

General Terms of Sale and Delivery for Bahner GmbH („the Company“)

1. General

These General Terms of Sale and Delivery are a translation of the German text of our General Terms of Sale and Delivery. In event of a contradiction between the original German text and its translation the German version takes precedence. This agreement is governed by the law of Germany.

All orders accepted by the Company and all future business relations shall be executed exclusively subject to the following terms. Where these terms conflict with statutory regulations, the latter shall be of subsidiary importance, where permissible. The following terms shall also apply for all future business relations. Any terms of business of the Purchaser which conflict with these terms shall only be binding if they have been confirmed by us in writing. Such terms are otherwise rejected herewith.

2. Quotations

All quotations given by the Company are always without obligation. Dimensions, weights, performances, etc. specified in brochures, advertisements, price lists, etc. are approximate. The Company reserves the right to undertake changes in design, dimensions and weights for technical reasons. Prices quoted are always based on the current cost of materials and labour on the date of quotation: the Company reserves the right to increase its quoted prices in accordance with actual increases in costs.

3. Confirmation of contract

a) Orders shall only be binding when confirmed by the Company in writing, notwithstanding that the Company may have previously drawn up a quotation. If confirmation of an order is not granted, confirmation of the order shall be deemed to have been given by the delivery of an invoice by the Company to the Purchaser.

b) Content and scope of the order shall be governed exclusively by the Company's written confirmation of the order or by the Company's invoice together with these Terms. Subsidiary agreements, amendments or variations of the order shall only be valid if confirmed by the Company in writing.

c) The Company reserves all rights to patents, copy-rights or other intellectual property rights and basic manufacturing techniques.

d) An administrative surcharge of 20,- Euro shall be charged for all orders up to an order value of 100,-Euro.

4. Prices and payment

Our prices are stated ex works Weikersheim exclusive of packing and freight and value-added tax. Shipment and insurance against transport losses or other risks shall only be effected by us on behalf of and for account of the Purchaser if ordered in writing.

Packaging, guards and transport aids shall not be taken back, unless agreed otherwise in writing.

Payments are made after agreements. Payment shall only be deemed to have been effected when credited to the Company's account without reservations. All costs and burdens associated with LC's shall be borne by the Purchaser.

Right of retention, setting-off or the exercise of a right of lien to the outstanding purchase price shall only be granted to Purchaser if the latter's claim against us is undisputed or has been finally judicially determined. All our claims shall become due immediately, regardless of the time to maturity of any bills accepted or credited, if purchaser violates the terms of payment or if Purchaser's financial situation deteriorates significantly after conclusion of the contract (particularly if payments are suspended or if bankruptcy or insolvency proceedings are instituted against Purchaser's assets) or if an existing deterioration only becomes known at a later date. Moreover, we shall be entitled in such a case to make any further outstanding deliveries contingent upon payment in advance or upon provision of security for the payment due and to withdraw from the contract upon expiry of a reasonable period of time.

5. Delivery period

The agreed delivery period shall commence when the Company's confirmation of the order is dispatched, but not before all documents, permits and approvals to be supplied by Purchaser have been provided and not before any agreed down-payment from the Purchaser is received by us. Delivery shall be deemed to have been made on schedule if the goods to be delivered have left Company's works, or Purchaser has been informed that they are ready for shipment on or before the delivery deadline. The delivery period shall be reasonably extended in the event of circumstances associated with labour disputes, particularly strikes and lockouts, or following the occurrence of unforeseen obstacles beyond the Company's control, insofar as such obstacles significantly

impede production or delivery of the goods for as long as such circumstances prevail. The same shall also apply if any subcontractors used by the Company are affected by such circumstances. If delivery is delayed by more than six months, the Purchaser shall be entitled to withdraw from the contract. The Purchaser shall immediately be informed of the onset and end of such circumstances in serious cases. If the Purchaser suffers a loss due the default through minor negligence on the Company's part, he shall be entitled to claim damages for defaulted performance, to the exclusion of all other claims. These damages shall equal 0,5% for every full week of default, but not more than 5 % altogether, of the value of that part of the overall delivery that cannot be used in good time or for its contractually agreed purpose on account of the delay. If shipment is delayed at the Purchaser's request, he shall be invoiced the storage costs incurred as from one month after notification that the goods are ready for shipment. If the goods are stored in the Company's works, the cost of storage shall be invoiced per month at a rate equal to at least 0,5 % of the invoice sum. The Company reserves the right to dispose of such stored goods after a reasonable period of time and to supply Purchaser with other suitable goods where possible within a reasonably extended period of time. Our compliance with the delivery period presupposes that the Purchaser discharges his contractual obligations.

6. Transfer of risk

The risk as a whole shall pass to the Purchaser as soon as the goods leave the Company's works. The risk of loading shall also be borne by the Purchaser. The same shall also apply if an agreement in variation of the terms in Section 4, above, has been reached or if only part of the consignment is delivered, subject to the Company's discretion. If shipment is delayed for reasons for which the Purchaser is responsible, the risk shall pass to Purchaser as from the date on which the Purchaser is notified that the goods are ready for shipment.

7. Reservation of title

The Company's deliveries shall remain the property of the Company until all claims against the Purchaser, including future claims, have been fully paid (including until cheques or bills have been honoured), regardless of the legal foundations underlying such claims and even if payments are made in settlement of specified claims. The reservation of title shall serve the security for our outstanding balance in case of current accounts.

