

I. Scope of application

1. Our Delivery Conditions and Terms of Payment apply exclusively. They take precedence over any conflicting or deviating terms and conditions of the Client, unless these are expressly accepted by us in writing. We do not recognize conflicting or deviating conditions even if we execute an order of the Client without reservation despite knowledge of them.
2. Our terms of delivery and payment also apply to all future business with the Client. The version in force at the time of conclusion of the contract prevails.
3. Subject to proof to the contrary, a written agreement or our written confirmation is decisive for the content of agreements made with the Client in individual cases (including ancillary agreements, supplements and amendments).
4. Legally relevant declarations and notifications by the Client (e.g. setting of deadlines etc.) must be made in writing or text form (e.g. by letter, e-mail, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the person making the declaration, remain unaffected. Upon request, a contact person is to be named to us for the clearance of technical and commercial questions and for any acceptances or the granting of approvals.

II. Nature and scope of delivery

1. Our offers are subject to change and non-binding. This also applies if we have provided the Client with catalogues, technical documentation (e.g. drawings, plans, calculations, estimates), product descriptions or other documents.
2. A contract is only concluded when we confirm an order placed by the Client in writing on the basis of an offer, or when we carry out the underlying order.
3. Our written order confirmation or, in the absence of such, our offer is decisive for the content of the contract, i.e. parts, accessories, services or ancillary work not listed in the order confirmation or offer are not part of our scope of delivery.
4. Details in the documents accompanying offers such as drawings, illustrations, details of weights, dimensions and cut-out dimensions etc. are only approximately authoritative unless they are expressly designated as binding.
5. Offers are made on condition that the media (electricity, water, air, etc.) used in the operation of the plant and to be provided by the Client are suitable for the intended use.
6. Any ancillary work (e.g. bricklaying, caulking, plastering, carpentry, earthwork, electrical work, painting) is not included in the offer. They will be charged separately if carried out by us. The same applies to any ancillary construction costs, such as electricity and water.
7. Additional assembly work which has to be carried out or repeated for reasons for which we are not responsible will be charged separately.
8. Any changes to be made at the request of the Client after the order has been confirmed or our offer has been submitted will be charged separately.
9. If unforeseen circumstances for which we are not responsible and which necessitate additional expenditure over and above the original scope of the order occur at the Client's premises, this additional expenditure is to be reimbursed by the Client if it was necessary for the fulfilment of the contract and the Client did not immediately object to our notice in this respect.

III. Prices and payments

1. Prices in our offers are only valid if all parts are ordered.
2. For deliveries and services which, according to the contractual agreement, are provided later than four months after the conclusion of the contract, we may invoice any wage and/or material price increases which have occurred after the conclusion of the contract. The same applies to deliveries and services which, due to circumstances in the Client's responsibility, are factually only provided after four months from conclusion of the contract.
3. Unless expressly agreed otherwise, all prices quoted in Euro are ex works. Freight, customs duty and other necessary incidental expenses must be borne by the Client. Any applicable value added tax will be invoiced additionally. Packaging will be charged at cost price; it will not be taken back.
4. The Client bears the respective costs incurred should changes in laws, standards, regulations, required permits, etc. occur after conclusion of the contract, which also includes changed delivery times and delivery periods.
5. Within the Federal Republic of Germany, the following payment periods apply unless expressly agreed otherwise:
 - a) For delivery only: Within 8 calendar days after receipt of invoice. in cash without deduction.
 - b) For delivery with assembly: Within 8 calendar days after receipt of invoice, in cash without deduction.
 - c) For orders with a value of more than EUR 5,000.00, reasonable advance payments are to be made by the Client upon confirmation of the order and upon notification of dispatch. The size of each instalment shall be laid down in the contract.

Upon expiry of the aforementioned payment deadlines, the Client will be in default without a separate reminder being required in this respect.

6. For deliveries and services outside the Federal Republic of Germany, unless expressly agreed otherwise, 1/3 of the agreed order amount is to be paid upon conclusion of the contract, 2/3 by bank guarantee of a European bank which is subject to the deposit guarantee systems pursuant to EU Directive 2014/49/EU and has an AA rating from Standard and Poor's Corporation (S&P), after notification of readiness for shipment. Dispatch will not be made before the bank has confirmed the bank guarantee order in writing.
7. We are not obliged to accept cheques and bills of exchange. Cheques and bills of exchange are deemed to be payment only on the day they are credited to our account. Any possible charges must be borne by the Client.
8. If the Client is in default of payment, we will assert default interest at the statutory rate. We reserve the right to assert further damage caused by delay. With respect to merchants, our claim to the commercial due date interest (Section 353 German Commercial Code (HGB)) remains unaffected.
9. The Client shall only be entitled to set off payment and assert rights of retention or rights to refuse performance if the Client's counter-claims are either undisputed or legally established. The assertion of a right of retention further requires that the claims originate from the same contractual relationship. In the event of defects in the delivery or service, the counter-rights of the Client remain unaffected, in particular in accordance with Clauses IX and X of these Conditions.

