

EBM [Erich Büchele Maschine construction ltd] General Sales Conditions

All supplies and services are subject to the present conditions of sale and delivery and the agreements stipulated in the contract. After acceptance of the order Buyer's conditions of purchase deviating from these conditions will not become part of the contract. In the absence of special agreement, VDMA recommended practise and law regulations should be conducted.

1. General conditions

Offers are without obligation and non-binding. The contract will become effective - as far as not otherwise agreed upon - with the written order confirmation. Additional agreements and changes require our written confirmation.

The supplier reserves all rights to samples, cost estimates, drawings and similar information be it tangible or intangible – even of electronic nature – property rights and copyrights; these may not be disclosed to third parties, the buyers may not use these above mentioned object for self-production.

2. Prices and payment

In the absence of special agreement, the prices shall apply net ex works Meitingen include loading in our plant, however excluding packaging and offloading. The prices do not include the applicable rate of value added tax.

Unless otherwise agreed, payment shall be made to immediately and no deduction to the suppliers' account.

The Buyer only has the right of withholding payments or offset with counter-claims insofar as its counter-claims are uncontested or legally established.

We reserve the right to calculate additional cost by acceptance and payment delay.

3. Delivery time, delays in delivery

The delivery period arises from the agreements of the contract parties. The Compliance of the delivery period by the supplier shall presuppose that all commercial and technical questions between the contracting parties have been clarified and customer has fulfilled all obligations incumbent on it. If that is not the case, the delivery period shall be extended accordingly. This shall not apply if the seller is liable for the delay.

Should we fail to meet the delivery date due to force majeure, industrial conflict or any other incident beyond our control or which we have not caused, the delivery term shall be reasonably extended. The adherence to the delivery period is subject to the supplier receiving its own deliveries correctly and promptly. Supplier shall inform the customer as soon as possible after it becomes aware that any delay in delivery may occur.

The delivery deadline shall be deemed to have been adhered to when up to the point in its cycle the article to be delivered has left the works of the supplier or readiness for despatch has been notified. Insofar as an acceptance inspection is to take place -apart from the lawful declining of an acceptance- the date of acceptance is defining or alternatively the notification of readiness for acceptance.

If the dispatch or acceptance is delayed for reasons the customer is liable for, the customer shall bear the cost resulting from such delay after one month following the notification of the readiness for dispatch or acceptance.

Only mandatory if expressly agreed upon in writing, the validity of the conventional penalties is entitled by the buyer, to claim liquidated damages for any supplemental costs incurred. This compensation shall be 0,5% for every full week of the delay, however, this shall at the most be 5% in total of that part of the overall delivery which cannot be used due time or in accordance with the contract due to the delay.

5. Transfer of risk, acceptance

Risk will pass onto the purchaser as soon as the delivery item leaves the plant, also in the event of partial deliveries, or even when the supplier assumes other services, e.g. shipping cost or delivery and installation. If there is to be a preliminary acceptance test, this shall be authoritative for the passage of risk. It must be carried out without undue delay as of the acceptance date, alternatively after the notification by the supplier about the readiness for acceptance.

Customer may not refuse preliminary or final acceptance on grounds of a defect that is not essential.

In the event of delay or failure of the dispatch, or preliminary acceptance on grounds, for which the supplier is not responsible, the risk will be transferred to the customer from the day of notification of the dispatch or readiness for preliminary acceptance on part of the supplier.

6. Retention

The supplier shall retain ownership of the delivery item until the receipt of all payments arising from the business relationship.

The ordering party is not allowed to sell or pledge the delivery item, or pass its title as security. In case of pledging and seizures of the other dispositions by a third party, the buyer has to inform the supplier thereof immediately.

In case of contrary-to-contract behaviour of the purchaser, especially in default of payment, the supplier is entitled, after admonition, to retake the object to be delivered and the purchaser is obligated to release it.

On the strength of the supplier's reservation of title, the supplier shall only be entitled to demand the return of the delivery item after withdrawal from the contract.

The application for initiation of insolvency proceedings shall entitle the supplier to withdraw from the contract and demand the immediate return of the subject of the contract.

7. Claims for defects

In the case of redhibitory defects regarding the delivery the supplier shall warrant by way of exclusion of further claims- subject to Section 8- as follows:

The supplier shall repair or replace all parts that are proved as defective due to certain circumstances prevalent before the transfer of risk, as per the supplier's discretion. The buyer shall notify the seller in writing of any such defect without delay. Parts replaced shall become the property of the supplier.

The buyer shall discuss with the supplier and agree upon a specific period and provide him with the requisite facilities for the apparent repairs or replacement deliveries to be made; if the buyer fails to do so, the supplier will not be liable for the consequences.

No guarantee shall be given for the following cases in particular: inappropriate or improper 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.

If the defect is rectified improperly by the customer or a third party, we bear no liability for the resultant consequences. The same shall apply to changes made to the object of delivery without the prior consent of the supplier.

For build in external parts, the supplier takes maximal the warranties, those parts this supplier supplies

The warranty period begins with the transfer of risk to the buyer and last- in the absence of any special agreement – 12 months.

Warranty is ruled out for the delivery of second hand situations, where legally permissible.

8. Liability

If, due to the supplier's fault, the goods delivered cannot be used by the buyer in accordance with the contract as a result of the omitted or deficient implementation of proposals and advice given prior to or after the conclusion of the contract or due to the infringement of other contractual ancillary obligations - including but not limited to instructions on the operation and maintenance of the goods delivered - the provisions of sections 7 and 8 shall apply mutatis mutandis, to the exclusion of any and all further claims of the buyer.

For damages not caused to the delivery item itself, the supplier is liable only

- in the case of intent,
- in the case of gross negligence on the part of the owner/committees or company executives,
- in the event of culpable injury to life, body and health,
- for deficiencies that are maliciously obscured or which were guaranteed to be absent,
- in the event of defects in the delivery item, insofar as there is liability for physical or material damage to objects used in the private sphere in accordance with the Product Liability Act.

In the case of culpable infringement of essential contractual obligations the Supplier shall also be liable for gross negligence by non-executive staff and for slight negligence, in the latter case limited to compensation for typical damage which can be reasonably foreseen.

Further claims are excluded.

9. Limitation

All claims of the customer lapse after 12 months. Compensation claims are subject to the statutory periods.

10. Software usage

If software is included in the scope of delivery, a non-exclusive right shall be granted to the buyer to use the software supplied including its documentation. It shall be handed over for use on the goods intended for this purpose. It shall not be permitted to use the software on more than one system.

The buyer may only reproduce, edit and translate the software to the legal admissible extent (sections 69 a ff. of the German Copyright Law) or convert it from the object code into the source code. The buyer undertakes not to remove any manufacturer's details – including but not limited to references to copyright – or to change such details without the supplier's prior express consent.

All other rights to the software and the documentation including the copies shall remain with the supplier or the software supplier. It is not permitted to grant sub-licences

11. Applicable law, venue

All legal relationships between the Supplier and the buyer shall be governed solely by the law of the Federal Republic of Germany under the exclusion of the UN law on the international sales of goods (CISG).

Augsburg is the jurisdiction place. The supplier has the right, to raise the claim at the headquarter of the buyer,