

General Terms and Conditions of Sale and Delivery

Effective as of the first day of July, 2017

To be applied to entrepreneurs, legal entities under public law or special funds under public law.

I. Scope of Application

The following Terms and Conditions of Sale and Delivery shall apply to any and all group companies of DVS Technology Group (hereinafter "Manufacturer"), except where explicitly provided otherwise in writing. They shall be an integral part of any bid or contract, including in current or future business relationships. Unless provided otherwise in any bid or contract, any differing terms and conditions of purchase of customers shall not become part of the contract through acceptance of the order.

II. Scope of Bids, Validity of Bids

Any bid made by Manufacturer will be subject to change (non-binding) and shall be valid for a period of 90 days from the date of the bid. The scope of performance shall be limited exclusively to the workpieces specified for the process design as described in the respective bid.

III. Contract Conclusion / Cancellation

1. The conclusion of contracts shall occur only upon signature by both parties, or when Manufacturer confirms the order in writing to Customer.
2. In the event that Manufacturer agrees to a cancellation of the order, Customer shall be obliged to reimburse Manufacturer for any costs incurred through the termination of the contract. Where providing evidence of individual costs would require disproportionate effort, administrative costs shall be assumed to be 10 %, and costs of Engineering to be 30 %, of the order amount.

IV. Testing of the Tooling Layout

The bid shall be subject to the confirmation of the underlying performance parameters in the event of any testing to be performed in advance. The material or raw parts required for diligent testing of the machine layout are to be provided by Customer, free to the door and in sufficient quantity.

V. Delivery Period

1. The delivery period shall be as agreed between the contractual parties.
2. The delivery period stated in the bid may change until the contract is awarded and shall be set forth upon awarding the contract. The delivery period shall begin after written acceptance of the order, subject to clarification of any technical and commercial questions.
3. Compliance with the delivery date requires that:
 - Customer provides all required documents in due time;
 - the technical and commercial conditions required for performance have been met by Customer and any permits that may be required have been obtained in due time;
 - Customer makes the agreed payments prior to delivery in due time;
 - the supplies to be provided by Customer are available at Manufacturer's plant at the required time and in the required quantity and in flawless quality;
 - the supplies provided by Customer do not result in any technical problems or replacement purchases;
 - Customer complies with the agreed preliminary acceptance or final acceptance date.
4. The delivery period has been complied with if, prior to its expiry, the delivery item has left Manufacturer's plant or notice of readiness has been given. Where acceptance is required, the acceptance date or, alternatively, the notice of readiness for acceptance, shall be decisive, except in cases of justified refusal of acceptance. If shipment or acceptance of the delivery item is delayed for reasons for which Customer is responsible, Customer shall be charged with the costs caused by the delay, beginning one month after notice of readiness for dispatch or, as the case may be, notice of readiness for acceptance has been given.
5. If failure to comply with the delivery period is caused by force majeure, labor disputes or any other event beyond manufacturer's control, the delivery period shall be adequately extended. Manufacturer will notify Customer of the beginning and end of any such circumstances as soon as possible.

VI. Government Regulations

In the event of any change in government regulations affecting the contract, we shall be entitled to adjust the contract accordingly.

VII. Provisions

Unless addressed in the bid, additional customer-specific provisions result in additional expense and shall be agreed in a separate contract.

VIII. Design Instructions

1. The delivery item shall be the positions specified in the bid, which shall be designed in accordance with the state-of-the-art, as well as with the specifications, workpiece drawings/samples or process sheets provided by Customer and to be mutually declared as binding. Any statements made in brochures or other advertising materials are for illustration purposes only and do not describe any specific features/parameters.
2. Any statements made by Manufacturer prior to the contract award during any communication for technical clarification purposes shall only be binding if recorded in mutual agreement and referred to in the order.
3. In the course of performing the order, manufacturer reserves the right to further technical developments in connection with technical specifications and constructive modifications.

IX. Process Design

1. Any primary and secondary processing times that can be influenced by the manufacturing concept are included in the determined cycle time. Any occurring operational secondary processing times, such as setup times, are to be added according to the operational conditions of Customer.

