



- I. General information
- II. Plans and documents
- III. Prices
- IV. Installation
- V. Terms of payment
- VI. Retention of title
- VII. Delivery times
- VIII. Transfer of risks
- IX. Acquisition
- X. Notifications
- XI. Liability for defects
- XII. Liability for subsidiary obligations
- XIII. Exclusion of warranties and damages
- XIV. Applicable law and place of jurisdiction

General information

1.

The following terms and conditions apply to all deliveries and performances executed by DEUBOS technologies UG (subsequently referred to as `supplier`). Those form an integral part of procurement arrangements, in case nothing contrary (in written form) has been individually agreed upon. Arrangements of any kind (including by telephone or telegraph) will only be accepted by the supplier by written confirmation. Orders are achieved by a written order confirmation of the supplier. In these conditions of sale, the term *force majeure* implies: mobilisation, war, revolution, unrest of any kind, natural disasters etc. Conflicting conditions of the customer are not binding for the seller even if the seller has not expressly objected to these.

2.

If one term of these conditions of sale should prove invalid, all contracting parties will replace this condition by a new agreement which should be in economic terms as close as legally possible as the previous regulation. Customer and seller are only allowed to transfer their rights to third parties with a mutual prior consent. Exceptions include a subrogation of a monetary claim according to § 354a HGB (commercial code).

3.

Only such characteristics can be deemed as assured that are expressively so called in the contract. Special protective devices will only be delivered at the expense of the principal and if this has been agreed in advance. The seller is entitled to make changes to the delivery if this seems to be required due to a constructive development as well as a technical progress.

II. Plans and documents

1.

Details given in the documents such as brochures, illustrations, drawings which are attached to the order confirmation, are only roughly decisive, as long as they are not explicitly termed as binding.

2.

With handing over plans and technical documents by the seller or customer, property rights and copyrights do not pass to the recipient. They may not be made accessible to third parties, in particular to competitors.

3.

All diagrams and technical documents are to be sent back to the seller if an order is not placed. Immediately if an order is passed to a third party, otherwise 6 months after submission. In both cases, additional costs caused have to be paid to seller according to LHO (Free regulations for Architects and Engineers).

4.

If the seller grants the customer free technical assistance of any kind and which refers to the preparation of an installation section which are produced by customer or third party, this consulting service is made to the best of our knowledge and competence. In case of claims made by the customer due to inadequate advice and suchlike or due to violation of any secondary obligations, the seller is only liable in case of unlawful intent or gross negligence.

III. Prices

1.

Prices apply – absent special accord – ex works including loading on site but excluding packing and removal. Prices are given in EURO. No packaging material shall be taken back.

2.

Deliveries and services not specified in the agreement shall be billed separately. Customs duties and stamp duties, contractual taxes, fees for permission to import, export and cross frontiers, consular fees, transfer prices (currency authorisations, compensation prices), sales tax and all other costs related to the import shall always be charged to the customer.

3.

Offers and order confirmations of the seller are based on the valid material prices, labour costs, transport and insurance rate, customs, taxes etc. on date of issue. If increases or reductions concerning these cost factors occur up to the delivery, the supplier reserves the right to invoice the products according to retail prices which are in force up to the time of loading.

IV. Installation

1.

Installation and commissioning will be paid by the customer. Upon request, the seller provides technicians in accordance with conditions to be laid down in the agreements.

If with the cost estimate mounting kits are stated, the seller reserves the right to change them according to present wage and working conditions.

2.

All construction works such as earth works, masonry works, carpentry and carpenter works, glass works, painting works, forgings, the preparation or closing of apertures in walls, floors or masonries etc., cleaning works, access to necessary tools as well as to lubrication-, combustible- and cleaning materials including water supply, heating, light and a lockable room for the installer's equipment must be paid by the customer. Furthermore, materials and operational force for a sample operating and commissioning of the object must also be paid by the customer.

3.

Before starting the assembly works the installation site must be prepared to guarantee an unhindered progress of the assembly works. Localities intended for installation must have interior render, windows, doors, ceilings, stairs as well as enough large openings in order to carry the machines undismantled at any time to the premises. In order to guarantee a smooth installation, the seller measures the necessary material more generously than according to the plan. On this account, the material not needed anymore after the installation of the unit must be returned to the seller.

Retainers needed for the installation must be paid by the customer when required by the seller.

4.

The customer bears full responsibility for accidents, accident consequences and material damages due to an insufficient quality of the customer's scaffolding and lifting apparatuses or due to other insufficient technical equipment and auxiliary materials even if they were used by the personnel without complaint. Additionally, the customer bears full responsibility for liability and the risk of accidents which his personnel, labourers or third parties cause or sustain in connection with the installation even if the supervision is managed by the seller. Any considerations towards the locality etc. have to be mentioned in advance and in written form by the customer.

