

Standard Terms and Conditions of Supply

§ 1 Scope

- (1) All DOSATRONIC's supplies, services and offers will be carried out solely according to these Standard Terms and Conditions of Supply. These Standard Terms and Conditions of Supply form a constituent part of all contracts which DOSATRONIC enters into with its contractual partners (hereinafter "principal") for the goods or services which it offers. They will also apply to all future supplies, services or offers to the principal, even if this has not been separately agreed.
- (2) The standard terms and conditions of business of the principal or third parties will not apply even if, in a specific case, DOSATRONIC has not expressly stated that it will not accept them. Even if DOSATRONIC refers to a letter containing a reference to the terms and conditions of business of the principal or a third party this will not be deemed to constitute consent to such terms and conditions.

§ 2 Offer, conclusion of contract

- (1) All offers submitted by DOSATRONIC are non-binding and may be amended without notice unless they are expressly designated as binding or contain a deadline by which an offer must be accepted. DOSATRONIC can accept orders or contracts within 14 days of receipt.
- (2) The basis for the legal relationship between DOSATRONIC and the principal is solely the written purchase agreement including these Standard Terms and Conditions of Supply. The purchase agreement contains all understandings between the parties in respect of the subject of the contract. Any oral agreements which DOSATRONIC may have entered into before concluding this contract are not legally binding and oral agreements between the parties are superseded by the written contract unless this expressly states that they are to continue to apply and that they are binding.
- (3) Additions and amendments to the agreements including these Standard Terms and Conditions of Supply are not valid unless they comply with written-form requirements. No DOSATRONIC staff members other than its directors or authorised representatives (*Prokuristen*) are authorised to enter into any oral agreements which derogate from these Standard Terms and Conditions of Supply. For written-form requirements to be met it is sufficient for communications to be sent electronically, in particular by fax or email, provided the original document has been signed.
- (4) Any data that DOSATRONIC provides on the goods or services to be provided (such as weights, dimensions, fitness for purpose, strength, tolerances and technical data) and our visual representations thereof (such as drawings and illustrations) are only approximate unless the purpose to which the goods are to be put makes exact compliance necessary. They do not constitute guaranteed attributes (*garantierte Beschaffenheitsmerkmale*) and are merely descriptions or designations of the goods or services to be provided. Differences and discrepancies which are customary in the trade and which arise as a result of legal requirements or technical improvements and substitution of components by equivalents are permitted in as far as they do not impair their fitness for the contractually agreed purpose.
- (5) DOSATRONIC will retain any title and copyright in all documents such as offers, estimates, illustrations, drawings, calculations, brochures, catalogues, models, tools and other documents or aids which it provides. The principal may not disclose these items or the content thereof to third parties or make them known or use them itself or allow them to be used by third parties or make copies of them without DOSATRONIC's express consent. At DOSATRONIC's request the seller will return them to DOSATRONIC and destroy any copies which it may have made once it has no further need for them in the ordinary course of business or if negotiations do not lead to a contract being signed. This does not include saving electronic copies of data provided for data back-up purposes.

§ 3 Prices and payment

- (1) Prices will apply to the scope of supply and service set out in our confirmations of order. Any additional or separate performance will be settled separately. Price are quoted in euros ex works plus packaging, VAT at the statutory rate, customs duties (for exports) and fees and other public charges.
- (2) Where the agreed prices are based on DOSATRONIC's list prices delivery is not scheduled until more than four months after the contract has been signed, the prices of the goods/services supplied will be the DOSATRONIC list prices as applicable at the time of supply (less any agreed percentage or fixed discount).
- (3) a) Invoices will be due for payment within 30 days without deductions unless otherwise agreed in writing. Whether the payment is timely will depend on when it is credited to DOSATRONIC's account. Cheque payments are not accepted unless specifically agreed in a specific case.
b) Unless otherwise agreed, if the total value of the contract for a machine or system exceeds EUR 10,000.00 payment will be in the following instalments:
 - a. 30 % of the contract amount payable immediately without deductions on confirmation of the contract for engineering and order of materials,
 - b. 40 % of the contract amount payable immediately without deductions on notification that the shipment is ready for despatch or on acceptance in accordance with the contractually agreed valid INCOTERMS clause.
 - c. 30 % of the contract amount payable without deductions within 30 days of delivery or acceptance or four weeks after the delivery date if principal is in delay with taking receipt of the goods.
- c) If the principal fails to pay when payment is due, interest of 8 % p.a. will be due on the outstanding amount; this does not affect DOSATRONIC's right to claim higher interest and further losses in the event of default.
- (4) Unless otherwise agreed in writing, goods which are to be exported will only be despatched subject to provision of an irrevocable letter of credit, issued in favour of DOSATRONIC and confirmed by a German bank.
- (5) The principal may only offset counterclaims and payments related to such claims may only be retained in as far as the counterclaims are undisputed or have been ruled final and absolute by a court of law.
- (6) DOSATRONIC has the right to make the supply of outstanding goods and services conditional on advance payment or provision of a security if, after the contract has been concluded, it learns of circumstances which are likely to materially adversely affect the principal's creditworthiness and jeopardise the principal's ability to pay DOSATRONIC's outstanding claims under the respective contractual relationship (including other individual orders under the same framework agreement).

