

General Terms and Conditions

for Delivery, Maintenance and Customer Services of
Piller Entgrattechnik GmbH, Heimerdingen

Revision May 2014



1. Scope of Application

These General Terms and Conditions (GT&C) shall apply to all – including future – maintenance and customer services, delivery of spare parts, auxiliary and operating supplies, lubricants, etc. between Piller Entgrattechnik GmbH (Supplier) and its customers (Client).

As a matter of principle, differing provisions are subject to the written confirmation of the Supplier. This also applies to all oral agreements. Differing terms and conditions of business of the contracting partner shall not be binding on the Supplier. This shall apply even if such are not expressly objected to.

Our terms and conditions for delivery and assembly and billing rates shall also apply to future business dealings with the Client in the version applicable at the time of conclusion of the contract. The GT&C shall apply even if the Client should use standard purchasing terms and conditions. Ancillary agreements and amendments shall only come into effect upon written confirmation by us. The same shall also apply to the abrogation of this provision.

2. Offers/Conclusion of Contract

All offers are subject to change. A contract will be deemed concluded as soon as the written order confirmation of the Client or the signed maintenance and service contract is received from the Supplier.

The maintenance and service contract shall be in force until the end of a calendar year and shall implicitly be extended by additional periods of one year unless notice of termination is given by registered mail two months prior to the end of a calendar year.

The documents belonging to an offer, such as figures, drawings, weight details and dimensions, shall be construed as approximations unless they are expressly designated as binding. The Supplier reserves the title and copyright over cost estimates, drawings and other documents. Third parties shall not be granted access to such. The Client/contracting partner may only make any plans, documents, etc. provided by the Supplier accessible to third parties with the written consent of the Supplier. A request for surrender of documents of the Supplier shall be met without limitation and at any time.

3. Terms and Conditions of Delivery and Performance

The written order confirmation of the Supplier shall be relevant to the scope of delivery. The same shall also apply to other types of performance. Partial deliveries and performance shall not be rejected. In the case of partial deliveries/partial performance that are billed separately, the Client shall pay according to the payment terms (see section 6). The terms and conditions of delivery and performance of the Supplier are part of the General Terms and Conditions in their entirety. The Client shall establish the conditions needed or required for the maintenance. He shall ensure barrier-free access to the system to be maintained, stop or start all facilities needed for the operation of the system to be maintained at the request of the Piller customer service staff and enable speedy performance of the maintenance work by avoiding any interruptions and waiting times for the Piller customer service staff.

4. Delivery Periods and Dates

The date of deliveries and performance is approximate and non-binding, unless otherwise contractually agreed. The delivery date shall be deemed to be met upon notification of readiness for shipment or dispatch of the goods. In the case of maintenance and customer services, the respective contractual agreements or, otherwise, the GT&C shall apply. The due delivery on the part of upstream suppliers is another key condition. Should circumstances occur that are outside the will of the Supplier and that render his performance impossible, such as force majeure and other unforeseeable, exceptional circumstances without any fault on his part, e.g. material procurement difficulties, business disruption, strike, lock-out, lack of means of transport, official intervention, energy supply difficulties, natural disasters, etc., including cases in which such circumstances affect upstream suppliers, the times for delivery and performance shall be duly extended if such circumstances hinder the Supplier from fulfilling his obligations. Should the aforementioned circumstances render the delivery or performance impossible or infeasible, the Supplier shall be released from the delivery or performance obligation, and the Client cannot derive any claims for damages from such.

A contractual penalty for delayed delivery/performance is not permitted.

5. Prices

Unless otherwise agreed, prices are quoted subject to value-added tax in the respective statutory amount on an ex works Heimerdingen basis, without packaging (see also section 11) in Euro. Additional costs, regardless of their nature, shall be borne by the Client. The assembly cost rates are part of the maintenance and customer service contract. In the event of material changes in the costs of materials, wages, salaries or other costs that affect the price, e.g. by the upstream supplier, the Supplier may adjust the price. Any subsequent changes to the order requested by the Client shall also establish a right to adjust the price. The prices of the offer/contract shall only apply if the full scope of the offered/agreed services is ordered/accepted.

6. Payment Terms

Payments shall become due upon receipt of our invoices. The invoice shall be paid within five days from the date of invoice, without deduction of any charges, taxes and fees. In the event of partial performance, the price shall be due in the amount of the partial performance. Upon expiry of the payment period, the Client shall be in default of payment even without any particular reminder. Default interest shall be based on the base interest rate according to Section 247 of the German Civil Code (BGB) as published by the German Bundesbank in the Federal Gazette plus a risk premium of 6 per cent starting from the date of default of payment. The default interest shall be at least 6 per cent.

The costs incurred cannot be offset against expired or disputed counterclaims. Withholding of payment due to claims of the Client that are disputed by the Supplier is not permitted. Regardless of the method of payment used, payment will be deemed made only after the full invoice amount is irrevocably credited to the account of the Supplier. In the case of delayed payment, the Supplier may, after notifying the Client in writing, suspend the fulfilment of his own obligations until the payments are received. Should the Client be in default of payment for more than three months, the Supplier may rescind the contract by way of a written notice to the Client and assert damages against the Client for losses incurred. The damages shall not exceed the agreed overall cost.

