



PROBAT-WERKE von Gimborn Maschinenfabrik GmbH EMMERICH

General Terms and Conditions of Sale for Domestic and Foreign Transactions

March 2020

I. Scope of validity; quotations and conclusion of agreement; definition of goods and/or services supplied

- Quotations of PROBAT-Werke von Gimborn Maschinenfabrik GmbH (hereinafter referred to as the "Supplier"), as well as the acceptance of orders and the delivery of all goods and services by the Supplier are subject exclusively to the following General Terms and Conditions of Sale. Standard terms and conditions of the Customer are hereby expressly excluded; standard terms and conditions of the Customer shall not bind the Supplier, even if at the time of the conclusion of a contract the Supplier does not object to the inclusion of such terms again. These General Terms and Conditions of Sale shall also apply to all future transactions between the parties and no further reference to these General Terms and Conditions of Sale shall be required for them to be included in the contracts. They shall likewise apply to subsequent agreements, even if not referred to specifically by the Supplier. This applies particularly to those instances where the Supplier unreservedly authorises the delivery of goods and/or services to the Customer while being aware of terms and conditions of the Customer that might conflict with or contradict any part of these General Terms and Conditions of Sale.
- These General Terms and Conditions of Sale apply only to business people within the meaning of § 14 BGB (German Civil Code), legal persons under public law or special funds under public law.
- All quotations issued by the Supplier are provisional and subject to order confirmation in text form of the Supplier, unless otherwise agreed in text form.
- All agreements, including those made with the Supplier's representatives, require confirmation in text form from the Supplier in order to be valid. All amendments, additions and/or ancillary agreements require confirmation in text form to become effective; with this stipulation also applying to any exception to this requirement of the textual form. Confirmation in text form can also be in the form of a fax or an e-mail. No verbal collateral agreements have been made at the time of the conclusion of the contract in which these General Terms and Conditions of Sale are incorporated.
- The Incoterms valid at the time of the conclusion of a contract shall be used to interpret international standard commercial terms, provided they do not deviate from these General Terms and Conditions of Sale.
- The following items shall not be legally binding in any way: advertising statements, and/or documents accompanying the quotation, especially pictures, drawings, weights, dimensions, performance data, technical descriptions and data sheets, as well as the specifications and technical descriptions contained in the respective product information brochures or advertising material. They only form part of the agreement if they have been expressly incorporated by the parties. They do not represent agreed qualities nor do they constitute a guarantee of any kind regarding the nature or durability of the items delivered by the Supplier, unless otherwise expressly agreed to. All guarantee liabilities assumed by the Supplier are subject to express agreement in text form with the Customer. The Supplier will provide consulting services only according to an agreement in text form.
- The Supplier may change the design, conception or form of the items delivered, and reserves the right to amend the items supplied, their format and the scope of delivery during the delivery period, provided that such changes do not significantly change the items delivered or result in unreasonable consequences for the Customer. The Supplier expressly reserves the right to make reasonable changes as a result of advances in technology and/or to improve the items delivered.

II. Scope of the Supplier's obligation to deliver

- The scope of Supplier's obligation to deliver is defined in its quotation in text form. If the order of the Customer does not correspond to Supplier's quotation in text form, Supplier's confirmation of the order shall be binding. This does not affect any subsequent changes made and agreed in text form.
- The following items are not supplied as part of the delivery, unless clearly identified as such in the order confirmation: on-site excavation or construction work, erection of structural items or scaffolding, formwork to produce supports or anchor points, brick-built anchoring points, cantilever reinforcement, railings, pipe clamps; other preliminary work or the supply of special devices, tools or items such as walling materials, outlet conduits, scaffolding, fastening items (if related to the building); as well as power and utility hook-ups and the corresponding connection conduits between individual items of equipment.

If the floor is to be laid at a later date, the Customer shall be responsible for levelling the surface, establishing the height of the foundations and obtaining the required materials.
- The supplied equipment and machines are equipped with protection and safety devices complying with the general provisions currently in force in the Federal Republic of Germany. The Customer is responsible for verifying that all devices and machines supplied conform to the local regulations of the place of final use, and shall inform the Supplier of such in a timely fashion to allow these factors to be taken into account in the quotation. Subsequent requests by the Customer of changes and/or additions require additional payment and are subject to being technically feasible.

The Customer is also solely responsible for ensuring that the immission values stated in the quotation (particularly those relating to noise, dust and odours) satisfy local requirements if the machines supplied are to be used at a site located outside the Federal Republic of Germany. If modifications subsequently prove necessary, such changes require additional payment and are subject to being technically feasible.
- The Supplier will bill separately for any installation or initial start-up-related work carried out in addition to the delivery of the machine itself. The General Terms and Conditions for Installation and Repair Work, domestic and abroad of the Supplier shall apply in all such cases.
- The Supplier retains all rights of ownership, copyright and exploitation in relation to quotations, drawings and other documentation provided to the Customer. These items shall not be disclosed to third parties. If no order is placed on the basis of the quotation, all drawings and other documents provided with or connected to the quotation shall be returned to the Supplier on demand and without delay.

III. Software and software-related products

If the items supplied are to include software or software-related products (hereinafter both referred to as "software"), the following provisions shall apply:

- The provisions in Sec. III. cover both the system software of the operating system and the application programmes for the solving of specific operational tasks, including the source- and machine-programming code and all manufacturer and user documentation designed to aid in the understanding and/or operation of the programme in question. These provisions apply in particular to descriptions of likely problems, system-analysis issues, operating instructions, dataflow and programme flow charts, troubleshooting help, etc. These provisions shall apply independently of the programming language or type of software being used, whether supplied as machine code, or on any kind of data-storage device (e.g. floppy disk, magnetic tape, saved to hard disk, working memory, compact disk, disks of other type, microprocessors, etc.).
- The software included with the delivered items has been developed in-house by the Supplier, or on behalf of the Supplier, or is supplied on the basis of a licence agreement between the Supplier and a third party, covering the commercial use and distribution of such software. Programmes and data designed for the computer-controlled automatic operation of the machines and equipment supplied are in part subject to Sec. 2 para. 1 of the German Copyright Law (Urhebergesetz). The software and the accompanying documentation have been developed by or for the Supplier, or by a licensor at considerable expense in terms of both cost and effort. They are not supplied as public-domain material or shareware, but represent business and commercial secrets that have been entrusted to the Customer, who shall maintain their confidentiality.
- The Supplier grants the Customer an ordinary, non-exclusive licence to use the software. This licence is restricted to allow operation only of those machines or items of equipment with which the software is supplied. The validity of the licence is limited to the service life of the machine. The software may not be sublicensed or otherwise transferred to any third party without the express consent in text form of the Supplier. If the supplied machine is sold or otherwise disposed of to a third party, the Supplier will only approve such a transaction if the buyer undertakes, without reservation, to be legally bound to honour all

obligations arising from these conditions of use of the software. In such case the Customer shall hand over to the buyer all software, with the Customer undertaking not to retain copies of any kind.

- The Customer shall keep the software as described in Sec. 1. confidential, and shall destroy or delete the software when the supplied machine is eventually decommissioned. In order to keep the software confidential, the Customer shall restrict access to the software to only those employees who are required to use it, and shall ensure that such employees are of trustworthy character and undertake individually to keep the software confidential. The Customer shall implement appropriate measures to prevent third-party access to any computer or data-retrieval system on which the software is installed.
 - The Customer shall refrain from:
 - copying or distributing the software in any way or form,
 - reverse-engineering or deciphering the underlying source code of any part of the software, and/or from any other unauthorised revealing of its content,
 - selling, renting or licensing the software, or transferring it in any way or form, to a third party, and/or from making unauthorised copies, or using a copy of the software to control a machine with information-processing capabilities other than the machine provided by the Supplier to run the programme in question.
- Amendments to the software on the part of the Customer, even if carried out for the purpose of legitimate adaptation, require the Supplier's express prior consent in text form.
- The Customer's confidentiality obligations and its obligation to prevent the unauthorised transfer, duplication, distribution, manipulation and unauthorised use of the software as defined above continue to stay in force even after the expiry of the respective agreement between the parties and after the eventual decommissioning of the machine. These obligations only end upon the expiry of the protected intangible rights as defined in Sec. III. of these General Terms and Conditions of Sale, or on the occasion of the concerned data passing into the public domain.