The bid of manufacturer contains a calculation of the anticipated processing time and cycle time on the basis of the information provided by the cutting-tools manufacturer and the provided material data. The interaction of cutting materials and raw materials may cause deviations in the cycle time which can only be assured by means of a cutting attempt. The calculated cycle time may differ by +/- 10 % from the cycle time stated by Manufacturer.

The tool life depends on the workpiece of Customer and the raw materials. In particular, inclusions and internal stress may lead to deviating tool life.
2. During the project execution, any modifications to the workpieces (raw materials, geometries, dimensional tolerances, raw part dimensions, hardness of materials, etc.) by Customer shall only be possible upon mutual agreement in writing and, where required, upon corresponding adjustment of contractual terms.

X. Provided Items / Scope of Performance

1. Components (including, without limitation, clamping devices, tools, workpieces) or additional equipment to be provided by Customer shall be made available for installation, set-up, testing and acceptance ex works at our plant or on-site in the agreed quantity and

quality, in due time and free of charge. Customer shall be solely responsible for the operability and process capability of the provided items on the basis of the agreed drawings and specifications.

2. In the event of insufficient suitability, Manufacturer guarantees constructive cooperation. Any additional expense due to incurred inspection and add-on costs, design and testing expense or reworking shall be borne by Customer. Manufacturer shall not be responsible for any influences on accuracy, cycle time and delivery period and scope of deliver.

XI. Pricing

The net prices stated are in EURO and without deductions, plus value added tax as applicable at the time of invoicing. The price base includes the scope of performance defined in the bid, the acceptance period and the calculation cost rates and exchange rates as applicable at the time of the preparation of the bid. In the event of any material changes, Manufacturer reserves the right to adjust the prices.

XII. Transfer of Risk, Acceptance

1. The risk shall pass onto Customer when the delivery item has left the plant of Manufacturer, including in the event of partial deliveries or if Manufacturer, or if manufacturer has assumed additional duties, such as shipment costs or deliver and setup. If acceptance is required, the transfer of risk shall occur upon such acceptance. Acceptance must occur immediately on the date of acceptance or, alternatively, after Manufacturer has given notice of readiness for acceptance. Customer shall not be entitled to refuse acceptance in the event of any non-material defect.
2. If dispatch or acceptance is delayed or fails to occur due to circumstances which cannot be attributed to Manufacturer, the risk shall pass onto Customer as of the date of the notice of readiness for dispatch or for acceptance, as the case may be.

XIII. Warranty

1. Warranty claims may not be assigned and shall become statute-barred within 12 months of two-shift operation upon the start of production of the machine, or upon signature and delivery of the final acceptance certificate, at the latest however 15 months after the date of dispatch, provided that Manufacturer is not responsible for the delay of the start of production. In total however, the warranty period shall not be longer than 5,000 operating hours (running hours according to the hours counter).
2. Further, the care, maintenance, and inspection intervals for the delivery item must be observed, and any required actions be taken, by Customer. Spare parts and wear parts, as well as changes to the workpiece design in the serial production shall not be covered by the warranty. An extension of the warranty period shall require an individual contractual agreement.
3. During the warranty period, any modification of tools or other machine components by Customer shall require the approval of Manufacturer, failing which the warranty shall become invalid in this respect.

