

General Conditions of Supply

allmineral Aufbereitungstechnik GmbH & Co. KG

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All deliveries executed by allmineral Aufbereitungstechnik GmbH & Co. KG (hereinafter called "the Supplier") are governed exclusively by the following conditions unless other co-determining documents are expressly agreed upon by the parties. Any deviating conditions provided by the other party in the tender or the purchase order will be valid only if accepted by the Supplier in writing, even if no express objections are made. Should specific conditions be agreed for individual orders or attached to the order, then such conditions will prevail over these General Conditions of Supply. In case the scope of supply includes supervision of erection and commissioning or erection and commissioning services the Supplier's General Terms and Conditions of Assembly apply, these are subordinate to these General Conditions of Supply. Should there be any discrepancies between two languages in bilingual texts, the English text will be binding. Only agreements in writing between the contracting parties will be valid.

I. Quotation and scope of supply

Supporting quotation documentation, such as illustrations, drawings, weight and measurement data, etc. is not binding unless expressly stated as such. The Supplier's written Acknowledgement of Order or scope as agreed in the contract is binding for the scope of supply. Any additions and alterations thereto need the written confirmation of the Supplier.

II. Prices and payment

- In the absence of any other agreement, the prices are to be understood on Ex Works basis excluding packing and loading, plus VAT at the current rate.
- If not stipulated otherwise, payment terms will be 40% down payment against presentation of a down-payment invoice and 60% to be covered by an irrevocable Letter of Credit (L/C) of sufficient validity opened by a first-class rated bank and confirmed by a reputable bank in Germany. Payments against the L/C will be effected at sight on presentation of the shipping documents. All costs arising in connection with the opening of the L/C are to be borne by the purchaser. The L/C is to be opened within 6 weeks after contract signature or date of order acknowledgement. Payments are due within 30 days from the date of invoice.
- Payment retention or offsetting against any claims by the purchaser and disputed by the Supplier are not admissible.
- If an instalment is agreed to be paid on conclusion of the acceptance inspection, it will be due 3 weeks after completion of manufacture at the latest, should the acceptance inspection be delayed for reasons beyond the control of the Supplier.
- Overstepping the payment deadline or delayed opening of L/C will after a formal reminder attract default interest of 9% above the average EURO Interbank Offered Rate (EURIBOR) for the 12 months applicable on due date on the due payment and total order value respectively.

III. Delivery date and period

- The delivery period commences with the date of receipt of the down payment but not before the purchaser has provided the necessary documents, authorisations, clearances, etc.
- The delivery date is seen to have been met if the contractual goods are delivered in accordance with the agreed delivery term (INCOTERMS 2020) or readiness for shipment has been reported prior to the agreed date.
- The delivery period will be extended appropriately in the event of a Force Majeure case as stipulated in clause XI. This also applies to such an event experienced by sub-contractors. The Supplier bears no responsibility for such events, even if they arise during an already existing delay. The purchaser is to be notified by the Supplier of the occurrence and clearance of such event without delay.
- If the purchaser suffers damage as a result of a delay due to the Supplier's fault, then the former is entitled to claim liquidated damages. In proven cases, the max. liquidated damages amount to 0.5% per full week's delay, however maximum 5% of the value of that part of the total scope of supply which cannot be used punctually or in accordance with the contract as a result of the delay.
- Should a shipment be delayed at the request of the purchaser, the latter will be charged with the resultant storage costs at a rate of minimum 6 EUR/m²/month or more at actuals and as verified, beginning with the month following the notification of readiness for shipment. Furthermore, following the setting and unsuccessful expiry of a reasonable deadline, the Supplier is entitled to use the contractual goods elsewhere and supply the purchaser according to an appropriately extended deadline.

IV. Passing of risk

- The passing of risks shall be in accordance to INCOTERMS 2020. At the request of and cost to the purchaser, the Supplier has to insure the shipment against pilferage, breakage, transport, fire and water damage as well as other insurable risks.
- Should the shipment be delayed for reasons within the control of the purchaser, then the risk passes to the purchaser on the date of readiness for shipment, however the Supplier is obliged to effect any insurance requested by the purchaser at the latter's cost.
- Notwithstanding the rights arising under VI below, the purchaser is obliged to accept delivered items, even if they exhibit insignificant defects.
- Part-shipments are admissible.

