



GENERAL TERMS AND CONDITIONS OF DELIVERY

("GENERAL TERMS AND CONDITIONS OF DELIVERY") for products and services of the company STEMMANN-TECHNIK GmbH, D-48465 Schüttorf

As of: December 2013

For use with:

- an entrepreneur, i.e. a person who upon conclusion of the contract is exercising their commercial or independent professional activity;
- legal persons under public law or a public law special fund.

I. General provisions

1. The Supplier's conditions of sale and delivery shall apply exclusively; any conflicting or differing conditions of sale of the Customer shall not be accepted by the Supplier unless the Supplier has expressly agreed to their application in writing. The Supplier's Conditions of Sale and Delivery shall apply even if delivery is made unconditionally in the knowledge of conflicting conditions of the Customer that deviate from the Supplier's Conditions of Sale and Delivery. All the agreements, which have been reached between the Supplier and the Customer for the purpose of executing this contract shall be laid down in writing in this contract and in the Conditions of Sale and Delivery. These Conditions of Sale and Delivery shall also apply to any future business transactions with the Customer in the context of the current business relationship.
2. The Supplier shall reserve any intellectual property and copyright exploitation rights for offers, cost estimates, drawings and other documents (hereinafter documents) without restrictions. The documents may only be made accessible to third parties after obtaining the prior consent of the Supplier and will upon request have to be returned immediately, if the order is not placed with the Supplier. Sentences 1 and 2 shall apply reciprocally to documents of the Customer; these may, however, be made accessible to third parties to whom the Supplier may rightfully transfer deliveries.
3. The Customer shall have the non-exclusive right to use standard software in unchanged form with the stipulated performance characteristics for the agreed devices. The Customer shall be authorized to make two backup copies without requiring an explicit agreement.
4. Partial deliveries shall be permissible insofar as these can be reasonably expected of the Customer.

II. Offers, prices and terms of payment

1. Where an order has to be classified as an offer in accordance with section 145 of the BGB (German Civil Code) the Supplier shall be entitled to accept such offer for a period of 4 weeks. The Supplier's offers shall be without obligation unless stated otherwise in the confirmation of order. In the absence of any separate agreement, the written order confirmation (section 126 b of the BGB) by the Supplier shall constitute the formation of a contract.
2. Prices shall be based on delivery ex works excluding packing plus the value added tax applicable at the time as well as any other costs such as customs duties, insurance premiums etc.
3. If the Supplier is also responsible for assembly or erection and unless otherwise agreed, the Customer shall pay, in addition to the agreed remuneration, all necessary ancillary expenses such as travel expenses, the costs for the transport of tools and equipment, and personal luggage as well as allowances.
4. Payment shall be effected free of charge to the accounts office of the Supplier. Providing the acknowledgement of order is confirmed, the net financial remuneration (without discounts) shall be due for payment within 30 days of the invoice date.
In the event the Customer is in default the Supplier shall be entitled to demand default interest in the amount of 8 % p.a. above the respective base lending rate in accordance with section 247 of the BGB In the event that the

Supplier shall be in the position to prove higher damages due to default he shall be entitled to assert these. The Customer shall have the right to prove that the Supplier has incurred no loss at all or a loss of minor value as a consequence of the delay in payment. Section 353 of the HGB (German Commercial Code) shall remain unaffected.

5. As long as the Supplier has agreed payment of the remuneration on the basis of cheque and bill transactions, the reservation shall also cover the Customer's payment of the bill, which was accepted by the Supplier and shall not cease as a result of the crediting of the check received by the Supplier.
6. The Customer shall only be entitled to set-off when his counterclaims have been legally established, are undisputed, or have been recognized by the Supplier. Furthermore, he shall only be entitled to a right of retention insofar as his counterclaim is based on the same contractual relationship, his counterclaims are uncontested, acknowledged or have been legally determined as final and absolute.

