

**EEW-PROTEC GmbH
General Terms of Business (GTB)**

§ 1 Validity

Following terms and conditions apply for any and all businesses. Contrary or varying conditions of Purchaser (or Seller) are invalid unless explicitly confirmed by EEW-PROTEC GmbH (hereinafter referred to as "EEW-PROTEC") in writing.

§ 2 Quotation

Quotations by EEW-PROTEC are non-binding. Any purchase order is subject to EEW-PROTEC's written confirmation. All technical references to weights, dimensions and specifications are subject to commercially acceptable tolerances and changes, unless explicitly declared as binding.

§ 3 Prices

1. Unless otherwise agreed, prices are calculated basis ex works Bunsenstrasse 3, 24145 Kiel, Germany, Incoterms 2010 FCA conditions.
2. Prices are based on cost of materials and salaries at the time of EEW-PROTEC's confirmation of a purchase order. In case of delays exceeding 3 months outside the control and responsibility of the EEW-PROTEC, EEW-PROTEC may adjust prices reflecting actual price increases.
3. Alle purchase-related third-party costs such as transportation costs, travel and hotel costs, car rentals, etc. are subject to a handling charge of 5 %.
4. All prices are net of Value Added Tax (VAT) which to be added in accordance with governing laws.

§ 4 Payment Terms

1. Unless otherwise agreed, payments are due and earned against invoice as follows:
 - a) Machine sales incl. accessories, installation and commissioning – without any deductions:
30% payment within 8 calendar days after EEW-PROTEC's confirmation of the purchase order;
60% payment within 8 calendar days of Pre-Acceptance Protocol signed by both Purchaser and EEW-PROTEC, in any case prior to shipment;
10% payment within 10 calendar days of completed installation/commissioning and Acceptance Protocol signed by both Purchaser and EEW-PROTEC.
 - b) Spare Parts & Upgrades, parts and wearing parts: Irrespective of receiving the merchandise within 30 days net from date of invoice; within 2 weeks a 2 % cash discount can be deducted.
 - c) For goods purchased by EEW-PROTEC, payments within 30 days net from date of invoice or within 2 weeks less 3% cash discount.
 - d) Engineering and other services: Payment is due within 8 days net from date of invoice without any deductions.
2. All payments to be made by bank transfer in Euro (€).
3. If payments are deferred or paid later than agreed, Purchaser is to pay interest in respect of the period of delay in the amount of at least 8 % points above the current basic interest rate of the European Central Bank. Giving notice of default is not required.
4. Purchaser only has a right of retention or compensation in the case of counter-claims, if counter-claims are uncontested or settled by a final court verdict.
5. The outstanding claim becomes due, if Purchaser does not fulfill his duty to pay or becomes insolvent or if EEW-PROTEC obtains information about an economic deterioration of Purchaser that may jeopardize the purchase price. If the outstanding claim is not paid immediately, Purchaser loses the right to use of the object of delivery. EEW-PROTEC is entitled to take back the object of delivery or to cancel the agreement without renouncing his claim until full payment has been made. If Purchaser has caused the cancellation of the agreement, EEW-PROTEC is entitled to claim for compensation including lost profits. Any repossession of the object of delivery is at the expense of Purchaser.

§ 5 Time of Delivery

1. Time of delivery, installation and commissioning is set after a purchase contract is signed or after receipt of a purchase order, provided all technical questions are cleared and all documents, such as clearance certificates, required to be presented by Purchaser have been received as well as an agreed down payment.
2. The deadline of delivery is met once the object of delivery has been shipped from the factory or when readiness for the shipment has been announced. In the case that an Pre-Acceptance Protocol was agreed, then the time of the execution of the Pre-Acceptance Protocol is decisive, at least when readiness for carrying out the acceptance procedure was notified. This does not apply if refusal of the goods is justified.
3. The period of delivery extends in the case of labor unrest as well as unforeseen events beyond control of EEW-PROTEC that influence the production, delivery or installation and commissioning of the object of delivery. The same applies in respect of similar circumstances affecting EEW-PROTEC's subcontractors. Furthermore it is not to be considered a delay if required administrative or other permissions of third parties are necessary and documents for export have not arrived at the EEW-PROTEC on time. A subsequent amendment to a confirmed order by Purchaser interrupts the period of delivery with the consequence that the deadline starts anew after an agreement about the requested amendment was entered. The circumstances described above do not fall into the responsibility of the EEW-PROTEC, if they occur during a running delay period. EEW-PROTEC shall inform Purchaser about the beginning and the end of such interruption to the running time as soon as possible.