XIV. Notice of Defects, Claims for Defects

1. Customer shall immediately inspect the delivery item and shall notify Manufacturer in writing of any defect which becomes obvious during such inspection or at some later point in time, describing the defect. Such notice of defect must be given immediately, but no later than eight days after the detection of the defect. If Customer fails to do so, the defect shall be deemed approved. In the event of an agreed acceptance or initial sample inspection, the assertion of any defect which could have been detected during acceptance or initial sample inspection shall be excluded.
2. Under Customer's duty to mitigate damages, Customer shall be required to cease any further use of the delivery item in the event of any suspected defect, to the extent that such defect might affect the products to be manufactured with the delivery item.
3. If the delivery item does not conform to the contractual quality (defect), Customer shall allow rectification (repair or replacement delivery, at Manufacturer's option) twice, unless Customer may not reasonably be expected to allow rectification.
4. If rectification fails, or if Customer may not reasonably be expected to allow rectification, Customer may reduce the purchase price. The amount of such reduction shall be based on an opinion delivered by an expert to be designated by Manufacturer's competent chamber of commerce, who may be called upon by either party. In the event of an international delivery, such expert shall be designated by DEKRA with its seat of business in Stuttgart. The contract may only be rescinded in the event of a material defect; material defects shall mean any defect that renders the delivery item completely unusable, result in rectification expense in the amount of at least 30 % of the purchase price, and are caused by design defects. If the contract is rescinded, Manufacturer shall be entitled to demand a user fee from Customer based on the annual usual value loss of comparable delivery items of Manufacturer, for a period beginning on the date of acceptance (or, if no acceptance takes place, from the date of delivery) until the return delivery. Such fee shall not be due for any period during which Customer was objectively unable to use the delivery item.
5. Any damage caused during transportation shall be immediately notified to the carrier.
6. Manufacturer may decide at its own discretion whether defective goods shall be returned for the purpose of repair or replacement or whether any required work shall be carried out on-site.
7. Unless customer would be disproportionately burdened by deinstallation and shipment, customer shall perform such work; Customer may have Manufacturer perform such work against reimbursement of the costs.
8. If no defect for which manufacturer is liable can be found, Manufacturer shall be reimbursed for any expense that may have been incurred due to the assertion of a defect.

XV. Liability for Damages, Exclusion of Liability

1. Manufacturer shall only be liable for any damage, other than damage to the delivery item itself, regardless of the legal reason, in the event of:
 - culpable injury of life, body or health of a person;
 - any defect of the delivery item to the extent that under the Product Liability Act, a manufacturer is liable for personal injury and damage to privately used property;
 - failure to fulfill any guarantee;
 - fraudulent non-disclosure of any defect; or
 - willful misconduct;
 - gross negligence of the owner / corporate bodies or executive employees.
2. Otherwise, the liability of Manufacturer shall be limited or excluded as follows:
 - in the event of a breach of any material contractual obligation, Manufacturer shall also be liable for gross negligence of non-executive employees and for slight negligence; in the latter case, the liability shall be limited to typical, reasonably foreseeable damage. In the event of a breach of any material contractual obligation due to simple negligence, the liability shall be limited to typical damage foreseeable at the time of the contract conclusion. A material contractual obligation shall be any obligation which the contract, by its very content and purpose, specifically intends to impose, or the fulfillment of which enables the proper performance of the contract and upon the fulfillment of which a customer usually relies and may rely.

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- In the event of a breach of any non-material contractual obligation due to simple negligence, Manufacturer's liability shall be excluded.
- 3. Any contractual claim for damages that Customer may have against Manufacturer shall become statute-barred 12 months after obtaining knowledge of the circumstances giving rise to the claim. This shall not apply to the claims set forth in paragraph 1 of this Section.
- 4. The provisions set forth in paragraphs 1 to 3 above shall not be deemed to change the burden of proof to the disadvantage of Customer.

XVI. Liability for Indirect Damages

Manufacturer shall not be liable for any indirect damage caused by a defective delivery, such as loss of production, loss of profits or additional consumption of materials, except in the case of willful misconduct or gross negligence.

XVII. Limitation Period

Any and all claims of Customer, regardless of their legal grounds, shall become statute-barred after 12 months. The statutory limitation periods shall apply to claims for damages under Section XV, No.1. They shall also apply to defects of a building or to any delivery item which in line with its customary use was used for a building and caused the defectiveness of such building.

XVIII. Delivery Terms

1. Delivery shall be made EXW (ex works) / site of Manufacturer. The risk of accidental loss / accidental deterioration shall pass onto Customer once notice of readiness has been given or if Customer enters into default of acceptance, as the case may be.
2. All delivery terms are based on Incoterms® 2010.
3. If the delivery item is ready for dispatch and its delivery is delayed by Customer, or if shipment is delayed or made impossible due to any reason for which Manufacturer is not responsible, the delivery item shall be transported and placed in storage (at a third location, if necessary) at customary prices, for the account and at the risk of Customer.
4. Partial deliveries and partial performance shall be permitted, unless they unreasonably disadvantage Customer.

