

**General Terms and Conditions of Sale**  
**ITW Industrie-Technik Werth GmbH**  
**Version dated: July 2025**

## **1. General Terms, Scope of Application**

- (1) Where the Purchaser is acting in the course of his business within the meaning of §14 of the German Civil Code (BGB), is a public law entity or a federal special fund the following terms and conditions shall apply exclusively to all transactions between ourselves and the Purchaser.
- (2) These Terms shall apply in particular to the sales and/or delivery of movable goods ("Goods") irrespective of whether such Goods are manufactured by ourselves or procured from suppliers (§§433, 651 of the German Civil Code (BGB)). Except where otherwise agreed the Terms in force at the time the Purchaser places his order, alternatively the version last provided to the Purchaser in text form, shall constitute the legal framework for all future purchases of a similar kind without us being required to indicate their application for each individual transaction.
- (3) Any terms of the Purchaser which contradict or deviate from the terms and conditions below shall only apply where we have expressly agreed to the same in writing. Our consent is required without exception, for example where, on notice of the Purchaser's general terms and conditions, we execute the supply without reservation.
- (4) Material declarations and notifications to be submitted by the Purchaser after the contract has been concluded (e.g. the setting of deadlines, notification of defects, notices of rescission or deductions) shall only be valid when submitted in writing or in text form. Mandatory form requirements and other verifications to include the authority of persons acting shall remain unaffected.
- (5) Insofar as is necessary for the handling of our business we are entitled to store and process the Purchaser's data in electronic form to the extent permitted by data protection laws.

## **2. Contractual Declarations**

- (1) The range of products and services we offer is subject to change without notice. This also applies where we have provided the Purchaser with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN Norms), other product descriptions or documents – including in digital form. We retain all title and copyright to samples, quotations, drawings and similar information in tangible and intangible form (including electronic form). Third parties shall not be permitted to access the same.
- (2) The purchase order placed by the Purchaser shall be deemed a binding offer. Except where otherwise provided in the purchase order the order shall be capable of acceptance for a 2 week period beginning on the date of receipt of order.
- (3) Acceptance will be communicated in text form (e.g. the order confirmation) or will be deemed on supply of the Goods to the Purchaser.
- (4) Where reference is made to trade terms in accordance with the International Commercial Terms (INCOTERMS), the INCOTERMS 2020 shall apply.

### **3. Delivery, Risk, Delay in Acceptance, Part Deliveries**

(1) Except where otherwise agreed the Goods will be supplied FCA (Free Carrier) our warehouse which is also the place of performance for delivery of the Goods and for any supplementary performance. At the request and the expense of the Purchaser the Goods will be shipped to another destination (sale by delivery to a place other than the place of performance). Except where otherwise agreed we shall be entitled to determine the method of shipment (in particular the shipping company, shipping route and packing) and/or prepare the necessary documentation for the export of the Goods on behalf of the Purchaser.

(2) The risk of accidental loss and deterioration of the Goods shall transfer to the Purchaser on delivery at the latest. In the event of a sale by delivery to a place other than the place of performance the risk of accidental loss and deterioration of the Goods as well as the risk of delay shall pass to the Purchaser on surrender of the Goods to the shipper or freight forwarder or any other person instructed to undertake shipment. If acceptance is required, this shall be decisive for the transfer of risk.

(3) Where the Purchaser is in delay of acceptance of the Goods or fails to undertake acts of assistance or where delivery is delayed for other reasons for which the Purchaser is responsible, we shall be entitled to demand compensation for damages incurred as a result including additional expense (e.g. storage costs).

(4) Supply of goods or services by installment is permitted except where unreasonable for the Purchaser. Paragraph 2 shall apply accordingly in the case of such supply of goods or services by installment.

### **4. Force Majeure**

In the event of force majeure which affects either ourselves or our suppliers, we are entitled to suspend performance of our obligation to deliver for the duration thereof. The same shall apply in the event of a shortage of energy, raw materials, strikes, pandemics, epidemics, enactments passed by the authorities or interruptions of operations or transit. Where there is a considerable change in the circumstances prevalent at the formation of the contract which renders performance unreasonable, we reserve the right to rescind the contract. The performance of our obligations is subject to their compliance with national and international trade legislation, sanctions and embargos.

