



I. General Information

1. All deliveries and services shall be subject to these Terms and Conditions as well as to any other separately concluded contractual agreements. Conflicting terms of purchase of the ordering party [hereinafter referred to as *Buyer*] shall not become a part of the contractual agreement even in the case in which TECHNIGRAF [hereinafter referred to as *Supplier*] accepts an order. Unless otherwise agreed in writing, an Agreement shall become effective upon issuance of a written order confirmation by Supplier.
2. Supplier reserves the ownership rights and copyrights to samples, cost estimates, drawings and similar items and information of a material and immaterial nature, also in electronic form. The aforementioned items and information may not be disclosed to third parties. With regard to information and documentation that has been designated by Buyer as confidential, Supplier shall only disclose such information and documentation to third parties with the approval of Buyer.
3. All samples supplied will be invoiced.
4. No supplementary verbal agreements have been made. All changes to the Agreement must be made in written form.

II. Pricing and Payment

1. Unless otherwise agreed in writing, Supplier's prices are valid ex works, including loading at Supplier's factory; however, they do not include the costs of packaging, unloading and installation. The respective valid statutory value-added tax must be added to these prices.
2. Unless otherwise agreed in writing, invoices shall become due immediately upon delivery and must be paid without deductions of any kind. The respective delivered quantities will be invoiced.
3. Buyer shall only be entitled to withhold payments or to set counterclaims off against payments to the extent that its counterclaims are undisputed or have become *res judicata*.

III. Delivery Date, Delivery Delay

1. The delivery date shall be agreed by the parties to the Agreement. Compliance with the delivery date by Supplier presupposes that all commercial and technical questions have been clarified between the parties to the Agreement, and that Buyer has fulfilled all of its obligations such as providing the necessary certificates and approvals of public authorities or by making a down payment. Should this not be the case, then the delivery date

- shall be postponed to a reasonable extent. This shall not apply insofar as Supplier should be responsible for the delay.
2. Compliance with the delivery date shall be subject to Supplier's complete, correct and timely procurement of the necessary materials. Supplier shall inform Buyer as soon as possible about any delays that become apparent.
 3. The delivery date shall be considered to have been met if the delivery item has left Supplier's factory prior to deadline expiry, or if Supplier has notified Buyer that the delivery item is ready for shipment. Insofar as a site acceptance test is to be conducted, unless Buyer has refused such a test for a justifiable reason, the date of the site acceptance test shall be definitive, alternatively, the date of Supplier's notification of readiness for the site acceptance test.
 4. Should the shipment and/or the site acceptance test of the delivery item be delayed for reasons for which Buyer is responsible, then Supplier shall be entitled to invoice Buyer for the costs caused by the delay, effective one month following Supplier's notification of readiness for shipment and/or of readiness to conduct a site acceptance test. Should shipment of the delivery item be delayed at Buyer's request, then Supplier shall be entitled to make other use of the delivery item following setting and expiration of a reasonable time limit and to deliver the delivery item to Buyer at a reasonable later date.
 5. Should noncompliance with the delivery date be attributable to force majeure, labor disputes or other events beyond the influence of Supplier, then the delivery date shall be postponed to a reasonable later date. Supplier shall inform Buyer about the beginning and end of these kinds of circumstances as soon as possible.
 6. Buyer shall be entitled to rescind the Agreement without setting a time limit should Supplier be finally unable to complete the agreed contractual performance prior to the transfer of risk. Furthermore, Buyer shall also be entitled to rescind the Agreement should Supplier only be able to make a partial shipment of the ordered delivery items, and Buyer have a justifiable interest in refusing a partial shipment. Should this not be the case, then Buyer must pay the contractual price of the delivery items included in the partial shipment. The same shall apply in case of inability of Supplier to complete contractual performance. In other respects, Section VII. 2. shall apply. Should the impossibility or inability [of Supplier] to complete contractual performance arise during the delay in acceptance, or should Buyer be solely or primarily responsible for these circumstances, Buyer shall remain obligated to provide counter-performance.
 7. Should Supplier default on delivery and Buyer incur damage therefrom, then Buyer shall be entitled to demand a lump sum compensation for default. Such compensation shall amount to 0.5% for each full week of delay, and be limited in total to a maximum of 5% of the value of that part of the total shipment that could not be used on time or not be used in accordance with the Agreement due to the delay. Should Buyer, while considering the statutory exceptions, set a reasonable new deadline for contractual performance for Supplier following expiration of the due date, and should the new due date not be met, then Buyer shall be entitled to rescind the Agreement within the framework of the statutory regulations. Any additional claims based on the delay in delivery shall be exclusively determined according to Section VII. 2 of these Terms and Conditions.

