

General Terms And Conditions Of Delivery

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I. Scope of application

- (1) The present terms and conditions of delivery shall apply exclusively; deviating conditions or conditions contrary of the customer shall only apply provided the supplier approved of this in writing.
- (2) The present General Terms and Conditions of Delivery shall also apply to subsequent orders and to replacement parts deliveries without necessitating repeated pointing out of this fact.
- (3) Supplements and representations as well as modifications or amendments to a contract concluded in writing or by telex must be in writing.

II. Offer and order confirmation

- (1) Offers shall only be binding provided a time-limit for acceptance is stated in the offer. To be legally binding, offers shall require the written confirmation of the supplier.
- (2) The supplier reserves any titles to and copyrights in figures, drawings, calculations, and other offer documentation and similar information of physical and non-physical type - also in electronic form; these may only be disclosed to third parties on the supplier's written approval and shall be immediately returned to the supplier on request if no order is awarded to the supplier.

III. Scope of deliveries and services

- (1) The deliveries and services are determined based on the mutual written declarations. If no such declarations exist, the written order confirmation of the supplier shall be decisive. For mere sales contracts, the agreed upon delivery provisions shall be interpreted according to the INCOTERMS valid at the conclusion of the contract.
- (2) Data in brochures, catalogues or general technical documentation shall only be binding if reference is made to them in writing.
- (3) The costs for an agreed mounting and assembly, including all and any required ancillary costs such as travel expenses or costs for the transport of tools or personal luggage shall be remunerated separately by the customer, if not otherwise agreed upon.
- (4) If software is part of the delivery scope, the customer shall be granted a non-exclusive right of use in the software. The customer may copy or edit the software only in the legally permissible scope.
- (5) Partial deliveries shall be permissible, provided it is reasonable for the customer, considering the interests of both the supplier and the customer.
- (6) In case of deliveries abroad, the supplier's obligation shall be under the proviso that any necessary export licences are granted.

IV. Prices and terms of payment

- (1) All prices shall be in EURO unless otherwise stated. They shall apply to mere delivery transactions "ex works" (EXW), exclusive of packaging.
- (2) The prices do not include any turnover tax. This tax is itemised separately in the invoice in the statutory amount applicable at the date of invoicing.
- (3) The deduction of discounts shall require a special agreement in writing.

- (4) If not otherwise shown in the order confirmation, the sales price shall be due for payment 30 days from invoice date without any deduction.
- (5) If the customer does not comply with the date for payment, the customer shall pay default interest in the amount of 8 percentage points above the base interest rate pursuant to §247 German Civil Code from the due date. Payment of further damages remains reserved.
- (6) If not otherwise agreed upon, the delivery of goods for deliveries abroad shall be under the proviso that an irrevocable commercial letter of credit is issued by the customer in favour of the supplier, and confirmed by a German banking institution.
- (7) In case of delayed payment, the supplier may suspend the performance of his own obligations until total payment was received, giving written notice to the customer.
- (8) The customer may only set off claims or assert a right of retention, provided these are undisputed or have become non-appealable.

V. Time-limits for deliveries or services

- (1) With regard to time-limits, the mutual written declarations or, in the absence of such declarations, the written order confirmation of the supplier shall be decisive. The time-limit shall be deemed observed, provided all and any documentation to be provided by the customer are received in time, and all and any required permits, releases, in particular plans, are provided, and the agreed upon terms of payment and other obligations are met by the customer. If these prerequisites are not met in time, the time-limit shall be prolonged reasonably; this shall not apply if the supplier is responsible for the delay.
- (2) If non-observance of the time-limits is the result of force majeure, e.g. mobilization, war, riot or similar events, e.g. strike or lock-out, the agreed upon time-limits shall be prolonged reasonably.
- (3) If mounting and assembly are not part of the agreed upon services, the time-limit shall be deemed observed if the goods ready for operation were shipped or collected within the time-limit. Should the delivery be delayed for reasons for which the customer is responsible, the time-limit shall be deemed observed upon notification of readiness for shipment.
- (4) If the supplier is responsible for the non-observance of the time-limit, the customer, provided the customer suffered an actual loss, may request compensation for delay for each full week of delay of a maximum of 0.5%, however, not exceeding 5% of the price for the part of the delivery which could not be taken into relevant operation because of the delay. Claims for compensation of the customer exceeding the limits stipulated in item 5.4 shall be excluded in all cases of delayed delivery or service, also after expiry of any grace period set to the supplier. This shall not apply to the extent mandatory liability exists in cases of intent, gross negligence or personal injury; a shift of the burden of proof to the disadvantage of the customer is not given in this case.
- (5) The customer's right to withdraw after ineffectual expiry of a grace period for the supplier shall remain unaffected. The grace period, however, must be reasonable and amount to at least four weeks.