### **5. Term of Delivery, Delay**

(1) The term of delivery shall be agreed on a case-by-case basis; alternatively, we will advise the delivery term on order acceptance. The delivery date stated on the written order confirmation is to be understood as an approximate term of delivery. Fixed delivery dates are only binding if they have been confirmed by us in writing.

(2) Compliance with the term of delivery as agreed upon between the contracting parties shall be subject to clarification of all commercial and technical questions between the contracting parties and that the Purchaser has fulfilled all obligations incumbent upon him, such as the provision of the necessary official certificates or authorisations or the payment of a deposit. If this is not the case, the term of delivery shall be extended accordingly. This shall not apply if we are responsible for the delay.

(3) Where we are unable to fulfill binding delivery dates for reasons for which we are not responsible (non-availability of performance), we shall notify the Purchaser without delay and at the same time inform the Purchaser as to the new estimated delivery date. Where performance is still not possible by the new delivery date, we are entitled to rescind the contract in part or in whole. For the purposes of this clause non-availability of performance shall include the failure of our suppliers to supply us on time despite us having placed a corresponding order to cover the transaction and neither our supplier or ourselves are at fault or where, in isolated cases, we have no procurement obligation under the contract.

(4) Where we fail to deliver upon an agreed delivery date and such failure is caused by an act or omission on our part the Purchaser shall grant us a reasonable grace period in text form. This grace period shall be at least six weeks. Where upon the expiry of the grace period, delivery is still not forthcoming and the Purchaser desires to rescind the contract or demand damages in lieu of performance, the Purchaser shall prior thereto set a final and reasonable deadline in text form expressly indicating his intention. The Purchaser is obliged at our request to declare within a reasonable period whether he shall rescind the contract due to the delay in delivery and/or demand damages in lieu of performance or insist upon performance.

(5) Purchaser's rights in accordance with clause 9 of these Terms and our statutory rights, in particular with regard to the preclusion of our performance obligation (e.g. where performance or supplementary performance is frustrated or becomes unreasonable) shall not be affected by the aforesaid.

(6) The term of delivery shall be deemed to have been complied with if the delivery item has left our warehouse by the respective date in accordance with clause 3 (1) or readiness for dispatch has been notified. If acceptance is required, the acceptance date shall be decisive – except in the case of justified refusal of acceptance – or alternatively the notification of readiness for acceptance.

## **6. Price and Payment Terms**

(1) Our prices are FCA (Free Carrier) our warehouse. Except where otherwise agreed, our prices do not include packing, insurance, freight and VAT.

(2) In the event of a sale by delivery to a place other than the place of performance, the Purchaser shall bear the shipping cost from the place of storage and, where requested by the Purchaser, the cost of insurance. The Purchaser shall bear all customs duties, charges, taxes and any other public dues, including where we undertake customs clearance on behalf of the Purchaser.

(3) Except where otherwise agreed the purchase price is to be paid without deduction as follows: i) 40% down payment on receipt of the invoice, ii) 50% down payment on notification to Purchaser that the principal parts are ready for shipment.

(4) Where a payment term has been agreed, the Purchaser shall be deemed in default of payment on its expiry. Interest shall accrue on the price during default at the statutory rate. We reserve the right to claim additional compensation for payment default. Interest claims against persons acting in the course of their business in accordance with § 353 of the German Commercial Code (HGB) shall remain unaffected by the aforesaid.

(5) The Purchaser shall only be entitled to rights of set-off or retention to the extent that his claim has been legally established or is undisputed. Where the Goods supplied are defective, Purchaser's rights under clause 8 (7) below shall remain unaffected.

(6) Where the delivery or performance date is more than 3 months after the contract date, we are entitled upon timely notification to the Purchaser and prior to delivery or performance to adjust the price in such a manner as is necessitated by any general price development beyond our control (e.g. exchange rate fluctuations, currency regulations, customs duties changes, significant increase in material or manufacturing costs) or by the change of suppliers. Where the delivery or performance date is within 3 months of the contract date, the price valid on the contract date shall apply in any case.

## **7. Retention of Title**

(1) We retain title to the Goods until payment of all current and future claims under the contract and any ongoing business relationship (Secured Goods) have been received.

(2) Goods which are subject to a reservation of title shall not be mortgaged or assigned by way of security to third parties prior to receipt of full payment. The Purchaser shall inform us in text form without delay where an insolvency application has been made or where levies of execution (attachment orders) are made against the Secured Goods.

