

**General Terms and Conditions of Sale of
IVA Johann GmbH Construction Machinery Technology**

1. Applicability:

The following terms and conditions of supply apply to all contracts, deliveries and other services, including consultancy services, unless they are amended or excluded with our express consent. Any deviating terms and conditions of purchase on the part of the purchaser shall not form part of the contract, even if we accept the order. The purchaser's terms and conditions shall not become binding even if we do not expressly object to them again.

2. Quotation and Conclusion of Contract:

Quotations are always subject to change. Unless otherwise agreed, a contract is concluded upon our written confirmation of the order. Where our employees or agents make verbal side agreements or representations that go beyond the quotation or the contract, these shall always require written confirmation from our company. The documents forming part of the quotation, such as illustrations, drawings, weight and dimensional specifications, are only approximate. We reserve ownership rights and copyright in samples, cost estimates, drawings and similar information of any kind. They must not be made available to third parties.

If, after the conclusion of the contract, we become aware of facts that cast doubt on the purchaser's creditworthiness, we are entitled to demand payment in advance or appropriate security and, in the event of refusal, to withdraw from the contract.

3. Delivery periods and default:

Delivery periods and dates are to be regarded as approximate only, unless we have expressly confirmed them in writing as binding. Delivery periods commence on the date of our order confirmation. Compliance with delivery periods and dates is subject to all commercial and technical matters between the contracting parties having been clarified and the customer having fulfilled all obligations incumbent upon them (for example, the provision of drawings or the payment of a deposit). Otherwise, the delivery period shall be extended accordingly.

Adherence to the delivery period is subject to correct and timely supply from our own suppliers. We shall notify the customer immediately of any impending delays. Partial deliveries are permitted. The delivery period shall be extended – even in the event of a delay – by a reasonable period in the event of force majeure, industrial action and other events beyond our control, insofar as such obstacles are demonstrably of significant importance to the delivery of the subject-matter of the contract. This shall also apply if these circumstances arise at our suppliers and their subcontractors. We shall notify the contracting party of the start and end of such impediments as soon as possible. In such a case, the purchaser may require us to state whether we intend to withdraw from the contract or to deliver within a reasonable period. If we fail to make such a statement, the purchaser may withdraw from the contract.

Delivery periods and dates shall be extended by the period during which the buyer is in default of its contractual obligations – including those arising from other contracts.

If we are in default of delivery and the purchaser suffers loss as a result, they shall be entitled to claim lump-sum compensation for delay. This shall amount to 0.5 per cent for each full week of delay, but in total not exceeding 5 per cent of the value of that part of the total delivery which, as a result of the delays, cannot be used on time or in accordance with the contract. Both claims for damages by the customer due to a delay in delivery and claims for damages in lieu of performance which exceed the limits set out above are excluded in all cases of delayed delivery, even after the expiry of any delivery deadline set for us. This shall not apply where liability is mandatory in cases of wilful misconduct, gross negligence or injury to life, limb or health; this does not entail any shift in the burden of proof to the detriment of the purchaser.

The purchaser's right to withdraw from the contract following the fruitless expiry of a grace period set for us remains unaffected. The purchaser undertakes, upon our request, to declare within a reasonable period whether they intend to exercise their right of withdrawal.

4. Dispatch and transfer of risk:

In the absence of any specific agreement, the route and means of dispatch shall be at our discretion. The goods shall be insured at the purchaser's request and expense.

Risk shall pass to the purchaser once the goods have left our premises, even where partial deliveries are made or where we have undertaken other services (for example, delivery and installation). Where acceptance is required, this shall determine the point at which risk passes. Acceptance must take place without delay on the date of acceptance or, failing that, upon notification by us that the goods are ready for acceptance. The customer may not refuse acceptance in the event of a non-material defect.

If dispatch or acceptance is delayed or fails to take place due to circumstances for which we are not responsible, the risk shall pass to the customer from the date on which we notify them that the goods are ready for dispatch or acceptance.

We reserve the right to make partial deliveries.

5. Packaging:

Packaging is charged separately and will not be taken back.

6. Prices and payment:

Unless otherwise agreed, prices are quoted ex works, including loading at the works. Value added tax at the applicable statutory rate shall be added to the prices. Unless expressly agreed otherwise, payment must be made within 30 days of the invoice date without deduction.