- (6) If shipment or delivery are delayed for more than one month after notice of readiness for shipment on the customer's request, warehouse charges in the amount of 0.5% of the price of the delivery goods, however, not exceeding a total of 5%, may be charged to the customer for each month started. The parties to the contract shall remain free to furnish proof of higher or lower warehouse charges.

VI. Passage of utility and risk; insurance; packaging

- (1) The risk of deliveries and services rendered by the supplier shall pass to the customer as follows, even in case of deliveries freight paid.
 - a) for deliveries without mounting or assembly, even in case of partial deliveries, if these have been shipped or collected. Shipments shall be insured by the supplier against the usual transport risks upon wish and at the expense of the customer. If such insurance exists, the supplier shall be immediately notified about any damages to goods in transit.
 - b) for deliveries with mounting or assembly on the day of acceptance in the customer's operations or, if agreed upon, after perfect test operation.
- (2) If the shipment, delivery, start, performance of mounting or assembly, acceptance in the customer's operations or test operation is/ are delayed for reasons attributable to the customer or if the customer delays acceptance for other reasons, the risk shall pass to the customer.
- (3) The shipment is in principle made in standard packagings of the supplier. The latter shall be entitled to choose special types of packaging deemed necessary in the supplier's discretion. The costs of these packagings shall be borne by the customer.

VII. Mounting and assembly

The mounting, assembly and installation of the equipment and devices of the supplier may only be performed by specialists, observing the supplier's guidelines and the applicable technical standards.

If mounting and/or assembly are performed by the supplier, the following provisions shall apply, if not otherwise agreed upon in writing:

- (1) The customer shall assume and provide in time at the customer's expense:
 - a) all earthwork, construction work and other different ancillary work, including the required specialists and auxiliary staff, materials and tools,
 - b) the commodities and materials such as scaffolds, cranes and elevators and other devices, fuels, lubricants, and chemicals required for assembly and commissioning,
 - c) energy and water at the site of use, including connections, heating, and illumination,
 - d) sufficiently large, suitable, dry and lockable rooms at the assembly site for storing machine parts, fixings, materials, and tools etc., and suitable working and recreation rooms for the assembly staff, including appropriate sanitary installations. For the protection of the supplier's property and the assembly staff, the customer shall also take the measures he normally would take to protect his own property.

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- e) protective clothing and protective devices which are necessary because of special circumstances at the assembly site.
- (2) Prior to the start of the assembly work, the customer shall unsolicitedly provide the required information about the position of subsurface energy, gas, water conduits or similar installations as well as the required data on statics.
- (3) Prior to the start of mounting or assembly, the additions and objects required to start the work must be at the mounting or assembly site and all preparations prior to start of the installation must be advanced such that the mounting or assembly can be started as agreed upon and can be performed without any interruptions. Access routes and the mounting or assembly site must be flattened and clear of any objects.
- (4) Should mounting, assembly or commissioning be delayed for reasons beyond the control of the supplier, the customer shall bear the costs for waiting time and additionally required travels of the supplier or the assembly staff in an adequate amount.
- (5) If a plant cannot be installed immediately after delivery, the customer shall be responsible for a proper storage according to the supplier's guidelines.
- (6) The customer shall provide the supplier with weekly information on the duration of the working hours of the assembly staff and shall immediately confirm the completion of mounting, assembly or commissioning.
- (7) The commission may only be performed by technicians acknowledged by the supplier and according to the supplier's instructions. The technicians shall be entitled to refuse commissioning of the plant if the operating conditions to be provided by the customer do not guarantee a safe operation of the plant. The customer shall bear the costs of any delay in commissioning incurred to the supplier.
- (8) Should the supplier request acceptance of the deliveries and services after completion, the customer shall be obliged to do so within two weeks. Otherwise, the acceptance shall be deemed made, too, if the delivery goods and services - also after completion of an agreed test phase, if any - have been taken in use.
- (3) The customer shall immediately give notice of defects to the supplier.
- (4) In the event of notices of defects, payments of the customer may be retained in the volume which shows a reasonable ratio to the material defects incurred. The customer may retain payments only if a notice of defect is given whose justification is beyond doubt. If the notice of defect is given wrongfully, the supplier shall be entitled to request from the customer compensation for the expenses incurred to the supplier.
- (5) At first, the supplier shall always be given the opportunity to post-perform within a reasonable time-limit. The customer shall grant the supplier the time and opportunity required to do so. Should the customer refuse this, the supplier shall be exempted from the liability for defects.
- (6) If the post-performance fails, the customer - notwithstanding possible claims for damages - may withdraw from the contract or reduce the compensation. The customer may not claim compensation for futile expenses.
- (7) Claims for defects do not exist in case of minor deviations from the agreed or assumed quality, minor impairment of usability, natural wear or damages incurred after passing of the risk because of incorrect or negligible handling, excessive use, unsuitable operating material, faulty construction work, unsuitable subsoil or because of special external influences which are not established in the contract as well as in case of non-reproducible software errors. If the customer or third parties perform improper modifications or repair work, no claims for defects will exist for these and the resulting consequences.
- (8) The supplier shall not bear the additional expenditure, in particular transport, travelling, labour and material costs, which result from the fact that the subject matter of the delivery was later transported to a different location than the customer's branch or the original place of destination, except the transport corresponds to its proper use.
- (9) In all cases, the customer shall be obliged to take any possible and reasonable steps to keep the expense for the purpose of post-performance as small as possible. The supplier shall participate in the costs for a recall campaign only if this is necessary based on the factual and legal situation. The customer shall be obliged to either return defective products or keep them ready for inspection and tests, in the supplier's discretion.
- (10) Claims for recourse of the customer against the supplier shall only exist to the extent the customer did not conclude any agreements with the customers' purchaser which exceed the statutory claims for defects. In addition, item 8.8 shall apply correspondingly to the scope of the right for recourse of the customer against the supplier.
- (11) Furthermore, item 11 (Other claims for damages) also applies to claims for damages. More extensive or other claims than stipulated in the present item 8 of the customer against the supplier and its persons employed in performing the obligations because of a material defect shall be excluded.

