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Ein Unternehmen der Loser Holding GmbH

# GENERAL TERMS OF DELIVERY OF TESOMA GMBH, LICHTENAU

## 1. 1. Scope of application:

1.1. Our general sales and delivery terms are valid for the delivery of movables, accomplishments and all manufactured machines, appliances and miscellaneous goods in accordance with the contract between TESOMA and the customer.

1.2. Our general sales and delivery terms apply exclusively, regulations to the contrary or deviating terms of the customer to our general terms are not accepted, unless we have expressly agreed their validity in written form. Our general delivery terms also hold true when we execute deliveries aware of regulations to the contrary or deviating terms of the customer to our terms and conditions without any reservation.

## 2. Offer – contract formation – offer documents:

2.1. Our offers are subject to confirmation unless they are confirmed bindingly.

2.2. Changes in design and shape which are attributed to an upgrade of the technique or changed legal standards are reserved during the time of delivery, provided that the delivery item has not to be changed significantly and the changes are bearable for the customer.

2.3. TESOMA reserves the title and copyrights for images, drawings, calculations and other documents. This also applies to written documents that are referred to as confidential. Before transferring to third parties the customer needs our explicit written consent.

2.4. All details, images, drawings, technical details, weights, measures and performance details that are included in leaflets, catalogues, newsletters, advertisements, price lists and enclosures to offers or order confirmations are tentative, as long as they are not confirmed bindingly in the confirmation of order.

## 3. Prices and payment terms:

3.1. Provided that nothing else was agreed our prices apply ex works, excluding packing and transport that are always charged separately.

3.2. Our prices are exclusively of VAT. It will be charged according to the legal rate at the date of invoice and reported separately.

3.3. The deduction of discount requires a particular contractual agreement.



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3.4. The contractual agreed prices and terms of payment are valid.

3.5. The legal regulations with reference to consequences in default in payments are valid.

3.6. The right of set-off is only entitled to the customer when his counterclaims are legally established, indisputable or acknowledged by us. The customer is only entitled to exercise the right of retention when his counterclaim is based on the same contractual relationship.

## **4. Delivery time:**

4.1. The start of the stated delivery time assumes the clarification of all technical points.

4.2. The delivery deadline starts with the receipt of all for the order necessary documents and the agreed down payment.

4.3. If TESOMA stated a delivery deadline which was the basis of the placement of the order, this period is extended in case of strike and force majeure for the period of the delay. The same is valid when the customer defaults his eventual duty to collaborate.

4.4. We are liable according to legal regulations as long as the default of delivery is based on the culpable violation of an essential obligation. In this case the liability for compensation is limited to the predictable typically arising damage.

## **5. Packaging:**

5.1. As long as nothing else is agreed upon the delivery is ex works (EXW) without package.

5.2. When packaging for lorry shipment was agreed, the dryer or other parts of equipment will be demounted into modules, screwed on pallets and covered with foil.

5.3. When packaging for sea transport was agreed, the dryer or other parts of the equipment will be demounted into modules, packed on wooden pallets, acc. to HPE guideline, wood packing material acc. to IPPC standard ISPM 15, pallets shrink-wrapped into aluminium foil in addition of desiccant for up to 6 months transport and storing time.

5.4. Disposal of the packaging by the customer to his own expenses.

## **6. Risk transition:**

6.1 The risks pass over to the customer, also in case of carriage free delivery, as soon as the goods are handed over to the forwarder or have left the stock room of the contractor. When the shipment would be impossible without the fault of the contractor that risks pass over to the customer by the announcement of delivery readiness.



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6.2 The customer is responsible for unloading the truck and for the internal transport.

## 7. Terms of installation:

7.1. The customer has to care for a continuously installation execution. In case of delay during installation which is not caused by TESOMA the additional costs will be charged. The customer takes care of enough room for installation, internal transport opportunities, opportune electrical connection for the commissioning and grants support by helpers. The customer assures that the appropriate mechanical and electrical interfaces for the installation will be available. At least two weeks before delivery you will receive detailed information from our customer service.

7.2. During the assembling and installation the local rules and guidelines can be met only limited. If local qualifications, certificates or approvals are required, these have to be provided on site. For the acceptance and compliance with local regulations is only the customer responsible.

## 8. Conditions of acceptance:

### 8.1. *Pre-acceptance at TESOMA*

The whole scope of delivery will be completely installed at the place of TESOMA. Approximately one week before the expected shipment date the product contents will be accepted during a pre-acceptance test between the customer and TESOMA. TESOMA will demonstrate all technical functions.

The customer provides suitable test material like substrates, inks, screen printing frames or additional required materials free of charge and in an adequate quantity. The conclusion of the pre-acceptance will be a collaborative acceptance certificate. For the pre-acceptance at TESOMA all materials will be required in a maximum quantity and in original form. If this is not possible the acceptance will be carried out with similar materials. If therefore appears changed conditions for the acceptance and the requirement of TESOMA at the end customer, this will be realised against additional costs. When no materials will be allocated to show the functions of the dryer at the place of TESOMA then TESOMA will not be liable for consequential results.