III. Retention of title

1. The goods shall remain the property of the Supplier until payment in full of all claims resulting from the business relationship as a whole, including collateral receivables, claims for damages and payments of checks and bills of exchange. Exclusion of the property shall also remain after individual receivables of the Supplier have been included into the actual invoice and the balance has been determined and acknowledged.
2. If the reserved goods are combined, mixed or processed by the Customer in order to become a new movable, this shall be made on behalf of the Supplier, without the Supplier being obligated hereby. The Customer shall not gain ownership of the combined, mixed or processed new item in accordance with sections 947 ff. of the BGB. In the event of combining, mixing or processing with any item not belonging to the Supplier, the Supplier shall acquire co-ownership of the new item according to the proportion of the invoiced value of its goods subject to reservation to the total value.
3. Insofar as in the business relationship between Supplier and Customer a centralized authority shall be invoked that takes over del credere liability, the Supplier transfers the property on dispatching the commodity to the centralized authority with the dilatory condition of the payment of the purchase price by the centralized authority. The Customer shall be released once payment from the centralized authority has been received.
4. The Customer shall be entitled to resell or process the reserved goods only with due regard to the following conditions:
 - a) The Customer may sell or process the reserved goods only in the course of ordinary business operations and provided that his financial situation does not persistently deteriorate
 - b)
 - aa) The Customer shall hereby assign the claim along with all ancillary rights arising from the resale of the reserved goods – including any balance of claims – to the Supplier.
 - bb) If the goods are combined, mixed or processed and if the Supplier has acquired co-ownership hereto amounting to the value of his/her invoice, he is entitled to the claim for the purchase price pro rata to the value of his rights to the goods.
 - cc) If the Customer has sold the claim in the context of a genuine factoring, the Customer shall assign to the Supplier the claim against the factor which is replacing the initial claim and shall immediately transfer the sales proceeds to the Supplier. The Customer is obligated to disclose the assignment to the factor if he is more than ten calendar days overdue with the settlement of an invoice or if his financial situation deteriorates considerably.
 - dd) The Supplier accepts the prescribed assignments.
 - c) The Customer is authorized to collect the assigned payments as long as he fulfils his payment obligations. The collection authorization shall expire in case of delay in payment by the Customer. In this case the Supplier shall hereby be authorized by the Customer to inform his buyers about the assignment and to collect the claims himself. The Customer shall be required to provide the necessary information for the assertion of assigned claims, and shall permit the review of this information. In particular the Customer must provide the Supplier with an exact list of the claims he is entitled to with the names and addresses of the buyers, amounts of each claims, dates of invoices, etc.
5. If the value of the securities existing for the Supplier exceeds his claims by a total of more than 10% then the

Supplier shall be obliged upon request of the Customer to insofar release securities of his choice.

6. Pledging or cession by security of proviso goods or ceded claims are not permissible. The Supplier must be informed immediately of any garnishment, confiscations or other disposition or interference by third parties and details of the garnisher or third party must be provided.
7. If the Supplier takes back the delivered object by exercising his retention of title rights, there shall only be a withdrawal if the Supplier states this explicitly. The Supplier shall be entitled to satisfaction by free sale of the repossessed goods subject to reservation.
8. The Customer shall store retention of title goods free of charge to the Supplier. He shall have to insure them with normal levels of cover against the normal risks such as in particular fire, theft and water. The Customer shall hereby assign to the Supplier his compensation rights, which he has as a result of damages of the aforementioned type, against insurance companies or other obligated parties in the amount of the invoiced value of the goods. The Supplier shall accept this assignment.
9. All claims and titles arising from the reservation of title to all the special forms specified in these provisions shall remain valid until complete release from all contingent liabilities (check/bill of exchange) that the Supplier has assumed in the interests of the Customer. In the case of sentence 1 the Customer shall generally be allowed to do factoring for his accounts receivable. However, the Customer shall inform the Supplier before incurring contingent liabilities.

IV. Delivery deadlines Delay

1. For the Supplier to comply with the delivery period it is assumed that the Customer shall provide in good time all the documents, required authorizations and releases, in particular of plans, and that he shall observe the agreed Terms and Conditions and other obligations as well as clarifying all technical and commercial questions between the contracting parties. If these prerequisites are not fulfilled in a timely manner, the deadlines shall be extended correspondingly; this shall not apply if the Supplier is responsible for the delays.
2. The delivery dates referred to in the order confirmation shall only apply as fixed dates when they are expressly designated as such, for example, by the addition of "fix" or "at the latest".
3. Should the non-compliance with deadlines be due to force majeure, e.g., mobilization war, unrest or similar events such as strikes or lockouts, deadlines shall be extended within reason. The Supplier shall notify the Customer of the beginning and end of such circumstances as soon as possible.
4. The time of delivery shall be deemed to have been observed if the delivery item has been dispatched from the factory or notification of readiness for dispatch has been given before the expiry of that time. Where an acceptance is required – except for justified refusal of acceptance – the date of acceptance, alternatively the notification of readiness for acceptance, shall be definitive.
5. Should the Supplier fail to meet the deadline, and the Customer be able to demonstrate that he has suffered consequential loss, the Customer may charge compensation amounting to 0.5% per full calendar week, but limited to a maximum of 5% in total, of the price of the portion of the delivery that could not be put into useful service because of the delay.
6. Both compensation claims on the part of the Customer for delivery default and compensation claims in lieu of performance which exceed the limits stipulated in point 3 shall be excluded in all instances of delayed delivery, even after expiry of any period of grace for delivery that has been granted to the Supplier. This shall not apply, as far as in cases of deliberate acts, gross negligence or injury of persons or health an absolute liability will come into force; this does not imply a change in the burden of proof to the detriment of the Customer. The Customer can only withdraw from the contract within the context of the legal provisions, as far as the Supplier is responsible for the delay of the delivery or services.
7. The Customer shall be obligated to notify the Supplier upon request within an appropriate period of time whether he wishes to withdraw from the contract due to delay in delivery and/or demands compensation in place of delivery or insists on the delivery being carried out.
8. Should on request of the Customer the dispatch or delivery be postponed for more than one month after the cargo-ready notification, the Supplier shall be entitled to invoice the Customer a storage fee for each month started in the amount of 0.5 % of the price of the goods, however, not more than a total of 5 %. The contracting parties shall have the right to provide evidence of higher or lower storage costs.

