



Terms and Conditions for Supply and Services

E.1 Scope / Area of Application

The following terms and conditions shall apply for all present and future supplies and services provided by Seller to the customer, including but not limited to supply of goods and machinery, installations, repair work, spare part sales and other services (hereinafter: Object of Agreement).

Changes and amendments of these Terms and Conditions for Supply and Services require written confirmation.

General terms of the customer shall only apply insofar as the Seller has explicitly agreed to such customer conditions. These Terms and Conditions for Supply and Services shall apply, even if Seller has - notwithstanding any customer condition deviating from or contradicting to these Conditions - executed deliveries without any reservation.

The written order confirmation by the Seller sets out all the terms of the contract and brings the contract into effect even if the written order confirmation is not consistent with the declarations of the customer in every respect, especially with reference to the exclusive application of these Terms and Conditions for Supply and Services. If the customer objects to the order confirmation he must contest the order in writing within a short time, at the latest seven calendar days after receipt of the written order confirmation by the customer.

E.2 Quotation, Conclusion of Contract; Documents relating to quotations

Presentation of Seller's products and services in brochures, catalogues, flyers, reference drawing as well as indications with respect to weight, measures and the like are only approximate relevant.

The contract is concluded upon customer's receipt of Seller's written order confirmation or countersigned contract by the customer.

The Seller reserves all intellectual property rights and copyrights to illustrations, drawings, cost estimates and other documents relating to quotations; any such material shall only be made available to third parties with prior written consent from the Seller. If the Seller has submitted a quotation and the related order has not been placed, all drawings and other documents relating to such quotation must be returned to the Seller immediately on Seller's request.

The customer is granted a non-exclusive and non-transferable right of use to programs and related documentation, including subsequent amendments to such programs and documentation, which are delivered with and required for making the intended use of the goods delivered by the Seller. Any reproduction of such program or documentation, apart from a back-up copy, is not permitted. Without prior written consent from the Seller, any such material must not be transferred or otherwise made directly or indirectly available to third parties by the customer.

E.3 Customer's obligation to cooperate

Approvals and other verification or approval certificates requested by third parties, which are required for installation and operation of the Object of Agreement, shall be procured by the customer in due time and at his own expense.

Any cost, incurred to the Seller due to a decree demanding from Seller to provide services and materials exceeding the scope of supply as stipulated by the order confirmation (the contract), shall be completely borne by the customer.

The customer is obliged to submit to the Seller immediately and free of charge all information required by the Seller to fulfill his contractual obligations. This includes, but is not limited to:

- a) Drawings with exact dimensions of work pieces to be machined
- b) Layout plan for installation and indication of the required position of the Object of Agreement
- c) Operating instructions and regulations as well as executive instructions
- d) Safety regulations and standards

Documentation as mentioned under a.), c.) and d.) must be provided to the Seller prior to the conclusion of the contract / order confirmation..

Unless otherwise agreed, for the purpose of erection, commissioning and acceptance of the Object of Agreement and/or of rendering maintenance or repair service, the customer, at his own expense, is obliged to provide the items as detailed below:

- a) Complete machine foundation
- b) Covers between machine and foundation, including concrete parts, railing, stairways, pit, safety features, etc.
- c) Auxiliary supports (wedges and supporting plates) for erection of machine; drawings to be provided by the Seller.
- d) Workpiece driver if necessary
- e) Steel tanks for water filtering units, in accordance with Seller's design
- f) Crane for installation and workpiece handling, with low and high speed function
- g) Clean, dry and oil-free compressed air, 4 - 6 bar; Pneurop / ISO class 4
- h) First fillings of delivered equipment with lubricants and additives according to Seller's specification (details will be provided after order placement)
- i) Heating, illumination, electric power supply, water, including circuit points for installation works as well as compressed air supply; aforementioned media connections shall be provided at the TOP's
- j) Appropriate storage space, which is adequately secured against theft and damage, for the Object of Agreement and assembly tools.

Furthermore to be supplied by the customer:

- a) Supply of safety fences / safety doors / bumper rails / etc. according to Seller's engineering
- b) Basic training of operation and maintenance staff prior to commissioning of machine / plant according to Seller's documentation
- c) Additional training on annual basis for operation and maintenance staff including written confirmation of the training

E.4 Payment Terms

Unless otherwise agreed upon or stipulated in the quotation, payments shall be made by irrevocable and confirmed letter of credit to be issued by a customer bank acceptable to the seller in favor of the Seller on short notice, at the latest 1 month after receipt of the order confirmation. All cost of opening and maintaining the letter of credit shall be borne by the customer.

Customer's payment obligation is fulfilled only if and when the invoice amount is received without reservation by Seller at his free disposal.

The Seller is entitled to set off its claims against payment claims the customer has towards the Seller.

