Clause 1 Area of applicability
(1) Unless otherwise expressly agreed in writing, these Standard Terms of Contract apply solely and exclusively to all offers, consultancy services, deliveries and other services made or provided by us to the exclusion of the customer’s own standard terms of contract. The supplier’s terms and conditions of assembly apply exclusively to all erection and assembly work, even in cases where assembly work is included in orders for machines and equipment. We hereby reject any counterclaims from the customer based on his own standard terms and conditions of contract or purchase.
(2) Terms and conditions conflicting with these Standard Terms of Contract will not be valid unless confirmed by us in writing.

Clause 2 Offers
(1) All our offers are without obligation until issue of our written offer confirmation.

Clause 3 Prices
(1) Definitive firm prices are those stated in our offer confirmation and are subject to value added tax at the legally applicable rate at invoice date.
(2) All our price quotations are net ex factory and expressed in Euro. They are subject to value added tax at the legally applicable rate at invoice date. All ancillary costs, including packaging, insurance, customs duties, freight charges and other levies are for the customer’s account.

Clause 4 Lead times, delays
(1) Lead times are quoted on the basis of anticipated normal operating conditions, but are not binding, unless otherwise expressly agreed in writing.
(2) We disclaim all liability for delays in delivery or performance of work attributable to force majeure and/or to events seriously hindering or preventing performance of contract – including difficulties in procurement of materials arising after our confirmation of an order, operational breakdowns, strikes, lockouts, lack of personnel, lack of transport, official requirements etc. affecting either us directly or our suppliers or their sources of supply -, even in cases where firm delivery dates have been agreed. Should any such events occur, we shall be entitled to either postpone delivery or performance of work for the period of the disturbance, plus a reasonable additional period to allow planning of work resumption, or to withdraw, in whole or in part, from the as yet unfilled part of the contract.

(3) Delay in delivery shall not entitle the customer to withdraw from his obligation to accept delivery. We disclaim liability for payment of compensation on grounds of late delivery in cases where a reasonable revised delivery date has been agreed and met.

(4) Late delivery, even in cases where firm delivery dates have been agreed, will only be recognised as from the date of receipt of a written reminder from the customer.

(5) Should a delivery delay exceed 3 months, he shall be entitled, after our failure to meet a reasonable revised delivery date, to withdraw from the unfilled part of the contract.

(6) We are entitled in all cases to make part deliveries and to include intervals in performance of the contracted work.

Clause 5 Passage of risk
Unless otherwise expressly agreed, all our deliveries are ex factory (INCOTERMS 2000). Delivery dates are deemed to have been met at the time and date of availability of goods for dispatch at our factory. Unless otherwise agreed in writing, all risks relating to the ordered items shall pass to the customer at the time of their despatch ex factory.

Clause 6 Warranty
(1) We guarantee delivery of correctly functioning products manufactured to recognised technical standards. We reserve the right to make modifications in design and/or construction, provided that these do not impair functionality or value of the ordered products. The customer is not entitled to raise objections to any such modifications. The warranty period for correct functioning of products supplied by us is 12 months.
(2) The warranty period commences on date of delivery. The warranty lapses automatically in cases where the customer makes modifications to the products, fails to carry out work requested and maintenance instructions, replaces components or uses materials not conforming to our standards.
(3) The customer must give us immediate written notice (in no case later than one week from date of his receipt of the products) of any defects discovered in the products. This notice period also applies in cases where the product was delivered directly to a third party. Any defects not discovered within the foregoing notice period despite careful examination must be notified to us in writing immediately on their discovery.
(4) In cases where notice of defects is received within the period stipulated in Paragraph 3 above, we shall be entitled at our sole discretion to
(a) either opt for return of the defective component or equipment for repair or exchange.
(b) make the return without delay. His warranty claim to repair of the defect shall lapse in the event of his failure to return the defective item within 30 days of receiving our request.

(5) The warranty does not cover items which are normally subject to wear and tear.
(6) Warranty claims will only be recognised if filed by the original customer, who is not entitled to assign these to any third party.

(7) The conditions set out above constitute the full extent of the warranty for products supplied by us. We disclaim all further liability of any kind whatsoever.

Clause 7 Payment
(1) The invoice amount will fall due in accordance with the agreed payment terms. The customer shall not be entitled to delay payments or offset counterclaims not recognised by us against the invoice amount. This shall apply, in particular, to retentions in cases where there are complaints relating to the goods or services supplied.

(2) Outstanding accounts receivable will not be treated as settled until we are able to dispose freely of the amount received. In the case of cheques, this will be on the date on which the cheque is honoured.

(3) Should the customer default on payment, we shall be entitled to charge interest on the outstanding amount as from the date of default at either the going rate charged by commercial banks for debit balances on current account or at 8 percentage points above the ECB’s basic rate, whichever is the higher.

(4) Should the customer fail to honour his payment obligations, in particular, by submission of a cheque which are not honoured or suspends payments or if other circumstances give rise to reasonable doubt on his creditworthiness, we shall be entitled to demand immediate payment of all outstanding accounts. We shall further be entitled at our sole discretion to either withdraw from performance of any still outstanding contracts or part contracts with the customer or to make their performance conditional on advance payment or provision of adequate security.

(5) Should the customer file complaints relating to our supply of goods or services or file counterclaims against us, he shall only be entitled to offset or retain the relevant amounts from payments due to us in cases where we have confirmed our consent to this in writing or where his counterclaims are res judicata.

Clause 8 Retention of title
(1) We retain title to all goods and services supplied by us as security for all our claims against the customer arising from current or future business transactions.

(2) Our title to the goods and services supplied also extends to any new products in which they are used. We therefore acquire co-title to any products in which they are included as a result of processing, mixing or otherwise compounding in the proportion of the invoice value of our goods and services to the value of the other materials present in the new products.

(3) The customer, in his capacity as custodian of our property, must treat the goods and services supplied by us with due care expected from a prudent business man and take any necessary action to ensure that our title is neither impaired nor avoided.

(4) At the time of closing the contract with us, the customer assigns all claims accruing to him through sale of goods and services to which we retain title as security for our claims in Paragraph 1 of this clause.

Clause 9 Liability
(1) We recognise liability in accordance with the provisions of the German Product Liability Act and for loss resulting from our wilful act, gross negligence, failure to supply guaranteed qualities and for death, bodily or other health injury in accordance with and to the extent prescribed by the relevant German laws and regulations.

(2) In all other cases, our liability and any claims for compensation filed against us arising from use or misuse of a contractual obligation or tortious act shall be limited to the level of the foreseeable loss in a contract of this type.

Clause 10 Governing law, place of jurisdiction, nullity
(1) These Standard Terms of Contract are governed by German law to the exclusion of the UN Sales Convention. The then valid version of the INCOTERMS of the International Chamber of Commerce in Paris shall also be applicable.

(2) Unless otherwise stipulated by mandatory law, the sole place of jurisdiction for all disputes arising either directly or indirectly from this contract shall be Tuttlingen.

(3) Should any provision contained either in these Standard Terms of Contract or in other agreements entered into by us prove or subsequently become invalid, this shall not affect the remaining provisions or agreements.

Status as of July 2012