

## **General Terms and Conditions of Sale**

### **I. Offer and conclusion of contract**

1. All offers are subject to change without notice, unless otherwise stated in the order confirmation. These General Terms and Conditions of Sale (GTCS) apply to all our business relations with the Purchaser. The GTCS shall only apply if the Purchaser is an entrepreneur (§ 14 BGB [German Civil Code]), a legal entity under public law or a special fund under public law. Technical documents as well as information on weights, services, operating costs, etc. are only binding if this is expressly declared. The GTCS apply in particular to contracts for the sale and/or delivery of movable goods ("goods"), irrespective of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the GTCS in the version valid at the time of the order shall also apply to similar future contracts without us having to refer to them again in each individual case.

2. VTS International GmbH (VTS) has property rights and copyrights to technical documentation such as drawings, plans, calculations, references to DIN standards, cost estimates, offers, other product descriptions and other documents - also in electronic form. They have been entrusted to the Purchaser, may not be made available to third parties without the prior consent of VTS and must be returned on request.

3. These Terms and Conditions are accepted by the Purchaser upon conclusion of the contract and shall apply exclusively; any terms and conditions of the Purchaser which conflict with or deviate from the VTS Terms and Conditions shall not be accepted unless VTS has expressly agreed to their validity in writing. These Terms and Conditions shall also apply to all future business with the Purchaser and even if VTS carries out delivery to the Purchaser without reservation in the knowledge that the Purchaser's terms and conditions conflict with or deviate from these Terms and Conditions.

4. A contract is concluded either by timely acceptance of an offer made by VTS or by confirmation of the order by VTS. All offers, acceptances and order confirmations must be made in writing, i.e. in written or text form (e.g. e-mail). Any collateral agreements, amendments or other arrangements shall only become effective upon written confirmation by VTS; confirmations made by machine on our forms without handwritten signatures shall satisfy this formal requirement.

5. Legally relevant declarations and notifications by the Purchaser in relation to the contract (e.g. setting of a deadline, notification of defects, withdrawal or reduction) must be submitted in writing or in text form. Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.

6. References to the validity of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply, unless they are directly amended or expressly excluded in these contractual terms and conditions.

### **II. Scope of delivery**

1. The order confirmation of VTS shall be decisive for the scope of delivery. The order confirmation must be in writing or in text form.

2. If the delivery item is to be used outside the Federal Republic of Germany, the scope of delivery for industrial safety and environmental protection equipment shall be based on the individual contractual agreement. The Purchaser is responsible for observing statutory or other regulations at the place of use. All public charges (taxes, fees, customs duties, etc.) arising from or in connection with the conclusion or execution of the contract outside the Federal Republic of Germany shall be borne by the Purchaser.

3. If clauses customary in trade are agreed upon regarding the type of service, the Incoterms in the version valid on the day the contract is concluded, currently Incoterms 2020 shall apply for interpretation.

### **III. Price**

Unless otherwise agreed, prices are ex works, excluding freight and installation, plus value added tax, which will be shown separately on the invoice at the statutory rate on the day of invoicing. The packaging - with the exception of circulation packaging - is not taken back.

### **IV. Terms of payment**

1. Payments shall be made without deduction and free of charge to VTS's bank account on the agreed dates. The date of receipt of the money by VTS is decisive. In the event of default of payment - without prejudice to any other legal claims - annual interest shall be charged at a rate of 9 % points above the respective base rate of the ECB. Value added tax shall become due for payment upon invoicing; in the case of taxable advance payments, it shall become due proportionately on the agreed payment dates.

2. The Purchaser may only set off or exercise a right of retention against claims of VTS if the Purchaser's counterclaim is undisputed or has been declared final and absolute.

3. If and to the extent that the purchase price for Items has been deferred in whole or in part by VTS, the respective remaining claim for VTS shall become due immediately if such Items are resold by the Purchaser. If the Purchaser fails to meet his payment obligations or if it becomes apparent after conclusion of the contract (e.g. by filing for insolvency proceedings) that VTS' claim to the purchase price is endangered by the Purchaser's lack of ability to pay, VTS shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). The statutory provisions on the dispensability of setting a deadline shall remain unaffected.