V. Retention of title

The Supplier reserves the right of ownership of the deliveries until full payment from the purchaser has been received. If purchaser fails to pay in time Supplier shall have the right to withdraw from the contract as stipulated in clause IX. 6. and to demand the return of the goods. At the same time the purchaser shall undertake to return the deliveries and to pay for the resulting costs. If the return of the deliveries is not possible, then purchaser shall commit himself to pay damages and compensation. In case of seizures or other intervention by third parties, purchaser shall be obliged to notify the Supplier immediately.

VI. Liability for delivery defects

The liability of the Supplier for delivery defects, including the absence of expressly guaranteed features, is limited to the following:

- At the reasonable discretion of the Supplier, all parts which within 12 months of commissioning turn out to be unsuitable or the use of which is seriously impaired as a result of circumstances originating prior to transfer of risk – in particular faulty design, poor material or defective execution – are to be corrected or replaced free of charge. The discovery of such defects is to be notified to the Supplier without delay. Any replaced parts are the Supplier's property.
- The warranty period is 12 months from commissioning, however at the latest 18 months from notification of readiness for shipment.

- No warranty is assumed for damage caused by the purchaser or third parties due to the following: unsuitable or incorrect use, faulty erection or faulty operation and handling the use of non-original spare parts, faulty civil work, insofar as they are not attributable to the fault of the Supplier, plus normal wear and tear.
- After prior consultation, the purchaser is to grant the Supplier sufficient time and opportunity to undertake the repairs and replacement deliveries considered necessary according to the reasonable discretion of the Supplier, otherwise the Supplier is discharged from defect liability. Only in urgent cases threatening operational safety or to avert serious damage (in which case the Supplier is to be notified without delay) or if the Supplier defaults on the elimination of the defect, is the purchaser entitled to correct the defect himself or have it corrected by third parties and to claim reimbursement of the costs involved therein.
- The Supplier has to bear the direct costs arising from repairs or replacement deliveries (insofar as the complaint is shown to be justified and the subsequent costs actuated by the Supplier), the cost of replacement parts including their shipping costs, plus dismantling and installation costs; furthermore, provided that such costs can be justifiably claimed in individual cases, the assignment costs of the Supplier's erection supervisor and personnel. All other costs are to be borne by the purchaser.
- A twelve-month warranty is given on replacement parts and repair work; however, this warranty does not extend the original warranty period for the remaining contractual goods.
- Should the purchaser or third parties conduct improper alterations or repairs without the prior approval of the Supplier, no liability is assumed for the consequences arising there from.

VII. Acceptance

After completion of the work the Supplier shall notify the purchaser in writing of his readiness for acceptance. Within 10 working days the purchaser shall declare the acceptance or, however, refuse the acceptance in written form by indicating the reasons. The certificate of acceptance cannot be refused in case of minor deficiencies which do not or do not substantially impair the operation of the machine/plant and if the Supplier commits himself to immediately remedy them. If the above mentioned period passes without one of the above mentioned declarations having been received by the Supplier, the machine/plant shall be deemed to be accepted. The machine/plant shall also be deemed to be accepted if the purchaser takes it into use without written consent of the Supplier.

VIII. Limitation of liability

As far as legally admissible the Supplier shall not be liable for indirect and/or consequential damages, especially not for damages due to loss of production and profit. All payments to be possibly made by the Supplier, including but not limited to contractual penalties and indemnification shall be limited in total to 10% of the total contract value.

Claims for damages by the purchaser against the Supplier are excluded for slight negligence. This expressly excludes claims from a guarantee, in the event of injury to life, body or health, claims from strict liability in accordance with the Product Liability Act and the slightly negligent breach of essential contractual obligations. The Supplier's liability for a slightly negligent breach of such essential obligations is limited to 5 million euros. Insofar as this sum does not cover the typical damage that was foreseeable at the time the contract was concluded, the Supplier is also liable for the excess amount. This also applies to the grossly negligent act of simple vicarious agents. Insofar as the Supplier's liability is excluded or limited, this also applies to the personal liability of his employees, workers, representatives and vicarious agents.

Any limitations of liability shall only be applicable if and as far as they do not violate compulsory laws, e.g. not in case of wilful misconduct.