XIX. Payment Terms

1. Payment terms:
 - 30 % advance payment within 14 days from the date of the order confirmation, against presentation of an advance invoice
 - 60 % of the order value within 14 days after notice of readiness has been given, against presentation of a final invoice
 - 10 % of the order value within 14 days after commissioning (or operational handover or upon start of production or successful final acceptance).
2. A fax/email sent to the address of Customer shall be sufficient evidence of the receipt of the invoice.
3. The due and payable invoiced amount shall be transferred to the account of Manufacturer without any deduction and free of charge.
4. Customer shall have any right of retention only to the extent that Customer's counterclaims are undisputed or have been established with final legal force and effect. Customer may set off counterclaims arising under any other legal relationship only to the extent that Customer's counterclaims are undisputed or have been established with final legal force and effect. In the event of default, manufacturer shall be entitled to default interest at a rate of 9 percentage points above the base rate. The right to seek remedies for any further damage due to default shall remain unaffected.

XX. Retention of Title

1. The purchased item shall remain the property of Manufacturers until all claims of Manufacturer under the business relationship have been satisfied.
2. Prior to that, the item may not be pledged or transferred by way of security, and may be resold in the ordinary course of business only if Customer is not in default of payment. In the event of further processing/combination with other goods, Manufacturer shall acquire joint ownership of the new item in the proportion of the value of the item delivered by Manufacturer to the value of the new item.
3. In the event of any resale, the title of Manufacturer shall be retained. Subject to revocation, Customer shall be entitled to collect any receivable. Manufacturer will not collect as long as Customer makes payments in accordance with the contract. In the event of default of payment, Manufacturer may demand that Customer disclose the assigned receivables and the debtor, provide all information necessary for collection, hand over any related documents and disclose the assignment.
4. To the extent that the total value of all security interests exceeds the receivables by more than 25 percent, Manufacturer will upon request release security interests at Manufacturer's choice.
5. In the event of any forfeiture, seizure or any other disposition by third parties, Customer shall notify Manufacturer immediately. If the third party is unable to reimburse Manufacturer for the judicial and extra-judicial costs of an action pursuant to Section 771 of the ZPO [German Code of Civil Procedure], Customer shall be liable for the loss incurred in this respect.
6. Customer shall be obliged to treat the goods under retention of title with care, maintain them in good repair and insure them at Customer's cost against fire, water, and theft. Customer hereby assigns the claims against the insurance company; Manufacturer hereby accepts the assignment.
7. Should any law governing questions of ownership contradict the provisions regarding retention of title set forth herein, Customer undertakes to take every measure that may be required under the applicable law so that Manufacturer acquires ownership rights or surrogates, such as receivables, to the largest extent possible.

XXI. Confidentiality / Proprietary Rights

1. Manufacturer shall retain the sole property and copyright of any and all cost estimates, technical/contractual documents or any other technical information and drawings (including, without limitation, machining or process descriptions) provided by Manufacturer. Any reproduction or transfer to any third party of the documents shall be prohibited. Further, the documents may not be used by Customer or any third party for the purpose of manufacturing the relevant delivery items or of obtaining other bids, or misappropriated for any other purpose.
2. With regard to certain manufacturing procedures, Manufacturer grants Customer the right to use the proprietary procedures of Manufacturer (as defined in the bid). Such right to use shall be tied to the use of the delivery item and may neither be transferred to any third party nor exercised with any device other than the ones delivered by manufacturer.

XXII. Obligations to Cooperate/ Installation Requirements

1. In order to ensure a smooth working process on site, Customer shall install the delivery item according to Manufacturer's instruction, remove preservative agents, roughly position the delivery item at its location and connect it to power, provided this was agreed in writing with Manufacturer. Any measures to be taken with regard to grounding, set-up location, power supply and provision of suitable means of transport shall be ensured by Customer according to Manufacturer's instructions.

2. If any delay occurs due to insufficient preparation, any additional expense incurred thereby shall be borne by Customer.
3. Any transportation vehicles, measuring equipment or other devices that were required for the installation of the delivery item shall be returned to Manufacturer within 14 days free of charge. If Customer fails to do so, Manufacturer shall be entitled to charge the items at their current value.