IV. Passing of Risk, Site Acceptance Test

1. Risk shall pass to Buyer at the point in time at which the delivery item has left Supplier's factory, also in those cases in which partial shipments are made or Supplier is responsible for providing other services such as payment of shipping costs, delivery and installation. Insofar as a site acceptance test is to be conducted, then such test shall determine the point in time of the passing of risk [to Buyer]. The site acceptance test must be conducted without undue delay on the acceptance test date, alternatively, following Supplier's report of readiness for the site acceptance test. Buyer may not refuse the site acceptance test in case of a minor defect in the delivery item.
2. Should the shipment and/or the site acceptance test be delayed or not be completed due to circumstances for which Supplier is not responsible, then risk shall pass to Buyer as of the date of notification by [Supplier] of readiness for shipment and/or for the site acceptance test. Supplier shall arrange for insurance protection at the cost of Buyer should Buyer request this.
3. Partial shipments shall be permitted insofar as they are reasonable for Buyer.

V. Reservation of Ownership

1. Supplier reserves ownership of the delivery item until all outstanding receivables of Supplier against Buyer based on the business relationship between them have been paid. Such reservation of ownership shall also apply to outstanding receivables that arise in future, also from agreements that have been concluded at the same time or are concluded at a later date. This shall also apply whenever individual or all outstanding receivables of Supplier have been included in a current account, and the balance has been drawn and accepted. In case of Buyer conduct in breach of the Agreement, including but not limited to delayed payment, Supplier shall be entitled, after issuing a reminder for payment, to take back the delivery item, and Buyer shall be obligated to surrender possession thereof. Buyer must notify Supplier without undue delay of any attachments or other legal interventions by third parties.
2. Buyer shall be entitled to resell the delivery item during the normal course of business. However, Buyer shall assign to Supplier in advance all outstanding receivables against purchaser or third parties that may arise in connection with such resale. Buyer shall remain entitled to collect these outstanding receivables also after the assignment thereof. Supplier's entitlement to collect such outstanding receivables itself shall remain unaffected by the foregoing. However, Supplier shall not collect such outstanding receivables as long as Buyer properly fulfills its payment obligations, its authorization to collect outstanding receivables has not been revoked, and no application to initiate bankruptcy proceedings has been submitted by Buyer. Otherwise, Supplier may demand that Buyer disclose the assigned outstanding receivables and names of the obligors, provide all data needed for collection, submit all related documentation and inform the obligors of the assignment insofar as this has not already been done by Supplier. Should the delivery item be resold together with goods that are not the property of Supplier, Buyer's outstanding receivable against purchaser shall be considered to have been assigned to Supplier in the amount of the delivery price agreed between Supplier and Buyer.
3. Buyer may neither pledge the delivery item nor transfer ownership of same as security.

4. Supplier shall be entitled to insure the delivery item, at the expense of Buyer, against theft, breakage, fire, water and other damage insofar as Buyer has not demonstrably concluded a corresponding insurance policy on its own.

5. Supplier shall be entitled to rescind the Agreement upon Buyer's application to initiate bankruptcy proceedings and to demand the immediate return of the delivery item.

