

## General Terms and Conditions for Sale, Delivery and Payment of Scheffer Krantechnik GmbH

### § 1 Applicability

- (1) Our deliveries, services and offers are effected exclusively on the basis of these general terms and conditions of delivery and payment. These shall also apply to all future deliveries, services and offers to partners, even if this is not separately so agreed again. These delivery and payment conditions do not apply to business transactions with consumers.
- (2) General terms and conditions of partners, which are not expressly acknowledged in writing, are not applicable.

### § 2 Offer and contract conclusion

- (1) All our offers are subject to confirmation.
- (2) The exclusive decisive element for the legal relationship between us and our partners is a concluded contract in writing, or the contents of our order confirmation, including these conditions of payment and delivery.
- (3) Additions and amendments of concluded agreements, including these delivery and payment conditions, are required to assume the written form to be deemed valid.
- (4) Our employees are not authorised to conclude additional oral agreements or to make any possible verbal assurances, which extend beyond the content of the written contract.

### § 3 Prices and payment

- (1) Our prices are ex works in Euro not including packaging or additional statutory turnover tax, unless an agreement to the contrary is made in writing between the parties.
- (2) Our invoices are due for payment immediately and in full. In the event of the term of payment being exceeded, we are entitled to charge interest at the rate of interest that the bank or savings bank charges us for overdrafts, or a minimum of 8% above the interest rate of the European Central Bank. Cheques are first considered paid on encashment.
- (3) The off-setting of the partner's counterclaims and/or the withholding of payments are only permitted where the counterclaims are undisputed or legally valid.
- (4) In the event that following the conclusion of the contract that our claim to payment could be endangered through a lacking ability to pay on the part of the partner, we are permitted to refuse our services and to grant the partner with a reasonable term, within which the partner with payment on delivery or installation shall pay in advance or offer collateral. Should the partner refuse or the term has expired without success, we have the right to withdraw from the contract and demand compensation.

### § 4 Delivery and term of delivery

- (1) Delivery is unless differently agreed in writing, ex works excluding packing or delivery.
- (2) Agreed delivery terms commence on the date of our and the partner's signature on the contract and following full clarification of technical details, or on the date of our order confirmation.
- (3) In the event that the payment of a down payment prior to delivery has been agreed and the partner defaults this payment, the delivery term shall be extended by the term of non-payment. The same shall apply to calendar-based delivery terms. Should the payment arrears have a duration in excess of 10 calendar days, we have the right to withdraw from the contract and demand compensation.
- (4) We can – not affecting our rights based on default by the partner – extend the terms of the delivery and service by the period of time in which the partner omits to fulfil his contractual duties towards us.
- (5) The partner is obligated to cooperate in undertaking all actions required for a proper provision of services, particularly, where required in individual cases;

- to grant us access to the respective site.
- to obtain the public authorisation required for the installation or start up of the equipment at his own expense and in a timely manner.
- to provide essential information, to sign approval drawings or inform of modification wishes within 10 days of receipt.
- to provide free of charge the required electricity and water supply connections during assembly.
- to undertake all earth, building, foundation and scaffolding work including the procuring of the necessary materials.
- provision of the necessary appliances, hoists and tools and the necessary commodities and materials.
- provision of heating, illumination, operating power and water including the necessary connections.
- provision of required, dry and lockable rooms for the storage of the assembly personnel's tools.
- transport of the assembly parts to the assembly site.
- provision of suitable habitable rooms and workrooms for the assembly personnel.
- provision of materials, which are required to perform the trial, test or inspection stipulated in the contract.

In the event that the partner should fail to fulfil his duty to cooperate, we have the right to refuse to continue fulfilling the contract until cooperation is effected. The delivery term is extended correspondingly. Should the partner fail to fulfil his obligations following the setting of a 10 day deadline, we are entitled to withdraw from the contract and demand compensation.

### § 5 Passing of risk, acceptance

- (1) The risk is passed to the partner with the handing over of the object of delivery to the haulier, freight carrier or a third party assigned with the transport at the latest. This shall also apply if we have assumed the delivery and/or assembly.
- (2) Should the delivery or transfer be delayed for reasons attributed to the partner, the risk is passed from the date of the notification or readiness for delivery.
- (3) Insofar as acceptance is required, the partner may not withhold this on the existence of an insignificant defect.
- (4) The affected equipment is deemed accepted, when put to use by the partner.
- (5) Partial deliveries are permitted insofar as reasonable for the partner.

