

General terms and conditions of GRIESER Maschinenbau und Service GmbH

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1 Terms of delivery

1.1 General

1.1.1 All deliveries and services are based on these terms and conditions as well as any separate contractual agreements. Deviating terms and conditions of purchase of the orderer shall not become part of the contract even if the order is accepted.

In the absence of a special agreement, a contract shall be concluded with the written order confirmation of the supplier.

1.1.2 The supplier reserves property rights and copyrights to samples, cost estimates, drawings and similar information of a tangible and intangible nature – also in electronic form; they may not be made accessible to third parties. The supplier undertakes to make information and documents designated as confidential by the orderer available to third parties only with the orderer's consent.

1.2 Price and payment

1.2.1 In the absence of a special agreement, the prices shall apply ex works including loading at the factory, but excluding packaging and unloading. Value added tax at the respective statutory rate shall be added to the prices.

1.2.2 In the absence of a special agreement, payment shall be made without any deduction on account of the supplier, namely: 1/3 down payment after receipt of the order confirmation, 1/3 as soon as the orderer has been informed that the main parts are ready for dispatch, the remaining amount within one month after the transfer of risk.

1.2.3 The orderer shall have the right to withhold payments or to offset them against counterclaims only to the extent that its counterclaims are undisputed or have been legally established.

1.3 Delivery time, delivery delay

1.3.1 The delivery time results from the agreements of the contracting parties. Supplier compliance with them presupposes that all commercial and technical questions between the contracting parties have been clarified and that the orderer has fulfilled all obligations incumbent upon it, such as e.g. provision of the necessary official certificates or approvals or the payment of a deposit. If this is not the case, the delivery time shall be extended accordingly. This does not apply if the supplier is not responsible for the exceedance.

1.3.2 Compliance with the delivery time is subject to correct and timely delivery to us. The supplier shall notify the other party of any impending delays as soon as possible.

1.3.3 The delivery period shall be deemed to have been complied with if the delivery item has left the supplier's works or the readiness for dispatch has been communicated by the time the delivery period expires. Insofar as acceptance is to take place, the acceptance date shall be decisive – except in cases of justified refusal of acceptance – or in the alternative, the notification of readiness for acceptance.

1.3.4 If dispatch or acceptance of the delivery item is delayed for reasons for which the orderer is responsible, the costs incurred as a result of the delay shall be charged to the orderer starting one month after notification of readiness for dispatch or acceptance.

1.3.5 If non-compliance with the delivery time is due to force majeure, industrial disputes or other events beyond the supplier's control, the delivery time shall be extended accordingly. The supplier shall notify the orderer of the beginning and end of such circumstances as soon as possible.

1.3.6 The orderer may withdraw from the contract without setting a time limit if the entire performance becomes ultimately impossible for the supplier prior to the passing of the risk. Furthermore, the orderer may withdraw from the contract if execution of the delivery of one part of an order becomes impossible and the orderer has a justified interest in refusing the partial delivery. If this is not the case, the orderer shall pay the contract price attributable to the partial delivery. The same shall apply in the event of the supplier's inability to perform. Section 1.7.2 shall apply in all other respects.

If the impossibility or inability to perform occurs during the delay in acceptance or if the or-



derer is solely or predominantly responsible for these circumstances, the orderer shall remain obligated to counterperformance.

- 1.3.7 If the supplier is in default and the orderer incurs damage as a result, the orderer shall be entitled to demand a lump-sum compensation for default. It amounts to 0.5 % for each full week of the delay, but in total to a maximum of 5 % of the value of that part of the total delivery which cannot be used on time or in accordance with the contract as a result of the delay. If the orderer sets – taking into account statutory exceptions – a reasonable deadline for the supplier for performance after the due date and if said deadline is not met, the orderer shall be entitled to withdraw from the contract within the scope of the statutory provisions. At the supplier's request, it undertakes to declare within a reasonable period of time whether it will exercise its right to withdraw from the contract. Further claims arising from delay in delivery shall be determined exclusively in accordance with Section 7.2 of these terms and conditions.

1.4 Transfer of risk, acceptance

- 1.4.1 The risk shall be transferred to the orderer when the delivery item has left the factory, even if partial deliveries are made or the supplier has assumed other services, e.g. shipping costs or delivery and installation. Insofar as an acceptance has to take place, this shall be decisive for the transfer of risk. It must be carried out without delay on the acceptance date, as an alternative, after the supplier's notification of readiness for acceptance. The orderer may not refuse acceptance in the event of a non-substantial defect.
- 1.4.2 If dispatch or acceptance is delayed or does not take place as a result of circumstances for which the supplier is not responsible, the risk shall pass to the orderer on the date of notification of readiness for dispatch or acceptance. The supplier undertakes to take out, at the orderer's expense, such insurances as the orderer may require.
- 1.4.3 Partial deliveries are permissible insofar as they are reasonable for the customer.

1.5 Retention of title

- 1.5.1 The supplier retains ownership of the delivery item until receipt of all payments – including for any additional ancillary services owed – arising from the delivery contract.
- 1.5.2 The supplier shall be entitled to insure the delivery item against theft, breakage, fire, water and other damage at the orderer's expense unless the orderer can prove that it has taken out the insurance itself.
- 1.5.3 The orderer may neither sell, pledge nor assign the delivery item as security. In the event of seizure or confiscation or other dispositions by third parties, it shall notify the supplier thereof without delay.
- 1.5.4 In the event of a breach of contract by the orderer, in particular in the event of default in payment, the supplier shall be entitled to take back the delivery item after issuing a reminder and the orderer shall be obligated to surrender the delivery item.
- 1.5.5 On the basis of the retention of title, the supplier can demand the return of the delivery item only if it has withdrawn from the contract.
- 1.5.6 The application for the opening of insolvency proceedings entitles the supplier to withdraw from the contract and to demand the immediate return of the delivery item.