VIII. Warranty

- (1) Should goods delivered or services rendered by the supplier prove to be defective because they do not possess the agreed quality or because they are not suitable for the agreed or usual use, the supplier shall in its discretion either remedy the parts or services concerned or deliver or render them again at no cost within the limitation period, provided the cause of the defect already existed at the time of risk passing.
- (2) Claims for material defects become statute-barred after 12 months, for ProMinent® pump drives and DULCOMETER® controllers the period is 24 months. The time-limit shall start with passing of the risk (item 6). The above provisions shall not apply to the extent the law mandatorily prescribes longer time-limits according to §§438(1) no. 2 German Civil Code (goods for edifices), §479(1) German Civil Code (right of recourse), and §634a German Civil Code (structural defects). The warranty period may be prolonged up to 60 months in suitable cases, provided the customer concludes a maintenance contract for the corresponding period.

IX. Industrial property rights and copyright; defects of title

- (1) If not otherwise agreed upon, the supplier shall be obliged to render the delivery free of any industrial property rights and copyrights of third parties (hereinafter called: property rights) solely in the country of the place of delivery. To the extent a third party makes justified claims against the customer because of infringement of property rights by deliveries rendered by the supplier and used according to contract, the supplier shall be liable to the customer within the time-limit stipulated in item 8.2 as follows:
 - a) The supplier shall at the supplier's expense and in the supplier's discretion either obtain a right of use for the deliveries concerned, modify them such that the property right is not infringed or exchange them. Should the supplier not be able to do so under reasonable conditions, the customer shall be entitled to statutory cancellation or reduction rights. The customer may not claim compensation for futile expenses.
 - b) The supplier's obligation to pay damages shall be subject to item 11.
 - c) The above mentioned obligations of the supplier shall only be given provided the customer immediately informs the supplier in writing about claims asserted by third parties, refuses to acknowledge an infringement, and all and any measures of protection and settlement proceedings remain reserved to the supplier. Should the customer discontinue the use of the delivery goods for the purpose of reducing the damage or for other reasons, the customer shall be obliged to inform the third party about the fact that the discontinuance of use does not represent an acknowledgement of the property rights infringement.
- (2) Claims of the customer shall be excluded to the extent the customer is responsible for the property rights infringement.
- (3) Claims of the customer shall furthermore be excluded to the extent the property rights infringement was caused by special standards stipulated by the customer, by use not foreseeable by the supplier or by the fact that the delivery goods were modified by the customer or used in conjunction with products not delivered by the supplier.
- (4) In the event of property rights infringements, the claims of the customer stipulated in item 9.1 a) shall apply, in addition the provisions in item 8.4, item 8.5, and item 8.10 shall apply correspondingly. In case of other defects of title, the provisions of item 8 shall apply correspondingly.
- (5) More extensive or other claims than stipulated in the present item 9 of the customer against the supplier and its persons employed in performing the obligations because of a defect of title shall be excluded.