9. The observance of the delivery period shall be conditional on the Customer complying with his contractual obligations. The Supplier shall give notification of imminent delays as soon as possible.
10. Further claims from delay in delivery shall be exclusively determined according to clause XI of these General Terms and Conditions of Delivery.

V. Passing of risk

1. Even in the case of delivery having been effected freight free, the risk shall pass to the Customer as follows:
 - a) For deliveries without installation or assembly when they were brought to shipment or have been picked up. At the request of the Customer the Supplier may take out insurance against common transport risks.
 - b) For deliveries with erection or assembly on the day of acceptance in the own plant or, as agreed, after a trouble-free test run.
2. The risk shall pass to the Customer if dispatch, delivery, the start or performance of assembly or erection, the taking over in the Customer's own plant, or the trial run is delayed for reasons for which the Customer is responsible or if the Customer has otherwise failed to accept the deliveries.

VI. Installation and assembly

Unless otherwise agreed upon in writing the following provisions shall apply for installation and assembly:

1. The Customer shall in due time provide and bear the costs of the following:
 - a) All earth-moving and construction work and other ancillary services not specific to the Supplier's trade as well as the necessary skilled and unskilled labor materials and tools,
 - b) the required equipment and consumables necessary for installation and commissioning/start-up, such as scaffolding, lifting gear and other devices, fuels and lubricants,
 - c) energy and water at the point of use, including connections, heating and lighting,
 - d) sufficient large, suitable, dry and lockable rooms at the place of installation to store machine components, apparatus, materials and tools, etc., and suitable work and staffrooms for the installation personnel, including sanitary facilities according to the circumstances; furthermore, the Customer has to take those measures on the building site for the protection of the assets of the Supplier and his installation personnel, which he would take or the protection of his own assets
 - e) and protection clothing and protection devices required on the installation site due to special circumstances.
2. The Customer shall be obligated to freely provide information on the whereabouts of concealed electric cables, gas and water pipes or other similar installations and the relevant static information before commencement of assembly work as well as required static data.
3. Before the commencement of assembly, the necessary provision of materials and objects for starting work must be located at the installation or assembly site and all preliminary work prior to commencing assembly must be so well advanced that installation or assembly can be started as agreed and implemented without any interruptions. Access roads and the place of assembly or installation must be flattened and cleared.
4. If assembly, erection or commissioning is delayed due to circumstances for which the Supplier is not responsible, the Customer shall bear the reasonable costs incurred for idle times and any additional travelling expenditure of the Supplier or the erection personnel.
5. The Customer shall attest to the hours worked by the erection personnel towards the Supplier at weekly intervals and the Customer shall immediately confirm in writing if assembly, erection or commissioning has been completed.
6. If, after completion, the Supplier demands acceptance of the Supplies, the Customer shall comply therewith within a period of two weeks. If this is not done, the acceptance shall be deemed to have been effected. The

acceptance shall likewise be deemed to be effected if the deliveries – as applicable after completion of an agreed trial period – have been put to use.

VII. Acceptance

Deliveries, even with minor defects, shall be accepted by the Customer.

