

Sprimag Spritzmaschinenbau GmbH & Co. KG

General Terms and Conditions of Sale

1. General

- 1.1. For all present and future deliveries and services (hereinafter referred to as "deliveries") only these General Terms and Conditions as amended from time to time shall , apply, unless other agreements have been made in writing with the customer. The terms and conditions of the customer shall apply only to the extent that Sprimag Spritzmaschinenbau GmbH & Co. KG (hereinafter referred to as "Sprimag") has expressly agreed to them in writing.

2. Establishment of the contract

- 2.1. All offers made by Sprimag are non-binding. Unless otherwise specified, Sprimag may confirm an order from a customer within 30 days of the receipt of the order. A delivery contract is made only upon Sprimag's written confirmation of the order or upon delivery in accordance with the order.
- 2.2. Subsidiary agreements, amendments or additions to the contract will be effective only if confirmed in writing by Sprimag. In particular, all employees of Sprimag are required to confirm in writing oral agreements or assurances that go beyond the contents of the written contract or that amend these General Terms and Conditions to the disadvantage of Sprimag.
- 2.3. Even after the conclusion of the contract, Sprimag has the right to alter and to improve the product, without informing the customer thereof in advance, provided changes or improvements are insignificant or are customary in the trade and do not impair or degrade the function of the product in the long term and as long as the changes/improvements do not affect any guaranteed characteristics.
- 2.4. All sales documents, specifications, in particular cost estimates, drawings, plans, diagrams, calculations, and samples, as well as other provided tech-

nical or operational confidential information, shall be kept strictly confidential and must not be made accessible to third parties. These documents and this information remain the property of Sprimag, unless expressly agreed upon otherwise. Sprimag reserves the right of ownership and copyright with regard to all contractual documents. Sprimag shall be exclusively entitled to any rights to patents, utility models, etc., even if they are not yet registered or declared. Reproduction of our products is permitted only with our written consent.

- 2.5. The dimensions and other specifications provided by Sprimag in the promotional materials or other contract documents are approximate unless they are expressly designated as binding; the same applies to drawings and diagrams .

3. Terms and delivery periods

- 3.1. Unless expressly agreed upon otherwise, all deliveries are EXW Sprimag, Kirchheim, Incoterms® 2010.
- 3.2. All risk passes to the customer upon the product's being made available for pickup at the factory, even if partial deliveries are made and/or Sprimag has undertaken additional services (such as the takeover of shipping costs or delivery by its own transport personnel).
- 3.3. Partial deliveries are permissible to a reasonable extent, as long as the interests of the customer are not unduly affected as a result.
- 3.4. The period of delivery starts with the sending of the order confirmation, but not before all the details regarding execution of the contract and technical issues have been clarified, the required documents and other cooperative actions for the execution of the contract have been provided by the customer, and an agreed upon deposit has been received. The delivery deadline is met if the product is provided ready for shipment by the time that the deadline for delivery expires.
- 3.5. Subsequent change requests by the customer will extend the delivery time by the time it requires for Sprimag to check their feasibility, and the time

necessary to implement the new requirements into production. If ongoing production is interrupted by a change request, Sprimag may give priority to and complete other orders first. During such a delay, Sprimag shall not be required to keep production capacity free.

- 3.6. Unless otherwise agreed upon, the delivery times stated by Sprimag in the offer or order confirmation are approximate.
- 3.7. The delivery by Sprimag is subject to the timely and proper delivery by the suppliers of Sprimag, unless Sprimag is responsible for such untimely or improper delivery. Sprimag shall not be in default to the customer as a result of delayed/improper delivery by its suppliers, and, in such cases, may release itself from its obligation to perform by providing notice to the customer.
- 3.8. Acts of God, labor disputes, transportation delays, operational disruptions, difficulty in material and energy procurement, shortage of labor, energy and raw materials, regulatory actions, as well as difficulties in obtaining permits, in particular import and export licenses and other unforeseeable, unavoidable events, for which Sprimag does not bear responsibility, will extend the delivery period by the duration of the disruption and its effects. This also applies if the obstacles occur to the suppliers of Sprimag or take place during an existing default. If the interruption is not just temporarily, both parties shall be entitled to withdraw from the contract after a reasonable grace period has lapsed. Claims for damages against Sprimag do not exist in these cases. Sprimag will notify the customer as soon as possible about the occurrence of such events or when they have ended.