10. If, after conclusion of the contract, we become aware of facts that call into question the Client's ability to perform and thus jeopardize our claim to performance, we are entitled to make further performance of the order dependent on a reasonable advance payment or corresponding security deposit, or to withdraw from the contract after expiry of a reasonable deadline set by us for the advance payment or security deposit.

IV. Delivery times – Force majeure

1. A delivery period commences at the earliest with the dispatch of the order confirmation, but not before the point in time at which clarification and agreement on all technical details and contractual conditions has been reached between the Client and us, and not before receipt of an agreed down payment. If the Client subsequently requests changes, the delivery period will be extended accordingly.
2. The fulfilment of our delivery obligations requires that the Client is not in default of payment and that they perform all contributing acts required for delivery in accordance with the contract properly and in due time. In particular, the Client is required to provide in good time and at their own expense the permits and documents required for the construction and operation of the installation. If we assist them in this, the Client also bears the costs incurred by us as a result.
3. The delivery period is deemed to have been met if the delivery item has left our works or notification of readiness for dispatch has been given by the time the delivery period expires.
4. If we are unable to meet binding delivery deadlines due to force majeure or other reasons for which we are not responsible, we will inform the Client immediately and at the same time give notice of the expected new delivery deadline. If performance is not possible either within the new delivery period, we are entitled to withdraw from the contract in whole or in part; we will immediately reimburse any compensation already paid by the Client. Reasons for a delay in delivery which are equivalent to force-majeure and for which we are not responsible include, but are not limited to, industrial disputes, official measures, energy shortages, major operational disruptions and the failure of our suppliers to deliver to us in good time if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case.
5. The occurrence of a delay in delivery will be determined in accordance with the applicable legal provisions. A reminder by the Client is required in any case. In the event of a delay in delivery, any claims of the Client for lump-sum compensation of damage incurred by
6. The delay will be limited to 0.5% of the net order value for each completed calendar week of the delay, but no more than a total of 5% of the net order value. We reserve the right to prove that the Client has suffered no damage at all or only significantly less damage than the aforementioned lump sum.
7. The Client's rights pursuant to Clause X and XI of these Conditions and our statutory rights remain unaffected.

V. Delivery and transfer of risk

1. Deliveries are made ex works, which is also the place of performance for the delivery and any subsequent performance. Deliveries can also be made to another destination at Client's request and expense. Unless otherwise agreed, we are entitled to determine the type of shipment ourselves (in particular transport company, shipping route, packaging).

2. We are entitled to deliver partial quantities to the extent as this is reasonable for the Client. Objections to partial quantities do not release the Client from the obligation to accept the remaining quantity of the ordered delivery in accordance with the contract.
3. The risk passes to the Client when the delivery items are handed over to the carrier, even if partial deliveries are made or if we have assumed other services, e.g. shipping costs or delivery and installation.
4. If acceptance has been agreed, this is decisive for the transfer of risk. The handing over or collection is the equivalent if the Client is in default of acceptance.
5. If the Client is in default of acceptance, if they fail to cooperate or if our delivery or performance is delayed for other reasons for which the Client is responsible, we are entitled to demand compensation for the damage incurred by us as a result, including any additional expenses (e.g. storage costs). For this, we charge a lump-sum compensation of 0.5% of the net order value for each month starting with the delivery deadline or, in the absence of a delivery deadline, the dispatch notification.
6. The proof of higher damage and our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) remains unaffected; however, the lump sum according to Clause V.5 is to be offset against further monetary claims. The Client is entitled to prove that we have not incurred any damage at all or that the damage is significantly less than the lump sum pursuant to section V.5.

VI. Installation

1. Unless expressly agreed otherwise, assembly work shall be carried out in accordance with our current General Terms and Conditions of Service, which are available at <http://www.deaxo.com>.
2. The Client is required to take over and provide in good time at their own expense:
 - a) All earthwork, foundation work, tinsmithing, roofing, steel construction, building work and other ancillary work outside the trade, as well as the opening and closing of breakthroughs, slots, core drilling, inspection facilities in walls, ceilings and shafts, electrical, cabling and control services, insofar as they have not been explicitly commissioned to us, including skilled and unskilled labour, building materials and tools required.
 - b) The items and materials required for installation and commissioning, such as scaffolding, lifting gear and other equipment, fuels and lubricants.
 - c) Energy and water at the point of use, including connections, heating, lighting, de-watering, winter construction closure and heating.
 - d) Sufficiently large, suitable, dry and lockable rooms at the installation site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the installation personnel, including sanitary facilities appropriate to the circumstances; in addition, the Client must take the same measures for the protection of the Supplier's property and the assembly personnel at the construction site as the Client would take for the protection of their own property.
 - e) Connection and development services, and coordinated and approved planning documents as a basis for performance.
 - f) Expert reports, permits, acceptances, maintenance and operator services, taxes and duties.