### **V. Retention of title**

1. The goods supplied shall remain the property of VTS until all claims arising from the business relationship between VTS and the Purchaser have been settled in full. If the value of the securities existing for VTS exceeds the secured claim by more than 50% in total, VTS shall be obliged to release securities of VTS's choice at the request of the Purchaser.

If the law of a country does not permit retention of title but permits similar rights to be reserved, VTS may exercise all rights of this kind. Upon request the Purchaser shall, at his own expense, take such measures as are necessary to enable these rights to the goods to take effect and to maintain them.

a) Any treatment or processing of the goods subject to reservation of title as well as their combination with third party goods by the Purchaser or third parties shall be carried out for VTS without any obligations arising from such treatment or processing. VTS shall be entitled to co-ownership of newly created goods in proportion to the value of the goods delivered.

b) The Purchaser hereby assigns his claims arising from the resale of the goods to VTS as security for his claims and up to this amount. VTS accepts the assignment. The Purchaser shall not be entitled to assign these claims to third parties. The Purchaser shall be authorised to collect his claims. VTS reserves the right to collect such claims. The Purchaser shall be obliged to provide VTS with the information and documents necessary for collection.

c) If the services are recalled due to culpable conduct of the Purchaser in breach of the contract, in particular in the case of default of payment, VTS shall be entitled to demand a reduction in value of 25% for the first six months of use and a further 10% for each additional six months at the expense of the Purchaser without proof of damage. The Purchaser shall be at liberty to prove that the damage or reduction in value was less.

2. The goods subject to retention of title may neither be pledged to third parties nor transferred by way of security before full payment of the secured claims. The Purchaser shall notify VTS immediately in writing if an application for insolvency proceedings is filed or if third parties seize the goods belonging to VTS (e.g. seizure) and shall take security measures at his expense. The Purchaser must inform the third party of VTS's ownership.

3. In all cases the Purchaser shall ensure that the goods owned or co-owned by VTS are stored safely and properly and shall insure them at his own expense against theft, fire and other damage to property subject to the proviso that VTS is entitled to the rights under the insurance contract.

4. If the Purchaser acts contrary to the contract, in particular in case of non-payment of the due purchase price, VTS is entitled to withdraw from the contract according to the legal regulations and/or to demand the return of the goods on the basis of the reservation of title. The demand for return of the goods shall not constitute a declaration of withdrawal from the contract; VTS shall be entitled to demand return of the goods only and to reserve the right to withdraw from the contract. If the Purchaser does not pay the due purchase price, VTS may only assert these rights if it has unsuccessfully set the Purchaser a reasonable deadline for payment beforehand or if such setting of a deadline is unnecessary according to the legal regulations.

A right of retention cannot be asserted against this claim for return unless the Purchaser makes use of a right of retention due to legally established or undisputed counterclaims.

## **VI. Delivery time**

1. The start of the delivery period shall be agreed in the individual contractual agreement between VTS and the Purchaser. However, the delivery period shall not commence under any circumstances before the Purchaser has provided the documents to be procured by the Purchaser and has successfully obtained the approvals. The Purchaser shall confirm to VTS that he has provided the documents and permits in writing or in text form and shall send a copy of them to VTS. The delivery period shall commence upon receipt of the confirmation from VTS. The delivery period shall be deemed to have been met if the notification of readiness for shipment has been sent to the Purchaser by the time it expires.

2. The date of delivery shall be postponed appropriately - even within a delay in delivery - in the event of strikes and lockouts, in cases of force majeure and in the event of unforeseen events outside the control of VTS, e.g. breakdowns, delay in delivery or defective manufacture or delivery by subcontractors or other delays for which VTS is not responsible. VTS shall notify the Purchaser of the occurrence and probable duration of such events.