IV. Prices

- The indicated prices apply, unless otherwise agreed, to the Supplier's delivery of the ordered items ex-works (EXW), and especially exclude packaging, shipping, freight, and setting-up costs.

The value-added tax applicable on the day of delivery and / or any other comparable local taxes shall be added to the price, if required by law and not otherwise agreed.
- Prices are based on the production costs applicable at the moment of the respective order confirmation. The Supplier is permitted to change the agreed upon prices of the goods if more than two months elapse between the conclusion of the contract and the delivery date and the production costs of the Supplier are increased due to changes in taxation, or due to changes of the prices for raw materials, auxiliary materials, energy, freight, or wages. Under these circumstances the Supplier shall be entitled to reasonably (Sec. 315 German Civil Code) increase or decrease the price owed by the Customer in accordance with the changes of its cost factors. The reasons for any price adjustment shall be demonstrated to the Customer by the Supplier upon request. The Customer shall also be permitted to increase the prices in the event of the imposition of legal requirements on the Supplier imposing additional obligations on the Supplier, causing the production costs of the items to be increased. The price adjustment shall come into effect upon the Customer's receipt of a respective notification of the price change issued by the Supplier. Price increases in accordance with Sec. IV.2 Sentence 1 and 2 do entitle the Customer to cancel an order, only if the price increases do not significantly impair the customer's resale.
- If, under exceptional circumstances, the Supplier should assume freight costs, export/import duties, customs charges, or similar costs at fixed rates, the Customer shall be liable to compensate the Supplier for any cost increase occurring prior to delivery.
- The cost of packing shall be quoted at cost price. Packaging materials returned postage unpaid cannot be accepted.
- Prices are quoted on the assumption that power is supplied at 3 x 220, 3 x 400 or 3 x 500 Volt (V) at 50 Hertz (Hz).

V. Terms of payment; withdrawal

- Unless there is a separate agreement, strictly net cash payment is to be made without deduction as follows 1/3 payment upon the issue of an order and receipt of confirmation of the same, 1/3 upon completion of an order and notification of readiness for dispatch, the remainder 30 days after delivery, however, no later than 60 days after notification of readiness for dispatch.
- Payment by eligible bill of exchange or cheque is subject to special agreement being reached first. No liability is accepted for the timely presentation of bills or charges resulting from their protest. Discount charges, etc. – at least corresponding to the fees charged by private banks – are to be borne by the Customer.

If payment by way of bills of exchange and/or cheques is accepted by the Supplier, the Customer's payment obligation shall only be discharged if the respective cash value of the bills of exchange and/or cheques is irrevocably deposited in Supplier's accounts, and on the date on which the Supplier gains full access to the funds concerned.
- In the event of a delay in payment, a Customer shall be charged interest on arrears at the rate of 8 percent points above the basic interest rate (Basiszinssatz).
- If the Customer is in default of a payment or, if, after the conclusion of the contract, the Customer's financial circumstances impair significantly, which endangers the payment, or, if such a significant impairment of the Customer's financial circumstances threatens, the Supplier shall be entitled to demand the immediate payment of any remaining debt owed by the Customer, and to demand the advance payment, or a deposit, or immediate payment for completed shipments, as arising from this contractual relationship. This provision applies in particular if the Customer ceases to make payments, if cheques issued by the Customer cannot be cashed, if bills of exchange issued on the Customer's behalf are not honoured, if insolvency proceedings affecting the Customer's assets are instigated, or if an application to open insolvency proceedings affecting the Customer's assets has failed due to there being insufficient assets to recover.
- If the Customer delays payment, the Supplier shall be entitled to withdraw from the contract after setting a reasonable payment deadline and its expiry without payment being made. After the withdrawal of the Supplier, the Customer shall be obliged to return the goods delivered. In addition to this, the Customer shall be obliged to compensate the Supplier for the loss in value of the delivered goods due to the Customer's use of the goods for their intended purpose. The compensation for the loss of value to be paid by the Customer shall be calculated on the basis of the agreed sale price including value-added tax (gross price). By taking into account the typical service life of the delivered goods - the remaining service life in the case of used goods - their gross price shall be depreciated over time by deducting amounts for wear and tear in regular yearly intervals until the gross price is completely written off. Where the usage commences or ends during the year, only the pro rata depreciation amount for the partial first or last year shall be taken into account, whereby, the month of commencement or termination shall only be included if the Customer has already used the item delivered by the 15th of the month, or has not ceased to use it prior to the 16th of the final month of operation. The total depreciation amount (for the time of Customer's use) shall constitute the sum owed by the Customer to the Supplier. Sec. X.5 shall apply with regard to Customer's obligation to return the delivered goods.
- If the conditions for withdrawal from the contract according to Sec. V.5 Sentence 1 are given, the Supplier shall be entitled to demand compensation from the Customer not only for the depreciated value of the goods as per Sec. V.5, but also for other damages. Without affecting the possibility of claiming higher damages, the Supplier shall be entitled to demand 15% of the net sale price from the Customer as a lump-sum compensation for damages. The Customer has the right to prove lower damages.
- The customer shall only be entitled to a right to set-off or to a right to retention if his counter-claim is undisputed, is admitted by us or has been finally established and is non-appealable or his counter-claim and the Supplier's claim are connected by a legal relationship of mutuality within the meaning of Section 320 German Civil Code.

8. If an agreement between the Supplier and the Customer is cancelled by both parties at Customer's request, the Customer shall reimburse the Supplier for all costs incurred up to that moment, including a reasonable sum to compensate lost profits. The Supplier is obliged to furnish proof, in an adequate form, of its entitlement in this respect.

VI. Reservation of title

All deliveries effected by the Supplier are subject to reservation of title under the terms of Sec. 449 of the German Civil Code, with the following additional provisos:

- All delivered goods shall remain the property of the Supplier until such time as all Supplier's payment claims – regardless of when made or on what legal basis – have been fully satisfied, even if payments have been made for specifically designated claims by the Customer. If settlement is made on an instalment basis, the reservation of title shall provide security for the balance still due to the Supplier.
The reservation of title also applies specifically to any claims that might be made by the Supplier with respect to repairs, the supply of spares, accessories or consumables, and/or costs arising from set-up work or insurance payments.
- No supplied item may be resold or otherwise disposed of, hypothecated in any way, or used as collateral until full legal title has been transferred to the Customer.
- The Customer shall inform the Supplier of any event of seizure, or of any other action by a third party that may affect the delivered goods. The Customer shall compensate the Supplier for any costs resulting from an intervention against such actions, if the Supplier transfers his claims for re-imbursment against third parties to the Customer.
- The Customer undertakes to handle with due care the delivered goods. On demand, the Customer shall – at his own expense and to the Supplier's full satisfaction – insure the delivered goods against theft, fire and water damage at their full replacement value, and provide the Supplier with textual proof to that effect. The Customer shall be liable for all costs arising from any maintenance or inspection work that may be required, and for carrying out such operations at the stipulated intervals.
- Supplier or Supplier's representative shall be afforded full access to the site of installation until all claims arising from the contractual relationship have been fulfilled.
- If the Customer is in breach of contract, especially in the event of a delay in payment, the Supplier shall be entitled without this affecting any further (damage compensation) claims on the part of the Supplier – to withdraw from the contract and repossess the goods delivered. The Customer shall be obliged to facilitate such repossession. The Supplier shall be permitted to realise the value of the goods after repossession them. The proceeds of such realisation shall – after deducting reasonable realisation expenses – be offset against the financial obligations of the Customer.
- If the supplied items are located in a jurisdiction in which the above mentioned concept of reservation of title is not recognised, the local legislation and/or legal concept that in terms of scope and spirit most closely corresponds to this concept of reservation of legal title shall apply. In the event of the Customer's collaboration being necessary for the establishment, execution and/or maintenance of this concept, the Customer, at the Supplier's request, shall take all necessary steps, at his own cost, to ensure that this concept is established, executed and maintained.
- The Supplier shall be obliged, at the Customer's request, to release sureties insofar as, and to the extent that the sum of all sureties held by the Supplier exceeds by more than 10 % the amount of all claims of the Supplier against the Customer.