1.6 Claims for defects

The supplier shall be liable for material defects and defects of title in the delivery to the exclusion of further claims – subject to Section 1.7 – as follows:

- 1.6.1 Material defects
- 1.6.1.1 All parts which prove to be defective as a result of a circumstance prior to the transfer of risk shall be repaired or replaced free of defects at the supplier's discretion free of charge. The supplier shall be notified immediately in writing of the discovery of such defects. Replaced parts become the property of the supplier.
- 1.6.1.2 The orderer shall, after consultation with the supplier, grant the supplier the necessary time and opportunity to carry out all repairs and replacement deliveries deemed necessary by the supplier; otherwise, the supplier shall be released from liability for the resulting consequences. The orderer has the right to remedy the defect itself or commission third parties and demand appropriate



reimbursement for the costs from the supplier only in urgent cases of threats to operating safety that the supplier is to be informed of immediately.

- 1.6.1.3 Of the direct costs arising from the rectification or replacement delivery, the supplier shall bear the costs of the replacement item including shipping – insofar as the complaint proves to be justified. It shall also bear the costs of dismantling and installation as well as the costs of any necessary provision of the necessary fitters and auxiliary workers, including travel costs, insofar as this does not result in a disproportionate burden on the supplier.
- 1.6.1.4 Within the framework of statutory provisions, the orderer shall be entitled to withdraw from the contract if the supplier – taking into account statutory exceptions – allows a reasonable deadline to remedy the defect or to make a replacement delivery due to a material defect to expire unsuccessfully. If there is only an insignificant defect, the orderer shall be entitled only to a reduction of the contract price. The right to reduce the contract price shall otherwise remain precluded. Further claims shall be determined exclusively in accordance with Section 1.7.2 of these terms and conditions.
- 1.6.1.5 No liability is assumed in particular in the following cases: Unsuitable or improper use, faulty assembly or commissioning by the orderer or third parties, natural wear, faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, unsuitable building grounds, chemical, electrochemical or electrical influences – insofar as they are not the responsibility of the supplier.
- 1.6.1.6 If the orderer or a third party carries out improper repairs, the supplier shall not be liable for the resulting consequences. The same applies to changes made to the delivery item without the prior consent of the supplier.
- 1.6.2 Legal defects
 - 1.6.2.1 If the use of the delivery item leads to the infringement of industrial property rights or copyrights in Germany, the supplier shall, at its own expense, procure for the orderer the right to continue using the delivery item or modify the delivery item in a manner reasonable for the orderer in such a way that the infringement of the property right no longer exists. If this is not possible under economically reasonable conditions or within a reasonable period of time, the orderer shall be entitled to withdraw from the contract. Under the aforementioned conditions, the supplier shall also be entitled to withdraw from the contract. Furthermore, the supplier shall indemnify the orderer against undisputed or legally established claims of the owners of the property rights concerned.
 - 1.6.2.2 Subject to Section 1.7.2, the supplier's obligations set out in Section 1.6.7 shall be conclusive in the event of infringement of industrial property rights or copyrights.

They exist only if:

 - » the orderer notifies the supplier without delay of any asserted infringements of industrial property rights or copyrights,
 - » the orderer supports the supplier to a reasonable extent in defending the asserted claims or enables the supplier to carry out the modification measures in accordance with Section 1.6.7,
 - » all defensive measures, including out-of-court settlements, are reserved to the supplier,
 - » the defect of title is not based on an instruction of the orderer and
 - » the infringement of rights was not caused by the fact that the orderer modified the delivery item without authorisation or used it in a manner nonconforming with the contract.

1.7 Liability of the supplier, exclusion of liability

- 1.7.1 If the orderer cannot use the delivery item in accordance with the contract due to the supplier's fault as a result of omitted or faulty execution of suggestions and advice given before or after contract conclusion or due to the breach of other contractual ancillary obligations – in particular instructions for operation and maintenance of the delivery item – the provisions of Sections 1.6 and 1.7.2 shall apply to the exclusion of further claims of the orderer.
- 1.7.2 The supplier shall be liable – for whatever legal reasons
 - » only for damage that has not occurred to the delivery item itself:
 - » with intent,
 - » in the event of gross negligence on the part of owner/committees or executives,
 - » in the event of culpable injury to life, limb or health,
 - » in the case of defects which it has fraudulently concealed,
 - » within the framework of a guarantee commitment,



» in the event of defects in the delivery item, insofar as liability is assumed under the Product Liability Act for personal injury or property damage to privately used items.

» In the event of culpable breach of material contractual obligations, the supplier shall also be liable in the event of gross negligence on the part of non-executive employees and in the event of slight negligence, in the latter case limited to reasonably foreseeable damage typical for the contract.

» Further claims are precluded.

1.8 Limitation period

All claims of the orderer – for whatever legal reasons – shall expire by limitation after 12 months. The legal deadlines shall apply to claims for damages in accordance with Section 1.7.2. They shall also apply to building defects or to delivery items which have been used for a building in accordance with their customary use and have caused its defectiveness.

1.9 Software usage

Insofar as software is included in the scope of delivery, the orderer shall be granted a non-exclusive right to use the delivered software including its documentation. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited.

