

General

All our offers are based on the following conditions. They apply to all contracts concluded between us (hereinafter also referred to as "STEMMER") and the Customer and in particular to all deliveries and services performed by us – even if executed by subcontractors commissioned by us – and to all future transactions of the same kind, and in each case only with respect to the same type. Entrepreneurs (in the sense of § 1 KSchG (German Buyer Protection Act)). STEMMER's deliveries and services are not intended for resale to consumers unless the Contracting Parties have previously agreed to this in writing. Changes and ancillary agreements are only effective if confirmed in writing by both Contracting Parties. Other general Terms and Conditions, such as those of the Customer, shall not become part of the Contract, irrespective of when these are introduced, even if STEMMER does not expressly object.

1. Offer, contract and price

- 1.1 All offers submitted by us are subject to confirmation and non-binding, unless otherwise agreed in writing. In all other respects, the Contract is concluded by our written order confirmation. We reserve the right of prior sale until this date.
- 1.2 Only our written order confirmation is authoritative for the scope of the delivery obligation. We reserve the right to make technical changes during the delivery period which do not impair the function of the delivery items. Instructions for use (manuals) etc. are supplied in the original language of the manufacturer, unless otherwise agreed. Regardless of the scope of the Contract, we reserve the right to make partial deliveries.
- 1.3 STEMMER shall have exclusive ownership, copyright and usage rights to the offers and the documents on which they are based. In particular, we reserve all rights of reproduction, exploitation and distribution. The offers may not be made accessible to third parties. The drawings and other documents belonging to the offers are to be returned on request, as far as the Contract does not come off.
- 1.4 The prices refer to the scope of services described in the order confirmation.
- 1.5 The prices are based on our current list prices. The prices stated there are ex warehouse Puchheim plus packaging as well as the value added tax valid at the time of performance. The prices are calculated according to the type and scope of the offer and are adjusted if the Customer wishes subsequent changes.
- 1.6 If the list prices are calculated on the basis of the supplier's delivery prices and/or on the basis of currency parities, customs and import charges and this has been expressly made an integral part of the Contract, STEMMER shall be entitled to make a proportionate price correction if these calculation data are changed, provided that there are more than 4 months between the conclusion of the Contract and delivery. The 4-month period shall not apply if STEMMER provides services within the framework of continuing obligations (e.g. successive delivery contracts). Fixed prices require special written agreement. STEMMER may also make price changes if quantities deviating from the order confirmation are accepted.

2. Invoicing and payment

- 2.1 Delivery shall be made at our discretion against cash on delivery, cash in advance or invoice. Invoices are to be paid without deduction within 14 days after the invoice date net cash free of our payment office.
- 2.2 For deliveries with an invoice value of more than €30,000, the following terms of payment apply: 1/3 of the order sum is to be paid within 3 days after receipt of the order confirmation. 2/3 of the order amount must be paid within a period of 14 days after delivery.
- 2.3 We are not obliged to accept bills of exchange, remittances or cheques. Discount, bill of exchange tax and collection charges shall be borne by the Customer. If we accept payments by bill of exchange or cheques in individual cases, these shall only be deemed to have been fulfilled once they have been permanently credited to our account upon their redemption.
- 2.4 In business transactions with entrepreneurs, the right of retention is excluded. In all other respects, the right of retention is excluded if the counterclaim is not based on the same contractual relationship.
- 2.5 In the event of default of payment by the Customer, STEMMER shall be entitled to charge default interest at the statutory rate.

3. Delivery and acceptance

- 3.1 STEMMER shall be obliged to deliver within the scope of the order confirmation. STEMMER shall not be released from its obligation to fulfil any impossibility or inability for which STEMMER is not responsible. The same shall apply in the event of force majeure, which STEMMER shall be released from its obligation to perform for the duration of its effect.
- 3.2 The delivery period shall commence on the date of the order confirmation and shall, if possible, be observed by STEMMER. However, delivery periods are not binding unless they are agreed in writing as fixed dates. Claims for damages due to exceeding the delivery period are excluded.
- 3.3 If dispatch to the Customer is delayed at the Customer's request, the financing and storage costs incurred by STEMMER, starting one month after notification of readiness for dispatch, shall be charged at a flat rate of 0.8% of the net invoice amount per month, unless the Customer can prove substantially lower or STEMMER substantially higher actual costs. However, STEMMER shall be entitled to dispose otherwise of the ordered goods after a reasonable acceptance period set to the Customer in writing has expired without result and to supply the Customer accordingly at a later date.
- 3.4 In the event of withdrawal from the contract, the Customer shall be obliged to pay STEMMER flat-rate damages amounting to 25% of the order value, unless either the Customer proves that no damage whatsoever or significantly less damage than the flat-rate has occurred, or STEMMER proves significantly greater damage.