VIII. Defects as to quality

The Supplier shall be liable for defects as to quality as follows:

1. All parts or services where a defect becomes apparent within the limitation period shall, at the discretion of the Supplier, be repaired, replaced or provided again free of charge irrespective of the hours of operation elapsed, provided that the reason for the defect had already existed at the time when the risk passed. Parts replaced shall remain/become the property of the Supplier.
2. Notwithstanding section 434 of the BGB and unless otherwise agreed individually, the contracting parties have come to an agreement that the nominal condition of the part of delivery in the moment of passing the risk shall be regarded to be met, when, with respect to the production in general or to the serial production in our factory, it is of average kind and quality. With lower quality goods a defect shall not be deemed to be present if the contractual use is not affected. Section 434 paragraph 2 sentence 2 does not apply.
3. Claims for defects shall become statute-barred in six months from the due date of the claim, at the longest, however, in twelve months from delivery. This period is also valid for claims for consequential damages insofar as no claims are asserted from an illicit act. This shall not apply insofar as the law, section 438 paragraph 1 point 2 of the BGB (building works and items for building works) stipulates longer deadlines as well as in cases of injury to life, the body or to health, with a willful or grossly negligent breach of duty on the part of the Supplier or if a defect is fraudulently concealed.
4. The Customer must provide the Supplier with notification of defects without delay and in writing.
5. In the case of notices of defect, the Customer shall be entitled to withhold payments at a value that reasonably reflects the magnitude of the material defects encountered. The Customer, however, may withhold payments only if the subject-matter of the notification of the defect occurred is justified beyond doubt. If the notification of defect was unjustified, the Supplier shall be entitled to demand the reimbursement of expenses incurred from the Customer.
6. The Supplier shall first be given the opportunity to rectify a defect within a reasonable period of time, otherwise the Supplier shall be relieved of the liability for the resulting consequences..
7. If the rectification of the defect fails, the Customer can – irrespective of any claims for damage with respect to article XI – withdraw from the contract or reduce the remuneration.
8. Defect claims shall not apply if there is only a minor deviation from the agreed nature of the goods or only a minor impairment of usability, natural wear or damages incurred after passing of the risk because of incorrect or negligible handling, excessive use, use of unsuitable operating resources, defective construction work or unsuitable subsoil or if the defects arise due to special external influences that are not preconditions in accordance with the contract, as well as in case of non-reproducible software faults. Should the Customer or third parties carry out improper changes or repair work, claims for defects for such action and the resulting consequences shall be excluded.
9. The Customer shall not be entitled to claim expenditures required for the purpose of the rectified performance, in particular transport, road costs, labor cost and cost of materials, as far as the expenditures are increased because the object of the delivery has been forwarded afterwards to place other than the Customer's establishment, unless the transfer would correspond to its designated use.
10. The Customer has statutory rights of recourse against the Supplier only insofar as the Customer has not reached any agreements with his buyer which go beyond the statutory claims. In addition, item 8.8 shall apply correspondingly to the scope of the right for recourse of the Customer against the Supplier.
11. Furthermore, the provisions of article XI (other claims for damages) shall apply in respect of claims of damages. Any claims other than those covered in article VIII for defects by the Customer against the Supplier and his sub-

contractors shall be excluded.

12. The Supplier shall not be liable for the following cases in particular:
Appropriate or inexpert use, wrong assembly or wrong commencement of operations by the client or a third party, natural wear and tear, wrong or negligent handling, improper maintenance, the use of unsuitable production materials, faulty construction work, unsuitable subsoil, chemical, electro-chemical or electrical influences, to the extent that the same cannot be ascribed to us.
13. If the defect is rectified improperly by the Customer or a third party, the Supplier shall bear no liability for the resultant consequences. The same shall apply for modifications of the supplied good made without the prior approval of the Supplier.

IX. Industrial property rights and copyrights; software usage; legal defects

1. Unless otherwise agreed upon, the Supplier shall be obliged to render the delivery free of any industrial property rights and copyrights of third parties (hereinafter property rights) solely in the country of the place of delivery. If a third party asserts a justified claim against the Customer based on an infringement of property rights with respect to the deliveries made by the Supplier and then used in conformity with the contract, the Supplier shall be liable to the Customer within the time period stipulated in article VIII point 3 as follows:
 - a) The Supplier shall either, at his choice and expense, acquire the utilization rights for the delivery in question, change the delivery in such a way that the protection rights are not infringed, or replace the delivery. Should this prove not to be within the bounds of reasonable possibility for the Supplier, the Customer shall have the legal right to withdrawal or abatement.
 - b) The obligation of the Supplier to pay damages is governed by article XI. e)
 - c) The Supplier's above-mentioned obligation shall only apply if the Customer immediately notifies the Supplier of any such claim asserted by the third party in writing, does not concede the existence of an infringement and leaves any protective and settlement negotiations to the discretion of Supplier. If the Customer stops using the delivery in order to reduce the damage or for other good reason, he shall be obliged to point out to the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.
2. Claims of the Customer shall be excluded insofar as he is responsible for the infringement of property right.
3. Moreover, claims on the part of the Customer shall not be considered insofar as the infringement of proprietary rights is caused by specific specifications of the Customer, by a use the Supplier could not have foreseen, or by the fact that the delivery is changed by the Customer or is used in connection with products not delivered by the Supplier.
4. In the event of protective rights being infringed, claims on the part of the Customer regulated in point 1 a) are subject to the provisions of article VIII, points 4, 5 and 9.
5. If there are any other deficiencies in title, the provisions of article VIII shall apply accordingly.