VI. Claims for Defects

Supplier shall provide warranty repairs / warranty replacements for defects in quality and deficiencies in title [of the delivery item], under the exclusion of all additional claims and subject to Section VII, as follows:

Defects in Quality

1. Supplier shall, at no charge, repair all defective parts or replace them with defect-free parts, at Supplier's discretion, that prove to be defective as a result of circumstances prior to the passing of risk. Buyer shall inform Supplier in writing without undue delay should Buyer determine such defects. The parts replaced shall become property of Supplier.

2. After consultation with Supplier, Buyer shall give Supplier sufficient time and the opportunity to perform all repairs that Supplier feels are required and, if necessary, to make replacement shipments to Buyer; otherwise, Supplier shall be exempted from liability for the consequences [of Buyer's lack of cooperation]. Buyer shall only be entitled to eliminate defects itself or to have these eliminated by third parties and to demand reimbursement for the related expenses thereof only in urgent cases in which the operational safety of the delivery item is compromised or to avoid disproportionately severe damage. In such cases, Buyer must immediately notify Supplier thereof.

3. With regard to the direct costs incurred in connection with repairs and/or replacement shipments, insofar as the complaint is recognized as justified, Supplier shall bear the cost of the replacement delivery item and replacement parts including their shipping costs. In addition, Supplier shall also bear the costs of dismantling and reinstallation as well as the possible costs of providing possibly required installation personnel and assistants, including their travel costs, insofar as such costs would not represent an unreasonable burden for Supplier.

4. Buyer shall be entitled to rescind the Agreement within the framework of statutory regulations should Supplier, considering the statutory exceptions, let a reasonable due date expire that has been set for it to make repairs or replacement shipments due to a defect in quality. In case of a minor defect in quality, Buyer shall only be entitled to reduce the contractually agreed price. Otherwise, all other rights to reduce the contractually agreed price are herewith excluded. Additional claims shall be determined according to Section VII. 2 of these Terms and Conditions.

5. No warranty service/replacements [for the delivery item] will be provided by Supplier in the following cases, among others: unsuitable or incorrect use, incorrect installation and/or start-up by Buyer or third parties, normal wear and tear, incorrect or careless handling, improper maintenance, use of unsuitable operating fluids and lubricants, faulty construction work, unsuitable building site, chemical, electrochemical or electrical influences insofar as these are not the responsibility of Supplier. Supplier shall only be liable for defects in materials delivered by Buyer, if Supplier could have recognized the defects by exercising due professional care. If [the delivery item] has been manufactured according to Buyer's drawings, Supplier shall

only be liable for manufacture [of the delivery item] in accordance with such drawings.

5. a) If special tools have been ordered by Buyer, the order quantity may vary by $\pm 10\%$, however, at least by ± 2 units vs. the initial order quantity.
6. Supplier shall not be liable for the consequences of improper repairs made by Buyer or a third party. The foregoing shall apply should changes be made to the delivery item without prior approval of Supplier.

Deficiencies in Title

7. Should use of the delivery item violate proprietary rights or copyrights in Germany, then Supplier shall, at its own expense and in every case, acquire the right for Buyer to continue using the delivery item, or Supplier shall modify the delivery item, in a way that is reasonable for Buyer, to eliminate the violation of such proprietary rights. Should this not be possible at economically reasonable terms or within a reasonable period of time, then Buyer shall be entitled to rescind the Agreement. Subject to the aforementioned conditions, Supplier shall also be entitled to rescind the Agreement. Furthermore, Supplier shall indemnify Buyer against undisputed claims and claims that have become res judicata of the owners of proprietary rights involved.