VII. Delivery period and possible delays

- The delivery period shall be as agreed. It begins – unless there is an agreement to the contrary – on the date of Supplier's order confirmation, but not before both parties have resolved any relevant administrative and technical questions affecting the delivery. It is also dependent on the Customer having fulfilled all its obligations, such as the obtaining of any official certificates or permits that may be required, or the making of any outstanding payment. The delivery period shall be reasonably extended in the event of any failure to fulfil these requirements. The delivery period shall also be extended if the Customer subsequently makes substantial changes to the original order. The delivery period shall begin, regardless of any obligation of the Customer to cooperate, with the receipt by the Customer of the order confirmation, insofar as the Supplier is responsible for the delay incurred.
- Observance of the delivery period is subject to correct and punctual delivery on the part of original suppliers. The Supplier will inform the Customer as soon as possible of any delays that might occur.
- The delivery schedule shall be regarded as fulfilled if the supplied goods leave the Supplier's plant by the stipulated expiry date. If it is agreed that the Customer, or a carrier designated by the Customer, is to pick up the supplied goods, the delivery schedule shall be regarded as fulfilled if the Customer has been informed of their readiness for dispatch by the stipulated expiry date. If formal acceptance is required, the date on which it takes place – unless there are justified grounds for refusal to do so – shall be a determinant for fulfillment of the delivery schedule. If acceptance is delayed by the Customer, the Supplier's notification of readiness for acceptance shall be the determining factor.
- If shipment, or the acceptance of the supplied goods, is delayed for reasons attributable to the Customer, the Supplier shall be entitled to bill the Supplier – starting one month after notification of readiness for shipment or acceptance – for the costs incurred as a result of this delay.
- In the event of force majeure or other unforeseeable and/or extraordinary circumstances not attributable to the Supplier, such as downtime due to fire, flood or similar factors, malfunctioning production equipment or machines, failure on the part of original suppliers to fulfil delivery dates or to deliver at all, or interruptions in production due to lack of raw materials, adequate power supply or available staff, strike, lockout, difficulties in ensuring transportation, traffic congestion, or action by official bodies, epidemics, pandemics, plagues, diseases or quarantine measures, the Supplier shall be entitled to delay delivery or fulfillment of the agreement for the duration of such circumstances, plus an adequate recovery period, if such circumstances prevent the Supplier, through no fault of its own, from fulfilling its obligations with respect to the agreement. If the delivery or performance is thereby delayed by more than three months, both the Supplier and the Customer shall be entitled to withdraw from the contract in relation to the delivery quantities or performances affected by the delay, with any claims for compensation of damages being excluded.
- The Supplier shall be entitled to carry out partial deliveries of the goods and services concerned within the agreed delivery schedule, if this is reasonable for the Customer.
- In the event of culpable delay of delivery or production, the Supplier shall only be liable to the Customer within the boundaries of a lump-sum compensation for delay of 0.3 % of the net purchase price for each full week of the delay, at the most however of 5 % of the agreed purchase price of the part of the total delivery affected by the delay, provided the Customer has suffered loss or damage of at least this level. This shall not apply where the Supplier is liable under mandatory according to Sec. XI. The Supplier expressly reserves the right to ascertain whether such a delay has actually resulted in the Customer incurring either no loss whatsoever or a considerably smaller loss than that giving rise to aforementioned lump-sum payment.
- The Supplier's liability for payment of damages in each such case of delay shall be limited as stipulated in Sec. XI.

VIII. Transfer of risk

- Delivery terms are ex-works (EXW), unless otherwise expressly agreed in text form between the Supplier and Customer. Having been made available for dispatch, the risk of accidental loss or deterioration of the items being supplied shall pass to the Customer once the Customer has been notified of the availability for collection or shipment. In all other cases, the risk of accidental loss or deterioration of the items being supplied shall pass to the Customer at the moment of handover to the carrier. The risk of accidental loss or deterioration of the items being supplied shall likewise pass to the Customer in the case of partial shipments, or if the Supplier, as an exception, has agreed to assume further obligations, such as bearing shipment costs. If shipment is delayed for reasons attributable to the Customer, then risk shall pass to the Customer once the Supplier has notified the Customer that the goods are ready for shipment.
- The items supplied must be accepted by the Customer, even if they display minor imperfections or faults, notwithstanding the latter's rights as defined in Sec. X.

IX. Packaging and shipment; set-up

- Packaging and shipment are provided at the Supplier's complete discretion and at the Customer's expense. The Supplier shall be free to select the packaging, shipping route and the means of transportation, in the absence of any special agreement to that effect.

- The Supplier shall be entitled, at the Customer's expense, to insure each shipment against breakage, damage in transit, fire, theft and water damage.

X. Customer's claims in case of defects

Defects as to quality

- The Customer shall only be entitled to bring claims for defects as to quality (warranty claims) if he has duly fulfilled his inspection and notification obligations according to Sec. 377 German Commercial Code. Obvious defects must be reported to the Supplier by the Customer immediately in text form, at the latest, however, within 7 working days of the delivery of the goods. Hidden defects must be reported to the Supplier in text form immediately after their discovery, at the latest, however, within 7 working days of their discovery. Further, hidden defects must be reported in text form at the latest within 12 months of the passage of risk. The defective goods shall be made available to the Supplier upon request for purposes of inspection.
- If used goods or goods stipulated as downgraded by the parties are delivered, and where a defect only results in a minor reduction in value or utility of the delivered goods, the Customer shall not be entitled to bring warranty claims. The same shall apply where deviations, especially of weights, measures, performance data or colours, are within typical industry ranges of tolerance. Likewise excluded are warranty claims of the Customer where damage to the goods delivered or to other property of the Customer is attributable to improper use of the goods, incorrect assembly or commissioning by the Customer or a third party, natural wear and tear, improper or negligent handling of the goods, or to the use of unsuitable operating supplies or replacement materials, defective construction work that is not the responsibility of the Supplier, chemical, electrochemical or electrical influences that are not the responsibility of the Supplier.
- If the delivered goods show defects as to quality (and the other conditions mentioned above are met), the Supplier shall, at its own discretion, repair the defect in question or deliver a free replacement. In addition, the Supplier is obliged to comply the Customer's claims arising from Section 439 paragraphs 2 and 3 as well as Section 475 paragraphs 4 and 6 of the German Civil Code (§ 439 Abs. 2, 3 and § 475 Abs. 4, 6 BGB), if the respective legal requirements are fulfilled. If the item in question is to be repaired, the Supplier shall bear all expenses resulting from such operation, particularly transportation, labour and material costs, insofar as these costs are not increased by the purchased item or items meanwhile being transported by the Customer to a location other than the place of performance. Items or components replaced by the Supplier under the terms of these conditions become the latter's property.
- The Customer must afford the Supplier the time and opportunity required to carry out the repair or rectify the defect in question. The Supplier shall otherwise be exempted from any liability for resulting consequences.
- In the event of withdrawal from the contract by the Customer, the goods delivered shall be returned to the Supplier by the Customer at the place of performance in accordance with Sec. XIII.1. If the goods delivered are located at a location other than the place of performance, transportation from this location to the place of performance shall be carried out by the Customer at its own expense and risk.
- If the Supplier is unprepared or unable to rectify the defect as to quality, particularly if this results in inordinate delays for reasons attributable to the Supplier, or if Supplier's attempts to rectify the defect as to quality fail or if such attempts could not be reasonably expected to be accepted by the Customer, the Customer shall be entitled, at its own discretion, to withdraw from the agreement or demand a reduction of the purchase price. If there is only a minor defect, the Customer shall be entitled solely to a reduction of the purchase price. If the Customer has suffered a loss due to defects in the items delivered by the Supplier, or has incurred unnecessary expenses, the Supplier shall be liable under the terms of Sec. XI.
- The Supplier shall accept no liability whatsoever for the consequences of unauthorised repairs carried out by the Customer or a third party acting on the Customer's instructions. This condition shall also apply to modifications to the delivered goods, carried out without the Supplier's prior approval, which result in loss or damage being incurred.

Defects of title

- In the event that the operation of the delivered goods infringes on intellectual property rights or copyrights, the Supplier shall either provide the Customer with the right to further use the goods at its own expense, or shall modify the delivered goods in a way, acceptable to the Customer, that avoids any such infringement in the future. If this cannot be done at reasonable expense and/or within a reasonable time, the Customer and Supplier shall be entitled to withdraw from this agreement. The Supplier may only withdraw from the agreement under these circumstances if it is not responsible for infringing third party rights.

