

## 1. General

1.1. All deliveries, goods and services provided by MOLLET Füllstandtechnik GmbH (hereafter referred to as the "Supplier") shall be governed by these General Terms and Conditions and any separate contractual agreements. The purchaser's general terms and conditions shall apply only to the extent that the Supplier has expressly approved the same in writing. The parties mutually agreed written declarations shall govern the scope of deliveries.

1.2. These General Terms and Conditions shall apply exclusively to contracts with business enterprises, legal entities under public law, or special funds under public law.

1.3. The Supplier reserves unrestricted rights of exploitation of ownership and copyright in the cost estimates, drawings, and other documents (hereafter referred to as the "Documents"). The Documents may only be disclosed to third parties upon the prior approval of the Supplier and, should the order not be awarded to the Supplier, they must be returned immediately to the Supplier upon demand. Sentences 1 and 2 shall apply correspondingly to the purchaser's Documents; the same may, however, be disclosed to such third parties to whom the Supplier has permissibly transferred its supply obligations.

1.4. Partial deliveries shall be permissible to the extent deemed reasonable to the purchaser.

1.5. For purposes of these General Terms and Conditions, the term "claims for damages" shall include claims for reimbursement of expenses incurred in vain.

## 2. Prices, Payment Conditions and Offsetting

2.1. Prices are quoted ex-factory Osterburken excluding packaging, which will be charged separately, plus the statutory sales tax applicable at the time.

2.2. The Supplier's latest price list supersedes all previous price lists.

2.3. Payment must be made within 10 days from the invoice date less 2% cash discount, or within 30 days without deduction.

2.4. Unless otherwise agreed, and in cases where set-up or assembly has been carried out by the Supplier, the purchaser shall, in addition to the agreed purchase price, bear all necessary additional costs, such as travel and transportation costs, including per diem expenses.

2.5. Payments shall be made without any deductions and free of transaction charges to the Supplier's designated account(s).

2.6. The purchaser may only offset such demands as are undisputed or have been legally established.

## 3. Retention of Title

3.1. The Supplier shall retain title to all delivery items (goods subject to retention of title, hereafter the "Reserved Goods") until the purchaser has fulfilled all obligations to the Supplier arising from their commercial relationship. To the extent that the value of all security interests available to the Supplier exceeds the amount of all secured claims by more than 20%, the Supplier shall, at the purchaser's request, release an appropriate part of such security interests; in making such release, the Supplier shall have the choice between different security interests.

3.2. During the period of title retention the purchaser shall not pledge or transfer ownership in the Reserved Goods by way of security, and may only resell as a reseller in the ordinary course of business and only on condition that the reseller receives payment from his customer, or with the proviso that title is transferred to such customer only when he has met his payment obligations.

3.3. Should the purchaser resell the Reserved Goods, he hereby assigns his future claims against his customers arising from the resale, together with all associated rights (including any claims for account balances), to the Supplier as security without the need for additional, special declarations to this effect. Should the Reserved Goods be resold together with other items without an individual price for the Reserved Goods having been agreed, then the purchaser shall assign to the Supplier that portion of the total price demand which corresponds to the price of the Reserved Goods specified by the Supplier in the invoice.

3.4. a) The purchaser is allowed to process the Reserved Goods, or to mix or combine the same with other items. The processing shall be done on behalf of the Supplier. The purchaser shall preserve the new item produced thereby for the Supplier using the standard of care of a prudent businessman. The new item shall be considered to be a Reserved Good.

b) The Supplier and the purchaser hereby agree that, upon combining or mixing with other objects not owned by the Supplier, the Supplier shall, nevertheless, acquire co-ownership of the new item in the ratio of the value of the combined or mixed Reserved Goods to the value of the other goods at the time of such combining or mixing. The new item shall be considered to be a Reserved Good.

c) The provision covering assignment of claims under Sec. 3.3 above shall also apply to the new items. Such assignment shall, however, only apply up to the amount which corresponds to the Supplier's invoiced value of the processed, combined or mixed Reserved Goods.

d) Should the purchaser combine the Reserved Goods with real property or movable goods then he hereby also assigns to the Supplier, without the need for additional declarations, those claims to which he is entitled as remuneration for such combining, together with all associated rights for security purposes, in the ratio of the value of the combined Reserved Goods to the remaining combined goods at the time of such combining.

