

**General terms and conditions of delivery and payment of ALGI Alfred Giehl GmbH & Co. KG****I. Scope**

Subject to any written individual agreement, these general terms and conditions of delivery and payment (T&Cs) form the basis and are an integral element of every contractual agreement between the supplier and the customer in question (hereinafter referred to as the “buyer”). At the same time, these T&Cs also become an integral contractual part of all future business relationships without this requiring an explicit new agreement. The T&Cs are deemed to have been accepted when a contract is entered into. Any divergent terms and conditions of business of the buyer are hereby expressly excluded. Individual agreements shall be valid only if they are confirmed by the supplier in written or electronic form.

These T&Cs also apply to all contractual relationships with an international dimension. Exclusively German law also applies to all future deliveries and services. The contract language is German.

II. Offer

The documents related to the offer, such as illustrations, drawings and specifications of weights and dimensions, are only approximate unless they have been explicitly designated as binding. The supplier retains title and copyright in estimates, drawings and other documents; these may not be disclosed to third parties. The supplier is required not to disclose plans designated as confidential by the buyer to third parties without the buyer's consent.

III. Scope of delivery

The scope of delivery is defined by the written order confirmation of the supplier or by the offer if the supplier's offer is binding for a defined period and is accepted within that period and an order confirmation has not been issued in due time. Side agreements and amendments must be confirmed in writing by the supplier.

IV. Price and payment

1. Our prices are subject to change and we reserve the right to charge the prices that are effective on the day of delivery if wage increases and higher prices of materials or fluctuations in exchange rates make this necessary.
2. Unless otherwise specifically agreed, prices are ex works including loading at the works, but exclusive of packaging. Value added tax shall be charged on the prices at the applicable statutory rate.
3. Unless otherwise specifically agreed, payment must be made net in cash free of transaction charges and as follows:

1/3 as a down payment after the order confirmation has been received;
1/3 as soon as the buyer is notified that the main parts are ready for dispatch;
the rest within one more month.

4. Withholding or offsetting payments against any counterclaims of the buyer contested by the supplier is not permitted.

5. Default interest will be charged on late payments without this requiring a notice of default to be issued. The interest rate is the relevant base rate plus 9 percentage points. In legal transactions involving a consumer, the interest rate is the relevant base rate plus 5 percentage points.

V. Delivery period

1. The delivery period is determined by the agreements entered into by the contracting parties. A prerequisite for the supplier to adhere to this is that all commercial and technical issues between the contracting parties have been clarified and that the buyer has fulfilled all obligations incumbent upon it.

2. The delivery period is met if the delivery item has left the supplier's works or notification that the delivery is ready for dispatch has been given before the delivery period expires. If delivery is subject to acceptance, the acceptance date shall apply – except in the event of a legitimate refusal to accept delivery – or alternatively notification that delivery is ready to be accepted.

3. Adherence to the delivery period is subject to the proviso that the supplier itself receives correct and punctual supplies. If the failure of the supplier to deliver on time is caused by force majeure, labour disputes or other events outside the supplier's control, the delivery time shall be extended by a reasonable period. This shall also apply if circumstances arise at sub-suppliers.

4. If the dispatch is delayed at the request of the buyer or for other reasons for which the buyer is responsible, the buyer will be charged the costs incurred by the delay, for example costs of storage, but a minimum of 1/12 of the invoice amount, for each month of the delay starting one month after the buyer has been notified that the delivery is ready for dispatch.

VI. Transfer of risk and receipt

1. The risk passes to the buyer when the delivery item has left the works or the premises of the supplier and specifically also when partial deliveries are made or the supplier has assumed further costs or agreed to perform other services, such as shipping costs or delivery and installation. If delivery is subject to acceptance, the transfer of risk shall be subject to this acceptance. Acceptance must be carried out without undue delay on the acceptance date or alternatively after the supplier has issued a notification that the delivery is ready for acceptance. The buyer may not refuse to accept delivery if there is a defect that is not material.