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X. Impossibility; adaptation of contract

- (1) To the extent the delivery is not possible, the customer shall be entitled to claim damages, except the impossibility is attributable to the supplier. The customer's claims for damages, however, shall be limited to 10% of the part of the delivery which cannot be taken into relevant operation because of the impossibility. This limitation shall not apply to the extent mandatory liability exists in cases of intent, gross negligence or personal injury; a shift of the burden of proof to the disadvantage of the customer is not given in this case. The customer's right to withdraw from the contract shall remain unaffected.
- (2) In case of temporary impossibility, item 5 (Time-limits) shall apply.
- (3) Should unforeseeable events in the sense of item 5.2 significantly change the economic meaning or the content of the delivery or have a significant effect on the supplier's operations, the contract shall be adapted in good faith. To the extent this is not economically reasonable, the supplier shall be entitled to withdraw from the contract. If the supplier intends to assert this right to withdraw, the supplier, after having obtained knowledge about the scope of the event, shall immediately inform the customer to this effect. This shall also apply if a prolongation of the delivery period was agreed upon with the customer at first.

XI. Other claims for damages

- (1) Any claims for damages and reimbursement of expenses the purchaser may have due to the infringement of primary or collateral duties resulting from the relationship under the law of obligation, from unauthorized action or any other legal reasons, shall be excluded.
- (2) For all products with network connection, the risk of loss or data alteration and the risk of faulty data transmission will be passed to the customer as soon as the first network interface related to the product is crossed. For software products, the risk of loss or data alteration and the risk of faulty data transmission will be passed to the customer as soon as the software is installed. Despite careful control of the data, ProMinent does not assume any liability for data entering the system of the customer or other systems via an open network interface.
- (3) This exclusion does not apply when liability is imperative, e.g. according to the Product Liability Law (Produkthaftungsgesetz), for cases of intent, gross negligence or personal injuries, due to the warranty for the presence of a specific quality or the breach of material contractual obligations. Damage claims asserted on the basis of a breach of material contractual obligations shall be limited to foreseeable damages that are typical to the contract unless there is intent or gross negligence involved or the liability is based on physical injury or a warranty for the presence of a specific quality. No reversal of the burden of proof to the disadvantage of the purchaser is associated with the above provisions.
- (4) Unless longer limitation periods are imperatively prescribed by law, all claims for damages shall be subject to the limitation periods mentioned in sub-paragraph 8.2.

XII. Warranty and product description

- (1) Warranties shall only be effective if made in writing.
- (2) Data described in catalogues, tender documentation and other printed matter as well as general advertising statements do not represent an offer for the conclusion of a warranty agreement.

XIII. Reservation of title

- (1) The supplier reserves the title in the delivery goods (reserve goods) until the customer has made the complete payment due from the business relationship. The reservation of title shall also include the acknowledged balance, to the extent the supplier enters the claims against the customer in current account (current account reserve).
- (2) If the supplier accepts return of the delivery goods, this shall mean a withdrawal from the contract. Upon return of the goods purchased, the supplier shall be entitled to realise these goods; the realisation proceeds shall be credited to the customer's obligations - minus reasonable realisation fees. In the event the delivery goods are attached, the supplier shall be entitled to withdraw from the contract without setting a time-limit. In case of attachment or other interventions by third parties, the customer shall immediately inform the supplier in writing for the supplier to be able to file action pursuant to §771 German Code of Civil Procedure. To the extent third parties are not able to reimburse the judicial and extrajudicial expenses of an action pursuant to §771 German Code of Civil Procedure to the supplier, the customer shall be liable for the loss incurred by the supplier.
- (3) The customer shall be entitled to resell the delivery goods in the proper course of business; however, the customer already now assigns to the supplier all and any claims in the amount of the final invoice amount, including value added tax, which are due to him from the resale against his purchaser or third parties, independent of the fact whether the delivery goods were resold without or after processing. The customer shall be entitled to collect this claim also after its assignment. The supplier's power to collect the claim himself remains unaffected; the supplier, however, agrees not to collect the claim as long as the customer meets his payment obligations properly and is not delinquent. In this case, the supplier may request the customer to disclose the assigned claims and their debtors, to provide the information required for collection, to provide the relevant documentation and to inform the debtor (third party) about the assignment.
- (4) The processing and transformation of the delivery goods by the customer shall always be performed for the supplier. If the delivery goods are processed together with other objects not belonging to the supplier, the supplier shall obtain co-ownership in the new object in the proportion of the value of the delivery goods to the other processed objects at the time of processing. Otherwise, the same provisions as for reserve goods shall apply to the matter created by processing. The customer shall also assign to the supplier the claims for securing the supplier's claims which are due to the customer against a third party by joining the delivery goods with a real property.

