



## GENERAL TERMS AND CONDITIONS

---

### General Terms and Conditions of Sales and Delivery for Machinery and Equipment

---

#### I. Scope of application

The General Terms and Conditions of Sales and Delivery for Machinery and Equipment cited below shall apply to all Premium Stephan agreements with Customers regarding the delivery of machinery, equipment, accessories, replacement parts and machine components. All deliveries, services and offers are governed exclusively by these General Terms and Conditions of Sales and Delivery. Unless explicitly accepted by Premium Stephan, any deviating conditions of purchase of the customer shall be non-binding, even if Premium Stephan does not expressly object to the customer's General Terms and Conditions.

#### II. Conclusion of agreement

1. All offers are subject to confirmation and non-binding. Any agreement becomes effective only by Premium Stephan's written order confirmation.
2. Premium Stephan reserves the unlimited right of ownership as well as copyright and usage right over all estimates, technical drawings and other documents that are appended to an offer; these may only be placed at the disposal of third parties with Premium Stephan's prior written consent. Any technical drawings or other documents appended to an offer must be returned immediately upon request if the order is not awarded to the tendering party.
3. Drafts and plans upon which the offer is based are free of charge and non-binding. The proposed technical configuration and type selection must be checked by the customer prior to acceptance and use. The customer may not derive any claims against Premium Stephan or its employees on the basis of the offer.

#### III. Subject of the agreement

1. Premium Stephan's written confirmation of order shall be exclusively definitive with respect to the content of the agreement.
2. Protective devices are only supplied if such delivery is agreed in writing. Goods and services which are subject to safety regulations of the country of manufacture shall be fitted with those safety features as required by such safety regulations, unless deviation is permissible by such regulations. It shall be the responsibility of the customer to specify the safeguards and other safety measures needed.
3. Any technical data, illustrations drawings other than certified drawings, as well as measurements and weights stated in brochures, offers and other printed material merely serve to describe the products in questions and any values provided are to be considered as nonbinding average values. They shall not constitute a description of condition or quality and do not substantiate any guarantee of condition, quality or durability, unless explicitly stated in writing.
4. With the exception of any warranty obligations, if any, this agreement does not include the assembly of the components to be delivered, the installation or replacement or substitute devices, or the performance of repairs by Premium Stephan or persons instructed by Premium Stephan. These additional services shall be rendered subject to a separate service agreement and have to be concluded only in writing.



## **IV. Delivery**

1. Shipments are ex works from Premium Stephan in accordance with Incoterms 2000, even if partial delivery and delivery carriage-paid have been agreed.
2. If dispatch is delayed as a consequence of circumstances for which the customer is responsible, the risk of loss and damage shall be transferred to the customer on the day the goods are reported to be ready for dispatch. If the customer so requires, we shall in this case insure the consignment as required at the customer's expense. Storage costs incurred after the transfer of risk shall be for the customer's account. If storage takes place on Premium Stephan premises and if the delay lasts in excess of five working days, it is herewith agreed that the customer shall owe Premium Stephan flat-rate storage costs amounting to —1% of the invoice amount for each 30-day period of the delay. The right to assert further damages remains unaffected.
3. Excess or short weights and other deviations within customary limits shall be admissible and shall not entitle the customer to reject the acceptance of the goods or claim price reductions.
4. Partial deliveries are permissible, if the partial delivery may be used for the agreed purpose, the delivery of the remaining order items is ensured and the customer does not incur substantial additional expenditures.
5. The delivery schedules agreed in the order confirmation apply. In the case of deadlines and dates not specifically referred to as fixed confirmation of order, delivery dates are to be considered approximate and not firm.
6. In the event of cases of force majeure and other events beyond Stephan-Premium's reasonable control or if such events were not foreseeable at the point the agreement was entered into and which severely impedes or renders the delivery impossible, Stephan-Premium shall be released from its obligations under the respective agreement; in the event of impediments of a temporary nature, however, only for the duration thereof plus a reasonable grace period.

## **V. Prices**

1. The prices agreed in the confirmation of order shall apply. Prices shall be "ex works", excluding packaging, freight and insurance, for the scope of delivery listed in the confirmation of order. Extra or additional services, especially those rendered at the customer's explicit request, shall be charged separately.
2. All prices are subject to the applicable statutory Value Added Tax to the extent it is owed.
3. Premium Stephan may in the case of short-term cost increases adjust the purchase price accordingly, this does not apply, if the delivery is to be made during the 4 month period after the agreement has been concluded.
4. In the event of cancellation of the order / agreement, a 100 Euro cancellation charge will be applied, plus an additional charge (up to 100% of the respective product) will be invoiced, based on the content of work already completed at the time of cancellation.
5. Customer revisions and/or delays, that create incremental cost, will be charged for such costs.

## **VI. Payment terms**

1. Unless otherwise agreed in writing, Stephan-Premium invoices are to be paid within 30 days from the date of the invoice without any deduction. The receipt of payment at Premium Stephan is considered the effective payment date.
2. In the event of default Premium Stephan charges default interest in the amount of 8 percentage points above the applicable base interest rate according to Section 247 BGB [German Civil Code] per annum. The right to assert further damage remains unaffected.



