General Terms of Sale and Delivery
of company MRS Greifer- und Maschinenbau Helmstadt GmbH

1. General

These General Terms and Conditions of Business will exclusively apply to all our offers and concluded contracts. These General Terms and Conditions of Business will exclusively apply to contractors – hereinafter referred to as Customers. Customers shall in terms of these conditions constitute natural persons or legal entities or incorporated partnerships pursuant to § 14 BGB *[Civil Code]* who transact with ourselves in their commercial or independent professional capacity. We will not be bound by the General Terms and Conditions of the Customer. We hereby expressly reject any General Terms and Conditions of Customers. Unless we have explicitly accepted such General Terms and Conditions of Customers in writing, we will reject their validity. Our General Terms and Conditions of Business shall apply even should we, knowing that any Terms and Conditions of Customers are in conflict with or deviate from our General Terms and Conditions of Business, deliver without reservations.
Our General Terms and Conditions of Business shall also apply to all future business with the Customer.

2. Offers

Our offers are subject to change without notice.
No verbal and telephonic statements by our representatives and staff and no subsidiary agreements shall be effective unless confirmed in writing.
Unless expressly described as binding, cost estimates and illustrations, drawings, weights, descriptions and other information in quotations and price lists provided within offers will be approximations only.
We reserve our rights of ownership and copyright to cost estimates, drawings and other documentation. These shall not be disclosed to third parties unless with our approval. All documentation we provide shall be returned to us on request.
Correct and timeous delivery to ourselves reserved.

3. Scope of deliveries, delivery time

Our written order confirmation shall be authoritative in terms of the scope of deliveries and services. Subsidiary agreements or amendments to the order confirmation shall be in writing to be effective; this shall also apply to agreements made with representatives or field staff.
Protective devices, oils, greases and other lubricants and operating materials shall be excluded in the scope of delivery, unless agreed upon.
The stipulations of the VDE *[Association of German Electrical Engineers]* shall apply to electrical material. We shall be entitled to recalculate orders to adjust prices to added or reduced expenditure should Customers make design changes deviating from the confirmed order. Any late changes of whatever kind requested by Customers will exclusively be for the account of Customers.
The start of agreed delivery and contract performance times shall be subject to final clarification of all details of the order and all technical questions. We shall in particular not be bound by delivery and execution schedules should Customers be in default with the services he owes. We shall be entitled to demand compensation for any loss, including any additional expenses, we may suffer should Customers be in default with acceptance or culpably in breach of their other obligations to cooperate, and to cancel the contract pursuant to statutory provisions.
Delivery deadlines shall be commensurately extended in the event of industrial action, in particular strikes or lock-outs, and unforeseen events for which we may not be held responsible, including operational disruptions such as power failures, provided such events significantly and verifiably affect the completion or delivery of goods under the contract. This shall also apply should such impediments occur during delivery defaults, causing delays at our suppliers. We will in important cases as soon as possible inform Customers of the beginning and end of such impediments. Customers' legal rights of withdrawal shall remain unaffected hereby.
Provided reasonable, partial deliveries shall be allowed and accepted by Customers.
We shall, should force majeure, official intervention or war, through no fault of ours render delayed delivery impossible or unreasonable to us, be entitled to withdraw from the contract in total or in part.
Customers shall allow a reasonable period of grace in cases of delays in delivery or performance.

4. Prices, terms of payment

Our prices are quoted in Euro ex works, not packaged or loaded and excluding insurance, customs duties or transport costs. These will be separately invoiced. Our prices do not include statutory value added tax; VAT will be itemised on the invoice at the statutory rate on the day of invoicing.
Our quoted prices will be based on material prices and hourly wages as agreed with the Customer on conclusion of the contract, based on collective wage agreements in effect at the time the contract was concluded. We reserve the right to a reasonable increase in delivered prices should the above costs increase over a period of more than 4 months between conclusion of contract and agreed delivery date. Price increases will, however, not exceed 5% of the quoted net price. Customers shall be entitled to withdraw from the contract should prices increase by more than 5%. Customers shall have no right to any further claims.
Unless otherwise agreed, payments will be due on receipt of invoice.
Should Customers be in arrears with payment of the purchase price, then all our claims against a Customer shall become due for immediate payment.
We shall, should we be obligated to deliver in advance, be entitled to refuse performance should it become apparent after conclusion of the contract that our claim to payment may be jeopardised by a Customer's inability to pay. We may grant Customers reasonable respite, allowing them to pay for performances step by step by either paying the purchase price or providing security in the amount of the purchase price, at their discretion. We shall, should the respite expire without results, be entitled to withdraw from the contract and to demand compensation for damages in lieu of payment.
Payment by bill of exchange shall require special agreements. Customers shall bear charges relating to discounting and bills of exchange.
Customers shall not be entitled to cede claims against us to third parties. Customers shall not be entitled to set off against claims unless undisputed or legally binding, or to base a right of retention on such claims. The right of Customers to assert claims for repayment arising from unjustified enrichment shall remain unaffected thereby.

