

General Conditions of Sale

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1. Payment shall be made strictly net to OSTLER's bank account on the dates agreed upon in the contract. VAT

I. General

These conditions shall be authoritative unless otherwise agreed between the parties in writing.

II. Quotation and contract

1. Quotations are subject to confirmation at the time of acceptance. Technical data including figures on weight, performance, operating cost, etc. shall be tentative, unless expressly stated in the contract to be final and binding. Quotations, drawings and allied information entrusted to Purchaser are OSTLER copyright and must not be disclosed to any third parties. Such material shall be returned to OSTLER upon request.
2. These conditions shall be exclusive; any provisions to the contrary of or deviating from the OSTLER conditions will not be accepted unless OSTLER agreed to them in writing. These conditions shall also apply if supply to Purchaser is performed without reservation by OSTLER in the knowledge of any such provisions deviating from or contravening OSTLER conditions. They shall also be deemed to have been accepted by Purchaser upon the latter accepting supplies and services from OSTLER or performing services himself.
3. These conditions shall also be valid for all future transactions with Purchaser.

III. Scope of supply

1. The scope of supply shall be governed by OSTLER's official acknowledgement of the order in writing. Any collateral arrangements and changes shall be subject to written confirmation by OSTLER.
2. Electrical equipment shall be governed by the requirements of the German VDE Code.
3. If goods supplied are used outside the Federal Republic of Germany, the scope of equipment for guarding against accidents and protection of the environment shall be as agreed upon in the contract. It is Purchaser's responsibility to comply with local statutory and other regulations.
4. Where delivery or service is agreed to be subject to standard clauses, these shall be interpreted according Incoterms 2000 of the International Chamber of Commerce, Paris, as ruling on the date of the contract.
5. Any taxes, fees, duties, stamp duties, customs duties or charges incurred or levied in respect of the contract outside the Federal Republic of Germany shall be to Purchaser's account or shall be reimbursed to OSTLER if OSTLER is held liable for such charges or otherwise.

IV. Price

1. Unless otherwise agreed, all prices are to be understood on ex-factory basis (INCOTERMS 2000) excluding packing and loading and excluding freight and installation, plus VAT at the percentage in effect on the date of invoicing. Packing material is not returnable.
2. The prices are calculated on the basis of the cost level ruling on the date of quotation and are subject to variation in the event of any change in the cost of materials, wage rates, freight rates or other price factors except expressly defined as fixed-prices and added by a validity period.

V. Terms of payment

shall be payable on receipt of invoice. Where advance payments are taxable, the proportionate VAT shall be payable on the agreed dates of payment. Bills of exchange, drafts or promissory notes, if accepted by OSTLER, shall not discharge Purchaser from his debt until same has been duly honoured.

2. We reserve the right to demand for „Bonds“ or „Letter of credit“ or for any other payment securities. In case any quotation is based on payments to be made out of „Letter of Credit“ (L/C) Purchaser shall open an irrevocable, divisible and transferable L/C made out in favour of RICHARD OSTLER Maschinenbau GmbH, permitting partial shipment and established by a sufficient validity period and by terms and conditions acceptable to OSTLER.

The L/C shall be opened by a first-class international bank and shall be payable, free of any charges, at the counters of the advising bank in Germany. Payments out of the L/C shall be made against presentation of OSTLER's relevant shipping documents or, in case shipment is not to be effected due to reasons OSTLER is not responsible for, the L/C has to be payable also against Warehouse Receipt instead of shipping document.

3. Purchaser shall not offset any sums or claim any right of retention against payments due to OSTLER unless Purchaser's claims are undisputed or have been recognised by declaratory judgement.
4. In the case of delay in payment, interest on arrears, without prejudice to other legal claims, will be charged at a rate of 4.5 % p.a. over the official discount rate of the European Central Bank in force at the time.
5. If Purchaser should fail to abide by terms of payment or obligations under the retention-of-title clause or in the event of a serious deterioration in his business standing or should he suspend payments, OSTLER shall be entitled to refuse performance, make further supplies dependent upon advance payments or provisions of security, claim damages on account of non-performance, or withdraw from the contract.

VI. Retention of title

1. The title in the goods shall remain with OSTLER until full and final payment has been made of all amounts due to OSTLER under the contract or in connection therewith.
 - a) Any machining or processing of goods to which there is a retention of title or any combination of such goods with other items by Purchaser or third parties shall be carried out for OSTLER. Where this results in the production of a new item, OSTLER shall be the co-owner proportionate to the value of the goods supplied by it.
 - b) Purchaser's claim from sale of the goods are deemed to have been assigned to OSTLER to secure OSTLER's claim on Purchaser up to the value of OSTLER's claim.
 - c) Purchaser is authorised to collect/enforce the claims so assigned, unless OSTLER decides to collect / enforce the claims itself.
 - d) If Purchaser defaults and, in particular, fails to observe the contractual dates of payment, OSTLER shall be entitled to the return of the goods and Purchaser shall be obligated to return them. If the goods have been used before being returned, OSTLER - without the need to furnish proof of deterioration- shall be entitled

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to charge Purchaser 25 % of the value of the goods for the first 6 months of use and 10 % for each and every further period of 6 months during which the goods have

of readiness for shipment.

been in use.