The orderer may only reproduce, revise, translate or convert the software from the object code into the source code to the extent permitted by law (§§ 69 a ff. German Copyright Act). The orderer is obligated to not remove manufacturer's details – in particular copyright notices – or change them without the supplier's prior express consent.

All other rights to the software and the documentation, including copies, shall remain with the supplier or the software supplier. The use of sublicences is not permissible.

1.10 Applicable law / place of jurisdiction

1.10.1 All legal relationships between assembly contractor and orderer shall be governed exclusively by the law of the Federal Republic of Germany applicable to the legal relationships between domestic parties.

1.10.2 The place of jurisdiction shall be the court having jurisdiction for the registered office of the assembly contractor. However, the supplier shall be entitled to institute legal proceedings at the orderer's principal place of business.

2 Assembly conditions

2.1 Area of validity

Unless otherwise agreed in individual cases, these Terms and Conditions of Assembly shall apply to assembly work undertaken by a mechanical engineering company (assembly contractor).

2.2 Assembly price

2.2.1 Unless a lump sum price has been expressly agreed, assembly shall be invoiced according to the Appendix on the basis of time calculation.

2.2.2 The agreed amounts are exclusive of value added tax, which shall be additionally paid to the assembly contractor at the statutory rate.

2.3 Cooperation of the orderer

2.3.1 The orderer shall support assembly personnel in carrying out the assembly at its own expense.

2.3.2 It shall take the special measures necessary for the protection of persons and property at the assembly site. It shall also inform the assembly supervisor about existing special safety regulations, insofar as these are of importance for assembly personnel. It shall notify the assembly contractor of any violations of such safety regulations by the assembly personnel. In the event of serious violations, it may, in consultation with the assembly supervisor, refuse the offender access to the assembly site.



2.4 Technical assistance of the orderer

- 2.4.1 The orderer is obligated to provide technical assistance at its own expense, in particular:
- » Provision of the necessary suitable auxiliary workers (bricklayers, carpenters, locksmiths and other skilled workers, labourers) in the number and for the time required for the assembly; auxiliary workers shall follow the instructions of the assembly supervisor. The assembly contractor assumes no liability for auxiliary workers. If a defect or damage has been caused by auxiliary workers on the basis of instructions from the assembly supervisor, Section 7 and Section 8 shall apply.
 - » Carrying out all earthworks, construction, bedding and scaffolding work including procurement of the necessary building materials.
 - » Provision of the necessary equipment and heavy tools (e.g. hoists, compressors) as well as the necessary commodities and materials (e.g. scaffolding timbers, wedges, underlays, cement, plaster and sealing material, lubricants, fuels, drive ropes and belts).
 - » Provision of heating, lighting, operating power, water, including the necessary connections.
 - » Provision of necessary, dry and lockable rooms for the storage of assembly personnel tools.
 - » Transport of the assembly parts at the assembly site, protection of the assembly site and materials from harmful influences of any kind, cleaning of the assembly site.
 - » Provision of suitable, theft-proof recreation rooms and work rooms (with heating, lighting, washing facilities, sanitary facilities) and first aid for assembly personnel.
 - » Provision of materials and performance of all other acts necessary for the adjustment of the item to be assembled and for the performance of the contractually provided for testing.
- 2.4.2 Technical assistance of the orderer shall ensure that assembly can be started immediately after the arrival of the assembly personnel and can be carried out without delay until acceptance by the orderer. Insofar as special plans or instructions of the assembly contractor are required, it shall make them available to the customer in good time.
- 2.4.3 If the orderer does not meet its obligations, the assembly contractor shall be entitled but not obligated to carry out the actions incumbent on the orderer in its place and at its expense after setting a deadline. Apart from that, the statutory rights and claims of the assembly contractor shall remain unaffected thereof.

2.5 Assembly period, assembly delay

- 2.5.1 The assembly period shall be deemed to have been complied with if, by the time it expires, assembly is ready for acceptance by the orderer or, in the case of a contractually agreed testing, for its performance.
- 2.5.2 If assembly is delayed due to measures within the scope of industrial disputes, in particular strikes and lock-outs, as well as the occurrence of circumstances for which the assembly contractor cannot be held liable, the assembly period shall be extended reasonably insofar as such hindrances can be proven to have a significant influence on the completion of assembly.
- 2.5.3 If the orderer suffers damage as a result of the delay of the assembly contractor, the orderer shall be entitled to claim a lump-sum compensation for the delay. It shall amount to 0.5 % for each full week of delay, but total no more than 5 % of the assembly price for that part of the system to be assembled by the assembly contractor that cannot be used on time due to the delay.

If the orderer sets a reasonable deadline for the assembly contractor for performance after the due date - taking into account the statutory exceptions - and if the deadline is not met, the orderer shall be entitled to withdraw from the contract within the framework of statutory provisions. At the request of the assembly contractor, it is obligated to declare, within a reasonable period of time, whether they will exercise its right of withdrawal.

Further claims due to delay shall be determined exclusively in accordance with Section 2.8.3 of these terms and conditions.

2.6 Acceptance

- 2.6.1 The orderer shall be obligated to accept assembly as soon as it has been notified of its completion and any contractually agreed testing of the installed item has taken place. If the assembly proves to not be in accordance with the contract, the assembly contractor shall be obligated to



remedy the defect. This shall not apply if the defect is insignificant for the interests of the orderer or is due to a circumstance attributable to the orderer. The orderer may not refuse acceptance if there is a non-essential defect.

