

# General Terms and Conditions of Business



## 1 General – area of application

- Deliveries, performances and quotations by Isofloc AG are rendered exclusively on the basis of these Terms and Conditions of Business. We do not accept the purchaser's Terms and Conditions if they differ from or oppose our Terms and Conditions of Sale, unless we expressly agree to their validity in writing. Our Terms and Conditions of Sale apply even if we make delivery to the customer without reservation although we are aware of the purchaser's conditions that oppose or deviate from our Terms and Conditions of Sale.

## 2 Quotation, quotation documents (drawings, technical information)

- Our quotation is subject to change and non-binding unless stated otherwise in the confirmation of order. Notifications of acceptance and orders are legally effective only with our written confirmation. If this does not reach the purchaser within 10 days after receipt of the order, then this is considered to be a rejection of the order.
- We retain the ownership of, and copyright on illustrations, drawings, calculations and other documents. This also applies to such written documents that are designated as 'confidential'. The purchaser requires our express written agreement before passing them on to third parties.
- Brochures and drawings are non-binding. Details in drawings and technical documents are only binding if they are expressly assured. Isofloc AG retains all rights to drawings and technical documents that it supplies. These may not be made accessible to third parties. In the case that no order is placed, all drawings and technical documents are to be returned to Isofloc AG immediately. If software is included in the delivery, all rights to this software are retained by Isofloc AG. Isofloc AG grants the customer a non-exclusive right to use the software supplied, wherein the issuing of sub-licences is not permissible. This right is limited to the contractually agreed use. The software may neither be copied nor made accessible to third parties without the prior written agreement of Isofloc AG.

## 3 Prices and terms of payment

- The sales prices of our products are to be taken from the respectively valid price list. This will be sent to the purchaser on demand. For products whose prices are published on the Internet, the details on the Internet apply. The prices given do not include the statutory Value Added Tax. This is shown separately on the invoice at the rate valid on the day of rendering the invoice. Unless stated otherwise in the confirmation of order, our prices are 'ex works', including the usual packaging. All auxiliary expenses, such as freight, insurance, export, transit and other permits as well as certifications, shall be borne by the customer.
- Additional transport packaging costs as well as the costs of the delivery are charged for separately in accordance with the price list named in number 1.
- Unless stated otherwise in the confirmation of order, the purchase price is due for payment net (without deduction) within 30 days of the date of the invoice. The legal regulations shall apply with regard to the consequences of default of payment.
- Unless stated otherwise in the written agreements or in the confirmation of order, the purchaser shall only be entitled to a right of set-off if his counterclaims have been legally established or are undisputed or have been accepted by us in writing. In addition, he shall only be entitled to exercise a right of retention if his counterclaim arises from the same contractual relationship.

## 4 Delivery time and performance time

- Binding delivery dates or deadlines must be agreed upon in writing.
- The adherence to our delivery obligation requires the punctual and proper fulfilment of the purchaser's obligations. The defence of lack of performance of the contract is reserved.
- Compliance with the delivery deadline is subject to correct and timely delivery by our suppliers. We will inform the customer as soon as possible if impending delays become apparent.
- We are entitled to render partial deliveries and partial performances at any time.
- If the purchaser is in default of acceptance or if he culpably breaches other duties to cooperate, then we shall be entitled to demand compensation for any damages incurred by us, including any additional expenditure. We reserve the right to assert further claims.
- If the conditions set out in number 4 are met, the risk of accidental destruction or accidental deterioration of the merchandise is transferred to the purchaser at the moment he is in default of acceptance or debtor's default.
- In the case of a delay in delivery, we shall be liable within the scope of the proven damages only if we are proven to have acted deliberately or with gross negligence.

## 5 Transfer of risk – packaging

- The risk is transferred to the purchaser as soon as the shipment has been handed over to the person carrying out the transport or has left our warehouse for the purpose of dispatch. If the dispatch is delayed at the request of the purchaser, then the risk shall be transferred to the purchaser upon the notification of readiness for dispatch.
- With the exception of pallets, we do not take back transport packaging or any other packaging.
- As a matter of principle, installation and commissioning are the customer's own concern. If we take over installation or commissioning duties, then the expenditure for this is to be remunerated.
- We accept liability for consultation only if we have received a separate order for consultation in addition to a purchase order and we have accepted and been remunerated for it.
- The tools and aids made available by Isofloc AG for installation remain the property of Isofloc AG and must be returned after completion of the installation.
- At the latest at the time of acceptance, Isofloc AG must provide the necessary information in the form of operating instructions and drawings to allow the purchaser to put the plant into operation, to operate it and to maintain it. However, Isofloc is not obligated to supply design drawings for the plant or to supply spare parts.
- If we have agreed the time of the delivery, assembly or installation performance with the customer, the customer is obliged to take all necessary precautions at the place of work to enable the foreseen work to be carried out. The customer is in particular obliged to provide electrical connections, compressed air connections and adequate lighting at the place of work.
- If the customer is at fault that we could not carry out the foreseen work, or could not carry it out completely or within a reasonable time, then the customer is obligated to compensate us for the resulting damages. In particular, the customer shall reimburse us for additional costs incurred due to multiple journeys and non-productive or additionally required working hours of our employees. In calculating the damage, the additional costs for the extra work of our employees and the additional costs for multiple journeys can be charged according to our applicable installation cost guidelines. However, the parties shall retain the right to prove higher or much lower actual damages.
- In particular when carrying out assembly / installation work, the parties can agree that the contractual conformity of the delivered goods shall be determined by a joint acceptance test.
- If no date has been agreed for acceptance, we shall inform the customer of the date of the acceptance test.
- The customer shall bear the cost of the acceptance test (including the costs of sample materials

and operating resources). The costs of our personnel shall be borne by us, however.