We shall only accept discountable and duly taxed bills of exchange in settlement of payment subject to prior agreement to that effect. Credits against bills of exchange and cheques are subject to receipt, less any outlays, with value date on the day on which we are able to dispose of the equivalent value. Any agreed discounts shall not be granted if the customer is in arrears with payment for previous deliveries.

The customer shall only be entitled to withhold payments or to set them off against counter-claims to the extent that their counter-claims are undisputed or have been established by a final and binding judgement.

7. Retention of title:

a) We retain title to the goods delivered by us until all our claims against the purchaser arising from the business relationship, including future claims arising from contracts concluded at the same time or subsequently, have been settled. This shall also apply if individual or all claims on our part have been included in a running account and the balance has been struck and acknowledged. In the event of the purchaser's breach of contract, in particular in the event of default in payment, we shall be entitled to take back the goods following a reminder, and the purchaser shall be obliged to surrender them. Unless the Instalment Sales Act applies, our taking back or seizure of the goods shall only constitute a withdrawal from the contract if we expressly declare this to be the case. We reserve the right to claim damages from the purchaser in connection with any such repossession. The purchaser must notify us immediately in writing of any attachment or other intervention by third parties. An application to open insolvency proceedings in respect of the purchaser's assets entitles us to withdraw from the contract and to demand the immediate return of the goods supplied.

b) The purchaser is entitled to resell the goods in the ordinary course of business, provided that the claims arising from the resale are assigned to us as follows:

The purchaser hereby assigns to us all claims, together with all ancillary rights, arising from the resale against the buyer or against third parties, irrespective of whether the goods subject to retention of title are resold unprocessed or after processing. The purchaser remains authorised to collect these claims even after the assignment. Our right to collect the claim ourselves remains unaffected by this; however, we undertake not to collect the claims as long as the purchaser duly meets their payment obligations. We may require the purchaser to disclose to us the assigned claims against their debtors, to provide all information necessary for collection, to hand over the relevant documents and to notify the debtors of the assignment. If the goods are resold together with other goods that do not belong to us, our claim against the purchaser shall be deemed assigned in the amount of the delivery price agreed between the prior purchaser and the buyer.

c) Any treatment or processing of the goods subject to retention of title shall be carried out on our behalf as the manufacturer within the meaning of Section 950 of the German Civil Code (BGB) without imposing any obligation on us. The processed goods shall be deemed to be goods subject to retention of title within the meaning of these terms and conditions. If the goods subject to retention of title are processed or inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the invoice value of the goods subject to retention of title to the invoice value of the other goods used at the time of processing or mixing. The co-ownership rights thus arising shall be deemed to be goods subject to retention of title within the meaning of these terms and conditions. If our goods are combined with other movable items to form a single item and are inseparably mixed, and if the other item is to be regarded as the principal item, it is hereby agreed that the buyer shall transfer proportionate co-ownership to us to the extent that the principal item belongs to the buyer. In all other respects, the same shall apply to the item resulting from the processing, combination and mixing as to the goods subject to retention of title.

d) We undertake to release the security to which we are entitled to the extent that its value exceeds the claims to be secured – insofar as these have not yet been settled – by more than 25 per cent.

8. Claims for defects:

We shall provide a warranty for material defects, to the exclusion of any further claims – subject to clause 11 – as follows:

a) The customer must inspect the goods received for quantity and quality immediately upon arrival. The customer must notify us in writing of any obvious defects without delay, at the latest within one week. Notices of defects do not entitle the customer to withhold payment of the invoice amounts. In the event of defects, further processing must be ceased immediately.

b) The quality of the goods shall be governed exclusively by the agreed technical delivery specifications. If we are required to supply goods in accordance with the purchaser's drawings, specifications, samples and so on, the purchaser shall bear the

risk of suitability for the intended purpose. The decisive moment for determining whether the goods are in a condition in accordance with the contract is the time of handover of the goods to the forwarding agent or carrier, or at the latest the time the goods leave the works.

c) Any parts which prove to be defective as a result of circumstances occurring prior to the transfer of risk shall, at our discretion, be repaired free of charge or replaced with defect-free parts. Replaced parts shall become our property.

d) The customer must give us the opportunity to verify the defect and, upon request, make the goods subject to complaint or samples thereof available to us without delay. The customer must, after consultation with us, allow the necessary time and opportunity for us to carry out any rectifications and replacement deliveries we deem necessary; otherwise, we shall be released from liability for the resulting consequences. Only in urgent cases where operational safety is at risk or to prevent disproportionately great damage shall the customer have the right to rectify the defect themselves or have it rectified by third parties in a professional manner and to claim reimbursement from us for the necessary expenses. In this case, we must be notified immediately.