2. If dispatch or acceptance is delayed or not performed as a result of circumstances for which the supplier cannot be held responsible, the risk passes to the buyer from the date of notification that the delivery is ready for dispatch or acceptance. The supplier undertakes to take out insurance that the buyer requests at the expense of the buyer.

3. In divergence from the above regulations, the risk passes to the customer who is a consumer

when it has received the goods.

4. If delivery items/partial deliveries are delivered using the supplier's own vehicles, the buyer shall be solely responsible for unloading the goods at its own expense and risk. The buyer undertakes to ensure that the personnel and technology/equipment required for unloading the goods are available at the time of delivery. In all other respects, the regulations of paragraph 1 above shall apply accordingly, however in the event of damage during transport after loading only on the condition that, where the supplier's own vehicles have been used, the buyer is entitled to claims and rights for any damage during transport after loading only to the extent that the supplier is itself insured; other claims and rights of the buyer against the supplier are excluded.

The supplier shall issue information about the risk it has insured to the buyer at any time on first request; other risks shall be insured by the buyer at its own expense. Claims and rights of the supplier against third parties are assigned to the buyer, who accepts this assignment: the buyer is solely responsible for asserting and enforcing assigned claims and rights at its own expense and risk.

5. The buyer shall accept items that have been delivered, even if they contain non-material defects, without prejudice to the rights arising from section VIII.

6. Partial deliveries are permitted if the buyer can reasonably be expected to receive them.

VII. Reservation of title

1. The supplier retains title in the goods until it has received all payments arising from the business relationship with the customer. If the customer breaches the terms of the contract, in particular if they are in default of payment, the supplier is entitled to take back the goods. The supplier is authorised to utilise the goods after taking them back; the proceeds that are realised shall be set off against the liabilities of the customer, less reasonable costs of realisation.

2. The buyer is entitled to resell the goods subject to retention of title in the normal course of business only if it herewith assigns to the supplier all claims that accrue to it against customers or third parties from the resale, regardless of whether the delivery item is resold without having been processed or after it has been processed.

The supplier accepts this assignment. The buyer is also authorised to collect these claims after they have been assigned.

This shall not affect the supplier's authority to collect the claim itself; however, the supplier undertakes not to collect the claims as long as the buyer duly and properly fulfils its payment and other obligations. The supplier can demand that the buyer inform it of the claims that have been assigned and its debtors, furnish all information required to collect them, hand over the relevant documents and inform the debtors of the assignment.

3. The buyer shall carry out any processing or finishing of the goods subject to retention of title for the supplier without the latter incurring any obligations from this. When the goods subject to retention of title are processed, combined, mixed or blended with other goods that do not belong to the supplier, the supplier acquires joint title in the new item based on the proportion of the value of the goods (final invoice amount including value added tax) to the other goods that are

processed/mixed at the time they are processed/mixed. The item created as a result of processing/mixing shall be treated in all other respects in the same way as the goods delivered

subject to retention of title. If the items are mixed in such a way that the buyer's item has to be regarded as the main item, it is agreed that the buyer shall transfer joint title to the supplier on a pro rata basis. The buyer shall hold the sole or joint title created in this way on behalf of the supplier.

4. The supplier is entitled to insure the delivery item against theft, breakage, fire, water and other damage at the buyer's expense if the buyer has not verifiably taken out insurance itself.

5. The buyer may not pledge the delivery item or assign it by way of security. The buyer must inform the supplier without undue delay if the item is distrained or seized or otherwise disposed of by a third party. The supplier is required to release collateral to which it is entitled at the request of the buyer, subject to selection, in so far as the value of the collateral is more than 20% higher than the claims to be secured.

6. If the customer breaches the terms of the contract, in particular if they are in default of payment, the supplier is entitled to take back the goods after issuing a reminder and the buyer is required to surrender them. Any assertion of reservation of title or any seizure of the delivery item by the supplier shall not be deemed as termination of the contract unless the Abzahlungsgesetz (instalment payments act) applies.