- 2.6.2 If acceptance is delayed through no fault of the assembly contractor, acceptance shall be deemed to have taken place after two weeks have elapsed after the notification of completion of the assembly.
- 2.6.3 Upon acceptance, the liability of the assembly contractor for recognisable defects shall cease unless the orderer has reserved the right to assert a specific defect.

2.7 Claims for defects

- 2.7.1 After acceptance of the assembly, the assembly contractor shall be liable for defects in the assembly to the exclusion of all other claims of the orderer, without prejudice to No. 2.5 and Section 2.8, in such a way that it shall remedy the defects. The orderer shall immediately notify the assembly contractor in writing of any discovered defect.
- 2.7.2 The assembly contractor shall not be liable if the defect is insignificant for the interests of the customer or is due to a circumstance attributable to the orderer.
- 2.7.3 In the event of any improper modifications or repair work carried out by the orderer or third parties without the prior approval of the assembly contractor, the liability of the assembly contractor for the resulting consequences shall be nullified. Only in urgent cases of danger to operational safety and to prevent disproportionately large damage, in which case the assembly contractor must be notified immediately, or if the assembly contractor – taking into account statutory exceptions – has allowed a reasonable period to remedy the defect to expire unsuccessfully, shall the customer have the right, within the framework of statutory provisions, to remedy the defect itself or have it remedied by third parties and to demand reimbursement of the necessary costs from the assembly contractor.
- 2.7.4 Of the direct costs arising from the rectification of defects, the assembly contractor shall bear – insofar as the complaint proves to be justified – the costs of the replacement part including shipping. It shall also bear the costs of dismantling and installation as well as the costs of any necessary provision of the necessary fitters and auxiliary workers, including travel costs, insofar as this does not result in a disproportionate burden on the assembly contractor.
- 2.7.5 If the assembly contractor – taking into account the statutory exceptions – allows a reasonable period of time to remedy the defect to expire unsuccessfully, the orderer shall have a right of reduction within the framework of statutory provisions. The orderer may withdraw from the contract only if the assembly is demonstrably of no interest to the orderer despite the reduction.

Further claims shall be determined exclusively in accordance with Section 2.8.3 of these terms and conditions.

2.8 Liability of the assembly contractor, exclusion of liability

- 2.8.1 If an assembly part supplied by the assembly contractor is damaged during assembly through the fault of the assembly contractor, the latter shall, at its option, repair it or supply a new part at its own expense.
- 2.8.2 If the orderer cannot use the assembly item in accordance with the contract due to the assembly contractor's fault as a result of omitted or faulty execution of suggestions and advice given before or after contract conclusion or due to the breach of other contractual ancillary obligations – in particular instructions for operation and maintenance of the assembly item – the provisions of Sections 2.7 and 2.8.1 and 2.8.3 shall apply to the exclusion of further claims by the orderer.
- 2.8.3 For damage that has not occurred to the assembly item itself, the assembly contractor shall be liable
- » for whatever legal reasons
 - » only with intent,
 - » in the event of gross negligence on the part of owner/committees or executives,
 - » in the event of culpable injury to life, limb or health,
 - » in the case of defects which it has fraudulently concealed,
 - » within the framework of a guarantee commitment,



» insofar as liability exists under product liability law for personal injury or property damage to privately used objects.

In the event of culpable breach of material contractual obligations, the assembly contractor shall also be liable in the event of gross negligence on the part of non-executive employees and in the event of slight negligence, in the latter case limited to reasonably foreseeable damage typical of the contract.

Further claims are precluded.

2.9 Limitation period

All claims of the orderer – for whatever legal reasons – shall expire by limitation after 12 months. The legal deadlines shall apply to claims for damages in accordance with Section 2.8.3. If the assembly contractor performs the assembly work on a building and thereby causes its defectiveness, the legal deadlines shall also apply.

2.10 Compensation of the orderer

If the equipment or tools provided by the assembly contractor are damaged or lost at the assembly site through no fault of the assembly contractor, the orderer shall be obligated to compensate for such damage or loss. Damage due to normal wear and tear shall not be taken into account.

2.11 Applicable law / place of jurisdiction

- 2.11.1 All legal relationships between assembly contractor and orderer shall be governed exclusively by the law of the Federal Republic of Germany applicable to the legal relationships between domestic parties.
- 2.11.2 The place of jurisdiction shall be the court having jurisdiction for the registered office of the assembly contractor. However, the supplier shall be entitled to institute legal proceedings at the orderer's principal place of business.

3 Repair conditions

3.1 Conclusion of contract, general

- 3.1.1 If an uncontested written order confirmation is available, this shall be decisive for the content of the contract and the scope of the repair.
- 3.1.2 If the object to be repaired is not supplied by the contractor, the customer shall point out any existing industrial property rights with regard to the object. Provided that the contractor is not at fault, the customer shall indemnify the contractor against any claims of third parties arising from industrial property rights.

3.2 Impossible repair work

- 3.2.1 The services rendered for the purpose of submitting a cost estimate as well as the further expenses incurred and to be substantiated (troubleshooting time equal to working time) shall be invoiced to the customer if the repair cannot be carried out for reasons for which the contractor is not responsible, in particular because
- » the defect complained of did not occur during inspection,
 - » spare parts are not available,
 - » the customer has culpably missed the agreed appointment,
 - » the contract has been terminated during implementation.
- 3.2.2 The object of repair need be restored to its original condition only at the express request of the customer against reimbursement of the costs unless the performed work was unnecessary.
- 3.2.3 In the event that repairs are impossible, the contractor shall not be liable for damage to the object to be repaired, the breach of ancillary contractual obligations and for damage that has not occurred to the object to be repaired itself, irrespective of the legal grounds on which the customer relies.



