

General Terms and Conditions of Contract for entrepreneurs:

1. Binding Effect

Any order placed with us shall be governed exclusively by the terms and conditions set forth below („Terms and Conditions“). No deviations from said Terms and Conditions will be valid and binding, unless the same are expressly confirmed by us in writing. We do not recognise purchaser (hereinafter „the Purchaser“) terms and conditions that are contrary to or deviate from our General Terms and Conditions, unless we have explicitly agreed to the validity hereof in writing. These Terms and Conditions will be valid and binding also for any orders placed with us in the future. If we will complement or modify these Terms and Conditions, we will inform the Purchaser in time.

2. Offers

Unless expressly indicated otherwise, all offers made by us shall be non-binding. We shall accept orders either in writing or through delivery. Our offers and confirmations of orders are always subject to a positive credit rating for the Purchaser and to a timely and properly self-delivery. The information stated in the offer and in our confirmation of order shall always be appropriate to the nature of the goods.

If any modifications or changes, which are affecting the scheduled production time, will be agreed between the parties after conclusion of the contract, then the agreed times for performance of our obligations shall be reasonably extended. Such times shall also be reasonably extended, if any delays occur due to industrial action or due to any unforeseeable hindrances beyond our reasonable control. In case of e.g. epidemics or pandemics the agreed times shall be reasonably extended unless the contract itself needs to be terminated on account of impossibility of performance (Force Majeure). The delivery appointments are not deadlines. Compensation claims on the part of the Purchaser on account of delay in performance shall be excluded in all cases, unless the delay is due to wilful intent or gross negligence on our part. Any rights of retention and any rights to refuse performance are waived. The parties also waive any right to setoff mutual claims, except in the case that the claims are recognized or have become res judicata.

3. Export Regulations/Transfer of risks (EXW)

The obligation to deliver goods or provide services shall cease, if it conflicts with German or other export regulations, e.g. due to the designated purpose of use.

The risk in the goods shall pass to the Purchaser at the moment the goods are dispatched from our premises (EXW). Where the Purchaser chooses to collect the goods himself, the risk will pass when the goods are entrusted to him or set aside for its collection.

Irrespective of whether the Purchaser indicates the final destination for the products supplied, the Purchaser shall be obliged, on its own responsibility, to obtain any license or permit which may be necessary from the relevant foreign trade authority responsible prior to exporting such products. We have no duty to provide information. The Purchaser shall make all arrangements necessary to take delivery of the goods.

Furthermore, the Purchaser is not permitted to deliver products to natural or legal persons that are in any way connected with the support, development, production or use of chemical, biological or nuclear weapons of mass destruction. The Purchaser is made aware that certain products are not intended for use in nuclear plants, medical, life-saving or life-sustaining systems, and agrees to bear the risk of such unintended use.

4. Payment Terms

All deliveries and services shall be invoiced at our prices valid on the date of conclusion of the contract. All our prices are quoted ex warehouse (EXW). Packaging and shipping costs plus statutory VAT as well as import sales taxes and customs duties shall be added to the invoice. We reserve the right to increase customer prices in the event our prices rise after the conclusion of a contract, including in the event of wage settlements, increase in our suppliers' prices or currency exchange rate fluctuations. We will evidence this to the Purchaser upon request and Purchaser's further legal rights remain unaffected. Unless otherwise agreed in writing, the purchase price shall be due and payable without deductions of any kind to our payment office within 14 days from the invoice date. We are entitled to request advance payment or provision of security for deliveries. In the event of delays in payment on the part of the Purchaser, we are entitled to charge interest on outstanding payments of at least five per cent above the respective base interest rate. If the Purchaser defaults on payment, all claims we have against the Purchaser shall become due and payable immediately. Expenses shall be borne by the Purchaser.

5. Retention of Title

The delivered goods remain the property of Schumacher Elektromechanik GmbH until payment in full of any sums owed to Schumacher Elektromechanik GmbH under this contract is received by Schumacher Elektromechanik GmbH.

The purchaser may not resell the goods subject to said retention of title (hereinafter „the Reserved Goods“), unless he has obtained our expressly written consent to do so.

The parties hereby agree that any claims arising to the Purchaser out of the resale of the Reserved Goods shall be assigned to us with effect of the date hereof as a collateral for our claim in the amount of the invoice value of the Reserved Goods resold. The Purchaser agrees to give notice of said assignment to his debtor, if requested by us to do so. The Purchaser shall not pledge, mortgage or assign the Reserved Goods by way of security, unless and to the extent that we are still the owner of such goods. The Purchaser has to give immediate notice to us, if he sustains any attachment, seizure, levy, arrest, confiscation or other order by third parties that affect our rights in the Reserved Goods. The Purchaser bears any expenses incurred to defend such attachment, seizure, levy arrest, confiscation or other order by third parties.

6. Performance Specification

The contract of the sale is based upon the specification of services contained in our quotation or, if confirmed by us in writing, upon the specification of services set out in a performance specification.