The date of delivery shall also be postponed if the Purchaser is in arrears with his payment or other obligations for the duration of the arrears or if the technical and commercial questions have not been clarified within a reasonable period of time through no fault of VTS.

3. In the event of an agreed amendment to the order, VTS shall be entitled to fix a new delivery date taking into account the interests of the Purchaser.

4. In the event of a delay in delivery for which VTS is responsible, the Purchaser shall, before claiming cancellation or damages, set a reasonable period of grace for performance. The period of grace must be at least 30 working days. After the fruitless expiry of the grace period, the Purchaser's claim for performance is excluded. Any possible damage caused by delay must be specifically presented by the Purchaser. It shall be limited to a maximum of 5 % of the order value unless VTS is responsible for the delay due to intent or gross negligence. The provisions of XIII shall apply to the liability of VTS. VTS reserves the right to prove that the Purchaser has not suffered any damage at all or that the damage suffered by the contracting party was considerably less than the above lump sum.

5. If the Purchaser falls into default of acceptance or if it culpably breaches other cooperation obligations, VTS shall be entitled to demand compensation for the loss resulting in this respect, including any extra expenditures. This includes in particular the costs incurred by storage. In the case of storage at the VTS premises, the damages shall be calculated at a minimum of 0.5 % of the invoice amount for each month. We reserve the right to further claims.

## **VII. Transfer of risk**

1. The risk shall pass to the Purchaser upon delivery to the person responsible for the shipment (e.g. forwarder, carrier), but at the latest when the shipment has left the delivering plant.

If dispatch is delayed through no fault of VTS, the risk shall pass to the Purchaser upon notification of readiness for dispatch.

## **VIII. Performance**

1. The delivery obligation shall be deemed to have been fulfilled if the risk has been transferred to the Purchaser in accordance with Art. VII.

Partial deliveries are permissible.

2. From the date of performance VTS shall be bound by these Terms and Conditions, in accordance with the provisions of Art. IX (Liability for defective delivery).

3. Delivered items are to be accepted by the Purchaser without prejudice to the rights under Art. X even if they have insignificant defects.

## **IX. Liability for defects in the delivery**

1. VTS shall be liable for compliance with properties expressly warranted in writing or in text form and for fault-free design and manufacture and fault-free material in such a way that it is able to replace parts of its delivery which are unusable or

whose usability is considerably impaired, shall, at its option, either be repaired free of charge or redelivered ex delivery works. Replaced parts become the property of VTS. Insignificant, reasonable deviations in dimensions and design - especially in the case of repeat orders - shall not entitle the Purchaser to make complaints unless absolute compliance has been expressly agreed. Technical improvements as well as necessary technical modifications shall also be deemed to be in accordance with the contract provided that they do not constitute deterioration in the suitability for use.

VTS shall bear the direct costs arising from the repair or replacement delivery if the complaint proves to be justified. However, they require constant written confirmation from VTS. In the event of an unjustified complaint, the Purchaser shall bear all costs incurred by the repair or replacement delivery.

2.

a) Irrespective of the notification of defects, the period for asserting claims for defects shall commence on the date of delivery or transfer of risk and shall end after 12 months.

b) The Purchaser is obliged to follow the manufacturer's installation instructions / OEM specifications. VTS is not liable for defects caused by failure to follow the installation instructions or deviations from OEM specifications. A liability is also excluded, if the installation is not carried out by verifiably trained personnel.

c) The limitation period for defects is 6 months for replacement machines, repair work and replaced parts. It runs at most until the expiry of the original period for asserting claims for defects in the delivery item.

3. In order to carry out necessary rectification work, the Purchaser shall grant the necessary time and opportunity to provide auxiliary staff, equipment and operating facilities at its own expense, as well as to carry out ancillary work and to perform any work exceeding the original scope of the order at his own expense. Additional costs for work outside the regular working hours shall be borne by the Purchaser.