3.5. Until revoked, the purchaser is authorized to collect assigned claims from any resale activity. The Supplier shall be authorized to revoke the purchaser's right of collection upon material grounds, especially upon default of payment, cessation of payment, institution of insolvency proceedings, protesting of bills of exchange, or well-founded evidence of the purchaser's overextension or impending inability to make payment. In addition, the Supplier may, after issuing a prior warning and observing a reasonable grace period, disclose the assignment by way of security, realize the assigned claims, as well as demand disclosure of the assignment by way of security by the purchaser to the customer.

3.6. The purchaser shall immediately inform the Supplier of any seizures, attachments or other dispositions or third-party interventions. Upon substantiation by prima facie evidence of a legitimate interest, the purchaser shall immediately provide the Supplier with the information and documents necessary for assertion of its rights against the customer.

3.7. In the case of breaches by the purchaser, especially in the case of default of payment, the Supplier shall, in addition to a right of return of the goods, also be entitled to withdrawal from the contract following the unsuccessful expiration of a reasonable grace period allowed to the purchaser for performance. The statutory requirements governing the dispensability of setting a period of grace shall remain unaffected. The purchaser shall be obliged to surrender the goods. In the case of return or assertion of the right of retention of title or seizure of the Reserved Goods by the Supplier, the same shall not constitute withdrawal from the contract unless the Supplier had expressly declared the same.

## 4. Delivery Deadlines; Delay

4.1. Compliance with delivery deadlines and delivery dates presupposes the timely receipt of all of the documents to be delivered by the purchaser, the required approvals and releases especially of plans, as well as observation of the agreed payment terms and other obligations of the purchaser. Should these conditions not be met on time, then the deadlines shall be extended by a reasonable period. The foregoing shall not apply if the Supplier has caused such delay.

4.2. Should failure to observe the deadlines be caused by:

a) force majeure, e.g. mobilization, war, terrorist attack, civil unrest, or similar events (e.g. strike, lockout),

b) virus and other third-party attacks on the Supplier's IT-system, insofar as the same are effected despite compliance with usual security precautions,

c) barriers attributable to German, U.S. and other applicable national, EU or international regulations of foreign trade law, or attributable to other circumstances which are not caused by the Supplier, or

d) untimely or improper delivery to the Supplier, insofar as the Supplier is not at fault for the same,

then the deadlines shall be extended by a reasonable time.

**4.3.** In the event of delay by the Supplier, the purchaser (to the extent he can credibly establish that he has incurred loss or damage as a result) may demand compensation in the amount of 0.4% for each full week of such delay, up to a maximum amount of 4% of the price of that portion of the delivery which could not be put to appropriate use because of such delay.

**4.4.** Both the purchaser's claims for damages caused by delivery delays and claims for damages in lieu of performance which exceed the limits specified in Sec. 4.3 above shall be excluded in all cases of delayed delivery, even after the expiration of any grace period set for the Supplier's delivery. The same shall not apply to cases of liability for intentional acts, gross negligence, or injury to life, body or health. The purchaser may only withdraw from the contract under the statutory provisions where such delay was the fault of the Supplier. The foregoing provisions do not alter the burden of proof to the purchaser's disadvantage.

**4.5.** The purchaser shall be obligated to declare within a reasonable period, at the Supplier's demand, whether he intends to withdraw from the contract because of the delay in delivery, or whether he insists on delivery.