In contrast, the contractor shall be liable in the event of intent, gross negligence on the part of owner/committees or executives, as well as culpable breach of material contractual obligations.

In the event of culpable breach of material contractual obligations, the contractor shall be liable – except in cases of intent and gross negligence on the part of owner/committees or executives – only for reasonably foreseeable damage typical for the contract.

3.3 Cost information, cost estimate

- 3.3.1 As far as possible, the customer shall be informed of the estimated repair price when the contract is concluded, otherwise the customer may set cost limits. If the repair cannot be carried out at these costs or if the contractor deems it necessary to carry out additional work during the repair, the customer's consent must be obtained if the specified costs are exceeded by more than 15 %.
- 3.3.2 The customer must expressly request any cost estimate with binding price estimates that are required before the repair is carried out. Unless otherwise agreed, such a cost estimate shall be binding only if submitted in writing. It is to be remunerated. The services rendered for the purpose of submitting the cost estimate shall not be charged to the customer insofar as they can be utilised in the performance of the repair.

3.4 Price and payment

- 3.4.1 The contractor is entitled to demand a reasonable advance payment upon contract conclusion.
- 3.4.2 When calculating the repair, the prices for parts used, materials and special services as well as the prices for labour, travel and transport costs shall be itemised in each case. If the repair is carried out on the basis of a binding cost estimate, a reference to the cost estimate shall suffice whereby only deviations to the scope of services shall be specifically listed.
- 3.4.3 Value added tax shall be charged additionally to the customer at the respective statutory rate.
- 3.4.4 Any correction of the invoice on the part of the contractor and any complaint on the part of the customer must be made in writing no later than four weeks after receipt of the invoice.
- 3.4.5 Payment shall be made upon acceptance and handing over or sending of the invoice without any discounts.
- 3.4.6 Withholding payments or offsetting due to any counterclaims of the customer disputed by the contractor is not permitted.

3.5 Cooperation and technical assistance of the customer in case of repair outside the contractor's works

- 3.5.1 The customer shall support repair personnel in carrying out the repair at its own expense.
- 3.5.2 The customer shall take the special measures necessary for the protection of persons and property at the repair site. It shall also inform the repair supervisor of existing special safety regulations insofar as these are relevant for repair personnel. It shall notify the assembly contractor of any violations of such safety regulations by the assembly personnel. In the event of serious violations, it may, in consultation with the repair supervisor, deny the offender access to the repair site.
- 3.5.3 The customer is obligated to provide technical assistance at its own expense, in particular:
 - » Provision of the necessary suitable auxiliary workers in the number and for the time required for the repair; auxiliary workers shall follow the instructions of the repair supervisor. The assembly contractor assumes no liability for auxiliary workers. If a defect or damage has been caused by the auxiliaries on the basis of instructions from the repair supervisor, the provisions of Sections 10 and 11 shall apply accordingly.
 - » building materials.
 - » Provision of the necessary devices and heavy tools as well as the necessary requisites and materials.
 - » Provision of heating, lighting, operating power, water, including the necessary connections.
 - » Provision of necessary, dry and lockable rooms for the storage of repair personnel tools.
 - » Protect the repair site and materials from harmful influences of any kind, clean the repair site.
 - » Provision of suitable, theft-proof recreation rooms and work rooms (with heating, lighting, washing facilities, sanitary facilities) and first aid for repair personnel.



» Provision of the materials and performance of all other acts necessary for the adjustment of the object of repair and for the performance of a contractually provided testing.

- 3.5.4 The customer's technical assistance team must ensure that the repair can be started immediately after the arrival of the repair personnel and carried out without delay until acceptance by the customer. Insofar as special plans or instructions of the assembly contractor are required, it shall make them available to the customer in good time.
- 3.5.5 If the orderer does not meet its obligations, the contractor shall be entitled but not obligated to carry out the actions incumbent on the customer in its place and at its expense after setting a deadline. Apart from that, the statutory rights and claims of the contractor shall remain unaffected thereof.

3.6 Transport and insurance in case of repair at the contractor's works

- 3.6.1 Unless otherwise agreed upon in writing, any transport of the repair item to and from the contractor at the customer's request - including any packaging and loading - shall be carried out at the customer's expense, otherwise the repair item shall be delivered to the contractor by the customer at the customer's expense and collected again by the customer after the repair has been carried out at the contractor's premises.
- 3.6.2 The customer shall bear the transport risk.
- 3.6.3 At the customer's request, the outward and, if applicable, the return transport shall be insured against insurable transport risks, e.g. theft, breakage, fire, at the customer's expense.
- 3.6.4 There is no insurance cover during the repair time at the contractor's works. The customer shall ensure that the existing insurance cover for the object of repair is maintained, e.g. with regard to fire, mains water, storm and machine breakage insurance. Insurance cover for these risks can be obtained only at the express request and expense of the customer.
- 3.6.5 In the event of delay on the part of the customer in taking delivery, the contractor may charge storage fees for storage in its premises. The object to be repaired may also be stored elsewhere at the discretion of the contractor. Costs and risk of storage shall be borne by the customer.