5. Packaging and shipping

Unless otherwise agreed, packaging and types of shipment shall be at our discretion.
All special packaging (including pallets and solid pallet timber) not invoiced shall remain our property. Customers shall store such packaging with care and shall cooperate when loading for return transportation, free of charge.
Unless otherwise instructed, transport routes or means of transport shall be at our discretion, with no obligation to select the cheapest and/or fastest mode of shipment. We will not mediate transport insurance unless expressly instructed by and for the account of Customers.
Customers are obligated to, on receipt, immediately inspect the contracted goods for transportation damage. Obvious damage to the contracted goods or packaging shall be confirmed by the carrier or his vicarious agent on the waybill. Hidden transport damage shall be reported to the carrier and to us within 14 days.

6. Transfer of risk

The risk of accidental loss or degradation of the contracted goods shall pass to Customers upon handover or delivery of the goods to a forwarding agent, carrier or any other entity commissioned with the shipment, in any event, however, upon leaving our works or warehouse. This shall apply irrespective of who decides on the route/means of transport as per Clause V. No. 1 or who bears the costs of transportation.
Should the contracted goods be ready for dispatch and dispatch or acceptance is delayed for reasons Customers may be held responsible for, then the risk shall pass to Customers upon receipt of notification of readiness for dispatch. Should we be responsible for installation, the risk shall pass to Customers upon acceptance of the product.

7. Retention of title

We will retain ownership of the contracted goods until all claims arising from the business relationship with Customers have been settled. This shall in cases of current accounts also expressly apply to claims relating to respective surpluses. Cheques will be accepted purely for the sake of fulfilment and shall not be deemed paid until final satisfaction without risk of recourse.
Customers shall not be entitled to resell the contracted goods, collect proceeds from resales, use/process the contracted goods or incorporate such goods into an object unless in the normal course of business and only in accordance with the following provisions:
Customers shall, irrespective whether the contracted goods were resold before or after processing, cede to us all claims arising from the resale or processing of the delivered contracted goods in the amount invoiced for such goods (including value added tax). We hereby accept such cession. Customers shall not be entitled to dispose of the contracted goods, in particular not by pledging or ceding as security. Customers will not be entitled to resell the goods should they for legal or other reasons not be in a position to cede such claims to us.
Customers shall remain entitled to collect such claims, also after cession. Our right to collect such claims ourselves shall remain unaffected thereby. We will, however, refrain from collecting such claims provided Customers meet their payment obligations, not be in default with payments and especially provided no application for opening of insolvency proceedings has been filed and/or a Customer's authorisation to collect such claims ceded pursuant to Paragraph 7 has not automatically expired or unless we have for other reasons revoked authorisations to collect. We may in such cases, however, demand that Customers inform us of the ceded claims and their debtors, provide all the information required for collection, hand over the relevant documents and disclose such cession to the debtors (third parties).
Should the contracted goods be combined with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the amount invoiced for the contracted goods (including value added tax) to the value of the other combined objects at the time of processing. Should Customers through combinations acquire sole ownership, they shall hereby give us co-ownership pro rata the amount invoiced for the contracted goods (including VAT) to the value of the other goods at the time of combination. Customers shall in such cases store the object we own or co-own, also deemed contracted goods in terms of these provisions, free of charge.
Should Customers sell the contracted goods either alone or together with goods of their own, they shall hereby cede to us the priority claim to receivables arising from such sales, in the amount of the invoice for the contracted goods (including VAT). We hereby accept such cession. The value of the contracted goods shall be our invoiced amount, including VAT. Should we co-own such resold contracted goods, the amount of the ceded claim shall be calculated pro rata the value of our co-ownership. Should Customers install the contracted goods in objects belonging to third parties, they shall hereby cede to us the pending assignable claims to receivables due by such third party or other entity concerned in the amount invoiced for the contracted goods (including VAT). We hereby accept such cession.
Customers shall also cede to us a priority claim to compensation they may have against third parties based on destruction, damage, theft or loss of the contracted goods, in the amount of the invoice for such goods (including VAT). We hereby accept such cession.
Customers shall immediately inform us of any enforcement measures by third parties against the contracted goods or ceded claims and shall submit to us the documentation required for objection. Customers shall be liable for losses arising should third parties be unable to reimburse us for judicial and extrajudicial costs of third party counterclaim actions.
Authorisation to collect ceded claims, rights to reselling and rights to collect the ceded proceeds of sales or to use or install the contracted goods shall automatically expire without express revocation in the event of cessation of payments, application for or opening of insolvency proceedings, out-of-court debt settlement procedures or protest of cheques or bills.
We undertake on Customer request to release the securities we are entitled to, to the extent that the realisable value of such securities will exceed the claims to be secured by more than 10%; the selection of securities to release shall be at our discretion.