(3) Where the Purchaser is in breach of his contractual obligations, in particular where he fails to remit payment of the price, we are entitled to rescind the contract subject to the statutory requirements and to demand the surrender of the Goods based on our reservation of title and the rescinded contract. Where the Purchaser fails to remit payment of the purchase price we are only entitled to enforce those rights where, prior thereto, we have set the Purchaser a reasonable deadline to remit payment or the setting of such a deadline is not required legally.

(4) The Purchaser is authorised to resell and/or process the Secured Goods in the ordinary course of his business until revocation in accordance with (c) below. In such circumstances, the following shall apply:

(a) The retention of title shall extend to the full value of the products which originate from the processing, mixing or combining of the Secured Goods, whereby we shall be considered the manufacturer. Where after the processing, mixing or combining of the Secured Goods with third party goods third party property rights remain in existence, we shall acquire joint title to the resulting products in proportion to the invoice value of the Secured Goods which have been processed, mixed or combined. The originating product shall otherwise be subject to the same terms which apply to the Secured Goods as set out aforesaid.

(b) Claims against third parties based on the resale of the Secured Goods or the resulting products are hereby assigned by the Purchaser to us by way of security in total or in the value of our co-ownership as set out in the preceding paragraph (a). We accept such assignment. Purchaser's duties as set out in clause 7 (2) shall apply to assigned claims accordingly.

(c) The Purchaser shall remain authorised to collect payment in addition to ourselves. We undertake not to collect payment for as long as the Purchaser complies with his payment obligations to us, there is no deficiency in his performance capability and we have not exercised our rights under clause 7 (3) aforesaid. In such circumstances we can request the Purchaser to inform us of the assigned claims and their debtors, to provide us with any information required to collect payment and corresponding documentation and to inform the debtors of the assignment. Furthermore in such circumstances we are entitled to revoke Purchaser's authorisation to process and resell the Secured Goods.

(d) If the value of the securities provided to us exceeds our claims by more than 10 percent, we undertake to release securities of our choice on demand by the Purchaser.

(5) In the event that the above retention of title clauses are void or unenforceable according to the law of the state/country in which the goods are situated, the collateral security which corresponds to the retention of title in that state/country is deemed to be agreed.

## **8. Purchaser's Rights in the case of Defects**

### **Material Defects**

(1) The Goods supplied by us correspond to the German regulations and standards currently in force. We give no guarantee that the Goods comply with other national regulations. Where the Goods are to be put into operation overseas it is the responsibility of the Purchaser to ensure that the Goods are in conformity with the relevant legal requirements and standards and where required to make appropriate adaptations.

(2) Purchaser's rights regarding material defects or defects in title (including wrong or short delivery, improper installation or faulty installation instructions) are governed by the statutory provisions except where provided otherwise below.

(3) Purchaser's claims under warranty are subject to compliance with his statutory obligation to inspect incoming Goods and to notify us of any defects discovered (§§377, 381 of the German Commercial Code (HGB)). Where a defect is discovered on or subsequent to inspection, the Purchaser must inform us in text form without delay, in any case within one week. Timely dispatch of notice is sufficient to preserve Purchaser's rights under warranty. Irrespective of the aforesaid inspection and notification obligation the Purchaser is under an obligation to notify us of obvious defects (including wrong and short delivery) in text form without delay, in any case within one week. Timely dispatch of notice is sufficient to comply with the notice requirement. Where the Purchaser fails to carry out the inspection and/or notify us of a defect, we shall not be held liable for such defect.

(4) Where the Goods delivered by us are defective, we shall at our option deliver a replacement or remedy the defect (supplementary performance). The Purchaser shall grant us a reasonable period to carry out the same. Where we deliver a replacement, the Purchaser shall return the defective Good in accordance with the statutory provisions.

(5) There is no material defect in the following circumstances: i) unsuitable or improper use, ii) faulty commissioning or assembly by the Purchaser or a third party, iii) normal wear and tear, iv) incorrect or neglectful handling, v) improper maintenance, vi) unsuitable machinery materials, vii) faulty construction works, viii) unsuitable foundations and ix) chemical, electrochemical or electric factors except where we are responsible for the same.