- e) In the event that the country to which the goods are supplied does not allow a retention of title, but permits supplier to reserve other comparable rights, OSTLER shall be free to exercise any or all of such rights. In such cases, Purchaser shall on demand take all

measures at his expense to give effect to and maintain such rights in the goods supplied.

2. If a distress warrant is served on the goods or if the Owner's interests should be affected in any way, Purchaser shall notify OSTLER forthwith and shall take safeguarding measures at his cost.

VII. Time of delivery

1. The time of delivery shall commence according to mutual agreement, provided all information including licences and permits to be furnished by Purchaser have been received by OSTLER and duly clarified, and provided the agreed down payment has been made. The time of delivery shall be deemed to have been observed if the goods are reported to Purchaser to be ready for despatch on expiry of the agreed period.
2. In the event of strikes, lockouts or force majeure or in the case of any unforeseen circumstances arising beyond OSTLER's control, e.g., factory disturbances, scrapping, late receipt of bought-out material, faulty or delayed supplies by sub-contractors or other delays on account of reasons beyond the control of OSTLER, provided such circumstances affect the timely completion of the contract, the time of delivery shall be extended by a reasonable period, also in cases where the original time of delivery has been exceeded. In important cases the occurrence and anticipated duration of such events will be reported to Purchaser by OSTLER.

The time of delivery shall also be extended accordingly by any period during which Purchaser is in arrears with his payments or other obligations, or when technical and commercial matters have not been clarified within a reasonable period of time.
3. In the event of a delay arising owing to reasons other set forth in Sub-clause 2 - of which satisfactory evidence can be given - , Purchaser shall be entitled, to the exclusion of any further claims, to claim Liquidated Damages to an amount not exceeding 0.4 % for each completed calendar week of delay, but in any case limited to a maximum of 4 % of the total value of contract. Any Liquidated Damages payable by OSTLER under this clause will be deducted from OSTLER's final invoice.
4. In the event of a delay in the shipment of goods owing to reasons beyond the control of OSTLER, all expenses incurred for storage shall be to Purchaser's account, starting one month after notification of readiness for despatch. The charge for goods stored on OSTLER's premises shall be not less than 0.3 % of the invoiced amount for every month.

VIII. Transfer of risk

The risk in the goods shall pass to Purchaser upon delivery to the person entrusted with shipment (e.g., forwarding agent, carrier) but not later than upon the consignment leaving the supplier's factory. In the event of a delay in shipment owing to reasons beyond OSTLER's control, the risk in the goods shall pass to Purchaser on notification

IX. Performance of contract

1. The delivery obligation shall be deemed to have been duly performed when the risk in the goods has passed to Purchaser in accordance with Clause VIII.
2. Delivery in lots shall be accepted.
3. Commencing on the date on which delivery has been duly performed, OSTLER shall be liable in accordance with the provisions of Clause X (Warranty).
4. Delivered goods, including goods with minor deficiencies, shall be accepted by Purchaser without prejudice to Purchaser's rights under Clause X.

X. Warranty

1. OSTLER accepts responsibility for explicitly guaranteed properties as well as sound design, proper workmanship and satisfactory material in a manner that OSTLER will, at its option, repair or replace on an ex-factory basis, free of charge, any parts of the goods supplied which in consequence of such a deficiency are found to be unfit to use or seriously affected in use. This warranty is to the exclusion of all further claims. Replaced parts shall become the property of OSTLER.

Of the direct costs incurred by any repair or replacement supply OSTLER, to the extent that the notice of defects proves to be justified, will bear the cost of the replacement part, including shipment, as well as the reasonable costs of removal and installation, and - if this can reasonably be claimed on the merits of the case - the cost for the provision of erectors and auxiliary labour, if necessary. All other costs shall be to Purchaser's account.

OSTLER offers the same warranty for repair work and replacement as for the original supplies
2. OSTLER's warranty for machinery commences on the date such machinery is put into service. In all other cases the warranty commences on the date the goods are ready for handing over to Purchaser. The warranty period shall end 6 (six) months thereafter or, if the machinery is operated multiple shift, 3 months thereafter. The warranty period shall expire in all cases not later than 12 months after date of notification of readiness for despatch or the date of despatch. OSTLER's warranty for repairs and replacement supplies shall be valid for 3 months, but as a minimum until expiry of original warranty period for the goods supplied.
3. If repairs become necessary, Purchaser shall:
 - a) grant the necessary time and opportunity;
 - b) perform, at his expense, all work above and beyond the original scope of the order.
The extra cost of any work carried out beyond regular working hours shall be to Purchaser's account.
4. No liability is assumed by OSTLER for any loss or damage due to natural wear and tear of parts which are subject to premature deterioration, nor for any damage due to faulty or incorrect storage, incorrect handling or use, faulty erection or putting into operation, excessive stress or strain, use of unsuitable lubricants, utilities or fuels, etc., chemical, electro-chemical or electrical influences or any other causes arising beyond the control of OSTLER after the transfer of risk.
5. In cases where goods are operated electrically, OSTLER does not assume any responsibility for the effects of

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starting peaks on the grid or on electrical equipment or machinery connected to such grid.