4. In the case that there is a delay of shipping caused by Purchaser of more than a month after announcing readiness for shipment, then all costs of storage will be calculated as follows: If stored at the factory of EEW-PROTEC, storage charges amount to 0,25 % of the purchase price per month/pro rata. EEW-PROTEC reserves the right to present evidence about higher or lower storage costs. EEW-PROTEC is entitled to dispose of the object of delivery otherwise, provided EEW-PROTEC has set an appropriate deadline before. EEW-PROTEC may claim further damages caused by such delay.

§ 6 Passage of Risk and Insurance

1. All risks pass to the Purchaser in accordance with Incoterms 2010 FCA at Bunsenstrasse 3, Kiel, or Incoterms 2010 DAP at destination, whatever applicable.
2. Unless otherwise agreed shipments on the basis of Incoterms 2010 DAP will be insured at the expense of EEW-PROTEC against theft, breakage, damage of transport, damages caused by fire or water leaks as well as other insurable risks.
3. If Purchaser has caused delay of shipment, the risk passes as of the declaration of readiness for shipment and its communication to Purchaser. However, EEW-PROTEC is obliged to enter an appropriate insurance-contract at the request and at the costs of the Purchaser.
5. Partial shipments are permitted.

§ 7 Retention of Title and Insurance

1. EEW-PROTEC retains title and the extended reservation of title to the goods delivered pending performance of all of EEW-PROTEC's claims against Purchaser including costs and interest. The same procedure applies for the extended reservation of title. A foreign Purchaser is obliged to respect as close as possible according to the local law the extended reservation of title. A foreign Purchaser is obliged to agree this subject with EEW-PROTEC. In the event of any transformation of the object of delivery with other objects, reservation of title remains fully in force.
2. Purchaser is obliged to take special care of the object of delivery until property passes. EEW-PROTEC is entitled to insure the object of delivery at the expense of Purchaser against theft, breakage, fire, water leaks and other damages unless Purchaser has given documented evidence that he has entered an insurance contract himself. Purchaser has to pay for necessary service and repair works at his own costs in due time.
3. Purchaser is not entitled to pledging, leasing, renting out, selling to third parties or assigning the goods delivered as collateral. In case of pledging, confiscation or other dispositions by third parties, EEW-PROTEC has to be informed immediately. Purchaser is obliged to reimburse justified in or out of court interventions, such as filing legal action in accordance with § 771 of the Code of Civil Procedure (ZPO).
4. If Purchaser is in breach of contract, in particular in the case of a significant delay of payments, EEW-PROTEC may withdraw – after a written notice – the goods as a security.
5. If Purchaser sells the goods delivered in violation of the agreement, Purchaser now already assigns to EEW-PROTEC all claims arising there from (including VAT). EEW-PROTEC accepts the assignment. EEW-PROTEC is entitled to collect the assigned claim against the third party. EEW-PROTEC is also entitled to raise reservation of title to the goods delivered. Purchaser has to notify EEW-PROTEC about all details of the assignment by providing all necessary documentation and notifying the third party of the assignment. Any change or transformation of the object of delivery by Purchaser is carried out on behalf of EEW-PROTEC. EEW-PROTEC will be joint owner calculated as quota of the sales price compared to the value of the other material added at the time. Any connection of the object of delivery with other objects not owned by Purchaser also creates a joint ownership with the corresponding value of the object of delivery with the third owner at that time. If the object of delivery is connected with real property, Purchaser assigns to EEW-PROTEC that claim arising for Purchaser against a third party as a result of the connection of the goods delivered with the real property. That claim includes VAT. EEW-PROTEC hereby accepts the assignment.
6. Retention of title and extended reservation of title to the goods are agreed under the condition, that full payment transfers property and all assigned claims automatically to the Purchaser.
7. EEW-PROTEC may cancel the agreement and may immediately request the return of the object of delivery in case of an insolvency procedure against Purchaser.

§ 8 Liability for Defects of Delivery

For any defects of delivery that include the non-fulfillment of explicitly guaranteed characteristics of the object of delivery, EEW-PROTEC is responsible as follows by the means of excluding further claims:

Physical defects of the objects of delivery:

1. All parts have to be repaired or renewed at the discretion of EEW-PROTEC if the object of delivery cannot be used or if usage is substantially impaired. This requires that a defect comes up within twelve months of use of the object of delivery. Examples of such defects are a faulty construction of the object, materials of bad quality or an imperfection of usability. Such defects have to be communicated to EEW-PROTEC in writing immediately. The parts in issue have to be sent to EEW-PROTEC immediately, if requested.
2. Purchaser has to grant sufficient time and opportunity for EEW-PROTEC to carry out all repairs and replacements deemed necessary by EEW-PROTEC. Otherwise EEW-PROTEC is released from liability and its consequences.
3. EEW-PROTEC bears all direct costs for repair or replacement, provided that all the Purchaser's claims prove to be fully justified and were raised in time.
4. In the case EEW-PROTEC ignores an appropriate deadline for repair or replacement, Purchaser is entitled to cancel the agreement in accordance with the law. In the case there is a defect that cannot be considered substantial, Purchaser is limited to claim a reduction of the price only. The reduction of the purchase price remains excluded otherwise.
5. Warranty is excluded for wearing parts and following cases: Inappropriate use, inappropriate services when setting up the object of delivery by the Purchaser or third parties, natural wear and tear, incorrect or negligent use of the object, incorrect services, use of inappropriate lubricants, use of inappropriate material and/or non-original parts when exchanging certain parts of the object of delivery, inappropriate storage rooms, chemical, electrochemical or electrical influences – as long as such circumstances do not fall under the