IX. Termination of contract

Both parties can terminate the contract with immediate effect for important reasons. Important reasons are especially:

- if the other party becomes bankrupt or insolvent, goes into liquidation or files for judicial or extrajudicial reorganization proceedings
- fraud or wilful misconduct committed by the other party in connection with the performance of a contract between the parties
- infringement of intellectual property by the other party
- breach of any anticorruption or sanction provisions by the other party
- the Supplier's severe non-compliance with its material obligations under a contract between the parties and failure to remedy its obligations after a written reminder within a reasonable time period
- delay of payment or delay of opening of the L/C by the purchaser of at least 30 days after a written reminder
- the purchaser's non-compliance with any of its obligations under a contract between the parties which directly the Supplier from executing its contractual obligations and that is not remedied by the purchaser after a written reminder within a reasonable time period

In the event of termination for important reasons, the terminating party must be treated as if the contract had been properly fulfilled. In the event of termination by the purchaser, clause VIII applies.

X. Export clause

The provision of deliveries and services (the fulfilment of contract) shall be under the provision that fulfilment is not being restricted by any national or international regulation, particularly export control regulations and embargoes or any other restrictions. Both parties shall obligate themselves to provide all information and documentation needed for the export/domestic shipment/import. Delays caused by export checks or licensing procedures shall override any lead times or deadlines stipulated. If any required licenses for certain items cannot be obtained, the contract shall be considered as not concluded regarding the items in question; because of this and of above mentioned transgression of deadlines, any claims for damages shall be excluded.

XI. Force majeure

As cases of force majeure are considered all such events that are unforeseeable at the time of conclusion of the contract and are unavoidable even with due observance of the necessary care, such as natural events, war, labour disputes (this is not referring to the staff of the contract parties) etc. This shall also apply if such events occur with sub-suppliers. During the period of force majeure the contractual obligations and rights shall be suspended. The party concerned shall inform the other party without delay on the beginning and the cause of the delay and later on the cessation thereof. The case of Force Majeure has to be confirmed in written form by the Chamber of Commerce. If force majeure lasts for at least 12 months, both parties shall be entitled to rescind the contract in writing.

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The logo for allmineral, consisting of the word "allmineral" in a white, lowercase, sans-serif font, centered within a solid teal square.

The cancellation of the contract liberates the contract parties from their contractual obligations, with the exception for their liability for damages. The cancellation of the contract does not influence the contractual conditions of settlement of disputes or other conditions of the contract, in respect of rights and obligations both parties have after its cancellation. Has one party fulfilled the contract in total or partially, the party can claim for the reimbursement of its services. Both parties are committed to return the fulfillments step by step or to compensate.

XII. Confidentiality

Both parties are obliged to keep confidential all confidential documents and all confidential information received in connection with a contract between the parties and its execution and they shall not disclose such documents or information to any third party nor exploit for its own purposes (except for the fulfillment of the contract). Employees and third parties shall be bound accordingly. The non-disclosure obligation shall remain in force indefinitely.

The obligations shall not apply with respect to any information to the extent that such information: (i) is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the information recipient; (ii) is in the information recipient's possession at the time of disclosure otherwise than as a result of his breach of any legal obligation; (iii) becomes known to the information recipient through disclosure by sources other than the information owner having the legal right to disclose such information; or (iv) is required to be disclosed by the information recipient to comply with applicable laws or governmental regulations; provided that the information recipient provides prior written notice of such disclosure to the information owner, as far as legally permissible.

The information recipient bears the burden of proof for such exceptions.

XIII. Intellectual property protection

Drawings, samples and other documents which Supplier provides to the purchaser for reasons of the contract shall remain the Supplier's property or the property of the owner(s) of the IP rights (intellectual property rights). They may only be used for the fulfillment of the respective contract and must be returned to Supplier at any time upon request.

XIV. Arbitration clause and governing law

Any disputes and dissensions arising from or in connection with a contract between the parties shall, as far as possible, be resolved by negotiations of both parties. If by negotiation no agreement is reached the matter shall be finally and bindingly settled at the arbitration court of the International Chamber of Commerce in Zurich, thereby excluding court proceedings. Swiss law shall apply to the exclusion of all foreign laws and CISG. The language of the arbitration proceeding shall be English.

XV. Safeguarding provisions

Should one or more of these Conditions of Supply be or become invalid, the validity of the remaining conditions will be unaffected.

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