Any claims other than those covered in article IX for defects by the Customer against the Supplier and his sub-contractors shall be excluded.

Providing that software is included within the scope of delivery, the Customer shall be granted a non-exclusive entitlement to utilization of the delivered software including the documentation. It is entrusted for the sole purpose of utilization on the designated delivery item. The use of the software on more than one system is prohibited.

The Customer may only reproduce, edit and translate the software to the legal admissible extent (Sections 69 a ff. of the UrhG (German Copyright Law)) or convert it from the object code into the source code. The Customer shall agree not to remove manufacturer information – in particular copyright notes – and not to alter them without the express prior consent of the Supplier.

All other rights to the software and the documentation including copies thereof shall remain with the Supplier or with the software supplier. The granting of sub-licenses is not permitted.

X. Impossibility: Contract adjustments:

1. Insofar as the delivery is not possible, the Customer shall be entitled to claim damages, providing that the impossibility is attributable to the Supplier. However, the Customer's entitlement to compensation shall be restricted to 10% of the value of that component of the delivery which cannot be put into appropriate operation as a result. This limitation shall not apply as far as in cases of deliberate acts, gross negligence or injury of persons or health an absolute liability will come into force; this does not imply a change in the burden of proof to the detriment of the Customer. The right of the Customer to rescind the contract shall remain unaffected.
2. Insofar as unforeseeable events pursuant to article IV point 3 considerably change the economic purpose or the contents of the delivery or have considerable influence, the contract shall be appropriately adapted in good faith by mutual agreement. Where this is economically unjustifiable, the Supplier shall have the right to withdraw wholly or partly from the contract. If the Supplier intends to exercise its right to rescind the contract, he shall notify the Customer thereof without undue delay after becoming aware of the consequences of the event, even if a prolongation of the delivery period was initially agreed with the Customer.

XI. Other claims for damages

1. Claims by the Customer for damages and reimbursement of expenses (hereinafter claims for damages), regardless of the legal basis thereof, especially for the breach of an obligation out of the contract or out of tort shall be excluded.
2. This shall not apply where liability is legally mandated, such as under the Product Liability Act, in cases of gross negligence, loss of life, bodily injury or damage to health, or breach of a condition which goes to the root of the contract. If in accordance with the aforementioned provision a liability of the Supplier comes into consideration and in the absence of gross negligence or loss of life, bodily injury or damage to health, the amount of the claim shall be limited to the benefits of the Supplier's liability insurance. The Supplier shall on request be willing to give the Customer insight into the insurance certificate (policy). The Supplier shall agree to maintain the insurance until the expiration of the warranty period (point VIII. 2.). A change of the burden of proof to the disadvantage of the Customer shall not be associated in this case.
3. Insofar as the Customer has a valid claim for damages in accordance with this article XI, it shall become statute-barred upon expiration of the limitation period applicable to defects in accordance with article VIII point 2.

XII. Place of jurisdiction; applicable law; place of fulfillment

1. place of jurisdiction – including commercial bill or cheque claims – shall be the court competent for the headquarters of the Supplier; the Supplier shall however be entitled to file a lawsuit at the headquarters of the Customer. The same venue of jurisdiction shall apply if the Customer should have no general jurisdiction locally or has transferred his place of residence or habitual abode to a country other than Germany after conclusion of the contract, or if the Customer's residence or habitual abode is unknown when the legal action is filed.
2. For all legal relationships with the Customer only the substantive law of the Federal Republic of Germany without its possible referral to another jurisdiction shall prevail. The United Nations Convention on the Sale of Goods dated 11.04.1980 (CISG) shall not apply.
3. Place of fulfillment shall be Schüttorf.

XIII. Binding nature of the contract

The contract shall remain valid in its other parts even if individual provisions are legally ineffective. This shall not apply if adherence to the contract would represent an undue hardship for a party.