**4.6.** If shipping or delivery is delayed, at the purchaser's request, by more than one month following notification of shipment readiness, then the purchaser may be charged a storage fee in the amount of 0.4% of the price of the delivery items for each additional month commenced, however up to a maximum overall amount of 4%. The contracting parties remain free to provide proof of higher or lower storage costs.

## 5. Risk Transfer

**5.1.** The risk shall pass to the purchaser, even in cases of free delivery, as follows:

- a) for delivery without set-up or assembly, when it has been dispatched for delivery or picked up. At the request and at the cost of the purchaser, the Supplier will insure the delivery items against the usual transport risks;
- b) for delivery with set-up or assembly on the date of transfer at the purchaser's own premises or, if agreed, following a successful trial operation.

**5.2.** If the shipping, delivery, commencement or completion of set-up or assembly, transfer at the purchaser's own premises, or the trial operation is delayed by reasons attributable to the purchaser, or if the purchaser's acceptance is delayed for other reasons, then the risk shall pass to the purchaser.

## 6. Set-Up and Assembly

The following provisions shall, to the extent not otherwise agreed in writing, apply to set-up and assembly:

**6.1.** The purchaser must, at his own cost, undertake and provide in a timely manner:

- a) all land, building and other supplemental works outside the Supplier's industry sector, including any necessary specialists and staff, building materials and tools,
- b) any items and materials required for assembly and placement into operation, such as scaffolds, lifting devices and other equipment, fuels, and lubricants,
- c) energy and water at the point of use, including electrical connections, heating and lighting,
- d) sufficiently large, suitable, dry and lockable spaces at assembly sites for storage of machine parts, equipment, materials, and tools, etc., and reasonable work and accommodation rooms, including sanitary facilities reasonable in the circumstances, for the benefit of assembly personnel; in addition, the purchaser must take such necessary measures to protect the Supplier's and the assembly personnel's property as he would for his own property,
- e) protective clothing and personal safety equipment as required by the particular circumstances of the assembly site. Prior to the beginning of assembly work, the purchaser must make available the necessary data regarding the location of buried power lines, gas and water pipes, or similar systems, including the required statistical data, without being requested to do so.

**6.2.** Prior to beginning set-up or assembly, the supplies and items required for commencement of the work must be at the set-up or assembly site, with all preliminary work prior to the beginning of construction so far progressed

that the set-up or assembly can be commenced and completed without interruption according to the contractual terms. Access ways and the set-up or assembly site must be leveled and cleared.

**6.3.** Should the set-up, assembly or start-up be delayed by circumstances for which the Supplier is not responsible, then the purchaser must bear the reasonable costs for waiting periods and additional travel required by the Supplier or assembly personnel.

**6.4.** The purchaser must promptly certify to the Supplier, on a weekly basis, the number of hours worked by the assembly personnel and the conclusion of set-up, assembly or start-up.

**6.5.** Should the Supplier demand acceptance of the delivery after completion, the purchaser must provide the same within two weeks. Acceptance shall be deemed to have taken place if the purchaser allows the two-week period to lapse or if the delivered goods (after the end of any agreed test phase, if applicable) are put into service.

## 7. Acceptance of Delivery

The purchaser may not refuse to accept deliveries due to minor defects.

## 8. Defects

The Supplier shall be liable for defects as follows:

**8.1.** All such parts, goods or services which are defective shall, at the Supplier's choosing, be repaired, replaced, or rendered again free of charge, to the extent that the cause of the defect existed at the time the risk passed to the purchaser .

**8.2.** Claims for cure of performance shall lapse 12 months from the start of the statutory limitation period; the same shall apply to withdrawal from the contract and reduction in price. This period shall not apply to the extent the laws according to §§ 438 Sec. 1, No. 2 (buildings and building items), 479 Sec. 1 (right of recourse) and 634a Sec. 1 No. 2 (construction defects) BGB [German Civil Code] stipulate longer periods, in the case of intentional acts, fraudulent concealment of such defect, and failure to comply with a guarantee of quality. Statutory provisions regarding suspension of expiry, tolling of the limitation period and restarting of deadlines shall remain unaffected.