The Supplier shall hold the Customer harmless of any uncontested claims or of claims of the owner of the affected intellectual property rights finally determined by a court of law. It shall be a matter of the Customer to claim for any damages arising; the limitations of Sec. XI shall apply to any such damage claims.

- The list of Supplier's obligations set forth in Sec. X.9 (above), safe for the provisions set out in Sec. XI, in the case of the infringement of intellectual property rights or copyrights is final.

They shall only arise:

- if the Customer informs the Supplier without delay of any legal action involving the infringement of intellectual property rights or copyrights,
- if the Customer reasonably assists the Supplier in defending such claims, and/or if the Customer enables the Supplier to carry out the modifications mentioned in Sec. X.9 (above),
- if the Supplier is reserved the right to take any defence measures, including out-of-court settlements,
- if the defect of title is not due to an instruction or other action attributable to the Customer,
- if the infringement was not caused by unauthorised modifications to, or the non-contractual use of the object of the agreement on the part of the Customer.

Entrepreneur's Recourse

- Customer's recourse claims against the Supplier according to Sections 445a and 478 (entrepreneur's recourse) of the German Civil Code (§§ 445a, 478 BGB) exist only to the extent that the customer has not made any agreements with his purchaser beyond the legal claims for defects. If only entrepreneurs are involved in the supply chain including the last purchase contract, the application of Section 445a paragraphs 1 and 2 of the German Civil Code (§ 445a Abs. 1, 2 BGB) is excluded.

XI. Liability

- The Supplier shall only be liable to the Customer or third parties for damage claims or unnecessary expenses, for whatever legal ground, if such damage and/or unnecessary expenses:
 - were caused by the Supplier or the Supplier's vicarious agents through a culpable breach of an obligation, the fulfillment of which is essential for the carrying out of the contract and which the Customer would ordinarily be entitled to depend upon („material contractual obligation“), or
 - can be attributed to gross negligence or willful infringement of a contractual obligation on the part of the Supplier or his vicarious agents. Notwithstanding Sec. XI. 1. a), the Supplier shall be liable for damages and/or unnecessary expenses that arise from providing consultation services and/or information that is not to be billed separately only in the event of gross negligence or willful infringement of a contractual obligation, insofar as such an infringement does not constitute a defect as to quality with respect to the goods delivered by the Supplier.
- If the Supplier is liable under the terms of Sec. XI. 1. a) for the infringement of a material contractual obligation without acting with gross negligence or willfully, Supplier's liability shall be limited to the foreseeable damage typical in such situation. The Supplier shall not in this case be liable for any lost profits of the Customer, nor for non-foreseeable, indirect or consequential damages. The limitation of liability according to preceding sentence 1 and 2 applies mutatis mutandis to claims arising from willful or gross negligent conduct of the Supplier's employees or representatives, insofar as such persons are not members of the Supplier's board of directors or management staff.
- The limitations of liability described in Sec. XI. 1. and 2. (above) shall not apply if the liability in question is arising under the provisions of the Product Liability Act (Produkthaftungsgesetz), or if claims are brought against the Supplier for the injury of life,

limb, or health. In the event of items delivered by the Supplier not possessing a given guaranteed characteristic, the Supplier shall only be liable for losses directly resulting from the failure to supply this specific characteristic of feature.

4. Any liability in excess of the liability stipulated in the aforementioned provisions of Sec. XI. 1 to 3. is hereby expressly excluded, irrespective of the legal nature of such claim.
5. Where the liability of the Supplier towards the Customer or third parties is excluded or limited under Section XI. 1. to 4., this limitation of liability shall also apply with regard to the personal liability of employees, labourers, co-workers, representatives and vicarious agents of the Supplier.

XII. Limitation of Actions

1. Claims of the Customer relating to defects of the goods delivered by the Supplier, or to a breach of the Supplier's obligations under a service contract, including claims for compensation and for unnecessary expenses, are subject to a limitation period of one year, unless otherwise stipulated in Sec. XII. 2. and 3. The limitation period for Customer claims of the Customer in the meaning of clause 1 shall start to run
 - a) from the date of delivery in case of delivery contracts,
 - b) from the date of acceptance, in case of contracts including erection and/or start up obligations, or
 - c) from the date stipulated by law, in all other cases.
2. If the Customer or another buyer in the supply chain has due to defects in newly produced goods by the Supplier complied with requirements of his buyer and if the last sale in the supply chain is a sale of consumer goods, limitation of claims by the Customer against the Supplier according to Sections 437 and 445a paragraph 1 of the German Civil Code (§§ 437, 445a Abs. 1 BGB) occurs at the earliest two months after the date on which the Customer has or the other buyers in the supply chain as business people have fulfilled the demands of the consumer, unless the Customer could have argued against its own customers/contractors on the statute of limitations. Claims of the Customer against the Supplier in connection with defects of delivered goods shall become time-barred in no case later than 5 years after the date on which the Supplier has delivered the goods to the Customer.
3. In the event of defects being detected in a constructed building, or if components designed to be used for buildings have caused a defect in buildings, the limitation period for Customer claims shall be five years, running from the moment of delivery (in the cases cited in Sec. XII. 1a) or acceptance (in the cases cited in Sec. XII. 1b).

4. If the Supplier has provided consulting services and/or information that is to be billed for separately, or provided consulting services or information giving rise to a defect as to quality in the items delivered, claims against the Supplier are subject to a limitation period of one year, running from the moment stipulated by law. If the consultation services or information provided give rise to a defect as to quality in the items delivered along with the said advice or information, the applicable limitation period shall be determined by the provisions of Sec. XII. 1., 2. and 4.
5. The provisions in Sec. XII. 1. - 4. do not apply to claims arising from injury to life, limb or health, nor do they apply to claims brought under the Product Liability Act (Produkthaftungsgesetz) nor to claims arising from a defective title of the goods delivered by the Supplier, which invoke a third-party's right in rem and would result in that third party's claim to have the delivered goods handed over to him. They furthermore do not apply to the limitation period of Customer's claims relating to a fraudulent concealment of defects in the items or services delivered by the Supplier or to a Supplier's willful or grossly negligent breach of an obligation. The statutory provisions shall apply to the cases described in Sec. XII.4.

XIII. Other terms and conditions

1. The registered seat of the Supplier, as entered in the Commercial Register, shall by the place of performance and the exclusive place of jurisdiction for all disputes arising out of or in connection with the contractual relationships between the Supplier and the Customer, in which the General Terms and Conditions of Sale are included, provided that the Customer is a merchant (Kaufmann), a legal entity under public law or a special fund under public law, and where no mandatory statutory provisions require otherwise. The Supplier shall, however, also be entitled to bring legal actions in the courts having jurisdiction at the registered head office of the Customer.
2. This agreement and the legal relations amongst the parties shall be governed by and construed in accordance with the laws of the Federal Republic of Germany, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. In the case that the parties have agreed to settle their controversies by arbitration, the following shall apply: The arbitration tribunal concerned shall be convened in accordance with ICC rules (International Chamber of Commerce, Paris). It shall consist of three members. Proceedings shall be held in English. The seat of the arbitration tribunal shall be Zurich (Switzerland).
4. The Customer may not, without the express agreement of the Supplier, transfer or assign, in whole or in part, to any third party its rights or claims against the Supplier, particularly to those rights or claims resulting from the contractual relationship between the Supplier and the Customer, including for example rights arising from defects. The provisions of Sec. 354 of the German Commercial Code (HGB) remain unaffected in this case.



PROBAT-WERKE von Gimborn Maschinenfabrik GmbH EMMERICH

General Terms and Conditions for Installation and Repair Work, domestic and abroad

March 2020

I. Scope of validity

1. These General Terms and Conditions for Installation and Repair Work, domestic and abroad, apply to installation work, servicing, commissioning tasks and conversions. They supplement the General Terms and Conditions of Sale for Domestic and Foreign Transactions of PROBAT-WERKE von Gimborn Maschinenfabrik GmbH, Emmerich, inasmuch as nothing to the contrary has been agreed in text form. The individual installation performances are set out in the specifications stipulated in a separate document. Any subsidiary agreements and changes must be made in written form.
2. The General Terms and Conditions for Installation and Repair Work apply exclusively; we do not recognise conflicting or deviating conditions of the customer, unless we have expressly agreed to their validity in writing. These General Terms and Conditions for Installation and Repair Work shall also apply to all future transactions between the parties and no further reference to these General Terms and Conditions shall be required for them to be included in the contracts. They shall likewise apply to subsequent agreements, even if not referred to specifically by us. This applies particularly to those instances where we unreservedly authorise the delivery of goods and/or services to the customer while being aware of terms and conditions of the customer that might conflict with or contradict any part of these General Terms and Conditions.
3. Time specifications with regard to the beginning, duration and completion of the work, information on the presentation of assembly tools and equipment and cost estimates for the work to be performed are not binding.
4. These General Terms and Conditions for Installation and Repair Work apply only to business people within the meaning of § 14 BGB (German Civil Code), legal persons under public law or special funds under public law.