We can provide these services at the Client's expense if they cannot be provided by the Client.

3. Prior to the start of the installation work, the Client must provide the necessary information on the location of concealed electrical wiring and gas and water lines or similar installations as well as the required structural data without being requested to do so.
4. Prior to the commencement of installation or assembly, the materials and objects required for the commencement of the work must be available at the site of assembly or installation, and all preparatory work must have progressed to such an extent that assembly or installation can be commenced as agreed and carried out without interruption. Access routes and the installation or assembly site must be levelled and cleared.
5. If the installation, assembly or commissioning is delayed due to circumstances for which we or our vicarious agents are not responsible, the Client bears the costs for waiting time and any additional necessary travel by the Supplier or the installation workers to a reasonable extent.
6. The Client must immediately, but at least daily, certify to us or our vicarious agent the duration of the working time of the installation personnel as well as the completion of the installation, assembly or commissioning.
7. If we request acceptance of the delivery after completion, the Client must do so within two weeks, even if a final adjustment has not yet been made. If this is not done, acceptance is deemed to have taken place. Acceptance is also deemed to have taken place when the delivery has been put into use, if necessary after completion of an agreed test phase.

VII. Reservation of title

1. We reserve title to all items delivered until the purchase price has been paid in full and until all claims to which we are entitled from the business relationship with the Client have been settled. In the event of any outstanding current account balance, we reserve the right of title until the balance is settled; in respect of the acceptance of bills of exchange or cheques, until they have been cashed.
2. If the reserved title ceases to exist as a result of processing, combining or mixing, we become the owner or co-owner of the resulting new item in proportion to the value of our items to that of the new item. The Client will take the latter into safekeeping for us. The Client further undertakes to transfer to us any claims or new co-ownership on the Client's part arising from the loss of our reserved title.
3. In the event of conduct in breach of contract on the part of the Client, including but not limited to non-compliance with the agreed payment dates, we are entitled to withdraw from the contract after the expiry of a reasonable grace period, and the Client is obliged to surrender the delivery items. As far as these have become essential components of a property, the Client undertakes to allow us to dismantle the items that can be removed without materially affecting the building structure and to transfer the ownership of these items back to us. If the Client impairs these rights, they are obliged to compensate us for damages. Disassembly and other costs must be borne by the Client.
4. The Client is entitled to process and sell the delivered items. Any claims against third parties arising from resale are hereby assigned to us without the need for a special agreement in the individual case. We accept the assignment.
5. As long as the Client meets their payment obligations towards us and there is no other deficiency in their ability to pay, the Client is authorized to collect the assigned claims in trust for our account. All proceeds must be transferred to us without delay. The Client hereby authorizes us to notify the third party debtor of the assignment.

6. The Client may not pledge any items subject to retention of title to third parties, including but not limited to financing institutions, or assign them as security without our written consent. The Client must notify us immediately of any action by third parties on the goods or equipment subject to retention of title or the claims obtained through their sale, in particular through seizure. Resale in insolvency is not permitted; our rights under Section 48 German Bankruptcy Act (InsO) remain unaffected.
7. All items subject to retention of title must be insured against fire, water and theft. All claims against the insurer in this context are hereby assigned to us.

VIII. Software

1. Notwithstanding any other written provisions, software programs as well as associated documentation provided to the Client may only be used for the operation of the equipment previously determined and specified to us in writing. The Client is granted the non-exclusive, non-transferable right to use the software. The Client may not reproduce, modify or make programs available to third parties without our prior written consent. These provisions also apply to amended or supplemented programs. In the event of a resale or transfer, the Client will impose the undertaking of this provision on the transferee. We only assume the obligation to create and maintain software to the best of our abilities and knowledge. In particular, we do not give any assurance with regard to complete fault elimination or usability for a specific purpose.