XXIII. Conditions of Commissioning and of Preliminary and Final Acceptance

1. The estimate of the commissioning costs is based on the assumption that any and all requirements for a seamless working process have been met, and that workpieces as well as any auxiliaries or support by Customer's employees that may be necessary are available in the required amount.
2. Any waiting times or additional expense for which Manufacturer is not responsible, as well as any additional travel and accommodation costs that may be incurred due to a breakup of the commissioning shall be invoiced separately, together with supporting documentation.
3. Any tools, operating resources or materials which are not explicitly included in the scope of delivery but which required for proper operation must be provided by the operator of the machine/facility free of charge and must be available upon commissioning/final acceptance. Where required, this shall also apply to qualified and multilingual staff with German/English language skills who will be available to Manufacturer during assembly.
4. Preliminary acceptance (if agreed) and final acceptance shall take place using a VDI acceptance workpiece or using the workpieces agreed in the order (type, quantity and defined acceptance criteria). Preliminary acceptance shall take place at our premises.
5. Final acceptance shall take place immediately after installation and commissioning at the agreed location. However, should this be impossible, a new acceptance date shall be agreed in a timely manner. A corresponding log shall be prepared and immediately signed and handed over in the presence of a person authorized by Manufacturer
6. Should the machine be used for production prior to this, the warranty period shall commence, and the machine shall be deemed accepted.
7. If preliminary/final acceptance is not possible or is postponed to a later date due to any reason for which Manufacturer is not responsible, Customer shall bear the resulting additional costs.
8. If upon Customer's request any additional work is performed which is not included in the scope of commissioning or final acceptance work, the actual expense of such additional work shall be invoiced at the applicable travel costs and hourly rates.

XXIV. Documentation

The bid includes documentation in German (only software), one copy of which will be provided on CD and one copy on paper. As regards technical records of sub-suppliers, Manufacturer's scope of performance with respect to records, language and quantity shall be limited to the documents willingly provided by the sub-supplier.

XXV. Place of Jurisdiction / Place of Performance / Governing Law

1. The place of jurisdiction shall be Manufacturer's competent court. However, manufacturer shall be entitled to file suit at the main seat of business of the purchaser.
2. Any dispute between Manufacturer and Customer involving a value in dispute of more than EUR 100,000 shall at the option of Manufacturer be finally decided by an arbitration tribunal which shall be set up according to the rules of the Deutsche Institution für Schiedsgerichtsbarkeit (DIS) [German Institution of Arbitration] and consist of three arbitrators. The place of arbitration shall be Frankfurt/Main, and the arbitral proceedings shall be conducted in English if Customer is domiciled outside of Germany. For any dispute involving a value in dispute of less than EUR 100,000, place of jurisdiction and place of performance shall be Dietzenbach. Manufacturer shall also be entitled to file suit against Customer at customer's general court of jurisdiction.
3. These General Terms and Conditions of Sale and Delivery and any contracts concluded hereunder shall be governed by German substantive law, excluding the CISG (United Nations Convention on Contracts for the International Sale of Goods, entered into in Vienna, on April 11, 1980).

XXVI. Claims for Damages

1. Compensation for demonstrated damage due to default shall be limited in its amount to 0.5 % per week, in total however to a maximum of 5 % of the order value of Customer's obligation in default.
2. Liability for slight negligence with regard to ancillary contractual obligations (including confidentiality) shall be excluded unless the breach of contract results in physical injury. Furthermore, liability shall be limited to EUR 2.5 million. Unless and to the extent the contract explicitly provides otherwise, Manufacturer shall not be liable for any infringement of proprietary rights of third parties by the contractual performance.
3. If Manufacturer is held liable by any third party, Customer shall indemnify Manufacturer to the extent that Customer has caused such third-party claim.
4. To the extent that the liability for damages of manufacturer is excluded or limited, this shall also apply to its employees, representatives and vicarious agents.
5. Where foreign law is applicable, the liability of manufacturer shall be excluded or limited to the extent permitted by such law.

XXVII. Final Provisions / Severability Clause

1. These Terms and Conditions shall also inure to the benefit of Manufacturer's affiliated companies.
2. If any provision herein is or becomes invalid in whole or in part, the validity of the remaining provisions shall remain unaffected. The contractual parties shall cooperate to agree a valid provision which economically comes as close as possible to the invalid provision.