7. Reservation of Title

Delivered goods (spare parts, operating supplies, lubricants, auxiliary supplies, etc.) shall remain property of the Supplier until full payment of the purchase price. This shall also apply to maintenance and customer services. In the event of breach of material contractual obligations, in particular default of payment, the Supplier shall be entitled to take back the goods, and the Client shall surrender such. The Supplier shall be entitled to store or have stored, or to collect or have collected, property subject to reservation of title at/from the Client. If the Supplier takes back property subject to reservation of title, this shall not necessarily imply rescission of the contract. The Client shall not pledge, sell or assign as collateral the items delivered before transfer of ownership. An application for the opening of insolvency proceedings over the assets of the Client shall entitle us to rescind the contract and demand immediate return of the items delivered.

8. Impossibility of Performance/Cancellation

Should circumstances occur that lie outside of the will of the Supplier and that render his performance impossible, it shall be released from the obligations under this contract. No claim to compensation for damage shall arise from such.

The Supplier may request adequate collateral for its claims against the Client and, in the event of default of payment of the Client or impending composition or insolvency proceedings, suspend all further performance immediately and keep parts already delivered by the Client as collateral

9. Warranty

The Supplier shall ensure qualified delivery/execution of all orders of the Client. The Client's notices of defects must reach the Supplier in writing within seven days of the receipt of the goods. If the goods delivered by the Supplier are further processed or assembled at the Client or used for its intended purpose, the delivery will be deemed accepted.

The warranty does not cover any defects that result from insufficient preparation of the Client especially in the case of maintenance and customer services.

Any further liability of the Supplier for any damage, including but not limited to consequential damage, is ruled out. The Client shall duly comply with his inspection and notification obligations owed pursuant to Section 377 of the German Commercial Code

(HGB) and inspect the goods received without delay for defects, quality, assured properties, etc. Obvious defects shall be reported to the Supplier in writing within one week. Concealed defects shall be reported without delay after such are identified. The Supplier shall be given opportunity to determine and assess the defect on site. Upon request of the Supplier, any goods or items objected to shall be sent back on a "freight paid" basis.

At his own expense, the Client shall ensure that goods objected to are duly stored. If the objection is justified, the Supplier shall, at his own discretion, rectify the defective goods, provide replacement or pay compensation for the impaired value. Replaced goods shall become property of the Supplier. The Client shall grant the time and opportunity required for the elimination of the defects according to equitable discretion. If this time is not granted, the Supplier shall be relieved from the obligation to eliminate the defects. If the Supplier fails to provide replacement or eliminate the defect within a reasonable period granted to him, the Client may request cancellation of the contract (revocation) or lowering of the compensation (reduction). Liability for defects shall not arise for natural wear and tear and also not for damage caused by the following reasons:

Unsuitable and improper use, defective assembly or commissioning by the Client or third parties, defective or negligent handling, excessive utilisation, unsuitable operating supplies, third-party replacement parts and incorrect replacement material, provided the Supplier is not at fault. Any liability whatsoever is ruled out in the case of changes and repairs that are improperly carried out by the Client or third parties. With respect to built-in parts or other goods from upstream suppliers, the liability of the Supplier shall be limited to the assignment of the liability claims against the upstream supplier. Upon request of the Client, the Supplier shall disclose the name and address of the respective supplier. Where work is done on the basis of designs, plans, etc., the Supplier shall be under no obligation to verify the correctness of the documents provided. Further claims of the Client, in particular claims for compensation for damage not caused by the item delivered itself, are ruled out, unless they are based on intent or gross negligence.

The warranty period shall expire after six months from the date of receipt of the goods in the case of concealed defects.

10. Shipment, Packaging and Transfer of Risk

Upon handover of the delivered item or goods to the carrier, at the latest when these leave the works premises, the risk shall pass to the Client. Should the goods be ready for shipment and the shipment or acceptance is delayed due to reasons for which the Supplier is not responsible, the risk shall pass to the Client upon notification of readiness for shipment. If goods that are ready for shipment are not called off, the Supplier may, at his own discretion, ship the goods or store them at the expense of the Client. If the shipment or delivery is delayed at the request of the Client, the Supplier may, starting one week after the notification of readiness for dispatch, charge storage costs amounting to 0.5 per cent of the invoice amount for every new week. Storage costs shall be limited to 5 per cent of the value of the goods, unless evidence of higher costs can be furnished. The Supplier is entitled, but under no obligation, to insure deliveries against transport losses in the name and for the account of the Client. Collection times shall be agreed in advance; no liability will be accepted for waiting times. Packaging will be charged at cost and will not be taken back.

11. General

The customer shall bear all taxes, fees and duties associated with the performance outside the Federal Republic of Germany and, if necessary, shall reimburse us for such. Reimbursement for return transport costs of packaging and packaging material is ruled out. Should individual provisions of these General Terms and Conditions or of the contract be or become invalid either in full or in part, the remaining provisions shall remain unaffected. Our assembly staff are not authorised to make legally binding declarations. Our customer service department alone shall be responsible for the contract handling.

12. Place of Performance, Jurisdiction

Place of performance shall be 71254 Ditzingen-Heimerdingen, Germany. German law shall apply to all disputes arising out of this agreement. Place of jurisdiction shall be Stuttgart, Germany.