3.7 Repair period, repair delay

- 3.7.1 The information on repair times is based on estimates and therefore not binding.
- 3.7.2 The customer may demand the agreement of a binding repair period, which must be designated as binding, only when the scope of the work has been precisely determined.
- 3.7.3 The binding repair period shall be deemed to have been complied with if the object to be repaired is ready for acceptance by the customer by the time it expires, or, in the case of a contractually agreed testing, for its performance.
- 3.7.4 In the case of additional and extension orders placed later or in the case of necessary additional repair work, the agreed repair period shall be extended accordingly.
- 3.7.5 If repairs are delayed due to measures within the scope of industrial disputes, in particular strikes and lock-outs, as well as the occurrence of circumstances for which the contractor cannot be held liable, the repair period shall be extended reasonably insofar as such hindrances can be proven to have a significant influence on the completion of repairs.
- 3.7.6 If the customer incurs damage as a result of the contractor's delay, the customer shall be entitled to demand lump-sum compensation for the delay. It shall amount to 0.5 % for each full week of delay, but total no more than 5 % of the repair price for that part of the system to be assembled by the contractor that cannot be used on time due to the delay.

If the customer sets the contractor - taking into account statutory exceptions - a reasonable deadline for performance after the due date and if the deadline is not met, the customer shall be entitled to withdraw from the contract within the framework of statutory provisions. It is obligated to declare within a reasonable period of time at the contractor's request whether it will exercise its right of withdrawal.

Further claims due to default shall be determined exclusively in accordance with Section 3.11.3 of these terms and conditions.



3.8 Acceptance

- 3.8.1 The customer is obligated to accept the repair work as soon as it has been notified of its completion and any contractually stipulated testing of the object of repair has taken place. If the repair proves to not be in accordance with the contract, the contractor shall be obligated to remedy the defect. This shall not apply if the defect is insignificant for the interests of the customer or is due to a circumstance attributable to the customer. The customer may not refuse acceptance if there is a non-essential defect.
- 3.8.2 If acceptance is delayed through no fault of the contractor, acceptance shall be deemed to have taken place after two weeks have elapsed after the notification of completion of the repair.
- 3.8.3 Upon acceptance, the contractor's liability for recognisable defects shall cease, unless the customer has reserved the right to assert a specific defect.

3.9 Retention of title, extended lien

- 3.9.1 The contractor shall retain ownership of all accessories, spare parts and replacement units used until receipt of all payments under the repair contract. Further assignments as security can be made.
- 3.9.2 The contractor shall be entitled to a lien on the customer's object to be repaired which has come into its possession on the basis of the contract on account of its claim under the repair contract. The right of lien can also be asserted on account of claims from work carried out earlier, spare parts deliveries and other services, insofar as they are connected with the object of repair. For other claims arising from the business relationship, the right of lien shall only apply insofar as these are undisputed or legally binding.

3.10 Claims for defects

- 3.10.1 After acceptance of the repair, the contractor shall be liable for defects in the repair to the exclusion of all other claims of the customer, without prejudice to No. 3.5 and Section 3.11, in such a way that the contractor shall remedy the defects. The customer shall immediately notify the contractor in writing of any discovered defect.
- 3.10.2 The contractor shall not be liable if the defect is insignificant for the interests of the customer or is due to a circumstance attributable to the customer. This especially applies to other parts supplied by the customer.
- 3.10.3 In the event of any improper modifications or repair work carried out by the orderer or third parties without the prior approval of the contractor, the liability of the contractor for the resulting consequences shall be nullified.

Only in urgent cases of danger to operational safety and to avert disproportionately large damage, in which case the contractor must be notified immediately, or if the contractor – taking into account statutory exceptions – has allowed a reasonable period set for it to remedy the defect to expire unsuccessfully, shall the customer have the right, within the framework of statutory provisions, to remedy the defect itself or have it remedied by third parties and to demand reimbursement of the necessary costs from the contractor.

- 3.10.4 Of the direct costs arising from the rectification of defects, the contractor shall bear the costs of the replacement part, including shipping – insofar as the complaint proves to be justified. It shall also bear the costs of dismantling and installation as well as the costs of any necessary provision of the necessary fitters and auxiliary workers, including travel costs, insofar as this does not result in a disproportionate burden on the contractor.
- 3.10.5 If the contractor – taking into account statutory exceptions – allows a reasonable deadline to remedy the defect to expire unsuccessfully, the customer shall have a right of reduction within the framework of statutory provisions. The customer may withdraw from the contract only if the repair is demonstrably of no interest to the customer despite the reduction.

Further claims shall be determined exclusively in accordance with Section 3.11.3 of these terms and conditions.

3.11 Liability of the contractor, exclusion of liability

- 3.11.1 If parts of the object to be repaired are damaged through the fault of the contractor, the contrac-



tor shall, at its option, repair them or deliver new parts at its own expense. The obligation to pay compensation is limited to the contractual repair price. Apart from that, 3.11.3. applies.

- 3.11.2 If the orderer cannot use the repair item in accordance with the contract due to the contractor's fault as a result of omitted or faulty execution of suggestions and advice given before or after contract conclusion or due to the breach of other contractual ancillary obligations – in particular instruction for operation and maintenance of the rental item – the provisions of Sections 3.10 and 3.11.1 and 3.11.3 shall apply to the exclusion of further claims by the customer.
- 3.11.3 The contractor shall be liable – for whatever legal reasons – for damage that has not occurred to the object of repair itself only:
- » with intent,
 - » in the event of gross negligence on the part of owner/committees or executives,
 - » in the event of culpable injury to life, limb or health,
 - » in the case of defects which it has fraudulently concealed,
 - » within the framework of a guarantee commitment,
 - » insofar as liability exists under product liability law for personal injury or property damage to privately used objects.

In the event of culpable breach of material contractual obligations, the contractor shall also be liable in the event of gross negligence of non-executive employees and in the event of slight negligence, in the latter case limited to reasonably foreseeable damage typical for the contract.