**8.3.** The purchaser's notification of defects must be made immediately, in writing.

**8.4.** In the case of a notification of defects, the purchaser may withhold payment in an amount commensurate to any defects encountered. The purchaser may only withhold payments where a notification of defects is asserted, the justification for which is beyond doubt. The purchaser shall have no right of retention once his claims for defects have become time-barred. Should a notification of defects be unjustified, the Supplier shall be entitled to demand reimbursement for its costs from the purchaser.

**8.5.** The Supplier shall be granted the opportunity to cure performance within a reasonable time.

**8.6.** Should the cure of performance fail, the purchaser may, without prejudice to any claims for damages under Sec. 8.10. below, withdraw from the contract or reduce payment.

**8.7.** Claims for defects do not apply if there are only slight deviations from the agreed quality, slight impairments of usability, natural deterioration, or defects which arise following the transfer of risk due to improper or negligent handling, excessive loads, unsuitable equipment, deficient construction, unsuitable subgrade, or which arise based on unusual external influences not specified in the contract, including irreproducible software failures. Should the purchaser or a third party attempt improper alterations or repairs, then there shall be no claim for defects arising therefrom, or for the consequences thereof.

**8.8.** Purchaser's claims related to the necessary costs of curing performance are excluded; in particular, the costs of transportation, travel, work and materials, to the extent such costs are increased because the delivery item was negligently delivered to a place other than the purchaser's plant, unless the shipment corresponds to its specified use.

**8.9.** Purchaser's claims for recourse against the Supplier under § 478 BGB (right of recourse) shall exist only to the extent that the purchaser has concluded no agreements with his customer which exceed the statutory

claims for defects. With respect to the scope of the purchaser's right of recourse against the Supplier under § 478 Sec. 2 BGB, Sec. 8.8 above shall apply accordingly.

**8.10.** Purchaser's claims for damages because of a defect are excluded. The same shall not apply with respect to fraudulent concealment of the defect, to failure to maintain a guarantee of quality, to injury to life, body or health, or to an intentional or grossly negligent breach of duty by the Supplier. The foregoing provisions do not alter the burden of proof to the purchaser's disadvantage. Purchaser's claims for defects which exceed or are other than as governed by this section (8. Defects) are excluded.

## 9. Intellectual Property Rights and Copyright; Legal Deficiencies

**9.1.** Unless agreed otherwise, the Supplier is obliged to make delivery only in the country specified for delivery, free from third-party intellectual property rights and copyright (hereafter: Intellectual Property Rights). To the extent a third party brings justified claims against the purchaser for infringement of Intellectual Property Rights based on deliveries by the Supplier and used in accord with this contract, then the Supplier shall be liable to the purchaser within the period specified under Sec. 8.2 above as follows:

a) The Supplier, at its choice and at its cost shall, with respect to the affected delivery, either secure a license, alter it such that it is no longer infringing, or exchange it. If this is not reasonably possible for the Supplier, then the purchaser shall have statutory rights of withdrawal or price reduction.

b) The Supplier's duty to pay damages shall be governed by Sec. 12. below (Other Claims for Damages, Lapse of Time).

c) The foregoing duties of the Supplier shall exist only to the extent that the purchaser immediately notifies the Supplier, in writing, with respect to the assertion of third-party claims, does not concede infringement, and that all the Supplier's defense measures and negotiation rights are reserved. Should the purchaser cease usage of the delivery items in order to limit loss or damage or on other material grounds, then he shall be obliged to advise such third party that the cessation of use is in no way connected to any acknowledgement of rights infringement.

**9.2.** Purchaser's claims are excluded to the extent that he is responsible for such infringement of Intellectual Property Rights.

