

# GENERAL TERMS AND CONDITIONS

## 1. GENERAL TERMS, ORDERS

1.1 The present General Terms and Conditions are valid for any deliveries or performances („deliveries“) of DROSSBACH GmbH & Co. KG. In existing business relations, the relevant latest version of the present terms and conditions shall be valid. Deliveries made to clients, the General Terms and Conditions of which are different from the present ones, do not include the acceptance of the client's General Terms and Conditions. In case of non-applicability of parts of the present Terms and Conditions in international business connections, the relevant valid EU directives („ORGALIME“) shall apply alternatively.

1.2 Any agreements made that explicitly differ from the present General Terms and Conditions shall take precedence.

1.3 If the confirmation of order is different from the client's order, DROSSBACH shall only be bound to the order if DROSSBACH subsequently accepted the order in writing. In particular, DROSSBACH shall only be bound to General Terms and Conditions of a Client insofar as such Terms and Conditions are consistent with the valid Terms of Delivery of DROSSBACH or if DROSSBACH accepted the client's General Terms and Conditions in writing. Any modifications or amendments by the client shall be effective only if confirmed by DROSSBACH in writing.

## 2. PRICES, CONDITIONS OF PAYMENT

2.1 Our prices are calculated ex works, excluding packaging, plus current VAT („ex works“ according to INCOTERMS 2002).

2.2 If DROSSBACH undertook by contract the installation or assembly, the client shall carry apart from the remuneration agreed upon any required accessory charges such as travel expenses, surcharges for the relevant personnel, costs for transporting the tools and the personal baggage as well as accommodation allowances.

2.3 Payments have to be made by electronic money transfer to the designated account of DROSSBACH.

## 3. INDUSTRIAL PROPERTY RIGHTS

3.1 With delivery, DROSSBACH does not confer to the client any property rights (e.g. licenses) of the underlying industrial property rights and copyrights. As far as standard software is concerned, the client has the non-exclusive right of use with the features agreed upon, without any modifications, on the machines agreed upon. Without prior express agreement, the client is allowed to make two back-up copies.

3.2 Unless stipulated otherwise, DROSSBACH obliges to deliver free of industrial property rights in the country of the place of delivery only.

3.3 As far as cost estimates, plans and other documents are concerned, (hereinafter referred to as: documents) DROSSBACH reserves its intellectual property rights and its proprietary patent rights without any restrictions. Unless DROSSBACH's prior approval is obtained, the documents must not be made available to third parties; they have to be returned immediately and unrequested if DROSSBACH does not receive the order or if the order is terminated. The same applies correspondingly to any documents of the client, however, these may be made available to third parties which DROSSBACH has permissibly assigned for (partial) deliveries.

## 4. PROPERTY, RESERVATION OF TITLE, TOOLS

4.1 The delivered goods remain DROSSBACH's property until all claims resulting from the business relationship between DROSSBACH and the client are settled.

4.2 Tools produced for delivery, even individual ones, remain DROSSBACH's property, even if the client fully or partially pays for the development of the tools. If after special agreement the ownership of the tools passes to the client or any third party, the tools remain at DROSSBACH's premises anyhow. Accordingly, DROSSBACH has the right to possess for an unlimited period of time. The risk of unintentional loss of goods or unintentional deterioration of goods as well as any costs and measures to preserve the tool are to be born by the client.

4.3 DROSSBACH's regulations on „RESERVATION OF TITLE AND EXTENDED RESERVATION OF TITLE“ are an integral part of the present General Terms and Conditions of DROSSBACH. In case of existing business relations, the relevant latest version of such regulations shall be valid. Such regulations are provided by DROSSBACH on their web site in the download section for inspection and downloading.

## 5. DELIVERY, DEFAULT

5.1 Partial deliveries are admissible insofar as they are acceptable to the customer.

5.2 Delivery times are subject to individual contracts. The adherence of stipulated deadlines for deliveries requires the punctual receipt of any documents, required approvals and releases to be provided by the client, in particular of drawings, as well as the adherence to the conditions of payment (letters of credit, down payments, etc.) and other obligations by the client. If such requirements are not met in due time, the delays are extended appropriately; a default in delivery can occur only when the client met all stipulated obligations. This is not valid if DROSSBACH is responsible for the delay. In this case, any damages caused by delay have to be proven by the client in a detailed manner.

