

General Terms and Conditions of Sale and Delivery of ELMA-Tech GmbH, D-51597 Morsbach

I. General information - Scope

1. Our General Terms and Conditions of Sale and Delivery apply exclusively. We do not accept any terms and conditions of the ordering party that are contrary to or differ from our Terms and Conditions of Sale, unless we have explicitly agreed to their validity in writing. Our Terms and Conditions of Sale apply even if we send a delivery without reservation to the ordering party despite being aware of terms and conditions of the ordering party that are contrary to or differ from our Terms and Conditions of Sale.
2. All agreements made between us and the ordering party for the purpose of executing this contract are set out in writing in this contract.
3. Our Terms and Conditions of Sale apply to all sales contracts that we conclude with companies, legal persons under public law and special funds under public law as seller. They do not apply in relation to consumers.

II. Offer, order, delivery

1. Our offers are always subject to amendment. Orders shall only have binding effect on us if we confirm them in writing or fulfil them by sending the goods. If the order qualifies as an offer under Section 145 of the German Civil Code, then we may accept it within four weeks. Oral collateral agreements shall only have binding effect on us if we confirm them in writing. Confirmation of receipt may be combined with the declaration of acceptance.
2. Unless otherwise agreed, our deliveries are ex works or ex distribution centre, which in each case is also the place of fulfilment. We reserve the right to choose the method of delivery, unless a specific method of delivery has been agreed upon. At the same time, we are entitled to invoice such services in accordance with our pricing (in Section III).
3. We are entitled to make partial deliveries or to render partial services, provided that so doing is reasonable for the ordering party and sufficient consideration is given to the latter's legitimate interests.

III. Prices, terms of payment

1. Unless otherwise agreed, our prices are quoted ex works or ex distribution centre in EUR and do not include packaging and loading. The respective value added tax, the cost of transport ex works or ex distribution centre and the cost of any transport insurance requested separately by the ordering party shall be charged in addition. Moreover, the ordering party shall pay any customs duties, fees, taxes or other public charges. The ordering party shall also pay any costs incurred for assembly or installation.

2. Prices valid on the day of delivery shall always apply for invoicing purposes. If prices are higher than those valid when the contract was concluded, then the ordering party shall be entitled to withdraw from the contract within 14 days of notification of the price increase in respect of the quantity not yet accepted.
3. Unless otherwise stated in the order confirmation, the net purchase price (without deduction) is due for payment within 14 days of receipt of the invoice. If the ordering party defaults on payment, then we shall be entitled to charge interest on arrears at the rate charged by the bank for our current account overdrafts, but at least 8% above the applicable base rate.
4. We only accept bills of exchange, cheques and other payment orders *pro solvendo*. Associated expenses and costs, as well as the risk of timely presentation and protest shall be borne exclusively by the ordering party.
5. Ordering parties shall only be entitled to rights of set-off if their counterclaim is legally established, uncontested or recognised by us. Furthermore, they are authorised to exercise a right of retention only to the extent that their counterclaim is based on the same contractual relationship.

IV. Delivery period

1. The start of the delivery period indicated by us is subject to clarification of all technical questions. Compliance with our delivery obligation is also subject to timely and proper fulfilment of the ordering party's obligations. The plea of non-performance remains reserved.
2. Delivery lead times are subject to correct and timely delivery to us.
3. If the ordering party defaults on acceptance or infringes other obligations to cooperate, then we shall be entitled to demand compensation for the ensuing damage we incur and any additional expenses. All other legal claims remain reserved.
4. Delivery lead times are met if the goods are kept ready for dispatch from our warehouse within the specified period or, in the case of dispatch at the ordering party's request, are dispatched within the specified period.
5. Delays in delivery and performance due to force majeure – circumstances or occurrences that cannot be prevented with the diligence of prudent business management, for example – suspend our contractual obligations for the duration of the disruption and extent of its effect. They entitle us to postpone the delivery or service for the duration of the interruption, plus a reasonable start-up period, or to withdraw from the contract – in whole or in part – due to the part that has yet to be fulfilled. If the ensuing delays exceed a period of two months, then after setting a reasonable grace period the ordering party shall be entitled to withdraw from the contract in respect of the part that has yet to be fulfilled. The ordering party shall have no other claims.
6. If our deliveries and services are delayed or if we are responsible for exceeding an agreed delivery lead time, then the ordering party shall be entitled to compensation in the amount of 0.5% for each full week of delay up to a total of 5% of the invoice value of those deliveries

and services affected by the delay. Further claims of the ordering party are excluded, unless we can be accused of acting with intent or gross negligence.