II. Price of installation

1. The performances rendered will be charged for according to the actual time and costs accrued, if nothing to the contrary has been expressly agreed. Our current installation cost rates apply.
2. The amounts agreed herein are to be understood, if required by law and not otherwise agreed, as amounts net of value-added tax and / or any other comparable local taxes; these must be compensated additionally in the respective statutory amounts.
3. All public holiday regulations and any other regulations concerning any work carried out on public holidays and Sundays, as applicable at the respective installation site, shall apply.
4. The agreed field allowance must not only be paid for each working day but also for such days on which the service engineer must be present at the installation site in connection with his work. However, during a possible hospital stay at the installation site this field allowance will be reduced by 70%, plus any accommodation costs that may possibly continue to have to be paid.
5. Travel expenses will be charged for both the outward and the return journey, and will be based on the most suitable method of transport in each case (e.g. by rail, air, road, sea etc.). Freight charges for installation tools and other incidental expenses as well as all cash expenditure connected with travel (insurance, left-luggage fees, taxi fares etc.) are levied on the same basis. If the service engineer cannot be lodged in accommodation near the site of installation, any additional travel expenses between the site of installation and such accommodation must be appropriately reimbursed on site by the customer.
6. Home leave
 - a) Following a four-week period of uninterrupted work at the installation site, our service engineers are entitled to a period of home leave, if the site of installation is located no less than 180 km away from the domestic residence of the service engineer. Such periods of home leave must be arranged in a way that the service engineer has 3 clear calendar days free in addition to the days spent travelling. The cost of travel to and from home leave will be charged to the customer. The free days will not be charged for.
 - b) One such return trip for home leave each should be scheduled for Christmas, Easter, Whitsun and the start of the annual holiday. The other periods of home leave are respectively to be taken in connection with a Sunday and public holiday.
 - c) Additional home leave is to be granted in the event of the death of a parent, parent-in-law, child, sibling and co-habiting spouse, or in the event the wife gives birth.
 - d) In the cases corresponding to Sec. II. 6. a), b) and c) the customer must bear the travel expenses and the field allowances during the journey home (Germany) and back to the site of work.
 - e) In the case of installations in any countries outside of Europe, appropriate special agreements can be concluded.
7. All costs caused by accidents or illness at the site of installation, including any travel expenses for the journey/transport home, will be borne by the customer, as far as the accident or illness is not due to our fault. Time periods spent seeing medical doctors including the corresponding journey times at the site of installation will be charged for as working time.
8. Settlement of accounts
 - a) The accounts for installation hours and field allowance(s) will be settled on completion of the installation; however, in the case of installation operations taking longer than one month, at the latest respectively to the end of the month by means of partial invoices.
 - b) The customer shall individually confirm the daily working hours performed by our service engineers using a form sheet to be presented by the respective service engineer; this provides the basis for the statement and settlement of accounts.
 - c) Installation invoices are always payable immediately in cash and without any deductions, even if different terms and conditions of payment apply in respect of any materials supplied.
 - d) Voluntary payments in cash and in kind by the customer to our service personnel, that had not been agreed with us expressly and in text form, cannot be taken into account in the settlement as reducing the remuneration payable.
9. Flat-rate price
 - a) In the case of installations at flat-rate prices the cost estimate comprises all work to be carried out in accordance with separate specifications in text form. However, if the duration of any such installation is extended due to any circumstance whatsoever, or if any additional expenditure is required, for which in either case the customer or one of his subcontractors is responsible, and if this causes the work of the service personnel to be interrupted or prolonged, then any such waiting periods, additional working time, all accommodation and related expenses as well

as any additional travel costs incurred by our service personnel will be invoiced separately.

- b) 1/3 of the flat-rate price is due when installation commences, another third on expiry of the first half of the planned installation period, the remainder on completion of the installation.
- c) The flat-rate installation prices are increased by the value-added tax in the respective statutory amount.

III. Service personnel

1. The number, qualification and composition of the service personnel will be adapted appropriately by us in accordance with the respective requirements.
2. Our service engineers are not authorised to make or receive any legally binding statements on our behalf. For this reason, agreements shall be effective only if they are confirmed in text form by one of our employees with authorisation to represent the company.
3. Orders for materials or requests for additional personnel given orally to service engineers shall only be binding for us if such orders or requests are communicated to us by the customer and subsequently confirmed in text form.

IV. Work conditions

1. The customer must take all specific measures necessary for the protection of persons and property at the site of installation. The Customer and we shall each designate in text form a responsible representative; these representatives have the task to keep in touch with one another during the execution of the current work tasks and to coordinate the same (hereinafter referred to as „Site Managers“). The customer must also inform our Site Manager about any specific safety regulations if these are of any significance for our service engineers. He will inform us about any infringements of such safety regulations by his service personnel. In the event of any serious infringements, the customer - by agreement with the Site Manager - may refuse any such offenders entry to the installation site. The customer must draw our attention to the special hazards which may result from the execution of the installation work.
2. The unobstructed execution of installation and assembly requires that all installation workrooms are roofed, provided with gates and windows and generally made up such that staying therein neither impairs the health of the service personnel nor has a detrimental effect on the condition of the material.
3. The customer is responsible for ensuring that these rooms are sufficiently heated and that the service personnel is provided with all necessary hygienic facilities as well as materials for giving first aid assistance, which must be easy to access in the event of any accidents.
4. The customer provides up-to-date means of communication to our service engineers; i.e., telephone, fax, and Internet access are provided. The costs for this are borne by the customer.

V. Technical assistance; customer's duty to cooperate

1. The technical assistance of the customer must ensure that the installation may be commenced immediately after arrival of the service personnel and can be executed without any delay.
2. The customer has a duty to provide technical assistance and cooperation at his own cost; in particular he shall:
 - a) provide flawless transportation routes up to the site of installation and all tools and devices necessary for the execution of any such installation.
 - b) carry out all necessary auxiliary work, for example digging, construction work, chiselling work and scaffolding work, the casting of rests and anchors, wall-sealing of supports, consoles, railings, pipe clamps, other preliminary work and special facilities. If the floor covering is laid later, the levelling and the determination of the foundation level as well as the provision of these materials must be initiated by the customer.
 - c) provide in good time all auxiliary materials not included in our scope of delivery, such as lining materials, vent pipes, erection scaffoldings, fixing materials and - inasmuch as they are connected with the building - energy connections and electropneumatic connection lines between the individual assemblies so that installation activities will not be interrupted or delayed.
 - d) provide the auxiliary support teams required for any auxiliary work and, if necessary, also masons, carpenters, fitters, electricians and other skilled workers in the numbers we deem to be necessary. These auxiliary support teams shall be available to our installation management for the duration of the installation or repair work. However, they remain under the supervision, responsibility and insurance obligation of the customer.
 - e) provide the necessary qualified personnel in the numbers and for the time periods required for installation who will render the necessary cooperation performances that are not a part of the contractual performances to be rendered by us (e.g. personnel for the execution of technical work which is not included in the subject matter of the contract, or customer employees who are to be trained). Following consultations with our Site Manager, the Site Manager of the customer will give the necessary instructions to the customer employees who shall comply with such instructions. When working outside the normal operating hours, a customer member of staff must be present for safety reasons. We do not accept any liability for personnel provided by the customer.
 - f) provide to the installation site all process materials required for installation such as gas, water, lubricants, oil, oxygen, acetylene and compressed air, including the connections.
 - g) provide all hoists and transport devices of the tool as well as the necessary items and materials required for installation (e.g. set-up timbers, wedges, supports, cement, cleaning and sealing material, lubricants, fuels etc.).
 - h) provide for the sole use of the installation personnel a suitable lockable dry room for the storage of tools, machine parts and other equipment items, and provide for the protection of the installation site and installation materials against detrimental influences of any kind and ensure that the installation site is cleaned.
3. If, within the framework of the installation, we take over the transportation to the installation site, unloading and storage of the material being the object of the installation, then these performances will be effected for account of the customer.
4. The customer is liable for all injuries and damage to property caused by his own personnel, auxiliary personnel provided by him or by any third parties. The customer will also bear full responsibility for any accidents, consequences of accidents and damage to property, which are caused by a culpable infringement of the customer's cooperation obligations. There is a liability of the customer in particular with regard to any damage due to an insufficient quality of the set-up tools and hoists - and other facilities provided by the customer, even if these were used by our personnel without any complaints.