- (5) If the delivery goods are mixed inseparately with other objects not belonging to the supplier, the supplier shall obtain co-ownership in the new object in the proportion of the value of the delivery goods to the other mixed objects at the time of mixing. If the mixing is done such that the matter of the customer is to be deemed a main component, the parties agree that the customer shall assign to the supplier proportional co-ownership. The customer shall keep the sole property or co-property for the supplier. The customer shall insure it in the usual scope against usual risks such as e.g. fire, theft, water, and similar. The customer shall already now assign to the supplier the customer's claims for compensation which are due to him from damages of the above mentioned type against insurers or other third parties, in the amount of the invoice value of the goods.
- (6) If the realisable value of the securities due to the supplier exceed the supplier's total claims by more than 10%, the supplier shall be obliged to release in the supplier's discretion securities on request of the customer or a third party affected by the excessive security.

XIV. Repair conditions

- (1) The orderer (customer) agrees through a legally binding declaration (Declaration of Decontamination) to thoroughly clean the devices or parts which are meant for repair or maintenance in order to exclude any hazard for the independent contractor through re-contamination. The devices must be sent to the supplier free of any flammable, toxic, caustic, noxious, irritant or other substances detrimental to health. The Declaration of Decontamination must be affixed to the external packaging used for the devices. If no Declaration of Decontamination is affixed to the delivery, ProMinent has the right to refuse acceptance of the devices.
- (2) If a cost estimate is prepared on order of the orderer, the costs incurred in this connection may be charged to the orderer, independent of the fact whether a repair order is issued subsequently or not. Because the search time for defects is working time, the time expended and to be proven shall be charged to the orderer if an order cannot be executed because:
 - a) the defect complained about could not be determined, observing the rules of technology;
 - b) the order was withdrawn while executing the order;
- (3) The warranty period for all and any workmanship (repairs) as well as for built in material shall be six months. Otherwise, the warranty rules for suppliers and services from item VIII shall apply.
- (4) The payment terms from item IV shall apply. In addition, the following retention of title shall be agreed:
 - a) To the extent the replacement parts or similar built in during repairs do not become material components, the independent contractor shall reserve retention of title in these built in parts until the settlement of all and any claims of the independent contractor from the contract.

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- b) If the orderer delays in payment or does not meet the orderer's obligations from the retention of title, the supplier shall be entitled to request the return of the object for the purpose of removing the built in parts. All and any costs of the return and the removal shall be borne by the orderer.
- c) If the repair is performed at the orderer's premises, the orderer shall give the supplier the opportunity to perform the removal at the orderer's premises. Labour and travel costs shall be at the expense of the orderer.
- (5) The place of jurisdiction for all disputes arising from this contract shall be the place of business of the contractor, if the person ordering is a merchant. However, the contractor is also entitled to institute legal proceedings at the place of business of the person ordering.

XV. Terms and conditions for the participation in the exchange device programme

- (1) The exchange device programme applies to pumps without Profibus interface and without self-ventilation as well as for amperometric sensors.
- (2) The purchaser agrees with the participation in the exchange device programme that the device is assigned to ProMinent Dosier-technik GmbH. By delivering the device, the ownership in the delivered devices shall pass on to ProMinent Dosier-technik. In return, the purchaser shall receive a used, similar and at least equal device.
- (3) Within the scope of each exchange process, a maximum of 5 exchange devices per customer may be ordered.
- (4) Already exchanged devices can no longer participate in the exchange device programme.
- (5) The warranty for exchange pumps shall be 6 months.

XVI. Place of jurisdiction and applicable law

- (1) The place of jurisdiction for all and any disputes arising out of the present contract shall be the supplier's headquarters, provided the customer is a merchant: The supplier, however, shall be entitled to file action at the customer's headquarters.
- (2) German law shall apply to the contractual relationships. The UN Convention on the International Sale of Goods (CISG) shall be excluded.

XVII. Severability

Should any individual provisions of the present contract be legally ineffective, the validity of the remaining provisions shall in no way be affected. This shall not apply if abiding by the contract would constitute an unreasonable hardship for the other party to the contract.

ProMinent Dosier-technik GmbH