4. Liability for defects due to natural wear and tear or premature consumption is excluded; furthermore, liability is excluded in the event of improper storage, handling or use, incorrect assembly or commissioning, excessive strain, unsuitable operating materials, defective construction work or foundations, unsuitable building ground, chemical, electrochemical or electrical impacts. The same applies to other circumstances occurring after the transfer of risk which have arisen through no fault of VTS.

5. In cases where the goods supplied are electrically operated, VTS shall not be liable for the effects of the starting current on the power supply system of the power station or on electrical equipment or machines connected to this power supply system.

6. The Purchaser may only claim liability for defects from VTS if

a) the discovery of a defect requiring rectification was notified to VTS immediately in writing or in text form;

b) no remedial work has been carried out without the consent of VTS;

c) no spare parts of foreign origin have been fitted.

7. The Purchaser shall not be entitled to withdraw from the contract on account of a defect until subsequent performance by repair has finally failed. This shall be the case if the remedial action has failed twice. The right of the Purchaser to reduce the purchase price is excluded.

8. The above provisions of this paragraph do not apply to the sale of already used items. These are delivered under exclusion of claims for defects. This does not apply to such used goods which have been overhauled by VTS. In this case VTS is liable for defects for a period of 6 months. The claim of the Purchaser shall be limited, at the discretion of VTS, to the replacement of the defective item in a comparable condition or the rectification of the defect.

9. However, the above exclusion of liability shall not apply in the event of wilful or grossly negligent acts by VTS or its agents or in the event of injury to life, body or health.

#### **X. Return / non-acceptance**

1. If and to the extent that VTS takes back machines and/or equipment sold, VTS is obliged to issue a credit note for the purchase price. If the return is not based on the lawful assertion of a claim due to a defect, the amount of the credit note may be deducted from the amount of the credit note upon issue of the credit note, in particular lost profit of at least 20% of the invoice amount, the costs of return transport, any costs necessary to restore the goods to a proper state, depreciation due to use and the passage of time (in particular changes to models) as well as an expert's fees for determining these deductions. The Purchaser is at liberty to prove a lower damage in individual cases.

2. Any transport and insurance costs incurred shall be borne by the Purchaser. The return transport is at the risk of the Purchaser. VTS shall not be liable for any damage incurred during return transport including loading and unloading. The Purchaser shall be obliged to prove that any damage discovered has not occurred during transport, loading or unloading or during the storage period until such damage is discovered.

3. Should the Purchaser wish to withdraw from the contract before it has been fulfilled, VTS may demand compensation for any provisions taken and expenses incurred as well as for loss of profit. The corresponding claim for compensation shall be a lump sum of at least 30 % of the contract value, applying the usual expenses after the date of withdrawal, unless the Purchaser can prove a lower damage or VTS can prove a higher damage.

4. The provision of § 346 BGB remains unaffected.

#### **XI. Right of the Purchaser to withdraw from the contract**

1. The Purchaser may only withdraw from the contract by written declaration if

a) The performance of the contract becomes completely impossible for VTS. In the event of partial impossibility, the right to withdraw from the contract shall only exist if the partial delivery is demonstrably of no interest to the Purchaser; otherwise the Purchaser may demand a reasonable reduction of the purchase price. If the impossibility occurs during the delay in acceptance or through the fault of the Purchaser, the Purchaser shall remain obliged to make counter-performance. If the impossibility is not attributable to any contracting party, VTS shall be entitled to a part of the remuneration corresponding to the work performed.

b) The Purchaser has granted VTS a reasonable extension of time in writing or in text form with the express declaration that he will withdraw from the contract after the fruitless expiry of this period and he can prove that his interest in the delivery is substantially impaired as a result of the delay or defect.

2. If the Purchaser effectively withdraws from the contract of sale, VTS may demand compensation for the provisions taken and expenses incurred as well as the loss of profit. The corresponding claim for compensation shall be a lump sum of at least 20 % of the order value applying the usual expenses after the date of withdrawal.

