

General Terms and Conditions of Delivery (AGB)



The following terms and conditions shall apply for business between the customer, hereinafter referred to as „Buyer“, and M/s Dóczy Entwicklung & Konstruktion, hereinafter referred to as „Supplier“:

General Provisions

- These General Terms and Conditions of Delivery shall apply for all of Supplier's performances. They shall also apply for future business with Buyer even if that is not expressly agreed upon. These Terms and Conditions of Delivery are accepted with Buyer's placement of order. Any deviations need to be agreed upon in writing.
- No purchasing conditions nor other general contract conditions of Buyer shall become an element of the content of the contract. Supplier reserves the right to modify these General Terms and Conditions of Delivery at any time. The most recent version shall apply. In case of modifications in the course of a business transaction Buyer has the right to contradict within a period of 4 weeks.
- Buyer is not entitled to transfer any rights from the contract to third parties without the express approval of the Supplier.

Scope and Conclusion of Contract

Any information concerning Supplier's products and services given in quotations, product descriptions, brochures and such is given without obligation unless Supplier has expressly specified it as binding. Orders become binding by Supplier's written order confirmation. Supplier is bound to his quotation for a period of 4 weeks. If an order is not placed within such a period prices and terms have to be renegotiated. Supplier reserves the right to modify design and/or shape of the equipment on order without prior advice as long as such modifications do not unduly change the appearance of the equipment. Side agreements and changes shall only come into effect upon Supplier's written confirmation. This requirement can only be waived by a written agreement. Supplier reserves all ownership and copyrights to his documents, such as drawings, cost estimates, brochures, product descriptions, samples, etc. They must not be made available to third parties and must be returned in full to Supplier if he so requests at any time.

Prices

- Pricing**
All prices quoted are in Euro and shall apply for delivery ex works and are exclusive of VAT in the statutory amount.
- Extra Costs**
Any taxes, fees, and other charges resulting from Supplier's performance outside the Federal Republic of Germany shall be borne by Buyer.

Deliveries, Passing of Risk

- Passing of Risk**
Incoterms 2000 shall apply. Unless otherwise agreed delivery shall be ex works from the place of manufacture. In case delivery is delayed or will not take place as agreed upon for reasons not attributable to the Supplier risk shall pass to the Buyer as of the day of the notice of readiness for shipment or acceptance. Transport insurance shall be covered by Buyer.
- Delayed Delivery**
In case delivery is delayed for reasons Supplier is responsible for and Buyer incurs any damage due to the delay Buyer is entitled to claim compensation in the form of liquidated damages limited to 0.5 % for each full week of delay, but not to exceed an aggregate of 5 % of the value of the delayed portion. All other claims are excluded.
In case delivery is delayed for more than 10 weeks Buyer is entitled to rescind the contract with a written declaration to that effect.
In case the equipment is ready for shipment and delivery is delayed for reasons Supplier is not responsible for Supplier shall be entitled to store the equipment at Buyer's expense in an amount of 0.5%/month of the value of the equipment.
If non-compliance is attributable to reasons of Force Majeure or other events beyond Supplier's scope of influence, the delivery period shall be reasonably extended.
- Delivery Date**
Dates stipulated are binding if so declared in writing by both Buyer and Supplier, otherwise they are given without obligation. Compliance with the agreed delivery date requires that all commercial and technical issues between Buyer and Supplier have been settled and that Supplier has performed all of his obligations in time.

Terms of Payment

- Payment**
Unless otherwise agreed, payment shall be made as follows:
1/3 down-payment upon receipt of order confirmation,
1/3 upon delivery or notification of readiness for shipment resp.,
the balance upon the passing of risk,
all instalments due within 30 days from the date of invoice, net.
Payments by cheque shall be deemed received after they are credited to Supplier's account. Payments shall not be set off nor withheld due to counter-claims from other contracts with the Supplier.
- Delays in Payment**
In case of delays or respite interest on arrears of 4% p.a. above the basic interest rate of the Central European Bank shall be charged.
In case Buyer comes into default or it becomes apparent that insolvency proceedings are imminent Supplier may discontinue processing all orders from Buyer and request immediate payment of all charges due and not yet due or a suitable security for them.
In case Buyer does not meet Supplier's request for payment or securities within a reasonable period of time Supplier shall be entitled to rescind the contract(s) and to charge any cost accrued so far plus the amount for loss of profit.
Buyer shall inform Supplier about any unusual occurrences in the business transactions, in particular seizures, confiscations, etc.
- Withholding of Payments**
Buyer may only off-set or withhold payments, even if he claims defects or has counter-claims, if the legal basis or amount of such claims is not disputed or is final and absolute or such claims have been accepted by Supplier in writing.