VIII. Liability

With further claims being excluded and without prejudice to section X, the supplier shall be liable as follows:

1. The supplier guarantees that its products are free from processing and material defects and are consistent in all other respects with the specifications contained in the offer or in the order confirmation. Subject to the regulations provided in these terms and conditions of delivery or statutory regulations, the supplier does not assume any other explicit or implied guarantees, specifically not in relation to design or functionality.

2. Claims of the buyer for defects require that it has duly and properly fulfilled any duties to inspect the goods and to give notification of defects prescribed in accordance with section 377 of the Handelsgesetzbuch (HGB – German Commercial Code).

3. All the parts that prove to be defective as a result of circumstances existing before the risk is transferred shall be remedied or replaced at the supplier's discretion. The supplier must be notified immediately in writing when defects of this kind are identified.

4. After consulting the supplier, the buyer shall provide it with the required time and opportunity for it to carry out all the repairs and deliveries of spare parts that appear necessary to the supplier at its discretion; the supplier shall otherwise be released from this liability for defects. The buyer has the right to remedy the defects itself or to have them remedied by a third party and demand reimbursement of the necessary costs from the supplier only in urgent cases when there is a risk to operational safety and in order to prevent disproportionately large damages, where the supplier has to be informed immediately. Reference is made to the statutory regulations, in particular section 439(3) of the Bürgerliches Gesetzbuch (BGB – German Civil Code).

Parts that are replaced become the property of the supplier.

5. No liability is assumed in the following cases: unsuitable or improper use, incorrect assembly or commissioning by the buyer or third parties, natural wear and tear, incorrect or negligent handling, Verwendung, fehlerhafte Montage bzw. Inbetriebsetzung durch den Besteller oder Dritte, natürliche improper maintenance, unsuitable operating materials, replacement materials, defective construction work, unsuitable ground (subsoil), chemical, electrical engineering or electrical influences in so far as these are not attributable to any fault on the part of the supplier.

6. If the buyer or a third party carries out improper repairs, the supplier shall not be liable for the consequences that result from this. This shall also apply to changes to the delivery item that are made without the prior approval of the supplier.

7. Seals are wearing parts. The supplier is liable for seals only within the framework of the guarantees of its sub-suppliers that are granted by the supplier when standard commercial hydraulic pipes are used and the equipment is used at normal operating temperatures (under 80°C).

The buyer must notify the supplier explicitly if fire-resistant fluids and elevated operating temperatures are used.

8. A material defect shall not be accepted in the following cases:

- If the supplier gives an assurance concerning power requirements or output, this shall be regarded as fulfilled if the power requirements are exceeded by no more than 10 per cent and the output falls below the value assured by no more than 10 per cent. - The speeds indicated by the supplier do not include start-up times. Deviations from the indicated speeds of up to +/- 10 per cent are permitted.

- The supplier is not liable for any issues that occur during electrical operation as a result of reactions from the start-up current on the power plant and the lights switched on in the network, as these reactions depend on the nature and size of the power plant and also on how the control mechanism is handled.

- If no experience concerning the maintenance of the design ordered for the machinery under the operating conditions at the buyer is available at the time of the order, the buyer alone shall bear the risk for the suitability of the installation. The liability of the supplier is furthermore excluded if the equipment supplied is put into operation under operating conditions that are different from those known to the supplier when the equipment was ordered and the suitability of the equipment for this cannot automatically be assumed.

9. The supplier is liable for damage that is not caused to the delivery item itself – on whatever legal grounds – only

a. in the event of wilful intent and gross negligence,

b. in the event of injury to life, limb or health for which it is at fault,

c. in the event of defects it has fraudulently concealed,

d. within the framework of a guarantee commitment,

e. in the event of defects in the delivery item if liability is incurred in accordance with the Produkthaftungsgesetz (German Product Liability Act) for personal injury and damage to items that are used for private purposes.

If it is responsible for breaches of material contractual obligations, the supplier shall also be liable

for slight negligence, limited, however, to damage that is typical of this type of contract and is reasonably foreseeable at the time the contract is entered into.