§ 4 Delivery and delay in delivery

- (1) Goods will be supplied ex works.
- (2) Periods and dates promised by DOSATRONIC for goods and services will always only be approximate unless a fixed date or

period has been expressly promised or agreed. If the contract includes shipment, any delivery periods and dates will denote the time of handover to the forwarding company, freight carrier or other third party commissioned with shipment.

(3) Without prejudice to DOSATRONIC's rights in the event of principal's default, DOSATRONIC may ask the principal to extend or postpone delivery periods and delivery dates by the period during which principal fails to meet its contractual obligations to DOSATRONIC.

(4) DOSATRONIC will not be liable if it is impossible for it to supply or for delays in delivery which are attributable to force majeure or other occurrences which were not foreseeable when the contract was concluded (e.g. operating disruptions of all types, difficulties in procuring materials or energy, transport delays, strikes, legitimate lock-outs, shortages in manpower, energy or raw materials, difficulties in obtaining the required official permits, official measures or the failure of suppliers to supply properly or promptly) for which DOSATRONIC is not responsible. If such events make it materially more difficult or impossible for DOSATRONIC to render the goods or services and the impediment is more than temporary DOSATRONIC may withdraw from the contract. Where impediments are temporary, the delivery or supply periods/dates will be extended/postponed by the duration of the impediment plus a reasonable start-up period. Where the delay means that the principal cannot be reasonably expected to accept the goods or services, it may withdraw from the contract by sending DOSATRONIC a written declaration without undue delay.

(5) DOSATRONIC may make part shipments if

- the principal can use the part shipment for the purpose stipulated in the contract,
- it is certain that the remaining goods ordered will be supplied and
- the principal will not incur any additional expenditure or costs as a result (unless DOSATRONIC has stated that it will assume such costs).

(6) If DOSATRONIC falls into default with supplying goods or services or if, for whatever reason, it becomes impossible for DOSATRONIC to supply goods or services, DOSATRONIC's liability for compensation will be limited as stated in clause 8 of these Standard Terms and Conditions of Supply.

§ 5 Place of performance; shipment, packaging; passage of risk; acceptance

(1) Unless otherwise agreed, the place of performance for any obligations arising from the contractual relationship will be Ravensburg. If DOSATRONIC is also required to perform installation, the place of performance will be place of installation.

(2) DOSATRONIC will decide the type of shipment and the packaging after due assessment of the circumstances.

(3) Risk will pass to the principal when the goods are handed over to the forwarding company, freight carrier or other third party commissioned with shipment (whereby the beginning of loading will determine when risk passes). This will also apply to part shipments or if the seller has agreed to provide other services (such as shipment or installation). If shipment or handover is delayed for a reason which lies with the principal, risk will pass to the principal as of the day on which the goods are ready for shipment and the seller has notified the principal accordingly.

(4) Any storage costs which arise after the transfer of risk will be borne by the principal. If storage is performed by the seller the storage costs will be [0.25] % of the invoice amount for the goods stored per full week stored. The parties reserve the right to claim, subject to proof, that the storage costs are lower or higher.

(5) The seller will only insure the shipment against theft, breakage, transport, fire and water damage or other insurable risks at the principal's express request and cost.

(6) If the contract stipulates acceptance, the goods will be deemed to have been accepted if

- the shipment and, if the seller is required to install, installation are completed,
- the seller has communicated this to the principal pointing out the presumed acceptance under this clause 5(6) and calling on the principal to accept,
- [twelve] working days have passed since delivery or installation or since the principal has begun using the goods purchased (e.g. put the plant into operation) and [six] working days have passed since delivery or installation, and
- the principal has not carried out acceptance within this period for a reason other than a defect, reported by the seller, which prevents or materially impairs use of the goods purchased.

§ 6 Warranty; quality defects

(1) The warranty period will be one year from supply or, where acceptance is required, from acceptance. This period does not apply to claims asserted by the principal for compensation arising from injury to life, limb or health or from wilful or grossly negligent breaches of duty on the part of the seller or its vicarious agents, which will become statute-barred as provided for by statute.