**9.3.** Purchaser's claims are further excluded to the extent that the infringement of Intellectual Property Rights is caused by the purchaser's particular specifications, by a use that could not have been foreseen by the Supplier, or by the purchaser altering the delivery items or using them together with products not delivered by the Supplier.

**9.4.** In the case of infringement of Intellectual Property Rights, the provisions of Sec. 8.4, 8.5 and 8.9 shall apply accordingly to the purchaser's rights regulated in Sec. 9.1.a).

**9.5.** The provisions of Sec. 8 (Defects) above shall apply accordingly to any other legal defects.

**9.6.** Purchaser's claims against the Supplier or its agents for legal defects, which exceed or are different from those regulated in this Section (9. Intellectual Property Rights and Copyright; Legal Defects), are excluded.

## 10. Fulfillment Clause

**10.1.** Fulfillment of the contract is conditional upon the nonexistence of barriers attributable to German, U.S. or other applicable national, EU or international provisions of foreign trade law, embargoes, or other sanctions preventing the same.

**10.2.** The purchaser shall be responsible for procuring all information and documents required for export, shipment or import.

## 11. Impossibility, Contract Amendment

**11.1.** Where delivery is impossible the purchaser shall be entitled to claim damages, unless the Supplier is not responsible for such impossibility. The purchaser's right to claim damages, however, shall be limited to 10% of the value of that portion of the delivery which, owing to such impossibility, cannot be used for the intended purpose. This limitation shall not apply in cases of liability for intentional acts, gross negligence or damage to life, body or health; the foregoing shall not alter the burden of proof to the purchaser's

disadvantage. The purchaser's right of withdrawal from the contract shall not be affected.

**11.2.** To the extent that events, for purposes of Sec. 4.2 a) through c) above substantially change the economic significance or content of the delivery, or significantly affect the Supplier's business, then the contract shall be amended in good faith. Should this be commercially unreasonable, then the Supplier shall have the right to withdraw from the contract. The same shall apply where the required export permits are not issued or cannot be used. Should he wish to make use of this right of withdrawal, upon learning the scope of the situation he must immediately notify the purchaser, even if there had initially been an agreement with the purchaser to extend the delivery time.

## 12. Other Claims for Damages; Lapse of Time

**12.1.** Unless otherwise governed by these General Terms & Conditions, the purchaser's claims for damages, on whichever legal basis, especially for breach of obligations under the contract or liability in tort, are excluded.

**12.2.** This shall not apply to the extent that liability for the following exists:

- a) according to the product liability laws,
- b) in cases of intentional acts,
- c) gross negligence,
- d) fraud,
- e) failure to maintain a guarantee undertaken,
- f) culpable injury to life, body or health, or
- g) culpable breach of material contractual obligations.

The right to claim damages for breach of material contractual obligations, however, shall be limited to foreseeable losses and damage typical of this type of contract, to the extent that none of the afore-mentioned cases applies.

**12.3.** The foregoing provisions do not alter the burden of proof to the purchaser's disadvantage.

**12.4.** To the extent that claims for damages are available to the purchaser, the same shall lapse upon expiration of the applicable period provided in Sec. 8.2. above. The same shall apply to the purchaser's claims related to measures to limit loss or damage (e.g., recalls). Claims for damages under the product liability laws shall be governed by the statutory limitation periods.

## 13. Place of Jurisdiction and Applicable Law

**13.1.** If the purchaser is a merchant, the place of jurisdiction for all legal disputes arising directly or indirectly from the contractual relationship shall be the Supplier's registered office. The Supplier shall, however, be entitled to institute legal proceedings at the purchaser's registered office.

**13.2.** This contract, including its interpretation, is subject to German law, excluding the United Nations Convention on the International Sale of Goods (CISG).

## 14. Contract Validity

The remaining parts of the contract shall remain valid even if one or more provisions are legally invalid. This shall not apply if adherence to the contract would present an unreasonable hardship for one of the parties.