Other claims are excluded.

IX. Statute of limitations

All claims – on whatever legal grounds – of the buyer who is not a consumer lapse after 12 months; this shall also apply to the statute of limitations for recourse claims in the supply chain in accordance with section 445b(1) BGB in so far as the last contract in this supply chain does not involve a purchase of consumer goods. The suspension of the statute of limitations arising from section 445b(2) BGB is not affected. The statutory time limits apply to claims for damages under section VIII. 10 a-c and e. They also apply to defects in a structure or to delivery items that have been used for a structure in accordance with their customary intended purpose and that have caused the defective nature of the structure.

Claims of the buyer who is a consumer lapse in accordance with the statutory regulations.

X. Liability for secondary obligations

If the item supplied cannot be used by the buyer in accordance with the contract through the fault of the supplier because proposals and advice provided before or after the contract is entered into as well as other contractual secondary obligations – especially instructions for the operation and maintenance of the delivery item – have not been implemented or have been implemented incorrectly, the regulations of section VIII shall apply accordingly, where further claims of the buyer shall be excluded.

XI. Buyer's right of withdrawal

1. The buyer may withdraw from the contract if it definitely becomes impossible for the supplier to perform the entire service before the risk is transferred. This shall also apply if the supplier is incapable of performing the service. The buyer may also withdraw from the contract if in an order for similar items the execution of part of the delivery becomes impossible in terms of quantity and the buyer has a legitimate interest in refusing partial delivery; if this is not the case, the buyer can reduce the consideration accordingly.

2. If delivery is delayed as defined in these terms and conditions of delivery, and if the buyer grants the supplier in default a reasonable grace period with the express declaration that it will refuse to accept the delivery after this period expires, and if the grace period is not met, the buyer is entitled to withdraw from the contract. Other claims and rights of the buyer are excluded.

3. If the impossibility occurs during the delay in acceptance or through the fault of the buyer, the buyer continues to be obliged to pay the consideration.

4. The buyer furthermore has a right to withdraw if the supplier allows a reasonable grace period granted to it to repair or deliver a replacement for a defect that it is responsible for within the meaning of the terms and conditions of delivery to expire through its own fault without the desired outcome being achieved. The buyer's right of withdrawal also applies if it is impossible for the supplier to perform a repair or provide a replacement delivery or it is incapable of doing so.

5. Other claims and rights of the buyer, in particular to terminate the contract or reduce the consideration as well as to compensation of damages of any kind, and specifically also damages that have not been caused to the delivery item itself, are excluded if this is permitted by law.

XII. Supplier's right of withdrawal

The contract shall be appropriately amended if unforeseen events within the meaning of section V of the terms and conditions of delivery occur in so far as they significantly change the commercial importance or the content of the service or have a significant impact on the supplier's operation and if it subsequently becomes clear that it is impossible to perform the contract. If this cannot be commercially justified, the supplier has the right to withdraw in full or in part from the contract.

The buyer is not entitled to claims for damages for withdrawal of this kind. If the supplier wishes to make use of its right of withdrawal, it must notify the buyer of this without undue delay after becoming aware of the consequences of the event and specifically also if it was initially agreed with the buyer to extend the delivery period.

Material changes in the buyer's circumstances or relevant information concerning these, in particular a suspension of payments, insolvency, an application for insolvency or a change to the company form, entitle the supplier to withdraw from the contract or to request suitable collateral.

XIII. Place of jurisdiction

If the buyer is a merchant entered in the German commercial register, a legal entity under public law or a public law special fund, legal action in all disputes arising from the contractual relationship has to be filed at the court that has jurisdiction over the supplier's headquarters or its branch performing the delivery. The supplier is also entitled to file legal action at the seat of the buyer.

XIV. Binding nature of the contract

Even if individual points are not legally valid, the other parts of the contract remain binding,

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The general terms and conditions of delivery and payment consists of 7 consecutive pages.