8. Liability for defects

We shall be liable for defects provided Customers have in each case met their obligations to inspect and object pursuant to § 377 HGB *[German Commercial Code]*. We shall be notified of evident defects within 10 working days from delivery of the contracted goods to Customers, in writing. Hidden defects shall be reported no later than 10 working days after detection of such defects, in writing. The above obligation to report shall, in terms of obvious defects, apply to Customers even should they be under no obligation to inspect and report defects pursuant to § 377 HGB, with the proviso that obvious defects shall be reported within 14 working days from delivery of the contract goods, in writing.
We shall initially within the scope of subsequent performance be liable to, at our discretion, either remedy the defect or supply items without defects (replacement delivery). Should we be unwilling or unable to remedy a defect or deliver a replacement, especially should this unreasonably affect schedules, or should remediation or replacement of a defect fail in any other way, Customers shall be entitled at their discretion to either withdraw from the contract or demand a price reduction and/or compensation. Customers may demand compensation exclusively within the framework of the provisions under Clause IX. Joint and several liability.
We shall bear the costs associated with subsequent performance, in particular transport, travel, labour and material costs, unless these increased after taking the contracted goods to places other than the contractually agreed place of performance. The costs of installation and de-installation within the framework of subsequent performance shall not be for our account.
We shall, should Customers receive flawed assembly instructions, be obligated only to supply flawless assembly instructions, provided also that such original flawed instructions prevent proper assembly.
The period of limitation for claims for defects shall be 12 months, calculated from date of delivery of the contracted goods to Customers.
The above period of limitation shall apply unless regulations pursuant to §§ 438 Para. 1 No. 2, 634 a Para. 1 No. 2 BGB and according to §§ 478, 479 BGB mandate longer periods; the same shall apply to claims under guarantees, claims based on injury to life, body or health or gross negligence or on deliberate breach of duty, including in cases of fraudulent concealment of defects. The period of limitation shall also not apply to claims under the Product Liability Act. The regulations on suspension of statutes of limitations and for statutory provisions for the suspension and restart of limitation periods shall remain unaffected.
We will not give Customers guarantees in the legal sense. Manufacturer guarantees will remain unaffected hereby.
We accept no liability for defects caused by natural wear and tear, improper operation, improper or lack of maintenance or the use of inappropriate operating resources. We shall not be liable for defects caused by excessive strain or by influences by buildings, weather or other environmental factors we cannot be held responsible for.
We accept no liability for the suitability of our contracted goods for a specific purpose unless their concrete scope of use was described in written instructions included with the contracted goods or unless we specifically agreed in writing to their suitability for a specific purpose. Customers will in all cases be obligated to meticulously check the suitability of our contracted goods for their intended purpose in advance.
No changes shall be made to flawed contracted goods and such goods shall not be put to use unless with our consent.

9. Joint and several liability

Unless otherwise stated below, no liability other than the liability for damages set out in Clause VIII. shall be accepted, irrespective of legal grounds. This shall, in particular, apply to claims for damages arising from culpa in contrahendo based on other breaches of duty or due to tortious claims for compensation of damage to property pursuant to § 823 BGB. This shall also apply if Customers, instead of claiming for compensation of damage in lieu of performance, demand compensation of futile expenses, of costs of interruption of operations, costs of loss of production, costs of recalls or compensation for lost profit.
The above exclusion of liability shall not apply to Customer claims based on the assumption of guarantees for the quality of the contracted goods, to liability for damages based on injury to life, body or health and to liability under the Product Liability Act, also in cases of damage caused by intent or gross negligence or by defects we may have fraudulently concealed.
We shall furthermore also be liable should we culpably violate cardinal contractual obligations without which the proper performance of the contract would not be possible and regular compliance with which the contractual partner may rely on. Liability for damages shall, however, in these cases be limited to foreseeable, typical damage.
Any exclusion or limitation of our liability shall likewise apply to the personal liability of our employees, workers, staff, representatives and vicarious agents.

10. Place of performance, Place of jurisdiction, Applicable law, Miscellaneous

The place of performance and jurisdiction in respect of all disputes – including actions based on bills of exchange and cheques – shall be 74921 Helmstadt-Bargen for Customers that are registered traders, legal entities or special funds under public law or Customers without a general place of jurisdiction in Germany. We shall also be entitled, at our discretion, to file for legal action at Customers' place of business.
The contractual relationship shall be governed exclusively by German law. Conflict of laws (private international law EGBGB *[Introductory Act to the Civil Code]* and the United Nations Conventions on Contracts for the International Sale of Goods shall be excluded and shall not apply.
The contractual language is German.