8. The obligations of Supplier stipulated in Section VI. 7 shall be final subject to Section VII. 2 in the case of violations of proprietary rights or copyrights. These obligations shall only apply if:

- Buyer notifies Supplier without undue delay of claims being asserted in connection with violations of proprietary rights or copyrights.
- Buyer supports Supplier to an reasonable extent in defending against claims asserted against Supplier and provides support to Supplier in performing modification measures in accordance with Section VI. 7.
- All defensive legal measures including out-of-court settlements remain reserved for Supplier.
- The deficiency in title was not based on an instruction given by Buyer.
- The violation of law was not caused by an arbitrary modification of the delivery item by Buyer or use of it by Buyer in a way that breached the provisions of the Agreement.

9. Buyer shall be solely responsible for the documentation such as drawings, gages, samples and the like that are to be provided by Buyer. Buyer shall be responsible for ensuring that the production drawings submitted by it do not violate the proprietary rights of third parties. Supplier shall not be obligated vis-à-vis Buyer to verify whether offers made by Supplier based on production drawings submitted to it by Buyer violate any proprietary rights of third parties. However, should Supplier nevertheless be held liable based on facts supporting a claim, Buyer shall indemnify Supplier against such claims.

VII. Liability

1. Should Buyer be unable to use the delivery item in accordance with the terms of the Agreement through fault of Supplier resulting from non-implementation or incorrect implementation of suggestions or results of consultation made available before or after conclusion of the Agreement, or due to a violation of other secondary contractual obligations, including but not limited to failure to provide operation and maintenance instructions for

the delivery item, then the provisions of Sections VI and VII. 2 shall apply, and all further claims of Buyer shall be excluded.

2. Supplier shall be liable for damage incurred not involving the delivery item itself, regardless of legal reason, only in case of:
 - a. intent
 - b. gross negligence of the owner, executive bodies or employees [of Supplier] acting in a senior position
 - c. culpable injury to life, body, or health
 - d. defects that Supplier fraudulently concealed or the absence of which Supplier guaranteed
 - e. defects in the delivery item insofar as Supplier would be liable for personal injuries and property damage to privately used objects according to the German Product Liability Act (Produkthaftungsgesetz (ProdhaftG))

In case of culpable violations of material contractual obligations, Supplier shall also be liable for gross negligence of non-managerial employees and for slight negligence, in the latter case, to be limited to the reasonably foreseeable, contract-typical damage. All additional claims are herewith excluded.

VIII. Statute of Limitations

All claims of Buyer, regardless of legal reason, shall become statute-barred 12 months after delivery of the delivery item. The statutory time limits shall apply for all claims for damages according to Section VII. 2.a-e. These time limits shall also apply to defects in a building structure and to delivery items that were used in accordance with their typical intended purpose for a building structure and that caused defects to such building structure.

IV. Software Use

Insofar as software is included in the scope of delivery, Buyer shall be granted a non-exclusive right to use the software delivered including its documentation. The software is provided for use with a specific delivery item. Buyer may not use the software with more than one system. Buyer may only copy, edit or translate the software or convert its object code into source code within the legally permissible scope (Articles 69 a ff. of the German Copyright Act (Urheberrechtsgesetz, UrhG)). Buyer shall not remove manufacturer's data, [type identification plate, labelling and the like] from the delivery item, including but not limited to copyright information, or change such information, [labelling etc.] without the prior express approval of Supplier. All other rights to the software and its documentation, including copies thereof, shall remain with Supplier and/or the software vendor. Sublicenses may not be granted by Buyer.

X. Applicable Law; Place of Jurisdiction

1. All legal relationships between Supplier and Buyer shall be exclusively governed by the laws of the Federal Republic of Germany applicable to legal relationships of domestic contractual parties.
2. The place of jurisdiction shall be the court of venue at the location of the registered office of Supplier. However, Supplier shall be entitled to initiate legal proceedings in the court of venue at the location of Buyer's home office.

3. In case of any disputes or disagreements in connection with these General Terms and Conditions of Delivery and Payment, the original German version of these Terms and Conditions shall take precedence over the English translation thereof.

Validity Date: June 2010

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