Reservation of Title

- Documents**
All order-specific documents must not be passed on to third parties which are not directly involved in the manufacturing process (development, design and/or planning).
- New Developments or Patents resp.**
New developments of any kind, in particular specimens and patents, arising during the processing of an order remain the property of the Supplier after completion of the order. However, Buyer shall have the first right to obtain a licence of use to be agreed upon separately.
- Performance**
Ownership to the subject of delivery shall pass to the Buyer only after it has been paid in full. Buyer must not pledge nor assign as security the subject of delivery prior to the passage of title. In the event of seizure and confiscation or other dispositions by third parties Buyer has to inform Supplier without delay.
In the event of actions on the part of the Buyer in breach of contract, including, but not limited to, default of payment, Supplier shall be entitled to repossession following a notice of default. Buyer shall be obliged to surrender possession. Any costs in this connection shall be for Buyer's account. Neither the enforcement of the reservation of title nor the pledge of the subject of delivery shall be deemed to be a rescission of contract.

Warranty

- Buyer shall check Supplier's deliveries and services immediately upon receipt and issue approval in writing. Obvious defects shall be reported in writing within 2 weeks after delivery. Supplier accepts liability for substantial defects in goods/services furnished by him (except for normal wear) for a period of 12 months from the date of the passing of risk, provided that he is at fault for the defect and that same can be proved to have arisen prior to the passing of risk. Supplier shall rectify such defects, at his sole discretion, either by repair or replacement. To the exclusion of any further remedies, Supplier shall bear the direct cost of the repair/replacement part and shipment thereof.
Redhibitory action or depreciation shall only be an option if remedial actions, for which Buyer shall grant a reasonable grace period, have definitely failed.
- Supplier's deliveries and services shall be state of the art in Germany. Other country-specific conditions and guidelines have to be agreed upon beforehand in writing.

General Liability

- Limitations**
Supplier shall only be liable, even in the event of damage because of the breach of duties during contract negotiations and irrespective of the legal grounds for liability (including, but not limited to, compensation for damage caused other than to the subject of delivery itself), in the case of:
- intent,
- culpable breach of major contractual obligations,
- gross negligence on the part of corporate bodies or executive officers,
- culpable bodily injury, death, and damage to health,
- defects which were fraudulently concealed,
- breach of the guarantee of quality and/or durability,
- personal injury or property damage to personal items, provided that liability exists under the Product Liability Act for personally used items.
In the event of the breach of major contractual obligations Supplier shall also be liable for gross negligence on the part of non-executive employees or for slight negligence on the part of corporate bodies and executive officers. In the event of slight negligence Supplier's liability is limited to reasonably foreseeable damage typical to the given type of contract.
Any further liability under any legal grounds whatsoever, including - but not limited to - compensation for damages not caused to the subject of delivery itself, shall be excluded.
- Liability Sum**
Supplier's liability is limited to the order value, max. 2,500,000.00 EURO for personal injury and related damage as well as 250,000.00 EURO for property and other damage. The maximum liability sums mentioned shall also apply in case several claims occur due to the same planning error. In that case all claims are considered one total for which Supplier is liable just once for the scope.

Other Agreements

- Right to Issue Instructions**
Instructions, directions, and supervision of his auxiliary personnel is within Supplier's scope exclusively even if the job is carried out in Buyer's plant. It is understood, however, that Buyer shall be free to give instructions specific to the order and the application.
- Directions**
Data concerning the subject of delivery given by phone or verbally are made to the best of Supplier's knowledge. Supplier shall do his utmost to give correct technical information regarding the use of the subject of delivery. Such directions and advice are based on Supplier's experience. They shall not become the basis of claims by the Buyer. It shall be Buyer's responsibility to check the suitability of the subject of delivery for the application on hand. Technical details, such as dimensions, weights and rates, pictures and drawings, shall prevail only within normal tolerances as far as they are not specifically indicated as binding.

Severability Clause

Should individual provisions of these General Terms and Conditions of Delivery become invalid, this shall not affect the remaining provisions. Invalid provisions shall be replaced by such provisions which meet the original purpose as far as possible.

Applicable Law, Venue

Venue for any present or future disputes arising under the contractual relationship shall be Darmstadt. Supplier reserves the right to enter a claim at the location of Buyer's registered offices. The laws of the Federal Republic of Germany shall apply exclusively, with the exception of all of the provisions governing the conflict of laws and the UN Convention for the International Sale of Goods (CISG).

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