Further claims are precluded.

3.12 Limitation period

All claims of the customer – for whatever legal reasons – shall expire by limitation after 12 months. The legal deadlines shall apply to claims for damages pursuant to Section 3.11.3. If the contractor performs the repair work on a building and thereby causes its defectiveness, the legal deadlines shall also apply.

3.13 Substitute performance of the customer

If, during repair work outside the contractor's premises, the equipment or tools provided by the contractor are damaged or lost at the repair site through no fault of the contractor, the customer shall be obligated to compensate for such damage or loss. Damage due to normal wear and tear shall not be taken into account.

3.14 Applicable law / place of jurisdiction

3.14.1 All legal relationships between contractor and customer shall be governed exclusively by the law of the Federal Republic of Germany applicable to the legal relationships between domestic parties.

3.14.2 The place of jurisdiction shall be the court having jurisdiction for the registered office of the contractor. However, the contractor shall be entitled to institute legal proceedings at the orderer's principal place of business.

4 Purchasing conditions

4.1 Area of validity

4.1.1 These General Terms and Conditions of Purchase (GTCP) are an integral part of all contracts concluded between GRIESER Maschinenbau- und Service GmbH (GRIESER) and suppliers for the deliveries and services offered by them or to be performed by them. The GTCP in their respective current version shall also apply to all future offers, deliveries and services in business transactions with the respective supplier, even if they are not agreed again separately.

4.1.2 The supplier's general terms and conditions shall not be recognised and shall not form part of the contract. This shall also apply if GRIESER does not object to the validity of such terms and conditions or if GRIESER accepts a supplier's offer or its deliveries and services without reservation in the knowledge of such terms and conditions.

4.1.3 If and insofar as deviating agreements are made in text form between GRIESER and the supplier in individual cases, these shall take precedence. Oral declarations and agreements are non-binding and must be confirmed in text form.



4.1.4 These GPC apply exclusively to business relationships with companies and the other persons named in Section 310 (1) of the German Civil Code.

4.2 Offers and conclusion of contract

4.2.1 GRIESER shall be bound by its own offers to conclude a contract for a period of two (2) weeks, unless a longer binding period is expressly stated in the offer in individual cases.

4.2.2 A contract between GRIESER and the supplier is validly concluded only if the mutual declarations are made or confirmed in text form, or if GRIESER accepts the supplier's unconditional performance on the basis of an order or a delivery call-off in text form without an express declaration of acceptance by the supplier.

4.3 Deliveries

4.3.1 Delivery dates and delivery deadlines are always binding. Acceptance at the place of destination shall be decisive for compliance with the agreed delivery dates and delivery deadlines. Delivery periods shall commence on the day following the dispatch of the order, the delivery call-off or the declaration of acceptance on the part of GRIESER. If neither a delivery date nor a delivery deadline has been agreed, the supplier shall perform without undue delay, but no later than five (5) working days after contract conclusion at the place of performance.

4.3.2 The supplier shall pack the goods to be delivered in a manner customary in the trade and appropriate for the respective mode of transport and, if GRIESER so requires, take back the packaging at its own expense.

4.3.3 The supplier is obligated to inform GRIESER as soon as it realises that complete delivery on schedule is impossible. The occurrence of the delay in delivery remains unaffected by this. If the supplier is in default of delivery, GRIESER shall be entitled to legal claims.

4.3.4 All deliveries shall be accompanied by delivery notes and, in the case of imports, also by all necessary accompanying documents (including movement certificates and certificates of origin). Delivery notes must expressly state the order number, order date, delivery date, the place of receipt or unloading, the designation or description of the goods delivered including quantities as well as item and batch numbers.

4.3.5 GRIESER shall be entitled to reject services that are incomplete or defective, inadequately packaged, offered or deposited at the place of destination outside of regular local business hours or goods acceptance times without agreement of a fixed delivery time, or that are not accompanied by properly issued delivery notes or goods accompanying documents. GRIESER shall not be in default of acceptance as a result of the refusal of performance in the aforementioned cases.

4.3.6 Unconditional acceptance of delayed, defective or incomplete delivery shall not be deemed to be a waiver of statutory claims, in particular warranty claims, claims for compensation and claims for damages arising as a result of delayed, defective or incomplete delivery.

4.4 Payments

4.4.1 All prices are fixed prices and apply free domicile. The prices include all ancillary costs, in particular also all costs for packaging and transport, any customs duties, tolls and energy surcharges as well as insurance costs. Invoices must be prepared in compliance with legal and tax regulations and transmitted electronically to GRIESER. Value added tax shall always be shown separately; if this is not done, the prices shall be understood to include the statutory value added tax.

4.4.2 The supplier's invoices must always state the order number and supplier number assigned by GRIESER as well as the order date.

4.4.3 GRIESER shall make payments within 14 days with a 2 % discount or within 30 days without deduction. The aforementioned payment periods shall commence on the day following delivery if the invoice is received on the day of delivery, otherwise on the day following receipt of the invoice.

4.4.4 GRIESER shall not be obligated to pay and shall not be in default of payment if and as long as no correct and properly issued invoice is available.

4.4.5 The supplier may assert rights of retention, rights of set-off and other rights to refuse performance only if and insofar as the counterclaim on which the respective right is based is undisputed or has been finally determined by a court of law or if it concerns a counterclaim from the same contractual relationship. The supplier shall not be entitled to assign claims against GRIESER to third parties or to have them collected by third parties.