(2) The goods delivered must be carefully inspected without undue delay after delivery to the principal or to the third parties stipulated by the principal. The principal is deemed to have approved unless DOSATRONIC receives a written report within seven working days of delivery reporting obvious defects or other defects which should have been detected in a careful inspection carried out without undue delay. As far as other defects are concerned, the principal is deemed to have approved the goods supplied if DOSATRONIC does not receive a defect report within seven working days after when the defect became apparent; if, however, the defect becomes apparent to the principal earlier during normal use, then the reporting deadline will begin to run as of that earlier point in time. A defective good will be returned to DOSATRONIC carriage paid at DOSATRONIC's request. If the complaint is justified DOSATRONIC will refund the costs for the least expensive means of shipment; this will not apply if the shipping costs are higher because the goods are at a location other than that of their designated use.

(3) If the goods supplied are defective DOSATRONIC has both an obligation and a right to decide, within a reasonable period, whether to remedy the defect or to replace the goods. Where this fails, i.e. where both remedy and replacement are impossible, refused or unreasonably delayed, the principal may withdraw from the contract or reduce the price by a reasonable amount.

(4) If a defect is attributable to fault on the part of DOSATRONIC, the principal may – subject to the criteria set out in clause 8 – demand compensation.

(5) If components supplied by other manufacturers are defective and if DOSATRONIC cannot repair them for licence-related or other reasons, DOSATRONIC will, at its discretion, either assert its warranty claims against the manufacturers and upstream suppliers for the principal's account or assign such claims to the principal. The Principal may only assert claims of this type against DOSATRONIC subject to other applicable criteria and these Standard Terms and Conditions of Supply if judicial enforcement of the above claims against the manufacturer and upstream supplier has failed or if there is no prospect of success owing, for example, to insolvency. The limitation period for warranty claims which the principal has asserted against DOSATRONIC will be suspended for the duration of any such legal dispute.

(6) The warranty will not apply if the principal alters the goods supplied or has them altered by third parties without DOSATRONIC's consent, thus making it impossible or unreasonably difficult to remedy the defect, in which case the principal will bear any additional costs incurred from remedying the defect.

(7) Where, in a specific case, DOSATRONIC agrees to supply the principal with used items, these will be supplied without any warranty for quality defects.

§ 7 Property rights

- (1) DOSATRONIC warrants that the item supplied is free of industrial property rights or copyright of third parties subject to the terms of this clause 7. Each party will inform the other in writing without undue delay if claims are filed against it owing to the infringement of such rights.
- (2) If the goods supplied infringe an industrial property right or copyright owned by a third party, DOSATRONIC will – at its discretion and at its own cost – modify or replace them such that the third-party rights are no longer infringed, the goods continue to satisfy the contractually agreed functions or the principal is granted the right to use such rights under a licence agreement. If DOSATRONIC does not manage to do this within a reasonable period, the principal may withdraw from the contract or make a reasonable reduction to the purchase price. The principal's compensation claims will be subject to the restrictions of clause 8 of these Standard Terms and Conditions of Supply.
- (3) If products supplied but not manufactured by DOSATRONIC infringe rights, DOSATRONIC will choose either to assert its claims against manufacturers and upstream suppliers for the principal's account or will assign such claims to the principal. In such cases the Principal will only have claims against DOSATRONIC under this clause 7 if judicial enforcement of the above claims against the manufacturer and upstream suppliers has been unsuccessful or if there is no prospect of success owing, for example, to insolvency.

§ 8 Liability for compensation owing to fault

- (1) Irrespective of the legal reason, which may include impossibility, default, supply of defective or incorrect goods, breach of contract, breach of pre-contractual duties and tort, DOSATRONIC's liability for compensation will be limited – where it is conditional on fault – as set out in this clause 8.
- (2) DOSATRONIC is not liable for simple negligence on the part of its governing bodies, legal representatives, employees or other vicarious agents except in the case of a breach of duties which are material to the agreement. Material duties are its obligation to supply and install the goods to be supplied in a timely manner, without defects in title and without quality defects which materially impair their ability to function and fitness for use, advice and protection duties, its duty in respect of items in its custody which serve to allow the principal to use the goods to be supplied for the purpose stipulated in the contract or which serve to protect the health and safety of the principal's staff or protect the principal's property from substantial damage.
- (3) Where DOSATRONIC is liable for compensation under clause 8(2), such liability is limited to losses which – when it entered into the contract – DOSATRONIC foresaw as a possible consequence of a breach of contract or ought to have foreseen had it applied due care. Indirect and consequential losses attributable to defects in the goods supplied are only eligible for compensation where they are typical of the losses which can be expected when the goods to be supplied are used for their designated purpose.
- (4) DOSATRONIC's liability to render compensation for property loss and resultant financial loss for simple negligence is limited to EUR 100,000.00 per loss occurrence (in accordance with its current product liability or third-party liability insurance cover) even in respect of a breach of material contractual duties.
- (5) The above liability exclusion and limitations apply likewise to DOSATRONIC's governing bodies, legal representatives, staff and other vicarious agents.
- (6) Where DOSATRONIC supplies technical information or advice outside the contractually agreed scope of services which it is to render, this will be provided free of charge without liability.
- (7) The limitations of this clause 8 do not apply to DOSATRONIC's liability for intent, to guaranteed attributes, death, bodily injury or damage to health or to liability under the German Product Liability Act (*Produkthaftungsgesetz*).