5.3 The deadlines shall be extended, for any delay arising directly or indirectly from

(i) Force Majeure, unforeseeable circumstances, acts (including delay or failure to act) of any governmental authority, war, riot, revolution, civil unrest, delay or defaults of common carriers, priorities, fires, strikes, sabotage or epidemics, or

(ii) failure or curtailment due to causes beyond our reasonable control of our usual source of supply, labor, materials, components, facilities, transportation, or

(iii) any other cause beyond our control.

5.4 If dispatch or delivery are delayed upon the client's request by more than two weeks after advice of readiness for dispatch, the client may be invoiced for each month or part thereof storage charges in the amount of 1 % of the price for deliveries, but maximally a total of 5 % of the price for deliveries. It is left up to the contract parties to proof the amount of the storage charges.

## 6. PASSING OF RISK

6.1 The risk passes to the client as follows – even in case of deliveries that are free of carriage charges:

a) in case of deliveries without installation or assembly: when they are dispatched or were picked up; upon the client's request and on his own account, DROSSBACH deliveries are insured against the usual risks of transport;

b) in case of deliveries with installation or assembly: at the day of take-over through the client, or if agreed upon separately in writing, after correct trial operations.

6.2 If either dispatch, delivery, start or execution of installation or assembly, the take over by the client or the trial operations are delayed because of reasons which the client is responsible for or if the client is in default of acceptance for other reasons, the risk passes to the client.

## 7. INSTALLATION, ASSEMBLY, ACCEPTANCE

7.1 The client has to take over and provide in due time on his own account:

(i) any extra work from outside the industry, including the required experts and assistants, material and tools,

(ii) any consumer goods and material required for assembly and start-up, such as scaffolding, lifting tools and other devices, combustibles and lubricants, (iii) energy and water at the place of use including connections, heating and illumination (iv) at the place of assembly for storing the machine parts, equipment, material, tools etc. sufficiently large, appropriate, dry and lockable rooms and for the assembly personnel appropriate working and recreation rooms, including adequate sanitation

(v) protective clothing and protective equipment which are required at the place of assembly for special reasons, (vi) for the rest, the client has to take the same measures to protect the property of DROSSBACH and the assembly personnel at the building site which he would take in order to protect his own equipment. For personal contributions in connection with assembly, start-up and later on with operation, the client shall be obliged to appoint appropriate experts. Their technical qualification has to be proven to DROSSBACH by means of appropriate official documents. Any obstacles provided to DROSSBACH personnel to restrict their required freedom of action result in the exclusion of liability.

7.2 Before starting the assembly work, the client has to provide any information required on the position of hidden electricity, gas and water lines or similar installations as well as the required static or structural information without being asked.

7.3 Before start of the installation or assembly, the supplies and objects required to start the work must be available at the place of installation or assembly and any preliminary work to be done have to be progressed such that the installation and assembly can be started as agreed upon and completed without any interruption. The drives as well as the place of installation and assembly must be smoothed and cleared.

7.4 In case of a delay of the installation, assembly and start-up due to reasons which DROSSBACH is not responsible for, the client has to bear reasonable costs for waiting periods and travels of DROSSBACH personnel or assembly personnel required in addition to the usual ones. If start-up is carried out by the client without that the client confirms said acceptance appropriately in writing in accordance with the valid agreements, the machines is deemed to be accepted at least one month after start-up.

7.5 The client has to immediately attest to DROSSBACH the duration of the working time of the assembly personnel as well as the end of the installation, assembly or start-up.

7.6 If DROSSBACH requires in case of work performance after completion or, in case of acceptances of a delivery otherwise agreed upon, the acceptance of the delivery, the client has to effect said acceptance within two weeks. If he does not do so, the acceptance is deemed to be effected. Acceptance also is considered as being effected, if the delivered items are used as being fully owned, after completion of a stipulated test phase, as the case may be.

7.7 After delivery – even after transfer of ownership – the client shall grant DROSSBACH or any third parties authorized by DROSSBACH in any legitimate cases and as reasonable, access to any goods delivered by DROSSBACH, in particular in case of necessary investigations of defects (claimed by the client or third parties) or in case of required examinations by examination and certification authorities.

7.8. If on the occasion of test runs, the machine is accepted at DROSSBACH's by the client, the acceptance is deemed to be effected also in the client's works.

## 8. WARRANTY, RESPONSIBILITY

8.1 The rights to claim damages for any defects do not exist only in case of minor differences with regard to the quality agreed upon, in case of only minor impairment of the usability, of natural wasting (wear) or damages, which come into existence after the passage of risks due to inexpert or negligent treatment, undue strain, inappropriate consumer goods, insufficient building work, inappropriate foundation soil or due to particular external influences which are not given according to the contract, and in case of reproducible software errors.