OSTLER will notify Purchaser immediately after

6. Purchaser's right to claim damages under the warranty shall be conditional upon:

- a) existence of a defect covered by warranty being reported to OSTLER immediately in writing on discovery;
- b) Purchaser complying with OSTLER 's service and maintenance instructions and having had the equipment properly inspected at the specified intervals;
- c) no spare parts having been fitted other than original OSTLER parts.

7. Claims under the warranty clause shall be time-barred 6 months after the date of due notice.

the full impact of the changed situation is recognised.

XIII. Liability

1. No claims for loss or damage or any other contractual or legal claims will be entertained by OSTLER, its agents or servants unless expressly agreed upon in writing. In particular, no claims will be entertained for indirect or consequential loss or damage defined as loss or damage suffered by equipment other than supplied by OSTLER under the contract, especially loss of profit, loss of use, or extra costs of use.

This exclusion of liability shall not apply in the event of intent or gross negligence on the part of the company's officers or executives as well as in those cases where liability is to be assumed under product liability law for personal injury or damage to property on objects in private use resulting from faults or defects on the goods.

2. OSTLER however accepts liability vis-à-vis Purchaser if and to the extent damages are recoverable under OSTLER's existing third-party liability insurance policy which is based on the General Insurance Conditions for Third-Party Liability Policies (AHS).

XI. Purchaser's right of withdrawal

Purchaser shall have the right to withdraw from the contract by written notice under the conditions set out hereunder:

1. If it should become entirely impossible for OSTLER to perform the contract. In the event of partial impossibility of performance, Purchaser shall have the right to withdraw from the contract only if partial performance is proved by Purchaser to be of no interest to him; otherwise Purchaser shall be entitled to claim a reasonable of the purchase price. If impossibility of performance should occur during a delay in the acceptance of supplies or services or due to reasons for which Purchaser is responsible, Purchaser shall continue to be obligated to pay the contractual consideration. If impossibility of performance is neither party's responsibility, OSTLER shall be entitled to part of the agreed consideration proportionate to the amount of work done.
2. If Purchaser is entitled to claim the full amount of damages due to latedelivery according to Clause VII, Sub-clause 3, and has granted a reasonable time extension in writing to OSTLER, expressly stating that he will withdraw from the contract if such extension expires without result, and if Purchaser proves that the extension has been allowed to expire for reasons due to OSTLER' s responsibility.
3. If, in the case of a deficiency for which OSTLER is responsible in terms of Clause X, Purchaser has granted a reasonable time extension in writing, expressly stating that he will withdraw from the contract if such extension expires without result, and if Purchaser proves that the extension has been allowed to expire for reasons due to OSTLER's responsibility.

In the cases defined in Sub-clauses 2 and 3, Purchaser shall only be entitled to withdraw from the contract if evidence is furnished to the effect that the delay or deficiency substantially affects his interest in the supply.

XII. OSTLER's right of withdrawal

OSTLER shall have the right to withdraw from the contract in whole or in part if unforeseen circumstances materially affect the economic intent of the contract or change the essence of the work or materially affect the operations of OSTLER or if the economic situation of Purchaser undergoes a substantial deterioration.

This also applies in cases where an extension of the delivery period has been agreed upon with the Purchaser. If OSTLER decides to exercise its right of withdrawal,

XIV. Contract rights not to be assigned

Purchaser shall not assign or transfer his rights under the contract to any third party without OSTLER's consent.

XV. Jurisdiction and arbitration

1. The place of performance for all claims under the contract shall be Oberhausen-Sterkrade, or such place as may be indicated in the order acknowledgement.
2. The venue of all disputes arising out of or in connection with the contract - including proceedings in respect of bills of exchange, promissory notes, cheques and legal instruments - shall be Augsburg. OSTLER shall also be free to institute legal proceedings at Purchaser's domicile.

XVI. Governing law and validity of contract

1. The contract shall be governed by German law. The UN Convention on Contracts for the International Sale of Goods shall not be applicable.
2. If any part of the contract should become ineffective, this shall not affect the validity of the other parts of the contract provided such ineffectiveness is without detriment to the basic principles of the contract.

It is pointed out under § 26 German Data Protection Act that personal data may be stored.

RICHARD OSTLER Maschinenbau GmbH
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