

General Terms and Conditions of Purchase

1. General Provisions

These Terms and Conditions of Purchase shall exclusively apply to orders by robatherm. Any deviation from these Terms and Conditions of Purchase set forth hereinafter shall not be valid unless confirmed in writing by robatherm. These Terms and Conditions shall apply to all orders unless otherwise expressly agreed.

By accepting robatherm's order, and/or performing hereunder, the supplier agrees to comply fully with these Terms and Conditions of Purchase. Other conditions stated by supplier in acknowledging receipt of this order shall not affect robatherm's offer as represented by this order, regardless robatherm disagree exclusively or not. Any deviating terms and conditions of suppliers shall be only binding if robatherm has accepted such terms in writing.

These Terms and Conditions of Purchase also apply to all future deliveries and services of the supplier, even though robatherm is not referring exclusively to these Terms and Conditions of Purchase, provided issuance due to a earlier contract.

2. Order Confirmation

2.1 Orders must be confirmed immediately in writing by the supplier, at the latest 8 days after dispatch of robatherm's order placed in writing, otherwise robatherm is no longer bound to this order.

2.2 If necessary, the supplier undertakes to enclose to this order confirmation drawings or any other technical documents for robatherm's information or release.

3. Term of Delivery

3.1 The delivery date is determined on the basis of robatherm's order's date. Delivery dates must absolutely be upheld. Deadlines and time periods agreed upon are binding.

3.2 As soon as the supplier concludes that it is not possible to effect delivery on the agreed date in whole or in part, he shall immediately inform robatherm thereof, state the reasons and apply for the agreement of a new delivery date. The supplier will be liable in its entirety for the resultant loss and expense due to the delay without the need for being put in default by robatherm. In case of non-keeping the delivery term robatherm moreover reserves the right to rescind the agreement without notice or to order substitute at the supplier's expense.

3.3 In case of delay in delivery, robatherm is allowed – irrespective of its legal claim for damages – to claim from the supplier each calendar day after the beginning date of the delay 0.1% of the ordered value in delay, at most 5% of the total ordered value.

3.4 Acts of God, labor disputes, operational disruptions, unrest, government measures or any other events or circumstances which are not due to robatherm's fault, that can influence the interest in the supplier's supply and services, entitle robatherm to withdraw from the contract in whole or in part and to demand fulfillment of the contract at a later date. It is disallowed to assert any demands herefrom against robatherm.

4. Prices

Prices of the supplier's order confirmation resp. prices negotiated between robatherm and the supplier are understood to be firm and, unless agreed otherwise, delivered free, including packing and transport insurance.

5. Payment

5.1 Payment shall be effected at robatherm's option either within 14 days less a 3 % cash discount or within 30 days net, each calculated with effect from the date of receipt of the invoice and full receipt of the goods resp. in case of services not before their technical acceptance. In case that documents like drafts, certificates and so forth are part of the scope of supply and services, payment will not be made before their handing over to robatherm such as stated in the contract.

5.2 Payments do not signify that performance has been acknowledged as being in conformity with the terms of the contract and thus do not affect warranty claims and their periods.

5.3 In case of delayed payment due to incomplete or incorrect invoice's information robatherm is nevertheless allowed to deduct cash discount.

5.4 Any payment is made subject to accounting control. In case that defects are discovered during the technical acceptance, robatherm is entitled to keep an reasonable part of the invoiced amount until these defects are remedied.

6. Dispatch

6.1 The Supplier undertakes to handle dispatch on the cheapest and fastest way.

6.2 Regarding each consignment, a delivery note including order no., commercial details and order's date must be added. Other necessary documents such as B/L, carriage documents and so forth have to include also the above mentioned details and agree with the information from the delivery note. The supplier is liable for any kinds of damages of rearrangement that accrue robatherm by disregarding above provisions.

6.3 Extra expenses for partial frights are at the supplier's expense. Costs of cartage are not accepted by robatherm resp. are debited.

7. Passing of Risk

In case of delivery of goods the goods shall remain at supplier's sole risk until they are physically delivered at robatherm, and the receipt is acknowledged by a robatherm authorized person. In case that delivery and assembly is agreed, risk is passed at the earliest after trouble-free initial operating resp. technical acceptance by the client.

8. Issuing Invoices

8.1 The Invoice showing the invoice no. and other references must be sent in one copy to the respective printed mailing address.

8.2 If the requirements of 8.1 are not or incompletely met, the invoice is not accepted by robatherm, sent back to the supplier and thus seen as not received.