V. Transfer of risk, packaging costs

1. The risk of accidental loss and accidental deterioration of the goods – including partial deliveries – shall pass to the ordering party at the latest when the goods are handed over to the ordering party, the forwarding agent, the carrier or the party or organisation otherwise designated to carry out the shipment.

2. If the delivery or service is delayed due to circumstances attributable to the ordering party, then the risk shall pass to the ordering party upon notification of readiness for dispatch. With the exception of pallets, transport packaging or any other packaging in accordance with the packaging regulations shall not be taken back. The ordering party is obliged to dispose of the packaging at its own expense.

VI. Reservation of title

1. We reserve title to the goods sold until full payment of our claims, including future claims, arising from the current business relationship with the ordering party. The ordering party is entitled to resell and/or process the purchased goods in the ordinary course of business.

2. The ordering party hereby assigns to us as collateral any claims against third parties arising from the resale, either in total or in the amount of our possible co-ownership share. The ordering party is authorised to collect these claims for our account until revocation or suspension of its payments to us. Moreover, the ordering party is not authorised to assign such claims for the purpose of collection by way of factoring, unless the factor is simultaneously obliged to effect the consideration directly to us in the amount of our share of the claim for as long as we still have claims against the ordering party.

3. The ordering party must inform us immediately by registered letter if and insofar as third parties have access to goods or claims belonging to us.

4. The goods and their respectively ensuing claims may neither be pledged to third parties nor transferred or assigned by way of collateral before the ordering party has settled our claims in full.

5. If the value of the collateral exceeds our claims by more than 20%, then we shall release collateral of our choosing if the ordering party so requests.

6. Implementation of the reservation of title immediately constitutes revocation of the contract.

7. If the ordering party defaults on or suspends payment, applies for or opens insolvency proceedings, or if its financial status otherwise deteriorates, then we may demand that it inform us of the assigned claims and associated debtors, provide all information necessary for collection, surrender the associated documents and inform its debtors of the assignment. We reserve the right to collect these claims directly. From this point in time, such claims may only

be disposed of with our consent. Furthermore, we may demand that the goods subject to reservation of title be surrendered immediately.

VII. Trial deliveries

Trial deliveries shall be deemed to have been accepted for fixed purchase on our Terms and Conditions after expiry of the trial period, beginning on the day of arrival, unless we are expressly notified to the contrary or the goods are returned before expiry of the stipulated trial period. We will refer to these conditions separately for any trial deliveries.

VIII. Warranty

1. The ordering party's warranty rights require that it inspect delivered goods immediately for obvious defects, in particular also for obvious defects in quantity or damage, and notify us of them in writing without undue delay, but within two weeks of receipt of the goods at the latest. Timely dispatch of the notice of defect shall suffice for observance of the notice period. The ordering party is obliged to notify us of non-obvious (hidden) defects in writing after their discovery, but no later than within the period of limitation according to Section VIII. 5.
2. The buyer shall bear the burden of proof for all prerequisites, in particular for the existence of the defect, for the time of discovery of the defect and for the timeliness of the notice of defect. Our liability for defects shall be excluded if the ordering party fails to make the complaints specified above. We reserve the right to implement technical modifications, as well as modifications in the colour, form and/or weight, as may reasonably be expected.
3. If there is a defect in the purchased item for which we are responsible, we reserve the right to remedy it at our discretion either by subsequent delivery or subsequent improvement (subsequent performance) first. In the event of subsequent performance, we shall be obliged to pay any ensuing expenses, in particular transport, travel, labour and material costs, insofar as these are not increased by the fact that the purchased item has been taken to a location other than the place of destination.
4. If the subsequent performance fails, is impossible, is seriously and definitively refused by us or is unreasonable for the ordering party, then the latter shall be entitled, at its discretion, to reduce the purchase price (reduction) or to demand that the contract be cancelled (revocation). However, the right of revocation is excluded if and to the extent that the goods merely exhibit minor defects.
5. The period of limitation for claims based on defective goods is one year from delivery of the goods.
6. As regards the nature of the goods, the parties agree that the manufacturer's product description is authoritative. Moreover, public statements, recommendations or advertisements of the manufacturer do not represent the nature of the goods as stipulated in the contract.
7. If the ordering party fails to observe our information on the suitability, processing and use of our products, in particular our factory guidelines or if modifications are made to our

products, parts are replaced or consumables are used which do not correspond to the original specifications, then our liability for defects shall expire, unless the ordering party can prove that this did not cause the defects or that the defects are not due to the aforementioned measures.