5. If the customer does not meet his obligations, then, after an appropriate time limit for meeting the said obligations has been set and expired, we shall be entitled but not obligated to carry out any actions incumbent on the customer on his behalf and at his cost. In all other respects our statutory rights and claims remain unaffected, in particular any costs accrued thereby (e.g. waiting periods, return journey) will be charged to the customer.
6. It is the responsibility of the customer to notify our service personnel expressly and in good time, if there are any considerations to be observed with regard to his operations.

VI. Personnel insurance/illness

1. Our personnel is insured on installation sites. The (auxiliary) personnel to be provided by the customer are not included in this insurance.
2. In the event of any illness and accidents the customer is responsible for immediately taking any measures for the care and restoration to health of all persons affected by such illness or accidents, in particular to procure the attention of a medical doctor and - if necessary - transport and admittance to a hospital being operated in accordance with modern principles. We are to be informed immediately of any incidents of this type. We report illness/accidents to the insurance company and strive for reimbursement of any remuneration incurred for the necessary medical treatment assumed by the customer. Any recourse claims by the insurance company remain unaffected hereby. All costs in connection with the sending of a replacement person will be charged to the customer.

VII. Acceptance inspections

1. If a formal acceptance inspection procedure has been agreed to, the date for any such acceptance inspection is to be announced in advance by us and the inspection is to be carried out in the presence of both parties according to the technical conditions agreed in the contract.
2. The customer must take at his own cost all necessary measures for carrying out the acceptance inspection as well as for the ready-to-operate set-up of the item to be delivered, in particular he must provide the necessary auxiliary materials and operating resources and the required personnel.
3. If any defects are found during the acceptance inspection, we will remove these within the framework of our contractual obligations. On removal of the defects we are entitled, and even obligated at the request of the customer, to repeat the acceptance inspection.
4. The customer shall supply us with a certificate attesting the due and proper completion of the installation work showing the result and the date of the acceptance inspection. Minor defects do not release the customer from his obligation to effect acceptance and issue an acceptance protocol; however, such minor defects are to be recorded in the protocol and entitle the customer to assert the defect rights that he is contractually entitled to. In the event of any insignificant defects and rework the customer may not demand that the acceptance inspection be repeated.
5. The installation will be deemed to have been accepted if the customer has not refused acceptance within a reasonable period of time set by us after completion of the work, stating at least one significant defect.
6. Initial start-up of the installation for producing goods suitable for sale by the customer will in all cases be deemed to signify full acceptance.

VIII. Duration of installation work

1. If an installation schedule has been agreed, then this shall apply only subject to installation work proceeding smoothly and without hindrance of any kind. This assumes that the customer has created the pre-conditions stipulated in these General Terms and Conditions for Installation and Repair Work.
2. If the installation work or repair work or the acceptance inspection are delayed or interrupted without any fault of our own, then the customer will bear the additional costs caused thereby, in particular for any waiting periods, extended working hours and, in the event of our personnel having to be withdrawn, also travelling expenses.
3. If the execution of the work is made more difficult due to an event of force majeure, including strikes, lockouts, epidemics, pandemics, plagues, diseases or quarantine measures, then the installation period will be appropriately extended to take the above-stated circumstances into account. We reserve the right to conclude new agreements with the customer adapted to the new circumstances. If the execution of the work becomes impossible, then we will be released from the obligations acquired, but retain our claim for remuneration of all performances rendered up to that point as well as for compensation of all expenses accrued up to that same point.

IX. Infringement of the contract by the customer

1. If the customer does not meet his contractual obligations within a suitable period of grace, then we shall be entitled to remedy the situation ourselves.
2. The costs arising as a result will be invoiced to the customer and must be borne by the same, if initially he was set a period of grace without avail or if he has been issued with a reminder. We reserve the right to claim for additional damages that might arise.

X. Claims based on defects

1. Inasmuch as an installation defect has occurred, we shall be obliged at our own discretion to carry out secondary performance by way of a remedy of defects or to render a new installation performance free of any defects. The obligation to carry out secondary performance only exists with regard to such defects that we are notified of in text form immediately after they have been found.
2. In order to remedy a defect or provide secondary performance, the customer must allocate us the necessary time and opportunity. Otherwise we shall be released from any liability for any consequences this may give rise to.
3. If we are not prepared to provide any such secondary performance, or not capable thereof, and/or if in particular such secondary performance is delayed beyond any suitable periods for reasons that we cannot be held responsible for, or if any such secondary performance fails in any other way, or if the type of secondary performance which the customer is entitled to is not deemed acceptable to the customer, the customer - at his own discretion - shall be entitled to withdraw from the contract or to demand a reduction in remuneration. If there is an insignificant defect only, the customer shall only be entitled to a right to reduce the remuneration. If the customer has suffered damage, or costs and expenses accrued to him to no avail, due to any defects of the performances rendered by us, our liability will be governed exclusively by Sec. XI.
4. If the customer or a third party by order of the customer carries out incorrect improvements, we shall not be liable for any consequences arising therefrom. The same applies to all modifications of the item to be delivered that have been implemented without our prior approval and caused a defect or damage to occur.
5. If defects are found in our performance, which cannot be remedied immediately for reasons that we are not responsible for, then only such costs will be chargeable to us that would have accrued in the event of any immediate remedy having been carried out. If the customer prevents us from remedying known defects, then the customer will have to bear all costs arising from the damage, waiting period or other expenses.

XI. Liability

1. We shall only be liable to the customer and any third parties for any damage claims or unnecessary expenses, for whatsoever legal reason if such damage and/or

unnecessary expenses

- a) were caused by us or our vicarious agents through a culpable breach of an obligation, the fulfilment of which is essential for the carrying out of the contract and which the customer would ordinarily be entitled to depend upon („material contractual obligation“), or
- b) can be attributed to gross negligence or wilful infringement of a contractual obligation on our part or the part of our vicarious agents.

Notwithstanding Sec. XI. 1. a), we shall be liable for damages and/or unnecessary expenses that arise from providing consultation services and/or information that is not to be billed separately only in the event of gross negligence or wilful infringement of a contractual obligation, insofar as such an infringement does not constitute a defect as to quality with respect to the performances delivered by the US.

2. If we are liable under the terms of Sec. XI. 1. a) for the infringement of a material contractual obligation without acting with gross negligence or wilfully, our liability shall be limited to the foreseeable damage typical in such situation. We shall not in this case be liable for any lost profits of the customer, nor for non-foreseeable, indirect or consequential damages. The limitation of liability according to preceding sentence 1 and 2 applies mutatis mutandis to claims arising from wilful or gross negligent conduct of our employees or representatives, if such persons are not members of the PROBAT's board of directors or management staff.
3. The limitations of liability described in Sec. XI. 1. and 2. (above) shall not apply if the liability in question is arising under the provisions of mandatory Product Liability Legislation, or if claims are brought against us for the injury of life, limb, or health. In the event of items delivered by us not possessing a given guaranteed characteristic, we shall only be liable for losses directly resulting from the failure to supply this specific characteristic or feature.
4. Any liability in excess of the liability stipulated in the aforementioned provisions of Sec. XI. 1. to 3. is hereby expressly excluded, irrespective of the legal nature of such claim. This shall specifically apply to compensation claims arising from negligence in the conclusion of the agreement (culpa in contrahendo), (positive) breach of contract (positive Vertragsverletzung) or in tort.
5. Where our liability towards the customer or third parties is excluded or limited under Sec. XI. 1. to 4., this limitation of liability shall also apply with regard to the personal liability of our employees, labourers, co-workers, representatives and vicarious agents.
6. If performance parameters or project milestones have been agreed separately between the parties and if we do not comply with them or if we are in default of their compliance, we shall only be liable to the customer within the boundaries a lump-sum compensation in the amount of 0.3 % of the net installation price for each full week of not complying the above-mentioned parameters or milestones, at the most however of 5 % of the agreed installation price regarding the affected part of the installation, if and to the extent that the customer has suffered damage of at least this amount. This shall not apply where we are liable under mandatory according to Sec. XI. We expressly reserve the right to provide proof that no or significantly less damage than the aforementioned lump-sum has been incurred by the customer due to non-compliance with the above-mentioned parameters or milestones.