(e) The customer shall have the right to withdraw from the contract in accordance with statutory provisions if – subject to the statutory exceptions – we allow a reasonable period set for us to rectify the defect or provide a replacement to lapse without result. If the defect is only minor, the customer shall only be entitled to a reduction in the contract price. The right to a reduction in the contract price is otherwise excluded. Further claims are governed by clause 11(b) of these terms and conditions.

f) Claims for material defects shall become time-barred 12 months after receipt of the goods at the destination, or at the latest 14 months after notification that the goods are ready for dispatch. However, this shall not apply where the law (for example, in the case of buildings and claims under clause 11(b)) mandatorily prescribes longer time limits.

g) No liability shall be accepted in the event of unsuitable or improper use, faulty assembly or commissioning by the customer or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, or chemical, electrochemical or electrical influences – provided that we are not responsible for them.

h) If the customer or a third party carries out repairs improperly, we shall not be liable for any consequences arising therefrom. The same applies to any alterations made to the goods supplied without our prior consent.

9. Legal defects:

If the use of the goods delivered results in an infringement of industrial property rights or copyright within Germany, we shall, at our own expense, in principle either secure the right for the customer to continue using the goods or modify the goods in a manner reasonable for the customer such that the infringement of property rights no longer exists. If this is not possible on economically reasonable terms or within a reasonable period, the customer shall be entitled to withdraw from the contract. Under the aforementioned conditions, we shall also be entitled to withdraw from the contract. The obligations set out above in the event of an infringement of industrial property rights or copyright are exhaustive. They shall apply only if the customer notifies us without delay of any alleged infringements of industrial property rights or copyright, the customer assists us to a reasonable extent in defending against the alleged claims or enables us to carry out the modification measures, and we reserve the right to take all defensive measures, including out-of-court settlements, the legal defect is not attributable to an instruction from the customer, and the infringement was not caused by the customer having altered the delivered item without authorisation or having used it in a manner not in accordance with the contract.

10. Materials supplied by the customer:

Insofar as the purchaser provides materials, they shall bear sole responsibility for ensuring that such materials are free from defects. This also applies to contract work. Any additional costs or compensation for damage arising from the fact that the materials provided are not in perfect condition shall be borne by the purchaser. We accept

no liability for items or services provided by the purchaser, including any resulting personal injury, property damage or financial loss.

11. Liability, Exclusion of Liability:

a) If the goods cannot be used by the customer in accordance with the contract due to the supplier's fault arising from the failure to carry out, or the incorrect execution of, proposals and advice given before or after the conclusion of the contract, or due to a breach of other ancillary contractual obligations – in particular instructions for the operation and maintenance of the goods – the provisions of Clauses 8 and 11 shall apply, to the exclusion of any further claims by the Purchaser; b.

b) The Supplier shall be liable for damage not caused to the goods themselves – regardless of the legal grounds – only in cases of wilful misconduct; in the event of gross negligence on the part of the owner, the bodies or senior executives; in the event of culpable injury to life, limb or health; in the event of defects which the Supplier has fraudulently concealed, within the scope of a guarantee undertaking; in the event of defects in the goods supplied, insofar as liability exists under the Product Liability Act for personal injury or damage to property in the case of items used for private purposes.

In the event of a culpable breach of material contractual obligations, the Supplier shall be liable even in the case of gross negligence on the part of non-executive staff and in the case of slight negligence; in the latter case, liability shall be limited to damage typical of the contract and reasonably foreseeable. Further claims are excluded.

12. Place of performance, place of jurisdiction and applicable law:

The place of performance and exclusive place of jurisdiction for deliveries and payments, as well as for all disputes arising between the parties, shall be the registered office of IVA Johann GmbH, provided that the buyer is a registered trader. The relations between the contracting parties shall be governed exclusively by the domestic law of the Federal Republic of Germany.

13. Final provisions:

Should any of these terms and conditions be invalid for any reason whatsoever, this shall not affect the validity of the remaining terms and conditions.