(6) We bear the cost of testing defective Goods, remedying the defect or delivering a replacement including transport, travelling expenses, labour and material cost (not: removal and installation costs), provided that the Goods are actually defective and that the costs are not increased due to the subsequent transportation of the Goods to a location other than the original shipment location – unless the purpose for which the Goods are intended requires the same. Where the Goods are not actually defective, we reserve the right to claim reimbursement of the expenses incurred (in particular inspection and transport costs) from the Purchaser except where the Purchaser was unable to identify the absence of defect.

(7) In the event that we are not in a position to remedy the defect or deliver a replacement, the Purchaser is entitled to rescind the contract or to demand a reasonable reduction in the purchase price. Rescission of the contract is only permissible where the Purchaser prior thereto sets a final and reasonable deadline in text form expressly indicating his intention. There is no right of rescission in the event of an unsubstantial defect.

(8) Any claims of the Purchaser for compensatory damages or reimbursement of wasted expenditure based on defective Goods are subject to the provisions set out in clause 9 below. Otherwise, they are excluded.

(9) If Purchaser or a third party carries out improper remedial work, we shall not be liable for the resulting consequences. The same applies to changes made to the Goods without our prior authorisation.

### **Defects in Title**

(10) Supplementary performance in relation to defects in title is effected by us providing the Purchaser with a right of use which is legally unobjectionable. Alternatively, we can modify the Good in a manner that the infringement of property rights no longer exists, insofar as this is reasonable for the Purchaser.

(11) Where third parties assert industrial property rights against the Purchaser, he must inform us immediately in text form. We will at our discretion and upon consultation with the Purchaser defend or satisfy such claims. We will defend third parties' claims at our own expense and indemnify the Purchaser against all costs and damages necessary and connected to the defence of the claims, provided they did not result from a breach of duty on the part of the Purchaser. A breach of duty in this context is in particular where the Purchaser acknowledges third parties' claims without our written consent.

(12) Where the supplementary performance is not successful, the Purchaser may reduce the remuneration or withdraw from the contract. However, withdrawal is only permissible, if the Purchaser expressly notifies us of his intention to do so in writing in conjunction with a reasonable grace period.

## **9. Damages**

(1) Except where otherwise provided in these Terms including the following provisions, we are liable for contractual and non-contractual breaches in accordance with the applicable statutory provisions.

(2) We are liable in damages for any claim irrespective of its legal basis where we have acted with wilful default or in a gross negligent manner. For claims based on simple negligence, we are liable in accordance with the statutory provisions as follows:

(a) Liability for damages based on personal injury are not subject to any limitation of liability.

(b) Liability for damages based on breach of a material term of the contract are limited to compensation for damages which were foreseeable and are ordinarily incurred; a material term of the contract is any term which is characteristic of performance of the contract and upon which the Purchaser could normally rely.

(c) Liability for any other damages, other than those incurred on the Goods themselves, to include without limitation loss of profit or any other pecuniary loss incurred by the Purchaser, is excluded.

(3) The limitations of liability set out in clause 9 (2) aforesaid shall apply to breaches of all persons for whom we are legally responsible. They do not apply where we have given a guarantee as to the

quality of the Goods and in relation to claims of the Purchaser made under the Product Liability Act (Produkthaftungsgesetz).

(4) In the event of a breach which does not render the Goods defective, the Purchaser shall only be entitled to terminate or rescind the contract where we are responsible for the breach. Notice of termination or rescission must be in text form. Otherwise, the statutory provisions shall apply.

(5) Any claim made by the Purchaser for reimbursement of wasted expenditure shall be subject to the aforesaid.

## **10. Limitation**

The limitation period for claims based on the supply of defective Goods and services as well as for claims for damages is one year from the date of delivery. The limitation period aforesaid shall not apply in relation to claims based on wilful default, gross negligence, or to personal injury claims and to claims under product liability laws nor shall the limitation period apply where longer limitation periods are prescribed by law.

## **11. Software Use**

(1) Where the Goods supplied include software, the Purchaser is granted the non-exclusive right to use the software and its documentation. The software is provided for use with the Goods supplied. Use of the software on more than one system is not permitted.

(2) The supply of Goods and services shall not be deemed to confer the grant of any licence to use any of our intellectual property rights or copyright. Any such grant of licence shall be subject to a separate agreement.

## **12. Installation Works**

(1) Where the Purchaser requires installation works, the installation site must be freely accessible. Where this is not the case, any additional cost incurred as a result shall be invoiced to the Purchaser.

(2) Where we are instructed to carry out installation works, we are entitled to use sub-contractors.

