

General terms of delivery for StrikoWestofen GmbH

(hereinafter the "supplier")

These terms of delivery shall apply to purchase contracts, work contracts, work delivery contracts, service contracts and other contracts. They are intended for use with respect to any person who at the signing of the contract is engaged in commercial or self-employed activity (entrepreneurs) as well as legal persons under public law or an institutional fund under public law. These terms and conditions of the supplier shall also apply to all future transactions with the purchaser during the ongoing business relationship. Deviating purchasing conditions of the purchaser do not become part of the contract through acceptance of the order.

I. Quote and order

- 1.1. Quotes are subject to change.
- 1.2. The documents which are part of the offer such as illustrations, drawings, weights and dimensions are approximate only unless they are expressly designated as binding. In cost estimates, drawings and other details of physical and nonphysical nature - also in electronic form - the supplier reserves the ownership and intellectual property rights. They may not be disclosed to third parties. The supplier is only permitted to disclose information and attachments indicated by the purchaser as confidential to third parties with the purchaser's consent.
- 1.3. The order is only considered accepted if it is confirmed in writing by the supplier. Subsidiary agreements and changes relating to the execution of the order must be in writing.

II. Price and payment

- 2.1. The prices, unless particularly agreed, are valid ex works, including loading at the factory, excluding packaging and unloading. The sales tax in the respective statutory amount is added to the prices.
- 2.2. In the absence of a special agreement, the payment is to be made to account ex paying agent of the supplier without any deduction:
40% deposit after receipt of the order confirmation,
50% once the purchaser is notified that the main parts are ready for shipment,
the residual amount within 14 days after the transfer of risk.
- 2.3. The purchaser has the right to withhold payments or to offset any counterclaims only insofar as his counterclaims are undisputed or legally determined.

III. Delivery period, delay in delivery

- 3.1. The delivery period results from the agreements of the parties. Their observance by the supplier implies that consensus between the purchaser and the supplier is achieved on all points of the order in relation to commercial as well as technical details and the purchaser has fulfilled his obligations, such as for instance to provide required documentation, official certificates or approvals, releases or an agreed down payment. If this is not the case, the delivery time is reasonably extended. This shall not apply where the supplier is responsible for the delay.
- 3.2. Compliance with the delivery period is subject to timely availability of supplies and raw materials. The supplier must give notice of any impending delays as soon as possible.
- 3.3. The delivery time is considered met if the delivery item has left the factory or the readiness for dispatch has been notified by the time of expiry. If acceptance is required, except in the event of justified refusal of acceptance, the acceptance date is decisive, alternatively the notification of the readiness for acceptance.
- 3.4. The delivery period is reasonably extended in cases of force majeure, labour disputes, in particular strikes and lockouts as well as other events that are beyond the control of the supplier. This also applies if these circumstances affect subcontractors. The supplier is required to inform the purchaser of the beginning and end of such circumstances as soon as possible.
- 3.5. If the dispatch is delayed for reasons which are the purchaser's responsibility, then, starting one month after notification of readiness for dispatch, the costs incurred for storage at the supplier's plant due to the delay will be charged at the level of at least 0.5% of the invoice amount for each month.
- 3.6 The purchaser may withdraw without notice from the contract, if the entire service becomes definitively impossible for the supplier before the transfer of risk. The purchaser may also withdraw from the contract if the execution of part of the delivery of an order is impossible and he has a legitimate interest in refusing partial delivery. If this is not the case, the purchaser must pay the contract price attributable to the partial delivery. The same applies to the inability of the supplier. In addition, section VII.2 applies. If the impossibility or inability occurs during the delay in acceptance, or the purchaser is solely or predominantly responsible for these circumstances, he remains liable for payment.
- 3.7. If, under consideration of the legal exceptions, the purchaser sets the supplier a reasonable deadline for performance after the due date and if the deadline is not met, the purchaser is entitled to resign from the contract within the framework of the law. He undertakes to indicate whether he is making use of his right of withdrawal within reasonable time on request of the supplier.

Additional claims arising from delay in delivery are determined exclusively by section VII. 2 of these conditions.

IV. Transfer of risk, acceptance

- 4.1. The risk passes to the purchaser at the latest with the dispatch of the delivery parts, even if partial deliveries are made or the supplier has assumed additional services, for example the cost of dispatch.

If the dispatch is delayed for reasons which are not attributable to the supplier, the risk shall pass to the purchaser from the day of readiness for dispatch.

- 4.2 If acceptance is required, this is decisive for the transfer of risk. It must be performed immediately on the acceptance date or alternatively after receiving notification of the supplier about the readiness for acceptance. The purchaser may not refuse acceptance if there is a non-essential defect.
- 4.3. On the purchaser's request, the dispatch may be insured at the purchaser's own expense by the supplier against theft, breakage, transport, fire and water damage and other insurable risks.
- 4.4. Partial deliveries are allowed, provided that they are reasonable for the purchaser.