XII. Statutory limitation

1. Claims of the customer relating to a breach of our contractual obligations, including claims for compensation and for unnecessary expenses, are subject to a limitation period of one year, unless otherwise stipulated in Sec. XII. 2. and 3. In the case of contracts for work to be performed, the statutory limitation of any customer claims within the meaning of sentence 1 starts on the date of acceptance, and in all other cases on the commencement date for the statutory limitation prescribed in law.
2. In the event of defects being detected in a constructed building, or if components designed to be used for buildings have caused a defect in buildings, the limitation period for Customer claims shall be five years, running from the moment of acceptance or, in all other cases, with the commencement date for the statutory limitation prescribed in law.
3. If we have provided consulting services and/or information that is not to be billed for separately, without providing it in connection with the rendition of services or without this information giving rise to a defect as to quality in the items delivered, claims against us are subject to a limitation period of one year, running from the moment stipulated by law. If the consultation services or information provided give rise to a defect as to quality in the items delivered along with the said advice or information, the applicable limitation period shall be determined by the provisions of Sec. XII. 1., 2. and 4.
4. The provisions in Sec. XII. 1. - 4. do not apply to claims arising from injury to life, limb or health, nor do they apply to claims brought under mandatory Product Liability Legislation nor to claims arising from a defective title of the performances delivered by us, which invoke a third-party's right in rem and would result in that third party's claim to have the delivered performances handed over to him. They furthermore do not apply to the limitation period of customer's claims relating to a fraudulent concealment of defects in the items or services delivered by us or to our wilful or grossly negligent breach of an obligation. The statutory provisions shall apply to the cases described in Sec. XII.4.

XIII. General

1. Without our prior approval in text form, the customer must not use our personnel for any work not covered by this contract. When using our service engineers the customer must observe the work restrictions in accordance with the respectively applicable statutory provisions. Approvals for any deviations as an exception to the rule must have been obtained in text form by the customer from the competent authorities.
2. The service engineers are not permitted to carry out any work on any external third party machines or installations. We therefore do not accept any liability whatsoever for any such work even if this is carried out in connection with the installation of a machine supplied by us. The service engineers are not authorised to conclude any agreements with the customer on our behalf.
3. Any details given by us in advance with regard to the duration of the installation work have been calculated in accordance with the respective state of knowledge at the time and are therefore not binding. The customer undertakes not to offer an employment contract to employees sent to him, or to conclude any such contract with any such employees, without our prior approval.
4. In the event that any provision of these terms and conditions is wholly or partially invalid or becomes invalid at some later date, the same shall not affect the remaining provisions hereof. The ineffective provisions shall be replaced by the relevant statutory regulations.

XIV. Applicable law; place of jurisdiction

1. This contract relationship is exclusively subject to German law, specifically excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. For all disputes arising directly or indirectly from the contract relationship, in which the „General Terms and Conditions for Installation and Service Work, domestic and abroad“ are included, the sole place of jurisdiction shall be our principal place of business. We are also entitled to bring an action at the customer's principal place of business.

XV. Additional provisions

In addition, and inasmuch as the present „General Terms and Conditions for Installation and Service Work, domestic and abroad“ do not state anything to the contrary, our „General Terms and Conditions of Sale for Domestic and Foreign Transactions“ shall apply as well.



PROBAT-WERKE von Gimborn Maschinenfabrik GmbH EMMERICH

Privacy Policy for Clients

What is the purpose of this privacy policy for clients?	
This Customer Privacy Policy gives you information about the processing of your personal information in connection with your business relationship with PROBAT. This statement also includes a summary of your rights in relation to your personal information. At the end, there is a glossary that explains some of the terms used in this statement.	
Names and contact details of the person responsible and his representative	
The PROBAT-Werke von Gimborn Maschinenfabrik GmbH is responsible for the processing of all personal data	
Legally represented by the managing director: Wim Abbing	
Address: Reeser Str. 94, 46446 Emmerich am Rhein Telephone: 02822 912-0 E-Mail: info@probat.com	
Data protection: E-Mail: privacy@probat.com	
Data in the context of customer management in CRM and ERP systems	
What personal data does PROBAT process as part of customer administration in CRM and ERP systems?	As part of customer management in CRM and ERP systems, PROBAT processes the following data: <ul style="list-style-type: none"> • Employer • Surname • First name • Gender • Date of Birth • Address • E-Mail Address • Telephone Number • Job • Bank Details • Credit information, including scoring
What is the origin of the data in the context of customer management in CRM and ERP systems?	Data in the context of customer administration in CRM and ERP systems are collected by: <ul style="list-style-type: none"> • Customers: Customers provide information as part of business relationship justification and update it for the duration of the business relationship • Employees of Customers: Employees of Customers provide information in the framework of the establishment of business relationships and update these during the course of the business relationship • Public Sources: Information obtained from publicly available sources (for example, commercial registers, population registers, media, internet, directories) • Credit Reporting Agencies
Are among the data in the context of customer management in CRM and ERP systems of special categories of personal data within the meaning of the DSGVO?	No.
For what purpose does PROBAT process customer management data in CRM and ERP systems?	PROBAT processes data in the context of customer administration in CRM and ERP systems: <ul style="list-style-type: none"> • for the general maintenance of customer relations • to carry out business processes • to fulfil legal obligations
Based on which legal basis does PROBAT process data in the context of customer administration in CRM and ERP systems? As far as PROBAT processes personal data based on legitimate interests, what are the legitimate interests of PROBAT and third parties?	PROBAT processes data in the context of customer administration in CRM and ERP systems on the following legal basis: <ul style="list-style-type: none"> • the processing is necessary for the possible justification of a business relationship of the customer with PROBAT (article 6 paragraph 1 letter b DSGVO) • the processing is necessary in order to safeguard the legitimate interests of PROBAT in maintaining business relationships with customers (Article 6 (1) (f) GDPR) • to fulfil legal obligations to which PROBAT is subject (Art. 6 (1) lit. c DSGVO)
Who is the recipient of data in the context of customer management in CRM and ERP systems?	The following categories of recipients submit data as part of customer management in CRM and ERP systems: <ul style="list-style-type: none"> • PROBAT employees
Is the data transferred to a third country in the context of customer administration in CRM and ERP systems?	No
How long is the data stored in CRM and ERP systems as part of customer management?	PROBAT stores data in the context of customer administration in CRM and ERP systems for the longer of the following periods: <ul style="list-style-type: none"> • Duration of a continuing business relationship • Duration of the commercial and tax retention periods • Period in which claims under the business relationship can be asserted by or against PROBAT
Data in the context of marketing and sales	
What personal data does PROBAT process in the context of marketing and sales?	Data in the context of marketing and sales, PROBAT processes the following personal data: <ul style="list-style-type: none"> • Employer • Surname • First name • Gender • Date of Birth • Address • E-Mail Address • Telephone Number • Job • Interests • Inquiry and order data • Sanction lists
What is the origin of the data in the context of marketing and sales?	Data in the context of marketing and sales are collected by: <ul style="list-style-type: none"> • Customers: Customers provide information as part of business relationship justification and update it for the duration of the business relationship • Employees of Customers: Employees of Customers provide information in the framework of the establishment of business relationships and update these during the course of the business relationship • Public Sources: Information obtained from publicly available sources (for example, commercial registers, population registers, media, internet, directories)
Are data included in marketing and distribution of special categories of personal data within the meaning of the GDPR?	No.
For what purpose does PROBAT process data in the context of marketing and sales?	PROBAT processes data in the context of marketing and sales: <ul style="list-style-type: none"> • for the general maintenance of customer relations • to carry out business processes • to fulfil legal obligations