8. If the ordering party receives defective assembly instructions from us, then we are merely obliged to supply assembly instructions that are free of defects. This shall also apply if the defective assembly instructions prevents the proper assembly of the goods sold.

9. We do not accept any liability for the loss of refrigerant and refrigeration oil in water heat exchangers.

10. The ordering party does not receive a guarantee within the legal sense from us.

IX. Provisions on liability and limitation

1. In the event of breaches of obligation due to minor negligence, any liability on our part for damages over and above the liability for defects pursuant to Section VIII. shall be excluded, irrespective of the legal nature of the claim asserted. This also applies if and insofar as there is a breach of obligation due to minor negligence by the legal representatives or our vicarious agents.

2. For breaches of the duty of protection and care of the contractual obligation, i.e. breach of the obligation to take into account the rights, legal interests and interests of the ordering party, the period of limitation is one year from delivery of the goods to the ordering party. If delivery of the goods did not occur, then the period of limitation shall commence at the end of the year in which the claim arose. Shorter statutory periods of limitation shall take precedence.

3. The exclusion of liability and the reduction of the period of limitation in paragraphs 1 and 2, respectively, shall not apply in breaches of a guarantee or a material contractual obligation. In cases of a breach of a material contractual obligation, our liability shall be limited to compensation for the typical foreseeable damage.

4. The provisions in paragraphs 1 to 3 above shall not apply to claims of the ordering party arising from product liability, nor in the event of injury to life, limb or health attributable to us or grossly negligent or wilful breaches of duty by us or our legal representative or vicarious agents.

X. Exclusion of subsequent performance and revocation

1. If a deadline set by the ordering party for performance expires without success and the ordering party fails to comply with the subsequent request within a reasonable further period of time set by us for the purpose of declaring whether the ordering party will adhere to its claim for performance or demand compensation in lieu of performance, then the claim for performance shall be excluded after expiry of the reasonable period associated with the request.

2. The ordering party may only withdraw from the contract due to a breach of obligation that is not based on defective goods if we are responsible for the predicament entitling the ordering party to withdraw from the contract. Revocation is excluded in the event of a minor breach of duty.

3. Moreover, revocation is also excluded in those cases in which the ordering party would only be legally obliged to compensation for instead of returning the purchased item.

XI. Provision of skilled labour

For the provision of skilled labour, the ordering party shall pay the costs incurred by us for assembly work and activation, for overtime, for work on Sundays and public holidays, and for time spent travelling and waiting, which is also classed as working time. Furthermore, the ordering party shall pay the travelling expenses and the costs for luggage, materials and tools. Moreover, the ordering party shall procure and appoint, at its own expense, the number of auxiliary and skilled workers that we deem necessary and the equipment, materials and transport facilities required for installation and commissioning.

XII. Confidentiality and data protection

1. The ordering party is obliged to treat confidentially any sales documents, specifications, price lists or other documents and information ('confidential information') received and to impose this obligation on its vicarious agents and assistants accordingly. Items owned by us must be stored so that they cannot be made accessible to unauthorised third parties.

Confidential information and items owned by us may only be disclosed to third parties with our explicit consent. The obligation of confidentiality shall continue to apply after the termination of this contract for a period of two years.

2. Unless expressly agreed otherwise in writing, the information we provide in connection with orders shall not be deemed to be familiar.

3. Having due regard to data protection legislation, we are entitled to process personal data entrusted to us or to have such data processed by third parties within the framework of the intended purpose of the business relationship.

4. We may include the name of the ordering party in our list of references.

XIII. Place of jurisdiction, applicable law

1. If the ordering party is a registered trader within the meaning of the German Commercial Code, a legal person under public law or a special fund under public law, then the place of jurisdiction for any disputes between the ordering party and us shall be at the location of the registered office of our company or at the location of the registered office of its company. The sole place of jurisdiction for claims brought against us shall be Bonn Regional Court/Waldbröl District Court.

2. These General Terms and Conditions for the Sale of Products and Services and all legal relationships between the ordering party and us shall be governed by the law of the Federal Republic of Germany. All international and supranational (contractual) legal systems, in particular the United Nations Convention on Contracts for the International Sale of Goods, are excluded.