8.3 Invoices referring to deliveries in part that are not agreed with robatherm are accepted after delivery in whole.

8.4 Each order has to be invoiced separately.

9. Warranty

9.1 Without prejudice to any of robatherm's rights or remedies, if any of the supplies of goods and services shall, at any time or times within 30 months from the date of technical acceptance free from defects, be found to be or have become defective whether a result of faulty design, materials, workmanship, assembling or construction, the supplier shall forthwith at his own expense at the place of installation either repair the defective goods resp. services to render it conforming to the contract or (at robatherm's option) replace the same specified by robatherm with new goods resp. services conforming to the contract.

The ascertainment of any defectives holds the warranty period. Delivering goods, the supplier undertakes to keep all regulations due to the different controlling institutions (e.g. VDE, TÜV, accident prevention & Insurance Association and so forth).

9.2 robatherm's warranty rights are pursuant to §§ 443 ff resp. 633 ff BGB (German Civil Code).

9.3 In urgent cases or in the event the supplier does not fulfil his obligations, robatherm may itself order or let order substitute or may remedy the defects or damages or have such defects or damages remedied by a third party. Any costs incurred by robatherm in this connection shall be borne by the supplier.

9.4 The supplier shall indemnify robatherm against all damages, this shall also apply with respect to consequential damages, caused by any defect in the goods or services within the statutory scope including the United Nations Convention on Contracts for the international Sale of goods (CISG).

9.5 If the supplier doesn't meet his obligations to remedy the defects in spite of an adequate time, robatherm may demand damages for non-performance, may make restitution of the goods against refunding payment and reimbursement for expenses from the supplier or may claim adequate reduction in value or compensation delivery at robatherm's option.

9.6 Assuming that the supplier is in charge with assembling in the construction site on his own responsibility, he shall be liable for possibly theft or any other kinds of loss of the goods that have to be assembled and of the assembling tools.

9.7 In the event the supplier is during the warranty period becoming unable to meet the agreed warranty, robatherm is entitled to keep a reasonable part of the outstanding payment as security until the end of the warranty period.

10. Right of Withdrawal

10.1 robatherm is entitled to withdraw from the contract if it is not possible for the supplier to effect delivery in whole or in part on the agreed date. If deliveries can be made in part, robatherm is entitled to reserve its rights to withdraw or to reduce price at robatherm's option.

10.2 robatherm may also withdraw if the supplier defaults and the additional respite given by robatherm is not kept by the supplier, even though robatherm has expressly declared that after the end of this respite the acceptance of the service will be rejected.

10.3 In case of withdrawing the supplier shall indemnify robatherm for costs incurred due to non-delivery within the agreed date or quality. This pertains to e.g. costs for compensation delivery and substitute services by a third party at advanced prices, additional own costs due to overtime and night shift premium, express goods and contractual penalty and so forth, which robatherm has to pay to the customer and which have arisen from the supplier's defective and/or delayed delivery.

11. Reservation of Proprietary Rights

Any reservation of proprietary rights by the supplier is not accepted by robatherm. The supplier confirms that there is no reservation of proprietary rights of the supplied goods. The title to the object of sale is transferred irrevocably to robatherm after reception of the goods.

12. Confidentiality

12.1 The supplier is obliged to treat robatherm's orders and all commercial and technical details in connection therewith in confidence.

12.2 The supplier undertakes to forward drawings, calculations and other technical information in connection with the contract to robatherm according to the requested quantities before execution of the order and to transfer ownership of them to robatherm free of charge. Intellectual property is without prejudice to them. robatherm or third parties are allowed to use them free of charge for repair, changes or manufacturing of spare parts.

12.3 All drawings or other technical details made accessible by robatherm to the supplier remain robatherm's exclusive property. Such information may not make accessible to third parties or used for other purposes. Unrequested, all information originating from robatherm (including any copies or recordings made, if applicable) must be returned to robatherm immediately and completely after inquiry or order. robatherm also reserves its rights of drawings made on the basis of this information.

13. Assignment of Claim

The Assignment of Claims to third parties in whole or in part is prohibited except robatherm permits the assignment to the supplier in writing before assigning.

14. Place of Performance

The place of performance and payment is robatherm in Burgau, Germany.

15. Settlement of Disputes

At robatherm's discretion Günzburg, Memmingen, or Augsburg, Germany, shall be the place of jurisdiction for all disputes arising from and in connection with this Agreement and the individual sales contracts.

16. Miscellaneous

16.1 The contractual relationships shall be governed exclusively by German law.

16.2 If one provision of these terms and conditions and of additional agreements should be or become ineffective, this will not affect the validity of the terms and conditions in other aspects. The parties shall agree upon a provision to replace the ineffective provision that reflects as closely as possible the economic intent of the previous provision. In case of missing regulations, the legal requirements including United Nations Convention on Contracts for the International Sale of Goods (CISG) shall apply.