V. Terms of payment

1.

Terms of payment arise out of order confirmation. Unless otherwise agreed, the customer has to pay 40% of the contract price when the order is confirmed for systems and machines, 50% ready-to-ship notification and 10% after delivery of order without any deduction at our account. Relating to spare parts, our terms of payment shall be 100% net on delivery.

2.

In case of destruction, loss or damage of the products unless otherwise agreed at the risk of the customer as well as for delays in project completion, delivery, installation or commissioning caused by the customer, by accident or by force majeure, payments have to take place within the fixed schedule mentioned in the order confirmation.

3.

The punctual performance of agreed terms of payment will not be influenced by guarantees and special warranties according to specified performances. A retention of payments due to any counterclaims are excluded.

4.

If agreed payments are questioned due to force majeure or in case of any economical factors changing (e.g. foreign exchange situation, transfer possibilities etc.) after the conclusion of the contract in the relation between Germany and the country of destination or the customer's country, the seller reserves the right to stop the production of the machines or to hold back products ready for shipment. The seller also reserves the right to determine new special delivery conditions, in particular terms of payment in order to maintain at least the same safety regarding the processing of trading and receipt of payment as was the case when the contract has been concluded.

5.

Should the customer be in arrears more than two weeks with payments or the transfer of agreed bills, bank guarantees or other securities, the remaining amount becomes due.

6.

If the delivery item was delivered before payment of all the amounts due, the customer is obligated to insure the item sufficiently in favour of the seller and to hand over upon request a chattel paper of the insurance company.

VI. Retention of title

1.

The supplier reserves the title to all goods until the purchaser has settled all accounts.

2.

If the delivery object is inseparably connected with other objects we do not own, we shall acquire co-ownership of the new goods at a share corresponding with the objective value of the goods delivered by us against the value of the other processed goods on the date of the combining until the purchase price has been paid.

3.

If the delivery item is sold by the customer, which requires the explicit permission of the seller, the customer assigns his claim from the sales contract to us in its entirety until the purchase price has been paid in full. The customer is not allowed to mortgage or assign the delivery item without the permission of the seller until the purchase price has been paid. The customer must inform us instantly of a seizure or any other impairment of our property right through the actions of a third party.

VII. Delivery times

1.

The agreed delivery period applies to delivery ex works and is calculated from the date of informing the supplier about necessary technical data, plans, drawings etc. as well as the contractually down payment, the possibly necessary import license and, if agreed, the letter of credit.

2.

The delivery period is extended in the event of (affecting supplier, subcontractors or transport companies) industrial actions, lockout, boycott, accidents, malfunctions, outwardsing of important components or force majeure and if this causes significant obstacles to the supplier, as well as in the case of non-fulfilment or delayed performance of agreed terms of payment. In the latter case the seller reserves the right to withdraw from the contract. The delivery periods can also extend if possible official authorizations delay, if the customer modifies the order or is in arrears with works to be carried out by the customer in advance or if the localities for installation are not prepared according to the agreement. The above circumstances are also beyond our control if they arise during a delay which has already occurred.

VIII. Transfer of risks

1.

In the case of delivery ex works risk shall pass at the latest when the supply parts leave the respective supply plant. If the delivery is delayed upon the customer's request or other circumstances which are not caused by the supplier, the risk is transferred to the buyer from the day on which the goods are ready for dispatch. In the case of delivery ex works, we arrange the dispatch at the expenses and danger of the customer and insures the delivery item if required at the customer's expense against transport risks.

2.

The time at which risk transfers will be according to the contractually agreed type of delivery according to the existing international regulations for the interpretation of the contractual formulations defined by the International Chamber of Commerce (Incoterms) valid on the date of conclusion of the contract.

IX. Acquisition

1.

Delivered items have to be accepted by the customer, even if those items show minor shortcomings.

2.

Partial deliveries shall be understood as agreed.

3.

Acceptance tests which are carried out beyond the regular control made by the supplier are at the cost of the customer and require an explicit agreement.

4.

Acceptance of delivered machines, systems etc. is deemed completed if the customer, from date of delivery, raises written objections within two weeks concerning single machines or devices, respectively within two months concerning whole systems or modifications. After successful acceptance of the delivery, any obligation on the part of the seller shall be nullified with the exception of the below listed (X) warranties relating to material, construction or design.

5.

If the customer does not accept the delivery on the contractually agreed date, the customer nevertheless has to effect the payment on the agreed due date. The supplier is obligated to provide the storage of the delivery item at the cost and risk of the customer and to provide an demanded insurance at the expense of the customer. The costs of storage in our own factory are at least 0.5% of the contract price of the stored item for each full month. Further or other rights which the supplier could assert due to the delay of acceptance shall remain unaffected.