8.2 If the client or third parties carry out inappropriate activities, modifications or repairs, no rights to claim damages for any defects nor other claims exist, neither for said work nor for the consequences resulting thereof.

8.3 The client must not refuse the receipt of deliveries due to minor defects.

8.4 The client has to immediately report any defects in writing to DROSSBACH. He shall be obliged to do anything possible to reduce or minimize a damage.

8.5 In case of notices of defects, the client may retain payments at a ratio that is appropriate with regard to the defects that occurred. The client shall only retain payment if a notice of defect is claimed which is undisputed. If the notice of defect is not justified, DROSSBACH shall be entitled to demand reimbursement of the expenses accrued by the client.

8.6 Contrary to § 438 (1) No. 3 German Civil Code and § 634a (1) No. 1 German Civil Code, the right to claim damages for any defects becomes time-barred within 12 months after passage of risk. If during this period of time, a major defect occurs that is proven without any doubt by the client and which DROSSBACH is responsible for, DROSSBACH shall be obliged to rectify said defect.

8.7 Firstly, DROSSBACH has to be given the opportunity of supplementary performance within an appropriate delay. At DROSSBACH's option, all those parts of a delivery have to be reworked free of charge or newly delivered which are defective within the statutory limitation, inasmuch as the cause of the defect was already available at the time of passage of risk.

8.8 If supplementary performance fails after three attempts to rectify the defect, the client may – notwithstanding any possible claims for damage – cancel the contract or reduce payment. The client is not entitled to demand remuneration for useless efforts.

8.9 Claims of the client because of expenses accruing due to the supplementary performance, in particular costs for transport, traveling, work and material, are excluded, insofar as the expenses increase because the delivery item was brought afterwards to a location different than that of the client's offices, unless the transport is required because of the use which the delivery item is destined for.

8.10 Claims for damages of the client, no matter for what legal reasons, in particular because of the violation of obligations resulting from a contractual obligation and from unlawful acts, are excluded. This is not valid for imperative liabilities, e.g. in accordance with the Product Liability Act, in cases of intention, gross negligence, injury to life, body and health and due to a violation of essential contract obligations with simple negligence.

8.11 Claims for damages regarding the violation of essential contract obligations however are limited to predictable damages that are typical for the contract, insofar as it is not a matter of intention or gross negligence or liability for injury to life, body and health or because of a case of guarantee. The preceding regulations do not involve any modification of the burden of proof of the client.

8.12 Basically, patent and property right matters are governed by individual contracts. If no such contract exists, the following shall be valid: If a third party makes legitimate and demands that are not subject to a time-bar to the client for property rights with regard to deliveries effected by DROSSBACH that are used in accordance with the contract, DROSSBACH shall be liable towards the client within the warranty period (digit 8.6) as follows:

(i) DROSSBACH shall at its own option and on its own account either obtain the rights of use for the delivery in question, or change the delivery such that proprietary rights aren't violated, or replace it. If this is impossible for DROSSBACH at reasonable conditions, the client is entitled to the legal rights of withdrawal or of reduction of payment. The client may not demand redemption for vain expenses;

(ii) DROSSBACH's obligation to pay damages is subject to the present section 8;

(iii) DROSSBACH's above-indicated stipulations only exist if the client immediately informs DROSSBACH on the asserted claims in writing and DROSSBACH has the right to reserve any measures of defense; if the client stops the use of the delivery for reasons of mitigation of damages or other important reasons, he shall be obliged to point out to the third party that the stop of use does not imply the acknowledgement of a violation of the property rights. The client is not entitled to claims if he is responsible for the violation of the property rights. Furthermore, claims of the client are excluded, insofar as the violation of property rights is caused by special customer demands, by an application that was not foreseeable for DROSSBACH or because of the fact that the delivery was modified by the client or that it is used together with products delivered by DROSSBACH.

## 9. ASSIGNMENTS, SETOFFS, RETENTION

9.1 DROSSBACH shall be authorized to assign claims.

9.2 Against DROSSBACH's claims, the setoff or exertion of a right of retention is admissible only for claims or rights that are acknowledged, established as final and absolute or that are ready for a decision.

9.3 DROSSBACH is entitled to set off all claims no matter of what kind with all of the claims of the client and its company, which they might have against a DROSSBACH company, even in case of different payment deadlines of the claims.

## 10. FINAL PROVISIONS

10.1 Place of execution for any and all deliveries is Rain am Lech (Bavaria / Germany).

10.2 Exclusive venue is the relevant court at the location of DROSSBACH's head office. However, DROSSBACH shall be entitled to sue the client at his general venue or any place of performance.