On what legal basis does PROBAT process data in the context of marketing and sales? As far as PROBAT processes personal data based on legitimate interests, what are the legitimate interests of PROBAT and third parties?	PROBAT processes data in the context of marketing on the following legal basis: <ul style="list-style-type: none"> the processing is necessary for the possible justification of a business relationship of the customer with PROBAT (article 6 paragraph 1 letter b DSGVO) processing is necessary in order to safeguard PROBAT's legitimate interests in attracting customers and informing existing customers about products (Article 6 (1) (f) GDPR) to fulfil legal obligations to which PROBAT is subject (Art. 6 (1) (c) GDPR)
Who is the recipient of the data in the context of marketing and sales?	The following categories of recipients will receive marketing and distribution data <ul style="list-style-type: none"> Employees of PROBAT
Is the data transmitted to a third country as part of marketing and distribution?	No.
How long will the data be stored in terms of marketing and sales?	PROBAT stores marketing and sales data for the longer of the following periods: <ul style="list-style-type: none"> Duration of a continuing business relationship Duration of the commercial and tax retention periods Period during which claims under the marketing or sales measure can be asserted against PROBAT
Data in the context of order processing	
What personal data does PROBAT process during order processing?	As part of order processing, PROBAT processes the following personal data: <ul style="list-style-type: none"> Employer Surname First name Gender Date of Birth Address E-Mail Address Telephone Number Job Bank Details Credit information, including scoring
What is the origin of the data in the context of order processing?	Data in the context of order processing are collected by: <ul style="list-style-type: none"> Customers: Customers provide information as part of business relationship justification and update it for the duration of the business relationship Employees of Customers: Employees of Customers provide information in the framework of the establishment of business relationships and update these during the course of the business relationship Public Sources: Information obtained from publicly available sources (e.g., commercial registers, civil registration registers, media) Credit Reporting Agencies Sanction lists
Are among the data in the context of the order processing of special categories of personal data within the meaning of the GDPR?	No.
For what purpose does PROBAT process data in the context of order processing?	PROBAT processes data in the context of order processing: <ul style="list-style-type: none"> for the general maintenance of customer relations to carry out business processes to fulfill legal obligations
Based on which legal basis does PROBAT process data within the scope of order processing? As far as PROBAT processes personal data based on legitimate interests, what are the legitimate interests of PROBAT and third parties?	PROBAT processes data in the context of customer administration in CRM and ERP systems on the following legal basis: <ul style="list-style-type: none"> the processing is necessary for the execution of a business relationship of the customer with PROBAT (article 6 paragraph 1 letter b DSGVO) the processing is necessary to safeguard the legitimate interests of PROBAT to conduct business relationships with customers (Article 6 (1) (f) GDPR) to fulfill legal obligations to which PROBAT is subject (Art. 6 (1) (c) GDPR)
Who is the recipient of the data in the context of order processing?	The following categories of recipients will receive data as part of order processing: <ul style="list-style-type: none"> PROBAT employees Subcontractors who are employed as part of the contract
Is the data transmitted to a third country as part of order processing?	Yes, provided that the goods or services have been delivered in accordance with the requirements of third countries.
How long will the data be stored during order processing?	PROBAT stores data as part of order processing for the longer of the following periods: <ul style="list-style-type: none"> Duration of a continuing business relationship Duration of the commercial and tax retention periods Period in which claims under the business relationship can be asserted by or against PROBAT
Data in the context of invoicing and receivables management	
What personal data does PROBAT process in the context of invoicing and receivables management?	In the context of invoicing and receivables management, PROBAT processes the following personal data: <ul style="list-style-type: none"> Employer Surname First name Gender Date of Birth Address E-Mail Address Telephone Number Job Bank Details Credit information, including scoring
What is the origin of the data in the context of invoicing and receivables management?	Data in the context of invoicing and receivables management are collected by: <ul style="list-style-type: none"> Customers: Customers provide information as part of business relationship justification and update it for the duration of the business relationship Employees of Customers: Employees of Customers provide information in the framework of the establishment of business relationships and update these during the course of the business relationship Public Sources: Information obtained from publicly available sources (e.g., commercial registers, civil registration registers, media) Credit reporting agencies
Are among the data in the context of invoicing and claim management of special categories of personal data within the meaning of the GDPR?	No.
For what purpose does PROBAT process data in the context of invoicing and receivables management?	PROBAT processes data in the context of invoicing and receivables management: <ul style="list-style-type: none"> for the general maintenance of customer relations to carry out business processes
On what legal basis does PROBAT process data in the context of invoicing and receivables management? As far as PROBAT processes personal data based on legitimate interests, what are the legitimate interests of PROBAT and third parties?	PROBAT processes data in the context of customer administration in CRM and ERP systems on the following legal basis: <ul style="list-style-type: none"> the processing is necessary for the processing of payments within a business relationship of the customer with PROBAT (article 6 paragraph 1 letter b DSGVO, section 26 paragraph 1 BDSG) processing is necessary in order to safeguard the legitimate interests of PROBAT in asserting claims (Article 6 (1) (f) GDPR)
Who is the recipient of the data in the context of invoicing and receivables management?	The following categories of recipients submit data as part of billing and claim management: <ul style="list-style-type: none"> PROBAT employees credit institutions collection service

Is the data transmitted to a third country as part of invoicing and claims management?	No
How long will the data be stored in the framework of invoicing and receivables management?	<p>PROBAT stores data in the context of billing and claim management for the longer of the following periods:</p> <ul style="list-style-type: none"> • Duration of a continuing business relationship • Duration of the commercial and tax retention periods • Period in which claims under the business relationship can be asserted by or against PROBAT
Your rights as a person concerned	
As a person concerned, you have the following rights with respect to your personal information.	
Right to Information	You have the right to ask PROBAT for confirmation of your processing of personal data relating thereto; if this is the case, you have a right to information about this personal data and detailed information on how the personal data are processed.
Right to Rectify	You have the right to ask PROBAT to correct your incorrect personal data without delay. Taking into account the purposes of processing, you have the right to request the completion of incomplete personal data, including by means of a supplementary statement.
Right to Deletion (Right to be forgotten)	You have the right to ask PROBAT to delete your personal data without delay if certain conditions are met.
Right to restriction of processing	You have the right to require PROBAT to restrict processing if certain conditions are met.
Right of Objection	They have the right, for reasons of their own particular nature, to object at any time to the processing of personal data concerning them pursuant to Article 6 (1) (e) or (f) of the GDPR.
Right to data portability	You may, under certain circumstances, have the right to receive the personal information you provide to PROBAT in a structured, common and machine-readable format, and you have the right to submit that information to another person in PROBAT's name who is unaffected by PROBAT.
Right to revoke the consent	If the processing is based on consent, you have the right to revoke your consent at any time.
Right to appeal	You have the right to complain to a supervisory authority - this is the respective national data protection officer in Germany.
Glossary	
Person Responsible	The natural or legal person, public authority, body or other body that, alone or in concert with others, decides on the purposes and means of processing personal data.
Data link agreement	Agreement containing standard data protection clauses adopted by the European Commission within the meaning of Art. 46 (2) (c) GDPR.
Person Concerned	Identified or identifiable natural person to whom the personal data refer.
GDPR	General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament).
FDPA	Federal Data Protection Act of 30.06.2017 (BGBl. I p. 2097).
Legal basis	<ul style="list-style-type: none"> • The processing is only legal if at least one of the conditions acc. GDPR and / or FDPA is satisfied. The conditions in question in the employment relationship are summarized: • the data subject has given their consent to the processing of personal data concerning them; • processing is for the performance of a contract to which the data subject is a party; • the processing is necessary to fulfill a legal obligation; • the processing is necessary to protect the vital interests of the data subject or any other natural person; • processing is necessary to safeguard the legitimate interests of the controller or a third party, unless the interests or fundamental rights and freedoms of the data subject requiring the protection of personal data prevail (legitimate interest).
Personal Data	Any information relating to an identified or identifiable natural person; a natural person is considered as being identifiable, directly or indirectly, in particular by means of an identifier such as a name, an identification number, location data, an online identifier or one or more special characteristics expressing the physical, physiological, genetic, mental, economic, cultural or social identity of this natural person can be identified.
Processing	Any process or series of operations related to personal information, such as collection, collection, organization, ordering, storage, adaptation or modification, reading, querying, use, disclosure, performed with or without the aid of automated procedures by submitting, distributing or otherwise providing, adjusting, linking, limiting, erasing or destroying.
Special categories of personal data	Personal data showing racial and ethnic origin, political opinions, religious beliefs or beliefs, or the processing of genetic data, biometric data to uniquely identify a natural person, health or sexual or sexual orientation data.