All taxes, duties, expenses or/and other charges incurred outside Germany shall be borne by the customer. If any sales tax, consumption tax or similar taxes should be raised in connection with the sale of the Object of Agreement and should the Seller be charged with such taxes, the Seller is entitled to increase the agreed price accordingly.

The customer may set off only those claims which are undisputed or established as final and absolute in law.

In case of deterioration of customer's financial circumstances after conclusion of the contract, the Seller is entitled to refuse performance until the claim has been settled or if otherwise securities have been provided to safeguard outstanding payments.

E.5 Title retention; Transfer of risk

The Seller retains the title to the Object of Agreement until the final and irrevocable receipt of all payments.

Unless otherwise stipulated, the risk of the Object of Agreement passes to the customer as soon as the Object of Agreement has left the works of Seller, even when partial deliveries are made or if the Seller has undertaken to provide other services, i.e. delivery, forwarding expenses, installation, commissioning, training etc.

E.6 Delivery time

All delivery and performance dates (hereinafter Delivery Time) require written agreement between the Seller and the customer.

The Delivery time stated in the quotation may change until the date of signing of the contract, due to the Seller's production capacity utilization.

Delivery Time starts with the latest date set forth below:

- a) Conclusion of the contract according to E.2,
- b) Seller's receipt of documentation as described under E.3 a.), c.), and d.),
- c) Seller's receipt of the contractually agreed down-payment.

Adherence to the Delivery Time is dependent on customer's compliance with regard to payment terms as well as fulfillment of customer's obligation to cooperate and perform and the issuance of export permits, if necessary.

If the delivery is delayed due to act or omission of the customer, an extension of the Delivery Time in a reasonable proportion to the circumstances shall be granted. This shall also apply, if the cause of such delay occurs after expiry of the Delivery Period stipulated in the contract.

If the Delivery Time is not met for reasons beyond Seller's control, like e.g. industrial disputes, shortage of materials or power supplies or Act of God, the Delivery Time shall be extended by the period required to remedy the cause of delay plus an appropriate grace period.

If a fixed Delivery Time has been agreed upon in the contract and Seller fails to deliver within such fixed Delivery time (or any extension thereof granted in accordance with the present article), the customer - after a grace period of 4 weeks - is entitled to claim a compensation for such delay for each full week thereof amounting to maximum 0.3% of the value of the part of the Object of Agreement being delivered late. In no event the aggregate of such compensation shall exceed a total of 3% of the value of the Object of Agreement; however, such entitlement shall not apply, if it can be reasonably concluded from the circumstances of the particular case that the customer has suffered no loss.

Any enforcement of a claim for compensation shall explicitly exclude, subject to the provisions as stipulated under E 9 clause c, any other liability of Seller for delay of Delivery Time.

E.7 Test Run, Final Acceptance; Accuracy and Performance Data

The Seller reserves the right to make changes in design, which do not affect the purpose of the contract.

Test Run and start-up are to be carried out in presence of a chief erector nominated by the Seller. The Final Acceptance immediately follows after erection and commissioning of the machine.

Unless otherwise agreed with the customer, for the acceptance of the Object of Agreement the technical details, such as accuracy values and performance data stated in the quotation shall apply.

Contractually agreed accuracy values as well as performance data shall only be binding under the following conditions:

- Erection, commissioning and test run have taken place under Seller's supervision and observation of all information by customer.
- Adequate foundation for the machine has been prepared by the customer. The minimum dry-out time for the foundation shall be 28 days. Grouting to be done with non-shrinking, non-metallic, fast drying material.
- Machine installation started immediately after arrival of the Object of Agreement on site, respectively the Object of the Agreement has been stored entirely in a dry, dust-free area with temperatures not exceeding the limits of + 5 °C and + 40 °C.
- Machining installation is carried out in clean, dry, dust-free, closed and temperature stable (+ 15° to + 30 °C) environment.
- Ambient temperature fluctuation not to exceed +/- 1 °C per hour and +/- 6 °C per day for erection and acceptance test. The ambient temperature to be within 15 °C to 30 °C during acceptance as well as no draught, direct sunlight or spot heaters are allowed in the workshop.
- The functionality of the Object of Agreement is only ensured, independent from agreed performance data, in a dry, dust-free and closed area with a constant temperature between + 5 °C and + 40 °C.
- The entire workpiece temperature has to be homogeneous and constant (max.: +/- 1 °C deviation from ambient temperature)
- The coolant temperature has to be homogeneous and constant (max.: +/- 2 °C deviation from ambient temperature).
- Optimum work tools have to be used.
- Mounting of the workpieces as stipulated in the contract.

It is mutually agreed, that the machine shall be deemed as accepted, when the Object of Agreement is used for production.

E.8 Warranty

The warranty period expires 12 months after start of production or Final Acceptance, however, not later than 18 months after readiness for dispatch.

The Seller warrants the equipment covered to be free from defective material and workmanship.