### § 6 Retention of title

- (1) We reserve right of ownership to the object of delivery until all payments arising from the delivery contract have been received. The parties are agreed that the equipment delivered by us is only for a temporary purpose with temporary purpose in the building or property and does not represent a significant component of the building or property.
- (2) The partner is entitled to resell the reserved goods in a normal business transaction. The receivables from the acceptor from the reselling of the reserved goods are hereby assigned to us to the sum of the agreed invoice amount (including VAT). This assignment is irrespective of whether the purchase object is sold without or following processing. The partner is entitled to collect the receivables following the assignment. Our authorisation to collect the receivables hereby remains unaffected. We shall however not collect the receivables, insofar as the partner fulfils his payment obligations from the collected revenue, does not default payment and in particular does not file for insolvency or no payment stoppage has been effected.
- (3) In the event of a breach of duty by the partner, particularly default of payment, we are entitled following the expiration of a deadline set for the partner, to take back the object of delivery.
- (4) We are entitled to withdraw from the contract, if insolvency proceedings are opened on the partner's assets.
- (5) The partner shall not resell, attach, or pledge the object of delivery as security. In the event of attachment, seizure and other third party enforcement measures, he is to inform of thereof without delay.

### § 7 Warranty

- (1) The properties of the object of delivery are based exclusively on the contractually agreed technical specifications.
- (2) The warranty term commences on the transfer or acceptance of the object of delivery. The duration of the warranty period is 12 months.
- (3) The Warranty does not cover incorrect or improper use, incorrect assembly or start up by the partner or a third party assigned hereto by the partner, through the use of unsuitable materials, defective construction work, unsuitable foundations, chemical or electrochemical influence insofar as we are not responsible for these.
- (4) In the event of a rightful and timely notice of defects we shall repair or replace the parts concerned, defect free, whereby the choice of the execution of this obligation to provide secondary performance lies with us, which is a consequence of a circumstance occurring prior to the passing of risk which proved defective. Replaced parts are also included in our reservation of title.
- (5) The partner shall provide us with the time and opportunity required to execute the supplementary performance and supplementary deliveries appearing necessary to us, otherwise we are released from the liability for the subsequently arising consequences.
- (6) In the event that we do not fulfil our obligations to provide supplementary services or not as specified in the contract, within a reasonable time period, the partner is entitled to set us a final deadline in writing, within which we are obligated to fulfil our duties.
- (7) Should the partner or a third party thereof perform repairs incorrectly, we shall not be liable for the resulting consequences. This shall also apply to changes to the object of delivery made without our permission.

### § 8 Liability

- (1) Claims for damages on the grounds of breach of contractual duties – irrespective of the type breach of duty – and through liability in tort are hereby excluded. We are therefore not liable for damage, which do not occur to the object of delivery itself. This particularly applies to loss of profit through consequential harm caused by a defect and other forms of economical loss suffered by the partner.
- (2) The aforementioned restrictions of liability do not apply when malicious intent, gross negligence or the culpable injury of significant contractual obligations can be accused. In the event of culpable breach of significant contractual obligations we shall assume liability, except in cases of malicious intent or gross negligence, only for contract-typical, reasonable foreseeable damage.
- (3) This restriction of liability shall also not apply to cases in which liability is assumed under the terms of the Product Liability Act in the event of defects to the object of delivery for personal injury, damage to property or to objects for private use. It shall also not apply to personal injury, endangerment to health or death and in the event that guaranteed or assured properties are lacking insofar as these directly aim at securing the partner against damage, which do not result to the object of delivery itself.
- (4) Insofar as our liability is excluded or restricted, this shall also apply to personal liability of our employees, workers, associates, legal representatives and vicarious agents.

### § 9 Force Majeur

- (1) Act of God, industrial disputes, unrest, official sanctions, defaulted deliveries form our suppliers and other unforeseeable, unavoidable and severe occurrences exempt us and our partners from performance obligations for the duration and the scope of the disturbance and its effects. This shall also apply if the occurrence happen at time in which we or our partner are in delay, unless the delay is the result of malicious intent or gross negligence. We and our partners are obligated within the scope of the reasonable to provide the necessary information without delay and to adjust our obligations to the changed situation in good faith.
- (2) Delays to deliveries and services on the grounds of a force majeure entitle us to postpone the delivery or service for the duration of the obstruction with the addition of a reasonable start up time or to withdraw from the contract in part or in full on the grounds of the part not yet fulfilled.

### § 10 Software use and copyrights

- (1) Insofar as software is included in the delivery, we hereby grant the partner the right to use the delivered software including the documentation. The software shall only be handed over for the object of delivery for which it is intended. Use of the software on more than one system is hereby prohibited.
- (2) The partner may only duplicate, edit, translate the software or reconvert the object code to the source code within the legally permitted scope (§§ 69 a ff. Copyright Law). The partner undertakes not to remove manufacturer's instructions, particularly copyright notices or to change these without our prior express written permission.
- (3) We or the software supplier shall retain all other rights to the software and documentation including the copies. The granting of sublicenses is not permitted.
- (4) We reserve the rights to samples, quotations, drawings and similar, physical and intangible information – also in electronic form and proprietary and; these may not be made accessible to third parties without our permission.

### § 11 Legal venue, applicable law

- (1) Our place of business is the legal venue for all legal disputes. We also have the right to file suits at the partner's place of business.
- (2) The relationship between us and the partner is exclusively subject to the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods from 11.4.1980 (CISG) has no application here.