8. Warranty

The Company accepts liability for defects predating the transfer of risk to Purchaser and significantly impairing the suitability of the goods for their contractually intended purpose. However, the Company cannot accept any liability for losses for which it is not responsible and which are attributable to unsuitable or incorrect use, defective installation or incorrect start-up by the Purchaser or third parties, natural wear and tear, improper or negligent handling, the use of unsuitable fuels and lubricants, replacement materials, defective construction work, unsuitable subsoil, electrochemical and electrical influences. The Company's liability shall be limited, at its discretion, to repair or replacement of the part concerned. Parts which have been replaced shall become the Company's property. If the repair proves unsuccessful after a reasonable period of time, the Purchaser may demand a reduction in price. The Company shall bear the cost of installation and removal, as well as the cost of the new parts and material used. The associated cost of transport and travel expenses, however, shall be borne by the Purchaser. The Purchaser shall grant the Company the time and opportunity necessary to carry out the obligatory warranty work. The Purchaser shall only be entitled to repair defects directly or have them repaired by third parties if plant safety is seriously threatened and in order to prevent excessive losses or with our written consent. Purchaser shall be obliged to inform the Company immediately if such repairs are undertaken. The same shall also apply if the Purchaser demands that we repair such defects are not carried out within a reasonable period of time. The Purchaser shall forfeit his warranty rights if insofar as he attempts to repair or undertakes any other action on or modifications to the delivered goods either directly or through a third party, without the Company's consent, unprofessionally or in violation of the preceding paragraph. The warranty period shall be 12 months for new machines in one shift and 6 months, if the goods are used in multi-shift operation.

The warranty period shall be 12 months for used, generally re-conditioned machines in one shift and 6 months, if the goods are used in multi-shift operation. The warranty period shall commence, when the risk passes to Purchaser.

It shall be suspended for the duration of any break in operation due to execution of work under the warranty. A warranty period of 3 months shall apply for replacement parts and repaired parts; this period shall commence when the part concerned is taken into service and shall not end prior to the original warranty period. The Company may refuse to discharge its warranty obligations until the Purchaser has fully discharged his payment obligations to the Company. All further claims by the Purchaser shall be excluded, particularly claims for damages for losses not incurred on the delivered goods. The above exclusion of liability shall not apply in cases of wilful intent or gross negligence on the part of the proprietor or senior executives. It shall similarly not apply to matters which have been expressly warranted in order to protect the Purchaser against losses not incurred on the delivered goods.

9. Rescission

The Purchaser shall be entitled to rescind the contract if:

- Complete performance of the order is made impossible for the Company prior to the transfer of risk,
- Delivery of part of a consignment of identical objects becomes impossible for the Company and the Purchaser has a justified interest in refusing delivery of the remaining parts – otherwise the Purchaser can only reduce the payment due in accordance with the part which cannot be delivered;
- The Company defaults in accordance with the provisions of Section 5, above, and the Purchaser has set it at a reasonable period of time, of at least 2 months with the explicit reminder that performance will be refused upon expiry of that period of time. In the event of unforeseen circumstances as defined in Section 5, above, which considerably change the economic significance or content of the performance or significantly affect the Company's operations in any other way, or if the execution of the contract subsequently proves impossible, the Company shall be entitled to make reasonable adjustments in the contract. If this is not feasible economically, the Company shall be entitled to withdraw from all or part of the contract. The Purchaser's claims for damages on account of such cancellation shall be excluded. However, the Company undertakes to inform the Purchaser without delay if it intends to exercise this right of rescission in the light of corresponding information.

10. Limitation of claims for damages

The Company's liability for damages and that of the Company's employees and agents, regardless of the legal foundations underlying such claims, including claims based on positive breach of contract or warranty, culpa in contrahendo, default, frustration and tort, shall be limited to cases in which

- the loss is attributable to gross negligence or wilful intent or the breach of an express warranty or
- a major contractual obligation has been violated through minor negligence; in such a case, liability shall be limited to the foreseeable loss under normal circumstances and shall not exceed EUR 50 000.—for property and financial loss as well as to EUR 100 000.—for personal injury. If the Purchaser is a full merchant, a legal entity under public law or a special fund under public law, any claims for damages shall be further limited, in addition to the restrictions of the preceding paragraph, in that the Company also refuses liability for indirect losses, consequential losses due to defects, lost profits and production stoppages in cases of minor negligence.

11. Place of Performance, jurisdiction, applicable law

If the Purchaser is a full merchant, a legal entity under public law or a special fund under public law:

- place of performance for all legal disputes between Purchaser and the Company shall be D-97990 Weikersheim,
- jurisdiction shall remain with the Local or Regional Court with jurisdiction for D-97990 Weikersheim, at our discretion,
- German law shall apply without exception in addition to the above provisions. Legal relations between the Company and a foreign Purchaser shall be governed exclusively by the law of the Federal Republic of Germany. The United Nations Convention on the International Sale of Goods signed in Vienna on 04, 11, 1980 shall not apply. If any of the above provisions prove null and void, this shall not affect the validity of the remaining provisions. Any agreements diverging from the above provisions shall only be valid with our written confirmation.

**Bahner
Maschinen für die Hutindustrie
Industriestr. 16
97990 Weikersheim**