If the customer notifies within the warranty period that there are parts found to be defective due to defects resulting from design, manufacturing, processing or erection, Seller is obliged at his discretion to repair or replacement such parts within a reasonable period of time.

In case the Seller does not fulfill its obligation, the customer may ask for appropriate reduction of the contract price. However, if a mutual agreement about the reduction can not be reached, the customer can ask at a maximum for redhibitory action of the contract.

The customer, at his own risk and expense, is responsible for transportation of defective parts, repaired parts or spare parts between domicile and works of the Seller.

This warranty does not include defective parts, materials or equipment manufactured by or on behalf of the customer.

The Seller's warranty obligations shall only apply to defects that appear under the applicable contractual operation and regular use.

This warranty does not cover defects in or damage to the products which are due to improper maintenance, modifications without the prior written approval by the Seller, badly implemented repairs by the customer or a third party and normal wear and tear.

The Seller's warranty obligations do not cover traveling cost incurred by service interventions during the warranty period.

From date of transfer of risk, the Seller shall not accept any liability that exceeds the scope stated in the present article.

E.9 Limits of Liability

It is expressly agreed, that notwithstanding any contrary provisions in this contract the liability of the Seller towards the customer is to the following extend:

- a) To the extent of the contractual agreed liquidated damages.
- b) Within the frame of contractual agreed insurances of the Seller.
- c) Regardless of the legal theory under which any claim may be pursued and as far as not covered by an insurances of the Seller, the Seller in no event shall be liable for damages not occurring on the equipment itself and especially the Seller shall not be liable for indirect, special, incidental or consequential damages, including but not limited to loss of profits or revenue, loss of use of equipment, cost of capital, cost of substitute equipment etc. The limitation of the Seller's liability shall not apply in case of willful intent or gross negligence of the organs of the Seller or his executive employees responsible for the execution of the contract; culpable injury to life, body or health; defects concealed maliciously by the by the organs of the Seller or his executive employees responsible for the execution of the contract or in case if product liability.
- d) The Object of Agreement has to meet the contractual specifications. In case the Object of Agreement does not meet the contractual specification or the Seller does not fulfill his contractual obligations the Seller is obliged at his choice to repair or replace or to fulfill his contractual obligations within a reasonable time.
In case the Seller does not fulfill his obligation within a reasonable time or within an agreed further extension of time, the customer may ask for compensation. However, if a mutual agreement about the compensation can not be reached the customer can ask at a maximum for redhibitory action of the contract. In this case the Seller will reimburse all payments received from the customer so far on return of the delivered equipment.
- e) Where the customer pleads non-fulfillment of contract, the customer is obliged to do everything possible to minimize the incurred loss provided this does not entail unreasonable cost or disadvantages. Otherwise, in case of customer's failure to meet this obligation, the Seller is entitled to a reduction of compensation.

E.10 Applicable Law; Place of Jurisdiction

The law of the Federal Republic of Germany shall apply.

The exclusive court of jurisdiction for all demands arising from or in connection with this contract is Siegen, Germany.

E.11 General Terms and Conditions

As for the rest, outside of Germany the "General Conditions for the Supply and Erection of Mechanical, Electrical and Electronic Products (Orgalime SE 01)" shall be applicable, unless not otherwise regulated in these Terms and Conditions for Supply and Services.

E.12 CE-Standards (only applicable within the scope of EC Machinery Directive)

The basic requirements of the security of a machine regarding safety and health regulations are stipulated according to the EC Machinery Directive.

By fixing the CE sign on the machine and handing over the CE declaration of conformity, it is documented for the customer that the safety and health regulations according to the EC Machinery Directive have been observed.

E.13 Scope of Supply and Services - CE-Standards

a) To be provided by the Seller

- Engineering of machine-related safety devices such as:
 - ◆ Grinding wheel speed control
 - ◆ Light barrier or safety fence for preventing access to the roll
 - ◆ Monitoring modules for safety fences / safety doors / bumper rails / etc. and their integration into the control system
- Supply of machine-related safety devices such as:
 - ◆ Grinding wheel speed control
 - ◆ Monitoring modules for safety fences / safety doors / bumper rails / etc. and their integration into the control system
- Hazard analysis
- Description of residual risks
- Warning signs
- CE marking

b) To be supplied by the customer:

- Supply of safety fences/ safety doors/ bumper rails/ etc. and their integration into the control system
- Basic training of operation and maintenance staff prior to commissioning of machine / plant according to Seller's documentation
- Additional training on annual basis for operation and maintenance staff including written confirmation of the training

E.14 Severability Clause

If provisions of these Terms and Conditions for Supply and Services should be or become partly or wholly ineffective, the remaining arrangements will continue to apply. The parties are bound to replace the ineffective provision with a legally valid provision, as close as possible to the commercial meaning and purpose of the ineffective provision.