provisions. In cases of gross negligence, however, the liability of the Seller is limited to the typical contractual, foreseeable loss.


Apart from the cases in clause 1 and clause 2, the liability of the Seller on account of delay for damages in addition to performance and for damages in lieu of performance (including the reimbursement of wasted expenditure) is limited to 0.5 % per full delivery week and a total of 5 % of the net price of the delivery. Any other claims by the Buyer, even after the expiry of a deadline for performance set for the Seller, are excluded. The limitation does not apply in the case of culpable breach of significant contractual obligations. Damage claims for culpable breach of significant contractual obligations are limited however to the typical contractual, foreseeable loss, unless a further case in accordance with clause 1 has occurred. The Buyer's right to withdraw from the contract pursuant to section 15 of these Terms & Conditions remains unaffected. Any change to the burden of proof to the detriment of the Buyer is not connected with the abovementioned provisions.

14. Force majeure

If non-compliance with deadlines is due to force majeure, e.g. mobilisation, war, riots or similar events for which the Seller is not responsible, e.g. strikes or lockouts, the deadlines can be extended by the periods during which the above-mentioned event or its effects persist. The Seller will notify the Buyer of the beginning and end of such circumstances as soon as possible.

15. Impossibility

- a) In cases of intent or gross negligence on the part of the Seller or one of its representatives or vicarious agents as well as in the case of injury to life, body or health caused by slight negligence, the Seller is liable for the impossibility of delivery according to statutory provisions. In the case of gross negligence, however, the liability of the

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Seller is limited to the typical contractual, foreseeable loss, unless any exceptions other than those listed in clause 1 exist.

- b) Apart from the cases in clause 1 and clause 2, the liability of the Seller for impossibility is limited to damages and to the reimbursement of wasted expenditure to a total of 10 % of the net price of the delivery. Any other claims by the Buyer for impossibility of delivery, even after the expiry of a deadline for performance set for the Seller, are excluded. The Buyer's right to withdraw from the contract pursuant to section 16 of these Terms & Conditions remains unaffected. Any change to the burden of proof to the detriment of the Buyer is not connected with the aforementioned provisions.

16. Withdrawal

The Buyer is entitled to withdraw from the contract within the scope of statutory provisions only if the Seller is responsible for a breach of duty. In the case of defects, however, the legal requirements for withdrawal apply in place of the clause above. The Buyer shall declare within a reasonable period and at the Seller's request, whether it intends to withdraw from the contract on account of the breach or insists on performance.

17. Limitation period for claims

- c) The limitation period for claims and rights arising from defects in goods and services, irrespective of the legal ground, is one year. However, this does not apply in the cases of § 438 1 para. 1 BGB (defect in title in immovable objects), § 438 para. 1 clause 2 BGB (buildings, objects used in buildings), § 479 para. 1 BGB (contractor's right of recourse) or § 634 a para. 1 clause 2 BGB (buildings or work whose performance consists in the provision of planning or supervisory services). The exceptional cases in the aforementioned clause 2 are subject to a limitation period of three years.
- d) The limitation periods in accordance with para. a) also apply to all damage claims asserted against the contractor that are associated with the defect, irrespective of the legal grounds for the claim. If there are any kind of damage claims against the contractor, which are not associated with the defect, a limitation period as stated in para a) clause 1 applies to them.
- e) The limitation periods in accordance with para. a) and para. b), however, apply with the following provisions:
- aa) Generally, the limitation periods do not apply in case of intent or fraudulent concealment of a defect or to the extent that the contractor has assumed warranty for the quality of the delivery item.
- bb) Furthermore, the limitation periods do not apply to damage claims for gross negligence, for cases of culpable breach of significant contractual obligations not related to the provision of a defective item or the provision of a defective work performance, for cases of culpable injury to life, body or health or for claims under the German Product Liability Act. The limitation periods for damage claims also apply to the reimbursement of wasted expenditure.
- f) For all claims, the limitation period starts on delivery.
- g) Unless otherwise explicitly stated, the statutory provisions concerning the start, the suspension, the interruption and the recommencement of the limitation period remain unaffected.
- h) Any change to the burden of proof to the detriment of the contractor is not connected with the aforementioned provisions.

18. Default of acceptance

- a) If the Buyer's default of acceptance results in a delay in delivery, the Buyer shall reimburse the customary storage costs to the Seller for the period of delay. Al-

ternatively, the Seller is also entitled to store the goods at a forwarding agent and to charge the actual costs incurred to the Buyer.

- b) If an order is cancelled by the Buyer, then the Buyer must pay damages to the Seller amounting to 25 percent of the net order value irrespective of any possible claim for higher damages, unless the Buyer can provide evidence of lower loss or damage.
- c) If an order is only cancelled after its completion or a delivery is not accepted, the full purchase price shall be paid. For the pro rata completion of the product, a pro rata purchase price in addition to a contractual penalty specified in 5.4 shall be paid up to a maximum amount of 100%, regardless of any possible claim for higher damages.
- d) Apart from that, the consequences of the delay in acceptance come into effect.

19. Advertising

The Buyer permits the Seller to put its company name on the equipment it has supplied, to take photographs and/or make videos of the systems and to advertise with the equipment specifying the customer's name.

20. Place of fulfilment, court of jurisdiction, applicable law

Rostock is the place of fulfilment for deliveries, services and payments. The courts in Rostock are responsible for all disputes arising from and in connection with the contracts concluded between the Seller and the Buyer, also with regard to the conclusion and validity of the contract. The legal relationship between the contracting parties is subject to German Law, reference to the provisions of private international law do not apply, UN Sales Law does not apply to this contract.