### 8.2. *Acceptance at the end customer*

The scope of delivery will be installed and set into operation at the place of the end customer by TESOMA. All technical functions will be demonstrated. Directly afterwards the machine is handed over to the principal with a corresponding activity confirmation. The delivery to the customer is made by an acceptance certificate. If the activity confirmation would not be possible for reasons that were not caused by TESOMA it will be executed by the principal himself later. If a later acceptance at the end customer reveals the necessity that TESOMA is needed on site it will be realised with additional charges.

## 9. Guarantee:

9.1. If nothing else has been agreed upon, the guarantee period is 12 months after delivery.

9.2. Wear parts acc. to the spare- and wear parts list in the documentation are excluded by the guarantee. Especially the transport belts or wrapping of the transport rolls are subject to



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a natural wear which depends on the operating conditions. From the time of delivery TESOMA does not assume guarantee for lifetime of the belt or of the wrapping.

9.3. If the installation and putting into operation is not carried out of authorized specialist staff and prescribed cleaning and maintenance intervals were not kept, then the guarantee gets not recognized.

9.4. Guarantee is also excluded in case of inappropriate use.

9.5. In the context of the regulation for contracts of manufacture the customer's place is regarded as a place of performance of the guarantee. Further performances in addition to that will be produced against a separate calculation.

## **10. Shipping instructions:**

The customer is responsible for unloading the truck and for the internal transport to the point of use. For the unloading and internal transport a fork lift truck and lifting equipment will be needed. At least two weeks before delivery you will receive detailed information from our customer service.

## **11. Reservation of title:**

Until the fulfilment of all claims which are entitled to TESOMA against the customer now or in future TESOMA reserves the property of the delivered goods.

## **12. Liability:**

12.1. The customer has to examine the received goods immediately upon arrival for defects and conditions as per contract. The customer has to report immediately all obvious defects of the delivery, at least within 7 days after receipt. All hidden defects have to be reported in writing at least within 7 days after detection. Otherwise the delivery is considered as having been approved. The customer is bound to take the goods even if they show unessential failures.

12.2. The customer has to give us the opportunity to check his complaint, especially damaged articles and their packing have to be provided for inspection. If the customer refuses this TESOMA is free of any liability.

12.3. When the customer requires supplementary performance we can decide if he shall eradicate the flaw himself or if we deliver flawless goods as replacement. Replaced goods become our property and have to be returned to us.

12.4. Of the immediate costs arising from the rework or substitute delivery we bear the costs of the replaced goods including the dispatch as far as the complaint proves justifiable. Possible costs arising with the customer has to be borne by him. The customer has to pay necessary assembly and travelling expenses which expends in connection with unauthorized customer's complaints. By possible changes or improperly on the part of the customer or third parties carried out repair works without our previous written approval our liability for the consequences arising from it is absolved.



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12.5. Claims of the customer because of necessary expenditures for supplemental performances, particularly transport, fare payments, work costs and cost of materials are excluded, as far as the charges increase because the object of the delivery has been spent afterwards to another place than the branch office of the customer unless the shipment corresponds to its use as agreed.

12.6. We are not liable for damages of the product which results for supplementary performance or repair works from the customer or third parties or from a faulty or careless treatment by a natural wear, unsuitable, improper or not as stipulated in the contract use, faulty assembly or commissioning, excessive use or improper change, provided that this is not the fault of TESOMA.

12.7. More detailed claims of the customer particularly on compensation instead of the performance and on a replacement of another immediate or indirect damage are excluded - inclusively accompany or resultant damage, unimportant for which legal justification. This is not valid if:

12.7.1. *We have hidden a defect of title or material defect maliciously or taken a guarantee for the composition of the product,*

12.7.2. *The damage is based on deliberate action or gross negligence by us, our legal representatives or vicarious agents or a negligent breach of essential contractual commitments by these persons*

12.7.3. *Culpable breach of duty by us, our legal representative or vicarious agents has led to a bodily injury or health damage.*

12.8. In case of ordinary negligence our obligation to pay compensation is restricted height wise to the contract typical, predictable damage.

## **13. Limitation of compensation entitlements:**

More detailed claims for compensation or other compensation entitlements of the customer, regardless for which legal justification, particularly because of breach of duties from the contractual obligations or from a tortious act, are excluded. This does not apply as far as one is liable mandatorily, for example after the product liability law.

## **14. Software:**

As far as software is a component of our delivery and performance, the exclusively given rights to the customer are restricted to use the programs only in connection with the products and within the business activity. The software may not be made to third parties accessible.

## **15. Other regulations:**

For ordering and delivery the law of Germany is exclusive. Other national laws as well as the uniform international purchase law are excluded. Place of performance is the place of the principal, place of jurisdiction is Chemnitz.



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The ineffectiveness of single terms of these delivery terms does not touch the effectiveness of the other regulations. A regulation which comes in its economic consequence of the ineffective agreement most nearly takes the job of the ineffective clauses.