(3) The Purchaser shall bear the cost of all earth, construction and other ancillary works which are unrelated to the work to be provided by us including the provision of the requisite specialists and assistants, building materials and tools, such objects and materials as are required for the assembly and installation of the goods, lifting and other devices, fuels and lubricants as well as energy and water at the point of utilization including the prompt provision of connections, heating and lighting.

(4) The Purchaser shall ensure that at the place of installation all machine parts, apparatus, materials, tools etc. are properly stored. The Purchaser shall be under an obligation to provide adequate dry lockable rooms and to place at the disposal of the installation staff adequate working and rest areas including adequate sanitary facilities. Furthermore, the Purchaser shall use all reasonable endeavours to protect and treat our property and our installation staff well at all times.

(5) Protective clothing and protective equipment which are required due to special circumstances at the installation site shall be provided by the Purchaser.

(6) Prior to the commencement of installation works, the Purchaser shall provide unrequested all information concerning the position of hidden electricity, gas and water mains or similar supplies and the requisite structural drawings.

(7) Prior to the commencement of erection or installation works, all materials and objects required shall be available at the erection or installation site and all preliminary works shall be sufficiently advanced in order that the assembly and installation works can be commenced as agreed and executed without interruption. Access roads and the erection / installation site shall be cleared and made level.

(8) Where assembly, installation or acceptance of the works is delayed for reasons for which we are not responsible, the Purchaser shall bear the reasonable cost of any waiting time and additional travel expenditure incurred by us or our installation personnel.

### **13. Acceptance of Works**

(1) Where for the performance of works acceptance has been agreed, we shall be entitled upon completion to request acceptance of performance. The Purchaser shall accept performance within 12 working days of our request. Where requested, self-contained works can be accepted separately. Acceptance shall only be refused pending the remedy of significant defects.

(2) Where no acceptance is required, the works shall be deemed accepted upon the expiration of 12 working days after written notification of completion. Where no acceptance is required and the Purchaser has commenced operation, in whole or in part, the works shall be deemed accepted 6 days after the commencement of operation, unless otherwise agreed.

(3) The risk of loss and destruction shall pass to the Purchaser upon acceptance insofar as it has not already passed in accordance with clause 3 above.

### **14. Non-Disclosure**

(1) During the term and after termination of this contract, the parties shall treat confidential information received from the other party or of which the parties became aware by reason of their collaboration (to include without limitation samples, quotations, sketches, documents, business intentions, personal data, problems, data and/or problem solutions, or any other know-how of any kind as well as information visually gained by the inspection of plants or facilities (hereinafter collectively referred to as 'Information')) confidentially, not disclose such Information to third parties or use for their own business aims without authorisation. The parties shall also impose the aforesaid non-disclosure obligation upon their employees, vicarious agents and third parties acting on their behalf.

(2) This non-disclosure obligation shall not apply to information which

- was already known to the other party prior to the contract;
- was developed independently or legally acquired from third parties;
- is or comes into the public domain or is the state of the art;
- was cleared for disclosure by the disclosing party.

(3) Upon termination of the contract, the parties shall return unrequested all confidential documents and information of the other party in tangible or non-tangible form or at the request of the other party destroy the same or – insofar as technically reasonable – irrevocably delete the same.

(4) The parties shall comply with data protection law requirements, in particular where access is granted to the premises or hardware or software of the other party. They shall undertake suitable measures to ensure that employees, vicarious agents and third parties acting on their behalf shall also comply with the same.

#### **15. Choice of Law, Jurisdiction**

(1) These Terms and all legal relations between us and the Purchaser shall be governed by the laws of Germany excluding the United Nations Convention on the International Sales of Goods (CISG).

(2) For Purchasers who are acting in the course of a business within the meaning of the German Commercial Code, public law entities or federal special funds and whose principle place of business is situated in the European Union, the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship or these Terms shall be our registered office in Birstein, Germany. We reserve the right to sue the Purchaser at the place of performance or before the courts of local jurisdiction situated at the Purchaser's place of business. Overriding statutory provisions, in particular rules providing for exclusive jurisdiction of a particular court, shall remain unaffected.

For Purchasers whose principle place of business is situated outside the European Union all disputes arising out of these terms and conditions shall be finally settled in accordance with the Rules of the German Institution of Arbitration e.V. (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be Frankfurt am Main, Germany.