I. Scope

1. Our General Terms and Conditions of Purchase apply exclusively. We do not accept any terms and conditions of the supplier that are contrary to or differ from our Terms and Conditions of Purchase, unless we have expressly agreed to their validity.

This also applies to any terms and conditions of the supplier referred to in order or other confirmations. Acceptance of deliveries/services does not constitute acceptance of the supplier's terms and conditions. Our Terms and Conditions of Purchase shall even apply if the contract with the supplier is unconditionally executed in the knowledge of conflicting, supplementary or deviating terms and conditions.

2. All agreements made between us and the supplier for the purpose of executing this contract are set out in writing in this contract.

3. Our Terms and Conditions of Purchase shall only apply to commercial transactions.

4. Where relevant in specific cases, the statutory provisions and in the case of international contracts the Incoterms of the International Chamber of Commerce in Paris and the Uniform Customs and Practice for Documentary Credits, as amended, shall also apply.

II. Offer, offer documents

1. Orders are only legally binding if we have placed or confirmed them in writing. Deviations from these Terms and Conditions of Purchase also require our written confirmation. We shall not be bound by oral collateral agreements. The supplier may only execute orders made by email if this has been expressly agreed with us. The respective contract is concluded with the content of our order and is subject to our right to amend the order (delivery time, order quantity, etc.) if the supplier does not object. An objection by the supplier to the respective order shall be effective within five working days of receipt of the order, stating specific reasons.

2. We reserve all rights of ownership and copyright on illustrations, drawings, calculations, and any other documentation. This applies to any written documents marked 'Confidential'. The supplier must obtain our explicit written approval prior to the disclosure thereof to any third party.

3. The supplier is only authorised to have the order or individual parts thereof executed by independently operating third parties with our written consent.

III. Prices, terms of payment

1. The price stated on the order is binding. In the absence of any written agreement to the contrary, the price of delivery shall be 'carriage paid' to the delivery address stated on the order and include packaging. Value added tax and customs duties are included in the price and must be shown separately. If we so request, then the supplier is obliged to take back the packaging at its own expense and without us having to make an express reservation.
2. Our order, call-off, item/drawing numbers must be listed on all delivery notes and invoices. Auditable invoices must be sent to us in duplicate. The supplier shall be responsible for any consequences of non-compliance with this obligation, unless it can demonstrate that it is not responsible for them. Unless otherwise agreed, payments shall be made within 60 days net or within 30 days with a 2% settlement discount. Timely payment shall be determined by the timing of our payment instruction.
3. Additional and/or extra services shall only be remunerated if a written supplementary agreement has been concluded prior to the performance of such services.

IV. Delivery lead times

1. The delivery date stated on the order is binding on the supplier. The delivery shall be made immediately if no delivery date is specified. The supplier is obliged to inform us in writing and without undue delay if circumstances indicating that the agreed delivery date cannot be met arise or become apparent.
2. Timeliness of deliveries shall be determined by receipt at the place of delivery or use specified by us within the agreed delivery lead time.
3. If the lead time is not met for reasons that are within the supplier's sphere of risk, then we may claim lump sum compensation of 1% of the value of the goods to be delivered for each full week of delay. Compensation is limited to a total of 10% of the value of the order amount. The supplier shall have the right to demonstrate to us that we have suffered either no or less damage due to the ensuing delay. Further legal claims remain unaffected.
4. For security reasons, the supplier is not entitled to transfer or assign any claims or rights arising from the respective order to a third party.

V. Transfer of risk

The transfer of risk shall be governed by the agreed terms of delivery. If no agreement has been made, then risk shall pass upon delivery and acceptance of the goods at the agreed place of delivery or use.

VI. Reservation of title

1. The supplier is obliged to notify us in writing prior to delivery if the goods will be delivered subject to reservation of title.
2. The following shall apply in the event of a duly notified reservation of title. Prior to the transfer of ownership, the supplier authorises us to dispose of the delivered products in the ordinary course of business. If we combine the goods with other items to form a single item before the transfer of ownership and if the other item is to be regarded as the main item, then we are obliged to transfer to the supplier a *pro rata* share of co-ownership of the new item, insofar as the main item belongs to the supplier. If we resell the delivered products in accordance with their intended purpose, then we hereby assign the claims arising from the sale against its customers, together with all ancillary rights, to the supplier until the claim has been settled in full. The supplier shall release the collateral it holds to the extent that the value thereof exceeds the collateralised claims by more than 10% in total.
3. We reserve title to the materials, tools and other items provided. If these provided items are inseparably combined with other items, further processed or reworked, then the parties agree that the supplier shall assign us a *pro rata* share of co-ownership.