- A written record of the acceptance test shall be prepared and is to be signed by both parties. Any defects of the delivery item shall be recorded.
  - If the delivery item is accepted if it exhibits no or only insignificant defects or if the acceptance test could not be carried out due to the customer's fault or if the customer has taken the delivery item into operation for the customer's own commercial purposes.
  - If the acceptance test reveals that the delivery item does not conform to the contract, we shall have the right and are obligated to eliminate the contractual non-conformity.
- ## 6 Liability for defects / warranty
- The warranty period is 12 months starting from readiness to dispatch. The notice of defects is to be submitted within one week after receipt of the goods. Concealed defects are to be notified within one week of their discovery. We shall have the right to rectify the defect or to supply defect-free replacement goods. If the supplementary performance fails at least three times, then the purchaser shall be entitled to withdraw from the contract or to demand a price reduction, whichever he chooses. This claim must be received by us within 10 days. Liability for defects is excluded if the goods have not been paid for within the deadline. Liability for any consequential damages is excluded unless we had acted with wilful intent or gross negligence. The statute of limitations for damages arising from liability for defects is 12 months and starts with the transfer of the risk.
- ## 7 Joint and several liability
- We shall be liable for any claims for compensation of damages only if we had caused said damages through wilful intent or gross negligence. Liability for consequential damages due to defects is expressly excluded to the extent allowed by law. This also applies in particular to indirect damages and loss of profits as well as to organisational culpability. All claims arising from product liability are explicitly excluded if and to the extent allowed by applicable legislation.
- ## 8 Retention of title / assignment of claims from sale of the goods
- We retain ownership of the goods until all claims from the business relationship have been settled, including claims arising in future, also from contracts concluded at the same time or later. This also applies if individual or all claims owing to us are adopted into a current invoice and the balance is drawn and accepted. The customer authorises us to enter or note the retention of title in public registers or books and obligates himself to furnish all demanded signatures.
  - In case of behaviour contrary to the terms of the agreement on the part of the purchaser, in particular in the case of default of payment, we shall be entitled to take back the merchandise. The taking back of the merchandise by us is not a cancellation of the contract unless we had expressly declared it as such in writing. Seizure of the merchandise by us is always a cancellation of the contract. We are authorised after taking back the merchandise to exploit it; the proceeds from the exploitation shall be set off against the purchaser's debts, less appropriate exploitation costs.
  - In the case of seizure or other third-party interventions, the purchaser shall notify us immediately in writing so that we can take legal action. If the third party is unable to reimburse us for the judicial and extrajudicial costs of a lawsuit, then the purchaser shall be liable for the costs incurred by us.
  - The purchaser is entitled to resell the merchandise in the course of normal business; to the extent that we have open claims against him, he assigns to us, already now, all claims, in particular those arising from works contract to the amount of the total invoice amount (including VAT), that arise against his customer or third party from the resale, irrespective of whether the merchandise has been resold without or after further processing. To that extent we accept said assignment here and now. The same applies if the conditional goods are installed by the purchaser as an essential component in the property of a third party. In this case the right to the granting of a cautionary mortgage with rank before the remainder is also assigned. We also accept this assignment. The claim assigned to us by the purchaser in advance also refers to the accepted balance as well as the existing 'causal' balance in the case of insolvency of the customer.
  - The purchaser remains authorised to collect this claim even after assignment. Our authority to collect the claim ourselves is not affected by this. However, we undertake not to collect the claim as long as the purchaser complies with his payment obligations arising from the proceeds collected and is not in default of payment or ceases to make payment. If this is the case, however, then we can demand that the purchaser discloses the assigned claims and their debtors to us, provides us with all details required to collect the claim, hands over the associated documents and informs the debtors (third parties) of the assignment.
  - We undertake on demand from the purchaser to release securities due to us to the extent that the realisable value of our securities exceeds the claims to be secured by more than 20%; we are entitled to choose which securities shall be released.
- ## 9 Payments
- Unless stated otherwise in the confirmation of order, our invoices are payable 30 days after the rendering of the invoice without deduction. We are entitled, even if the customer's conditions are worded differently, to set payments off first against the costs, then against the interest and finally against the principal claim.
  - We shall be entitled in the case of late payment to charge interest at the rate charged by commercial banks for open overdrafts plus statutory Value Added Tax. However, the minimum interest rate is 5%.
  - A payment is deemed to have been made only when we can dispose of the sum.
  - If we become aware of circumstances that cast doubt on the creditworthiness of the purchaser, in particular if a cheque is not honoured or if the purchaser ceases payments to third parties, then we shall be entitled to declare the entire remaining debt due for payment, even if we have accepted cheques. In addition we shall be entitled in this case to demand payment in advance or the provision of securities.
- ## 10 Place of fulfilment, place of jurisdiction, applicable law, severability clause
- Unless stated otherwise in the confirmation of order, the place of fulfilment is the location of the registered office of our company.
  - Unless agreed otherwise, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Bütschwil. We reserve the right to take legal action against the purchaser at any other place of jurisdiction as well.
  - These Terms and Conditions of Business and the entire legal relationship between us and the purchaser are subject exclusively to the laws of Switzerland. The UN Convention on Contracts for the International Sale of Goods (Vienna Convention) is not applied.
  - If a provision of these Terms and Conditions or a provision of another agreement should be or become ineffective, this does not affect the effectiveness of any other provision or agreement.