3. Premium Stephan is entitled to demand advance payment or to demand collateral security prior to delivering outstanding consignments or to render outstanding services, if upon the conclusion of the agreement Premium Stephan becomes aware of circumstances that diminish the creditworthiness of the customer putting the payment of outstanding trade receivables by the customer at risk.
4. Offsetting with counterclaims of any kind by the customer, as well as the assertion of any retention rights is excluded, unless the counterclaim is uncontested or recognized by declaratory judgment.

## **VII. Reservation of title**

1. Premium Stephan retains the title to all goods delivered until all invoices relating to the business relationship with the customer have been paid in full ("goods subject to reservation of title"). The customer is obligated to keep the goods subject to reservation of title on behalf of Premium Stephan separate from other goods at its own expense and with the care of a conscientious businessman.
2. The customer may resell the goods subject to reservation of title within the proper course of business up to the occurrence of the enforcement event in accordance with Section 7.7. Pledges and assignments as security are not permissible. As a precaution, the customer herewith assigns in full to Premium Stephan any claims arising from the resale of the goods subject to reservation of title. The same applies to any other claims in lieu of the goods subject to reservation of title or that arise otherwise in regard to the goods subject to reservation of title, such as e.g. insurance claims or claims for tort in the event of loss or destruction.
3. The customer may, unless revoked, collect the accounts receivable assigned to Premium Stephan at its own expense. Premium Stephan has a right to revoke, if the customer fails to duly meet his payment obligations from the business relationship or Premium Stephan becomes aware of circumstances that significantly diminish the creditworthiness of the customer. Upon revocation, the customer is obligated to notify Premium Stephan regarding the assigned accounts receivable and their debtors without delay.
4. To the extent the value of the security interests that are due to Premium Stephan in accordance with these provisions exceeds the amount of all secured claims by more than 50 %, upon the customer's request Premium Stephan will release a corresponding portion of the security interests.
5. In the event of third party attachments to the goods subject to reservation of title, in particular by levy of attachment, the customer is obligated to indicate that the goods subject to reservation of title are the property of Premium Stephan and the customer is obligated to notify Premium Stephan without undue delay. Possible incurred intervention costs will be borne by the customer.
6. In the event the goods have been processed or have been combined, mixed, or comingled with other goods and the proportionate share of the respective goods may no longer be determinable and the goods subject to reservation of title are considered to be a significant part of the newly created object, the customer herewith assigns to Premium Stephan the co-ownership to the object to secure Premium Stephan's claims and the parties simultaneously agree that the customer is obligated to keep the new object on behalf of Premium Stephan separate from other goods.
7. In the event Premium Stephan cancels the agreement due to breach of contract by the customer - in particular in the event of default - (enforcement event), Premium Stephan is entitled to demand the return of the goods subject to reservation.



## **VIII. Warranties and Claims for Defective Goods**

1. The Customer is obligated to inspect the delivered goods immediately upon receipt in regard to integrity, completeness, identity and quality. The delivered goods are considered to be accepted, if Premium Stephan does not receive a detailed written notice of defect describing obvious or other defects that could be identified through diligent inspection within 10 days after receipt of the good or in the case of hidden defects within 10 days after the identification of the hidden defect. Any visible damage identified upon receipt of the goods must be reported to the shipping company or the driver immediately. Defective goods may only be returned after receiving Premium Stephan's consent.
2. In the event of material defects of the delivered goods the customer is only entitled to demand subsequent performance. Premium Stephan may, however, choose the type of subsequent performance (remedy of the defect or replacement). In the event the subsequent performance fails twice, the customer is entitled to a reduction of the purchase price or, in the event of a material defect the customer is entitled to withdraw from the agreement. If a defect is caused by negligence on the part of Premium Stephan, the customer may assert damages according to the conditions defined in Section 9.
3. Incorrect information on the processing of goods of our supply instructions or installation instructions or other information on use of the goods, does not give any right to claims for material defect with respect to the delivered items.
4. The Warranty period is twelve months after dispatch of the goods from the premises of Premium Stephan or its affiliates.

## **IX. Liability**

1. Premium Stephan's liability for damages, regardless of the legal grounds, is limited to the liability according to this Section 10. Premium Stephan is liable without limitation for intentional or gross negligent damages, as well as for claims arising from the Product Liability Act [Produkthaftungsgesetz] or for damages arising from injury to life, limb or health.
2. Premium Stephan is liable for damages caused by negligence only, if Premium Stephan violates material contractual obligations, i.e. the customer relied on the performance of such obligations and the customer rightfully relied on the performance of such obligations according to the nature of the contractual obligation. Premium Stephan's liability is limited in such cases to the damages typical and foreseeable for such agreements.
3. The restrictions of this Section 9 apply to the same extent in favor of the organs, legal representatives, employees and other vicarious agents of Premium Stephan.

## **X. Place of performance, place of venue, applicable law**

1. Unless otherwise stated in the order confirmation the place of performance is the registered seat of Premium Stephan, Hameln, Germany.
2. These General Terms and Conditions for Sale and Delivery and Premium Stephan's overall business relationship with the customer is governed by the laws of the Federal Republic of Germany without regard to conflict of laws principles and provisions. The application of the "United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980" is excluded.
3. The place of venue for any disputes arising from the business relationship between Premium Stephan and the customer is the registered seat of Premium Stephan, Hameln, Germany. Premium Stephan may also, at its option, file a suit at the registered seat of the customer.

Issued: 2014-09