V. Reservation of proprietary rights

- 5.1. The supplier reserves the title to the delivered goods until receipt of all payments from the contract as well as emerging future claims from the business association with the purchaser.
- 5.2. The supplier is entitled to insure the delivery item at the expense of the purchaser against theft, breakage, fire, water and damage insofar as the purchaser himself has not verifiably taken up insurance.
- 5.3. The purchaser may neither sell, pledge nor offer the item as security. He shall notify the supplier forthwith of seizures as well as confiscation or other disposals by third parties.
- 5.4. Upon contractual breaches by the purchaser, in particular in case of delay of payment, the supplier shall be entitled to withdraw after warning and the purchaser shall be required to surrender property.
- 5.5. Upon the application for opening of insolvency proceedings, the supplier shall be entitled to rescind the contract and to demand the immediate return of the delivered goods.

VI. Claims based on defects

For defects in delivery, the supplier shall, to the exclusion of further claims- subject to Section VII -, provide a warranty as follows:

- 6.1. All those parts which are revealed to be deficient as a result of circumstance before the transfer of risk are to be repaired or to be replaced free of damage according to the supplier's choice. The detection of such defects is to be notified to the supplier immediately in writing. Replaced parts shall become the property of the supplier.
- 6.2. Upon agreement with the supplier, the purchaser must allow the necessary time and opportunity to carry out all repairs and replacement deliveries deemed necessary by the supplier, otherwise the supplier is exempt from liability for the resulting consequences. Only in urgent cases of danger to operational safety and to ward off disproportionately large damage, the supplier shall immediately notify the purchaser and shall have the right to remedy the defect himself or by a third party and to demand reimbursement of necessary expenses from the supplier.
- 6.3. If the complaint is found to be justified, the supplier bears the direct cost of the repair or the substitute delivery including dispatch. He bears the costs of removal and also installation as well as the cost of provision of any necessary technicians and support personnel including travel costs, as far as this places no disproportionate burden on the supplier.
- 6.4. The purchaser has the right to withdraw from the contract in line with the statutory provisions if the supplier - under consideration of the legal exceptions - has missed a reasonable deadline for the rectification or replacement delivery due to a defect. In the case of a merely minor defect, the purchaser is only entitled to the reduction of the contract price. The right to reduce the contract price remains otherwise excluded.

Further claims are determined according to section VII. 2 of these conditions.

- 6.5. There is no liability for damage arising in particular from the following reasons: unsuitable or improper use, faulty assembly or commissioning by the purchaser or third parties, natural wear and tear, incorrect or negligent handling, improper maintenance, use of other than original spare parts, unsuitable operating material, replacement materials, faulty construction work, unsuitable building ground, chemical, electrochemical or electrical influences, excess wear and tear, mechanical overloading, such as shocks or strikes against the material, thermal stress, chemical or electrochemical corrosion, erosion or cavitation, as long as they are not under the responsibility of the supplier.
- 6.6. In case of inappropriate modifications or repairs on the part of the purchaser or third parties or of modifications or repairs carried out without the prior consent of the supplier, the liability for the consequences is cancelled.

VII. Liability

- 7.1. If the delivered item cannot be used by the purchaser according to the contract as a result of culpable omission or defective execution of suggestions and advice given before or after conclusion of the contract or the culpable infringement of other contractual obligations - in particular instructions for operation and maintenance of the delivery item - then the provisions of sections VI and VII.2 apply, excluding further claims of the purchaser.
- 7.2. For damages which have not been incurred directly to the delivery item, the supplier shall be liable - for whatever legal reason - only in cases of intent or gross negligence by the owner/the representatives or executives, for culpable damage to life, body, health, for defects which they fraudulently concealed or whose absence they guaranteed, as well as in the case of defects of the delivered goods, insofar as there is liability under product liability law for persons or material damage to privately used objects.
- 7.3. For culpable infringement of essential contractual obligations, the supplier is also liable in the event of gross negligence of non-managerial employees and slight negligence, in the latter case limited to the contract-typical, reasonably foreseeable damage.
- 7.4. Further claims, beyond the liability according to the paragraphs 7.1 to 7.3, are excluded.

VIII. Limitation

All claims of the purchaser - for whatever legal reason- lapse after 12 months. The statutory periods apply for claims for compensation under section VII. 7.2.

IX. Place of fulfilment, place of jurisdiction, applicable law

- 9.1. The place of fulfilment for the delivery is the supplier's plant, for other services the site of the supplier. For all disputes arising from the contractual relationship, if the purchaser is a registered trader, a legal person under public law or an institutional fund under public law, any claims are to be made in the court that is responsible for the supplier's headquarters or for the branch office carrying out the delivery. The supplier is also entitled to sue at the headquarters of the purchaser.
- 9.2 The law relevant to the legal relationships between nationally based parties in the Federal Republic of Germany applies to all legal relations between the supplier and the purchaser.