control of the EEW-PROTEC. EEW-PROTEC is not liable as far as corrosion of the used materials is concerned. Corrosive influences can lead to considerable changes during time of usage.

6. In the case Purchaser or third parties carry out any changes or repairs without prior permission of EEW-PROTEC then all liability for all consequences of such steps is suspended. This also applies for the usage of spare parts and consumables not delivered by EEW-PROTEC, because the object of delivery needs original spare parts in order to guarantee its functionality.

7. For repairs without legal obligations warranty only applies, if same has been agreed upon in writing. Same applies for the compliance with technical and legal regulations outside Germany.

Legal Infirmity:

8. In the case that the use of the object of delivery violates any industrial property rights or intellectual property, EEW-PROTEC will as a matter of principle and at his expense make sure that Purchaser will be reinstated in his rights of usage. EEW-PROTEC has the option to change the object of delivery in an appropriate manner designed to avoid further violations of industrial property rights. Outside the territory of the Federal Republic of Germany such an obligation requires an agreement in writing. Purchaser may cancel the agreement if reinstatement of his rights is impossible due to unreasonable economic burdens or reinstatement cannot be carried out within reasonable time. EEW-PROTEC is also entitled to cancel the agreement under the same conditions. Moreover EEW-PROTEC will indemnify Purchaser of uncontested or legally valid industrial property rights claims from third parties.

9. All obligations according to cipher 8 are only valid if

- Purchaser informs EEW-PROTEC about the asserted violation of law immediately;
- Purchaser supports EEW-PROTEC adequately when defending such claims;
- EEW-PROTEC's rights of defense including agreements in court and out of court are reserved;
- the legal infirmity was not caused by an instruction of Purchaser;
- the violation of law was not caused by any changes to the object of delivery by Purchaser or where the use of the object opposes the agreement.

§ 9 Liability

1. If the object of delivery has not been used by Purchaser properly because EEW-PROTEC violated duties of information or other contractual secondary duties, in such a case § 8 and § 9.2 apply accordingly. Further claims are excluded.

2. EEW-PROTEC, irrespective on what legal grounds, is liable for damages occurring other than to the object of delivery itself, only in the following circumstances:

- a) when acting with intent;
- b) in case of negligence unless slight negligence, or gross negligence in case of employees without being at the managing level;
- c) when at fault causing death, bodily injury, impairment of health;
- d) undisclosed defects with intent to deceive or a guarantee that certain defects will not occur;
- e) defects of the object of delivery that prompt liability claims according to the compulsory Rules of the Product Liability Act. In case of claims according to Product Liability Act EEW-PROTEC is entitled to assign his claims of the insurance company, if legally permitted. If such claims are assigned and accepted on the basis of the Product Liability Act, all claims are thereby settled.
- f) in the event of a breach of a so-called cardinal-obligation, that is a breach of contractual duties that are an essential requirement to the execution of the contract and on which the Purchaser may reasonably rely on in which case, also for gross negligence of employees not being on the manager level or for slight negligence; in the last case claims are limited to damages typical and foreseeable for such contracts.

Within the scope of an insurance contract for property damage of EEW-PROTEC the exemption clauses do not apply.

3. All other claims, consequential claims in particular, are excluded.

§ 10 Right of Purchaser to Cancel the Agreement

1. Purchaser is entitled to cancel the agreement without notice, if the delivery of the object becomes impossible before passing the risk. Purchaser may also cancel the agreement, if the execution of the order of confirmation becomes partially impossible and if Purchaser has a justified interest to deny a partial delivery. If this is not the case, the Purchaser has to pay for a partial delivery part of the contractual price. The same applies if EEW-PROTEC is unable to deliver, see reference in § 9.2. If the impossibility to deliver occurs during a delay of Purchaser or Purchaser is solely or largely responsible for such circumstances, Purchaser remains obligated to pay.

2. If Purchaser sets an appropriate deadline and the deadline is not respected, Purchaser is authorized to cancel the agreement in accordance with the law. All other claims based on delay are regulated exclusively according to § 9.2.