4. Transfer of risk

- 4.1 The risk of accidental loss or deterioration shall pass to the Customer at the latest upon dispatch of the goods. This shall also apply to partial deliveries and in the event that STEMMER has assumed the costs for transport, transport insurance or installation.
- 4.2 It shall be deemed agreed that the risk shall also pass if the goods are ready for dispatch but delivery is not made for reasons for which STEMMER is not responsible. A further prerequisite for the transfer of risk is that the Customer has been notified that the goods are ready for dispatch.

5. Notice of defects, warranty

- 5.1 STEMMER shall assume warranty liability for the duration of 12 months from the passing of risk with regard to the faultless functioning of the devices supplied, but not for defects attributable to improper handling. Defects in the delivered goods must be reported in writing immediately, but no later than 14 days after delivery. In all other respects, however, the defects must be reported prior to the resale, processing or installation of the delivered goods.
- 5.2 If the delivered goods are installed by STEMMER or a subcontractor commissioned by STEMMER, acceptance by the Customer must take place immediately on site. If acceptance is not declared, the same shall nevertheless be deemed to have been effected if the delivered and installed goods are put into operation by the Customer. Installation defects are to be objected to immediately in the presence of our fitter or representative. Otherwise, however, warranty claims are excluded after acceptance, provided they do not concern hidden defects.
- 5.3 In the case of installations carried out by STEMMER or one of its subcontractors, STEMMER shall not be obliged to check preliminary work performed by third parties and to draw attention to their improper and unprofessional preparatory work. Any claim for damages on the part of the Customer derived from this is excluded.
- 5.4 Warranty claims of the Customer, insofar as STEMMER is responsible for them, shall be limited to rectification of defects or replacement, at our discretion, in the event of timely notification of defects. If the rectification of defects or replacement delivery fails or involves disproportionate expense for us, the Customer may, at his discretion, reduce or change, the latter only in the case of defects which are not merely minor. If the Customer has declared cancellation or reduction, the claim for rectification of defects or replacement delivery shall lapse.
- 5.5 Claims for damages of the Customer are basically limited to damages due to intent and gross negligence. This applies in particular to claims arising from faulty service or installation services and/or consequential damage caused by a defect. The exclusion of liability also extends to the subcontractors commissioned by STEMMER to perform the services. STEMMER shall also be liable for slight negligence in the event of a breach of material contractual obligations and in the event of injury to life, limb or health.
- 5.6 In addition, the VDMA Terms and Conditions of Delivery shall apply to the Customer's claims for defects (para. VI.) and STEMMER's liability (para. VII).

6. Retention of title

- 6.1 The delivered goods shall remain the property of STEMMER until they have been paid for in full. The Customer undertakes neither to pledge the delivered goods until the transfer of ownership nor to assign them as security.
- 6.2 If the Customer has resold the goods delivered under retention of title before payment, he hereby assigns to STEMMER the claim against the third party in the amount of the invoice amount for the delivered goods from the total claims from this sale. The Customer must notify the third party of this assignment with the resale and note it in his books by making a corresponding book entry. (Deviating provisions of the VDMA Terms and Conditions of Delivery regarding retention of title shall not apply in this respect.)

7. Export Restrictions

The delivered goods are intended for final destination in the EU Member States and may not be exported without approval.

8. Data protection notice

STEMMER processes the data disclosed by customers in order to fulfil contractual obligations and for direct advertising purposes on the basis of legitimate interest. The processing of personal data on the basis of legitimate interest may be revoked at any time. This data will not be used for any other purposes and will be deleted at the end of the legal retention period, in the case of data for direct mail after three years from the last contact. Likewise, personal data will not be passed on to third parties. Data subjects have a right of access, opposition, correction, deletion, restriction of processing and data transferability of their personal data. These rights can be asserted against STEMMER at at.privacy@stemmer-imaging.com. The persons concerned also have a right of appeal to the Austrian data protection authority.

9. Place of performance and jurisdiction, severability clause

- 9.1 The exclusive place of jurisdiction for disputes arising from or in connection with this contract shall be the court competent for Graz. However, STEMMER shall also be free to bring the matter before the court having jurisdiction over the Customer's place of business. Austrian law applies to the exclusion of the UN purchase right.
- 9.2 Should individual provisions of the contract concluded between STEMMER and the Customer be or become invalid, ineffective or unenforceable, this shall not affect the validity of the remaining provisions. Rather, the Contracting Parties undertake to replace this provision with retroactive effect by such an effective or practicable provision that comes closest to the purpose of the Contract intended by them. Should the invalidity of a provision affect a criteria of performance or time (deadline or date) determined therein, the Parties will agree on a criterion that comes closest to the original one as allowed by law. The foregoing shall also apply mutatis mutandis to any loopholes.