10.3 The law of the Federal Republic of Germany shall be valid. If the client's head offices are not located within the Federal Republic of Germany, DROSSBACH may also enforce the law valid at the location of the client's head offices or the law of the place of performance.

10.4 Even in case of legal invalidity of individual stipulations, the effective parts of the present regulations remain valid.

## RESERVATION OF TITLE AND EXTENDED RESERVATION OF TITLE

1. The delivery items („goods subject to reservation of title“) remain DROSSBACH's property until all of DROSSBACH's claims resulting from the business connections towards the client are settled. Insofar as the value of all security interests DROSSBACH is entitled to exceeds the amount of all secured claims by more than 10 %, DROSSBACH shall release upon the client's request the relevant part of the security interests; DROSSBACH may elect the security interest to release.

2. As long as the reservation of property rights exists, pledging and assignment as security are prohibited to the client; resale is only allowed to resellers during the usual course of business on condition that the reseller shall receive the payment from its customer or subject to the reserve that ownership shall only be transferred to his client as soon as the latter met his requirement to pay.

3. If the client resells goods subject to reservation of title, he already now assigns to DROSSBACH his future claims from reselling towards his clients, including any ancillary rights – further including possible balance claims – to be on the safe side, without requiring further explanations. If the goods subject to reservation of title are resold together with other goods without having agreed upon a unit price for the goods subject to reservation of title, the client assigns that part of the total price demand to DROSSBACH which corresponds to the price of the goods subject to reservation of title invoiced by DROSSBACH.

4. a) The client is authorized to further process the goods subject to reservation of title or to mix or connect them with other goods. Processing is only made for DROSSBACH. The client keeps safe the new goods resulting from such processing for DROSSBACH with the care of prudent businessmen. The new goods are now considered as goods subject to reservation of title.

b) DROSSBACH and the client undertake already now that in case of connection to or mixing with other products which do not belong to DROSSBACH, DROSSBACH shall be in any case the co-owners of the new product in the amount of the portion resulting from the ratio of the value of the connected or mixed goods subject to reservation of title to the value of the remaining goods at the time of connection or mixing. Insofar, the new product is considered as product subject to the reservation of title.

c) The provision on the assignment of claims according to above section 3 also applies to the new product. However, the assignment shall be valid only in the amount of the sum corresponding to the value of the processed, connected or mixed product subject to the reservation of title invoiced by DROSSBACH.

d) If the client connects the goods that are subject to reservation of title with properties or other moveable objects, he also assigns for safety reasons his claim at the time of connection which he is entitled to as a remuneration for the connection including any ancillary rights in the amount of the ratio of the value of the connected product subject to the reservation of title to the remaining connected parts to DROSSBACH, without requiring any further declaration.

5. Until cancelled, DROSSBACH shall be entitled to enforce any assigned claims from resales. For important reasons, in particular delay of payment, suspension of payment, opening of insolvency proceedings, acts of protest or well-founded indications for excessive indebtedness or imminent illiquidity of the client, DROSSBACH shall be entitled to withdraw the client's collection authorisation. Furthermore, DROSSBACH may after previous announcement keeping an appropriate term, reveal the assignment, utilize the assigned claims and demand the disclosure of the assignments of his client towards the clients of the latter.

6. The client has to inform DROSSBACH immediately in case of garnishments, confiscations or other third party decrees or interventions. When providing evidence for a legitimate interest, the client shall be obliged to provide any information to DROSSBACH which is required to assert DROSSBACH's right towards the client and to hand the required documents.

7. If the client fails to meet his obligations, in particular delays of payment, DROSSBACH shall be entitled after ineffective expiry of an appropriate term for the performance granted to the client not only to cancel the contract, but also to take the property back; notwithstanding the legal regulations on the dispensability of a deadline. The client is obliged to return the property. Taking back the property or the assertion of the extended retention of title or garnishment of the products subject to reservation of title by DROSSBACH does not involve the annulment of a contract unless explicitly demanded by DROSSBACH.

8. Place of execution for any and all deliveries is Rain am Lech (Bavaria / Germany). Exclusive venue is the relevant court at the location of DROSSBACH's head office. However, DROSSBACH shall be entitled to sue the client at his general venue or any place of performance. The law of the Federal Republic of Germany is valid. If the client's head offices are not located within the Federal Republic of Germany, DROSSBACH may also enforce the law valid at the location of the client's head offices or the law of the place of performance. Even in case of legal invalidity of individual stipulations, the effective parts of the present regulations remain valid.