## **XII. Force majeure and price adjustment**

(1) VTS shall not be liable for impossibility of delivery or for delays in delivery to the extent that such impossibility or delay is caused by force majeure or other events not foreseeable at the time of the conclusion of the contract (e.g. strikes, shortages of labour, energy or raw materials, transport delays, epidemics, pandemics, difficulties in obtaining necessary official permits, governmental measures or the failure of suppliers to deliver, or to deliver correctly or on time) for which VTS is not responsible. If such events make delivery or performance by VTS considerably more difficult or impossible and the hindrance is not only of a temporary nature, VTS is entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the periods for delivery or performance shall be extended or the dates of delivery or performance postponed by the period of the hindrance plus a reasonable start-up period.

(2) VTS shall be entitled to unilaterally increase the remuneration in the event of an increase in the production of materials

- and/or material and/or product procurement costs, wage and ancillary wage costs, social security contributions as well as energy costs and costs due to environmental regulations, and/or currency regulations and/or customs changes, and/or freight rates and/or public charges, if these directly or indirectly influence the production of goods or procurement costs or costs of our contractually agreed services and if there are more than 4 months between conclusion of the contract and delivery. An increase in the above-mentioned sense is excluded if the cost increase for some or all of the above-mentioned factors is offset by a cost reduction for other of the mentioned factors in relation to the total cost burden for the delivery. If the above-mentioned cost factors are reduced without the cost reduction being offset by an increase in other of the above-mentioned cost factors, the cost reduction shall be passed on to the Purchaser as part of a price reduction.

(3) If the new price is 20% or more above the original price due to the aforementioned price adjustment right, the Purchaser is entitled to withdraw from contracts that have not yet been completely fulfilled. However, he can only assert this right immediately after notification of the increased price.

## **XIII. Liability**

1. VTS shall be liable for damages - irrespective of the legal grounds - within the limits of its liability for culpable intent and gross negligence. In the case of simple negligence, VTS shall, subject to statutory limitations of liability (e.g. due diligence in own affairs; minor breach of duty), only be liable for failure to comply with guarantees, in the event of assumption of a procurement risk, in the event of culpable injury to life, limb or health and within the scope of liability under the Product Liability Act.

2. VTS is liable for damage resulting from a breach of a material contractual obligation (an obligation the performance of which is essential for the proper execution of the contract and on the observance of which the contracting party regularly relies and may rely); in this case, however, its liability is limited to compensation for foreseeable, typically occurring damage.

3. The limitations of liability resulting from Art. XIII numbers 1 and 2 shall also apply in the event of breaches of obligation by or to the benefit of vicarious agents.

4. In the event of liability for the breach of material contractual obligations under the preceding Art. XIII number 2, liability for indirect or consequential damages such as loss of profit, loss of production, loss of business opportunities and loss of interest is excluded.

5. Any further liability is expressly excluded. If the VTS's liability is excluded or limited, this also applies to the personal liability of the employees, workers, staff, representatives and vicarious agents of the VTS.

#### **XIV. Non-transferability of contractual rights**

The Purchaser may not transfer or pledge his contractual rights to third parties without the express consent of VTS.

#### **XV. Place of performance and jurisdiction**

1. The place of performance for all claims arising from the contract is Simmerath or the location specified in the order confirmation.

2. The exclusive place of jurisdiction for all disputes arising from the contractual relationship - also for bill of exchange, cheque and document proceedings - is Aachen. VTS may also bring an action at the domicile of the Purchaser.

#### **XVI. Applicable law and binding nature of the contract**

1. German law applies to the contractual relations, excluding the UN Convention on Contracts for the International Sale of Goods.

2. If a part of the contract is ineffective, the validity of the remaining part remains unaffected, as far as the ineffectiveness does not affect the essential basic features of the contract. In place of the ineffective provisions, those legal regulations shall apply which come closest to the purpose of the ineffective provision.

3. VTS observes the applicable legal provisions on data protection.

4. The German version is binding for the validity of the GTC.