VII. Warranty, cancellation

1. The goods must comply with the current state of the art and the quality agreements made. The supplier is responsible for complying with all applicable export control regulations under domestic and foreign law in connection with the delivery.
2. We are entitled to assert the statutory warranty claims to their fullest extent. Irrespective of the foregoing, we are entitled, at our discretion, to assert the statutory claims for subsequent performance, rectification of defects or new delivery, as well as the further claims for reduction or revocation, as well as compensation for damages, including compensation for damages in lieu of performance, as well as compensation for our futile expenses.
3. The warranty period is 24 months from the transfer of risk.
4. Insofar as the supplier grants a seller's warranty and/or a manufacturer's warranty without prejudice to the aforementioned claims, the details shall be set out in the warranty conditions attached to the goods delivered in each particular case.
5. If the supplier fails to fulfil our warranty claim within a reasonable period of time, which is usually 14 days, then for each day on which commencement of fulfilment of the warranty claim is delayed and without prejudice to the provisions of Section IV. 3, we shall be entitled to claim lump sum compensation of 1% of the value of the goods delivered for each full week of delay. This shall apply *mutatis mutandis* if the rectification of defects is delayed due to the supplier's culpable interruption thereof. Compensation is limited to a total of 10% of the value of the order amount. The supplier shall have the right to demonstrate to us that we have suffered either no or less damage due to the ensuing delay.
6. We are entitled to cancel an order at any time with immediate effect prior to its completion. Deviations in quantity constitute a defect.

VIII. Liability, indemnification, liability insurance cover

1. Insofar as the supplier is responsible for damage, it is obliged to indemnify us against claims for damages by third parties upon first demand. The supplier's liability for damage within the meaning of the first sentence includes an obligation to reimburse any ensuing expenses if we have to institute a product recall. This does not affect other statutory claims.
2. The supplier undertakes to maintain product liability insurance with lump sum cover of EUR 5,000,000 per personal injury/material damage. If we are entitled to further contractual and/or statutory damage claims, these shall remain unaffected.

IX. Confidentiality, intellectual property rights

1. The supplier is obliged to treat confidentially any illustrations, drawings, calculations or other documents received and any information, agreements and arrangements that are not generally known within the scope of the respective order. These may only be disclosed to third parties with our express consent. This obligation also applies after the respective order has been processed.
2. The supplier warrants that it is the owner of all rights in connection with its delivery and service and that it has not infringed the rights of any third party (patent, trademark, copyright, utility and design rights or other industrial property rights). If a third party asserts claims against us due to alleged infringements of intellectual property rights, then the supplier is obliged to indemnify us against such third-party claims upon our first written demand. The indemnification shall include any expenses we incur in connection with claims asserted by a third party.

X. Right of retention, offsetting

1. The supplier is not entitled to assert any rights of retention insofar as they are based on counterclaims arising from earlier or other legal transactions with us.
2. The supplier may only offset such claims as are uncontested or legally established.
3. We have unrestricted rights of set-off and retention.

XI. Occupational health and safety, accident prevention and safety; product and process modifications

1. The supplier is obliged to comply with relevant legal provisions and regulations relating to occupational health and safety, accident prevention, transport and plant safety (as well as our own general and site-specific regulations), to maintain an effective management system in the aforementioned areas, and to provide us with corresponding evidence or allow us to make corresponding inspections on request.

2. Suppliers with whom we have ongoing business relations are obliged to inform us in good time if they intend to make product or process modifications in relation to the products or services purchased.

XII. Place of jurisdiction, applicable law, written form

1. Unless mandatory provisions of law stipulate otherwise, the place of jurisdiction for any disputes between the supplier and us shall be at the location of the registered office of the company or at the location of the registered office of the supplier. The sole place of jurisdiction for claims brought against us shall be Bonn Regional Court/Waldbröl District Court.

2. German law shall apply; the United Nations Convention on Contracts for the International Sale of Goods is excluded. Only the German version of the contract is binding.

3. Any amendment to the contract must be made in writing.

Note: The supplier acknowledges that we store and process data – including business-related personal data – from the contractual relationship in accordance with Section 28 of the German Data Protection Act for the purpose of data processing.