IX. Acceptances

1. If acceptance has been agreed or if mandatory statutory provisions provide for acceptance, it will solely take place in the delivery plant or in our warehouse, immediately after notification of readiness for acceptance, unless installation and/or assembly has also been agreed. Personal acceptance costs shall be borne by the Client, they will be charged any material acceptance cost in accordance with the hourly rates of the delivery plant or the costs factually incurred by us.
2. If, at the Client's request and following our approval, acceptances are carried out at locations other than those listed in Clause IX.1, the Client shall bear the additional costs incurred by us as a result.
3. If the acceptance is not carried out, not carried out in time or not carried out completely through no fault of ours, we are entitled to dispatch the delivery without acceptance or to store it at the Client's expense and risk, and to charge the Client for it if the non-acceptance is due to a fault of the Client. The delivery will then be deemed to have been accepted.

X. Client claims for defects

1. The assertion of claims for defects by the Client presupposes that the Client has properly met their obligations to inspect and give notice of defects in accordance with Section 377 of the German Commercial Code (HGB).
2. We guarantee that the ordered item is free of defects at the time of the transfer of risk.
3. No warranty is given for normal wear and tear, nor for damage resulting from faulty or negligent handling by the Client or as a result of negligent non-compliance with our operating and maintenance instructions, unsuitable operating materials, defective construction work, force majeure or other reasons for which we are not responsible.
4. If the delivery item has to be assembled, a liability under warranty for defects caused by assembly errors only applies if the assembly is carried out by our technicians or technicians commissioned by us.

5. The assumption of warranties regarding the mode of operation or performance applies with the reservation that all necessary and contractually agreed prerequisites are met by the Client.
6. For deliveries based on third-party performance specifications, we warrant the services required in the respective performance specifications and the operation of the individual units to the extent specified above. No warranty is given for the correctness and adequacy of such data in terms of planning or overall planning.
7. If our delivery or service is defective, we may first choose whether to provide supplementary performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). The Client must give us the necessary time and opportunity for this. Our right to refuse supplementary performance under the legal conditions remains unaffected.

We are entitled to make the supplementary performance owed dependent on the Client paying the contractually agreed remuneration for our delivery or service. However, the Client is entitled to retain a part of the remuneration that is reasonable in relation to the defect.

We bear the expenses necessary for the purpose of inspection and supplementary performance if a defect is factually present. Otherwise, we may demand reimbursement from the Client for the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognizable to the Client.

If the supplementary performance has failed or if a reasonable deadline for such set by the Client has expired unsuccessfully or is dispensable according to legal provisions, the Client may withdraw from the contract or reduce the contractually agreed remuneration. The right of withdrawal is precluded in the event of an insignificant defect.

8. The limitation period for claims for defects is one year from delivery. If acceptance has been agreed (e.g. Deliveries with installation), the limitation period begins with acceptance. Special statutory provisions on the statute of limitations remain unaffected.
9. Claims for damages by the Client due to the defect remain unaffected and exist exclusively in accordance with Clause XI.

XI. Liability

1. In the event of intentional or grossly negligent breaches of duty by us, our representatives or vicarious agents, we are liable in accordance with the legal regulations. The same applies in the event of a culpable breach of material contractual obligations. Unless there is an intentional breach of duty, we will, however, only be liable for the foreseeable, typically occurring damage.
2. Liability for culpable injury to life, limb or health and liability under the German Product Liability Act remains unaffected.
3. Any other liability of us is excluded.

XII. Exercise of the Client's rights

1. If the Client has set us a reasonable deadline for performance or supplementary performance in accordance with Sections 281, 323 German Civil Code (BGB), and if this deadline has expired unsuccessfully, the Client undertakes to inform us in writing within a reasonable period of time, usually two weeks after receipt of a corresponding written request, whether the Client will claim damages instead of performance or withdraw from the contract.
2. If the Client fails to notify us of this in time, their entitlement to fulfilment of the contract expires.

XIII. Contract documents - Non-disclosure

1. We reserve the property rights and copyrights to our offer and all documents we have made available to the Client. These may be used exclusively for the execution of the contract concluded with the Client. They must be returned to us without request upon termination or completion of the contract.
2. The Client undertakes to keep the offer and all other documents confidential. This obligation to maintain secrecy shall also apply after the contract has been completed. It does not apply to publicly available information, the knowledge of which does not constitute a breach of contractual duty by the Client.

XIV. Partial nullity

1. Should any of the above conditions be invalid in whole or in part, the validity of the remaining conditions remains unaffected. In such an event, the invalid provision shall, if possible, be reinterpreted or supplemented in such a way that the economic purpose intended by the invalid provision is achieved or approximated as closely as possible.

XV. Place of performance and jurisdiction

1. The place of performance and jurisdiction is the place of business of our branch office that received the order. However, we are also entitled to file an action at the general place of jurisdiction of the Client.
2. This contract shall be governed exclusively by German law, excluding international uniform law, in particular but not limited to the UN Convention on Contracts for the International Sale of Goods.