§ 9 Reservation of title

- (1) The reservation of title set out below will serve as security for all DOSATRONIC's current and future claims against the principal under the supply relationship between the parties.
- (2) The goods which DOSATRONIC supplies to the principal will be DOSATRONIC's property until all secured claims have been paid in full. The goods and any goods replacing them under the reservation of title as set out below will be referred to in the following as "reserved goods".
- (3) The principal will keep the reserved goods for DOSATRONIC free of charge.
- (4) The principal may process and sell the reserved goods in the ordinary course of business until such time as a realisation claim can be made against them (see (9)). They may not be pledged or transferred as security.
- (5) The parties agree that if the principal processes the reserved goods it will do so in the name and for the account of DOSATRONIC as manufacturer and that DOSATRONIC will acquire direct title or – if processing involves materials owned by more than one entity or if the value of the processed product is higher than that of the reserved goods – co-title in the newly created item pro rata based on the ratio of the value of the reserved goods to the value of the newly created item. The principal herewith transfers its entire or pro rata (as stated above) future title in the newly created item to DOSATRONIC as security in case it does not acquire such title. If the reserved goods are combined or inseparably mixed with other items, one of which must then be regarded as the principal item, thereby forming a single item, DOSATRONIC will – provided it is the owner of that principal item – assign the principal pro rata co-title in that single item in the ratio stated in sentence 1.
- (6) If the reserved goods are resold, the principal hereby assigns the ensuing claim against the new owner to DOSATRONIC as security or – if DOSATRONIC has co-title in the reserved goods – in accordance with its pro rata share. The same will apply to other claims which replace or otherwise arise in respect of the reserved goods such as insurance claims or claims arising from tortious acts causing the goods to be lost or destroyed. DOSATRONIC irrevocably authorises the principal to collect claims assigned to DOSATRONIC in its own name. DOSATRONIC may only revoke this authority to collect if a realisation claim is made against the reserved goods.
- (7) If third parties lay claim to the reserved goods, particularly by attachment, the principal will inform them without undue delay of DOSATRONIC's title rights and will inform DOSATRONIC so that it can enforce its title rights. If the third party cannot refund the court or out-of-court costs which DOSATRONIC incurs in enforcing its rights, the principal will be liable to DOSATRONIC for such costs.
- (8) DOSATRONIC will release the reserved goods and any surrogate items or claims whose value is 50 % higher than the value of the secured claims. DOSATRONIC may select which items to release as it sees fit.
- (9) If DOSATRONIC withdraws from the contract because the principal has acted in breach of contract – in particular owing to default on payment – DOSATRONIC may demand release and realisation of the reserved goods.

§ 10 Final provisions

(1) If the principal is a businessman (*Kaufmann*), a legal entity under public law or a special public fund or has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relationship between DOSATRONIC and the principal will be Ravensburg or the principal's seat, as DOSATRONIC sees fit. However, in such cases the sole place of jurisdiction for action brought against DOSATRONIC will be Ravensburg. This has no effect on mandatory statutory provisions on sole places of jurisdiction.

(2) The relationships between DOSATRONIC and the principal will be subject solely to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) will not apply.

(3) If the contract or these Standard Terms and Conditions of Supply contain any omissions, these will be deemed to be remedied by whatever valid provisions the parties would have agreed to had they been aware of the omission, such valid provisions reflecting the commercial objectives of the contract and the purpose of these Standard Terms and Conditions of Supply.

Note:

The principal understands that DOSATRONIC will save data related to the contractual relationship in compliance with sec. 28 German Data Protection Act (*Bundesdatenschutzgesetz*) and that DOSATRONIC reserves the right to transmit such data to third parties (e.g. insurance companies) where necessary to fulfil the contract.

DOSATRONIC GmbH
Roland Löffler
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