X. Notifications

1.

Insofar as the partners communicate via electronic post (email) they recognise the unlimited effectiveness of declarations of intent made in this manner and according to the following conditions. The email must contain the name and the email address of the sender, the time of sending (date and hour) as well as a representation of the name of the sender as the conclusion of the message. No confidentiality is guaranteed for data conveyed on the internet in unencrypted form. Upon request, each contract partner will make available an agreed-upon encryption system such as PGP on his site. Until proven otherwise, an email received under such conditions is accepted as coming from the respective contract partner.

The liability of the email and thus the text form applies to all statements of ordinary contract management.

The text form is, however, not valid in the case of a termination of contract or for measures to introduce or execute the process of arbitration or for declarations which expressly require from one of the parties to the contract a statement in written form which diverges from this agreement.

XI. Liability for defects

1.

The shipment is considered executed as soon as the delivery item has been delivered according to the conditions of the contract.

2.

The supplier is, to the exclusion of all further claims of customer, irrespective of the legal reasons, obliged and entitled to remedy deficiencies which considerably impairs the serviceability. This applies if the deficiency was present at the transfer of risk or verifiable within the warranty period occurs due to a cause present before transfer of risk namely after its choice by repairing the defective part, delivery of a spare part or new supply. Replaced parts shall become property of the supplier.

3.

The warranty of the supplier shall only apply for such defects, which occur under the contractually provided working conditions and under proper use. The warranty is not valid for defects deriving from the following factors: improper installation by customer or third parties, poor maintenance, unsuitable use, excessive strain, normal wear and tear, unauthorised repairs, unsuitable constructions, not foreseeable external influences.

4.

The warranty period shall be 6 months, in case of multiple shift 3 months – since commissioning. In case of a delay of delivery, installation or commissioning through no fault of the supplier, the warranty period shall expire at the latest 12 months after transfer of risk. For goods produced by third parties we pass on the liability of the manufacturer.

5.

For repaired or replaced parts apply the same provisions as for the original delivery item, though the new, from the completion of the remedying of defects applicable warranty period shall be only 3 months unless the original liability period exceeds this period of time. For all other parts of the delivery item the warranty period shall be extended for the time period in which the delivery item was not ready for use due to a defect.

6.

The customer can only make use of the warranty term of the supplier if the customer immediately informs the seller in written form about any defects and if the customer gives the seller the opportunity to find the defect and to remedy deficiencies. The supplier shall be liable for deficiencies in delivery if the customer meets the contractual obligations, as well as all payments are made in accordance with agreements.

7.

With regard to costs resulting from rectification and/or replacement, the supplier bears – in so far as the complaint is legitimate – the costs for the replacement object including the shipment as well as the appropriate costs of dismantling and assembly, in addition, if the situation of the individual case can fairly demand it, the costs of any necessary technicians. Any other costs shall be at the purchaser's expense. The customer shall be obliged to remedy insignificant defaults at one's own charge.

8.

If identified that a remedy of deficiencies becomes finally impossible for the supplier, the supplier shall be, to the exclusion of further-going claims by the customer for whatever legal reason, entitled and obligated to take back the delivery item against refund of the payment made by the customer.

9.

All claims for defect shall become time-barred within 6 months after notice is given of the defect, but at the earliest at the expiry of the guarantee period.

10.

A liability for repairs upon the expiration of the warranty period and for used machines shall only be accepted if this has been previously and explicitly agreed.

XII. Liability for subsidiary obligations

Where the goods supplied cannot be used by the purchaser as provided for in the contract due to the supplier's fault and as a result of nonperformance or faulty execution of proposals and/or consultations, before or after conclusion of the contract, or of any other contractual subagreements, and instructions for operating and maintaining the goods supplied in particular, the foregoing provisions contained in X. shall apply accordingly to the exclusion of further claims by the purchaser.

XIII. Exclusion of warranties and damages

All cases of breach of contract and the relevant consequences as well as all rights and claims on the part of the customer, regardless of the legal grounds therefor, and in particular any claims for compensation for damages, abatement or withdrawal from the contract not expressly mentioned, shall be exclusively governed by these terms and conditions.

XIV. Applicable law and jurisdiction

1.

This agreement shall be governed by German law. The place of jurisdiction is Munich.

Severability clause

If a provision of this agreement is or will become ineffective, the validity of the remaining provisions of the contract shall remain unaffected by this. The contractual parties shall agree upon a legally effective substitute provision which comes closest to the economic purpose of the invalid provision.