7. Documentation

The operation and maintenance of our systems will be detailed in our documentation. The instructions contained in said documentation must be strictly adhered to, particularly with regard to any safety installations (if any) for the commissioning and operation of the delivered goods.

8. Default of Acceptance

If the Purchaser is in default of acceptance or if he cancels his order in whole or in part then we may in our discretion either claim performance of contract or claim damages for non-performance in an amount of at least thirty percent (30%) of the order value. Furthermore we reserve the right to enforce higher damages, particularly in the case that the non-performance causes damages to us in excess of the aforementioned amount.

9. Warranty

The Purchaser is obliged to examine our goods and/or our services immediately after receipt and give notice of any defect or missing goods or the absence of guaranteed characteristics without delay. Missing goods or parts will not be replaced without immediate notice. The Purchaser will inform us immediately in writing upon a defect becoming apparent.

We warrant, that the systems supplied by us meet the contractual specifications in terms of design, material, workmanship and represented characteristics. To the extent that we have agreed to provide additional services besides the delivery, we warrant the performance of such services in accordance with the contract and without any defects (hereinafter „the Warranty“). In the case that our delivery or service shows any defects or fails to have all of the guaranteed characteristics and therefore does not meet the Warranty, then we are at our option obligated and entitled to rectify the defects or replace the defective parts at no cost or, as the case may be, to correct the defective service. Any replaced parts become our property.

a. No warranty claim shall arise, if the use of our delivery or service is affected by other circumstances. This applies particularly in the case of wear and tear, chemical and mechanical impacts and for the consequences of an improper installation/commissioning performed by the Purchaser or an improper operation of the delivered goods. Any warranty obligation terminates, if the Purchaser or any third party makes any alterations, changes, modifications to, or repairs of the equipment. After commissioning of the delivered items without any objections, any agreed process characteristics of the delivered items are no longer subject of the Warranty. If the commissioning has not been performed within the Warranty Period (as hereinafter defined), then our obligations under the Warranty terminate at the time of the expiry of the Warranty Period with respect to any process engineering characteristics.

b. Necessary expenses and travel costs incurred by our staff are covered by the Warranty if our delivery is installed in the EU. If our delivery or goods are installed outside the EU any necessary expenses, travel costs and travel time incurred by our staff, as well as any costs of transportation and customs duties for replacement parts are not included in the Warranty and are at the expense of the Purchaser.

c. Our Warranty is limited to a period of twelve (12) months after the goods are dispatched from our premises (the „Warranty Period“).

With respect to parts or spare parts delivered to customers under the Warranty, the Warranty Period ends with the expiry of the Warranty Period for the system as a whole. The Warranty for spare parts delivered outside the Warranty Period of the system is limited to six (6) months and applies to the material cost only.

d. All claims, which are not explicit granted in this Conditions, especially claims for damages out of impossibility, delay, breach of contractual extra obligations (including advice and given information), furthermore any liabilities for consequential damages or loss of production incurred by the Purchaser or third parties as a result of the use or operation of our products and the service provided therefore, as well as the breach of duty prior to contract, unallowed acting - also so far these claims are connected with claims for defects of the Purchaser - are excluded, unless they are based on an event of willful intent or gross negligence by us, a legal representative or agent of us, or unless they are based on a light negligent breach of essential contractual duties by us, a legal representative or leading agent of us, or it is a guilty breach of life, body and health.

10. Substituted Performance, Reduction, Rescission

In the case of our default in rectifying any defects the Purchaser may exercise any right provided by the law of the Federal Republic of Germany (if any) to rectify the defects by himself or have the same rectified by a third party, provided that we have failed to fulfill our obligation within a reasonable period of grace and provided further that the Purchaser have first noticed us in writing, stating the default, the period of grace and the right the Purchaser intend to exercise in the case of a futile expiry of said grace period. The same applies for any rights of reduction in purchase price or rescission of contract.

11. Amendments in Writing

No amendment of our supplements to this contract are valid and effective, unless agreed between the parties in writing. This requirement of form can only be waived by a written agreement.

12. Delimitation

Deliveries of goods or provisions of services that are not expressly set forth by name in the contract, are not part of the delivery contract. Any information given and agreements reached prior to the conclusion of this contract are not binding, unless the same are expressly included in the contract in writing. Any modifications that may arise after technical clarification shall be included and calculated in supplementary quotations.

13. Severability

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force. Any invalid, illegal or unenforceable provision shall be replaced by a valid term or provision which most closely reflects the economic purpose of the invalid, illegal or unenforceable term or provision.

14. Applicable Law, Place of Performance, Jurisdiction, Conciliation Procedure

This contract is governed by and shall be construed in accordance with the laws of the Federal Republic of Germany. To the extent permitted by law, the parties hereby submit to the jurisdiction of the courts in Munich, Germany, and agree that the performance of this contract and of any default actions, bills of exchange and/or cheques shall take place in Munich, Germany.

However we are willing to run a conciliation procedure at the arbitration board of the Chamber of Commerce and Industry in Munich by amounts involved less than EURO 500,00. The limitation period shall be suspended during the conciliation procedure. If no solution can be found both parties are free to take legal measures.