§ 11 Adjustment of Contract, Right of EEW-PROTEC to Cancel the Agreement

1. The agreement has to be adjusted in good faith if foreseeable events acc. to § 5.3 change the economic significance or its contents or have a significant influence on EEW-PROTEC. In the case that such an adjustment would be unreasonable economically, then EEW-PROTEC is entitled to cancel the agreement. If EEW-PROTEC wants to invoke his right of cancellation of the agreement, he is obliged to inform Purchaser about the scope of this event immediately, even then if a prolongation of the period of delivery is agreed.

2. In the event of delays and cancellations of Purchaser, EEW-PROTEC is entitled to be kept in the same position as if the agreement had been carried out according to the agreement. Only damage claims that are specified and can be foreseen and calculated in advance are reimbursable. Loss of profit, lawyer's and court costs are part of such concrete and foreseeable claims for reimbursement.

§ 12 Statute of Limitations

All claims of Purchaser - no matter on what legal grounds - are statute-barred within 12 months unless there is an opposing special compulsory law. Visible defects have to be communicated in writing to EEW-PROTEC within 14 days of receipt in order to avoid the loss of remedies. In case of repair or replacement the claims are statute-barred after six months. This period cannot end earlier than the original period on the statute of limitations.

§ 13 Software Licensing

In the event the object of delivery includes software, Purchaser obtains a non-exclusive license to use the software. It may be used on specifically designed hardware. Multiple-use of the software requires written permission. Software delivered to Purchaser cannot be changed without written permission.

§ 14 Installation & Commissioning

1. Installation works have to be remunerated, unless otherwise agreed. In the case there is a delay of the assembly or bringing the machine into service without being the fault of EEW-PROTEC, Purchaser has to reimburse the expenses for waiting-time and further necessary travels, accommodation and associated costs.
2. Following a Pre-Acceptance Protocol at EEW-PROTEC's works prior to shipment, a Protocol of Acceptance has to be issued and signed by both parties immediately after EEW-PROTEC announcing completion of installation and commissioning at Purchaser's site. Purchaser cannot refuse his signature if there is only a defect that cannot be considered substantial and Purchaser is in spite of § 8 obliged to accept the object of delivery.
3. All replaced parts become property of EEW-PROTEC.

§ 15 Confidentiality, Industrial Property Rights

1. EEW-PROTEC reserves the right of property and copyrights on all designs, plans, instruction books, technical descriptions, costs, estimates and other physical, intangible or electronic information. Such documents cannot be copied nor used for non-contractual purposes without written permission. Access cannot be given to third parties (not even on the basis of a request). The documents cannot be published. The same applies for any trade secrets, know-how or secrets of any production process, that has been made known to the Purchaser or becomes known to him otherwise.
2. Purchaser acknowledges all patent rights, copyrights and other industrial property rights of EEW-PROTEC including the software, irrespective whether such rights are governed by German or foreign law. The protection of the software extends also to the protection of copies of the software. No sublicense can be granted to third parties without written permission of EEW-PROTEC.
3. Any reproduction of machines, installations, components or parts thereof as well as software is not permitted. Any violation will be pursued by EEW-PROTEC without exception on a worldwide basis by exploiting all legal remedies of the Civil and Criminal Law. If permitted by law, not only the actual damage, but also punitive damages will be pursued.
4. Reverse engineering, i.e. the analysis of the structure and the function of products delivered by EEW-PROTEC is not permitted.

§ 16 Place of Performance and Venue

1. The factory of EEW-PROTEC is place of the performance for delivery and services.
2. All written communications to EEW-PROTEC required by these General Terms of Business have to be sent directly to the headquarters of the EEW-PROTEC at Bunsenstrasse 3 in D-24145 Kiel. Every additional agreement – orally or on the telephone – requires confirmation in writing by EEW-PROTEC. Informations, changes, etc. communicated by EEW-PROTEC in writing are considered to be accepted by the Buyer if he does not object in writing within 3 working days.
3. In the event of any dispute arising from the contractual relationships between the parties, the Courts of Kiel, Germany, shall have jurisdiction and venue. EEW-PROTEC does however also have the rights to bring an action against the Purchaser at the Courts with jurisdiction at the place of business of the Purchaser.

§ 17 Applicable Law

1. These General Terms of Business and the entire legal relationship between EEW-PROTEC and Purchaser shall be exclusively construed in accordance with the Laws of the Federal Republic of Germany including the application of the UN-Convention on the International Sale of Goods (CISG). The text of the UN-Convention is available at http://download.eew-protec.de/CISG1980_English.pdf
2. Should any provision in these General Terms and Conditions of Sale and Delivery or any provision within the frame-work of other contracts be or become invalid, this shall not affect the validity of all other provisions or contractual agreement. The parties are obliged in such a case to replace the invalid clause by a valid clause which should be in economic terms as close as legally possible as the previous regulation. The same applies for gaps.
3. Any alterations and amendments require written confirmation by EEW-PROTEC to be effective.

Kiel, Germany, January 2012.

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