4.5 Retention of title

- 4.5.1 Retention of title by the supplier shall apply only provided that ownership of the delivered goods shall pass to GRIESER at the time of payment. Extension forms of a retention of title, in particular extended, downstream or forwarded retentions of title as well as current account and group retentions will not be recognised.
- 4.5.2 The supplier can demand the return of the goods on the basis of a permissible retention of title only after it has effectively withdrawn from the contract.

4.6 Warranty

- 4.6.1 The supplier warrants that the goods delivered by it are free of material defects and defects of title at the time of acceptance of the delivery at the place of destination, that they have the respective warranted or contractually agreed properties, that they meet all applicable technical standards and that they comply with all applicable safety, occupational health and accident prevention regulations. The properties stated in GRIESER's order or in the supplier's offer are deemed to be warranted.
- 4.6.2 GRIESER will visually inspect the delivered goods at the incoming goods department for obvious, externally recognisable transport damage and defects, as well as check compliance with the quantity and identity of the goods on the basis of the delivery note. GRIESER does not owe any further obligations to examine the goods or to give notice of defects. GRIESER shall notify the supplier of any complaints arising from the incoming goods inspection without delay but at the latest within ten (10) working days of delivery. In the event that defects are discovered later, in particular hidden material defects, notification of defects shall be deemed to have been given in good time if it is communicated to the supplier within ten (10) working days. The period for giving notice of defects shall begin when GRIESER or, in the case of drop-shipping, GRIESER's customer has discovered or should have discovered the defect. In all stated cases, the supplier waives the objection to delayed notification of defects.
- 4.6.3 If the delivered goods have material defects or defects in title, GRIESER shall be entitled to unrestricted statutory warranty claims including any recourse claims within a supply chain. Supplementary performance shall in all cases also include the removal of the defective goods and the assembly of the non-defective goods, provided that the goods have been installed in another product or otherwise combined or mixed with it in accordance with their nature and intended use. In the event of a supplier's recourse, GRIESER may demand from the supplier exactly that supplementary performance which GRIESER owes to the respective customer, without prejudice to the statutory rights of choice. Claims arising from a supplier recourse shall exist also if defective goods have been processed further by GRIESER or a customer or another company or have been incorporated into another product or otherwise combined or mixed with it.
- 4.6.4 In the event of supplementary performance, the statutory warranty period for repaired and/or replaced goods or parts shall commence anew, unless the supplier's supplementary performance was made expressly for reasons of goodwill and only with the consent of GRIESER.
- 4.6.5 The supplier shall assign to GRIESER on account of performance all claims to which it is entitled against upstream suppliers arising from and in connection with the delivery of defective goods or goods that do not comply with the agreed or warranted properties.
- 4.6.6 In all other respects, the statutory provisions shall apply to the warranty.

4.7 Liability

- 4.7.1 The supplier shall be liable for all damage and deterioration of the goods to be delivered until the time of receipt of the delivery at the place of destination. In any case, the risk shall pass to GRIESER only with the turnover at the place of destination. This applies also if dispatch has been agreed.
- 4.7.2 Furthermore, the supplier shall be liable, irrespective of the legal grounds, for all personal injuries as well as for all material damage caused to other products, goods, machines, tools and other objects by the assembly, attachment, mixing, processing or other use of the goods delivered by the supplier which are defective or do not correspond to the agreed or warranted properties. This does not apply if assembly, attachment, mixing, processing or other use has not been carried out properly and this is not due to the defect or the lack of agreed or warranted properties of the delivered goods.
- 4.7.3 If third parties make claims against GRIESER, for example on the basis of statutory product liabi-



lity, the supplier is obligated to indemnify GRIESER in full against such claims if and to the extent that the alleged damage is attributable to the defective goods delivered by the supplier or goods that do not comply with the agreed or warranted properties. In the event of fault-based liability, GRIESER may demand indemnification only if and insofar as the supplier is at fault; the supplier bears the burden of proof for causes of damage within the supplier's scope of responsibility.

- 4.7.4 In all cases of liability, the supplier shall bear all costs and expenses incurred by GRIESER including the costs of any necessary legal actions and any product recalls.
- 4.7.5 Further claims for damages remain unaffected.

4.8 Provisions and documents

- 4.8.1 All parts, models, tools, drawings, plans, calculations, descriptions and other documents handed over, provided or otherwise made accessible by GRIESER in the course of an offer, contract conclusion, call for delivery and/or for the performance of the contract shall remain the property of GRIESER and may be used by the supplier only for the performance of the respective contract. They may not be handed over or otherwise made accessible to third parties without the prior, express and written consent of GRIESER and must be returned to GRIESER if the supplier no longer requires them in the normal course of business or if negotiations do not lead to the conclusion of a contract; electronically stored data and the records and copies made by the supplier must be destroyed.
- 4.8.2 Production as well as machining and processing of models, tools, drawings, plans, calculations, descriptions and other documents, which the supplier undertakes for GRIESER or on GRIESER's behalf, shall be carried out for GRIESER as manufacturer with the consequence that GRIESER acquires ownership thereof.

4.9 Place of performance and fulfilment; place of jurisdiction

- 4.9.1 The place of performance as well as the place of fulfilment for all deliveries and services as well as for all payments is the registered office of GRIESER Maschinenbau- und Service GmbH.
- 4.9.2 The exclusive place of jurisdiction is the registered office of GRIESER Maschinenbau- und Service GmbH.

4.10 Applicable law

The law of the Federal Republic of Germany shall apply exclusively to the exclusion of its conflicts of laws. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is precluded.