- 3.9. In case of default in delivery, liability of Sprimag for damages due to default is limited in cases of ordinary negligence to 0.5% per complete week, in total, however, to a maximum of 5% of the net invoice value of that part of the delivery that is affected by the delay. The customer's right to withdraw from the contract in accordance with the statutory provisions and his claim to compensation in lieu of performance in accordance with Section 9.1 shall not be affected. No later than at the conclusion of the contract, the customer shall inform Sprimag in regards to any contractual penalties due to delay that he has agreed upon with third parties.
- 3.10. At the request of the customer, Sprimag shall insure the product for transport at the expense of the customer. Unless otherwise agreed upon, the choice of the place of dispatch and the transport route, as well as the means of transport, shall be determined by Sprimag at its discretion, without assuming any liability for the cheapest and fastest transport. If the customer provides the means of transport, then he shall be responsible for providing it on time. Sprimag shall be notified in a timely manner of any delays. Any resulting costs shall be borne by the customer.
- 3.11. If shipment is delayed for reasons for which Sprimag does not bear responsibility, then Sprimag may charge the customer its own storage costs.

4. Installation and commissioning; repair and service work

- 4.1 At his own risk and expense, the customer shall provide the on-site technical assistance that is required for installation. In particular, this includes in-house transport, unhindered access to the installation site, the free provision of electricity, water, heating, etc. and access to the connections; provision of suitable support staff, required equipment, tools, workpieces and consumable materials; preparation of the installation site for set-up; providing suitable facilities for storing tools and other objects belonging to the employees of Sprimag; and taking the necessary measures to protect persons and property, as well as other necessary support services.
- The technical assistance provided by the customer must ensure that the installation work may begin immediately following the arrival of the staff and may continue without delay until acceptance by the customer.

4.2. The above conditions shall also apply if Sprimag performs repair and service work.

5. Acceptance

5.1. If acceptance is agreed upon, then the product must be ready for acceptance by the date agreed upon and the fact that the product is ready for acceptance must be notified to the customer.

5.2. Unless expressly stated otherwise, the risk shall pass to the customer upon the product's being made available for pickup at the factory, even if acceptance has been agreed upon.

5.3. Unless otherwise agreed upon, acceptance shall be effected within 14 days after notification to the customer that the product is ready for acceptance on the basis of the agreed upon acceptance criteria. If acceptance is delayed because of reasons for which the customer is responsible, Sprimag may invoice the customer for any additional costs that are incurred.

5.4. The customer may not refuse acceptance because of immaterial defects. It is equivalent to acceptance if the customer does not accept the product within a reasonable time limit set by Sprimag, although he is obliged to do so.

5.5. The legal obligations regarding inspection and notification of defects by the customer shall remain unaffected.

6. Prices and terms of payment

6.1. The prices apply to deliveries EXW Kirchheim, Incoterms[®] 2010, excluding packing, loading, insurance and shipping, as well as other incidental expenses.

6.2. All prices are in euros, plus VAT at the respective statutory rate.

6.3. In case of delivery times of more than two months, Sprimag is entitled to increase the agreed prices accordingly, if, after the conclusion of the contract, significant changes in wages, materials, energy, raw materials or production costs occur and Sprimag is not responsible for these changes. If a

price increase exceeds 5%, the customer has the right to withdraw from the contract by written notice to Sprimag within two weeks after notification of the price increase.

- 6.4. Payments shall be made without any deductions within ten days from date of invoice at the payment location specified by Sprimag. Payments are considered to have been made only to the extent that Sprimag has free access to the payments at its bank. Sprimag is not obliged to accept bills of exchange. Sprimag will accept bills of exchange and checks only as payments on account. Bank charges shall be borne by the customer. They are due immediately.
- 6.5. If the ability of the customer to make payment is adversely affected, particularly if the customer's assets are seized, checks or bills of exchange are protested or a delay in payments or a suspension of payment occurs, or insolvency proceedings are initiated against the customer, then Sprimag shall be entitled to accelerate any outstanding debts from the business relationship, even if Sprimag has accepted bills of exchange or checks. The same shall apply if the customer is in default with his payments, or other circumstances occur that give rise to doubts about his creditworthiness. Moreover, in such a case, Sprimag is entitled to demand advance payments or security deposits and to withdraw from the contract if these advance payments/security deposits are not provided. Further rights of Sprimag remain unaffected.
- 6.6. If the customer defaults on payment, Sprimag may demand interest from the due date in the amount of 8 percentage points above the base interest rate. The assertion of further damages remains unaffected.

6.7. The customer may only withhold payments or offset counter claims, if the counterclaims are undisputed or legally binding.

7. Retention of title

7.1. Sprimag retains ownership of all delivered goods until all payments and a non-revocable credit note for all accepted checks and bills of exchange arising from the business relationship with the customer are received.

7.2. The customer may only pledge or transfer the conditional goods by way of security with the prior written consent of Sprimag. In case of attachment or other intervention by third parties, the customer must immediately notify Sprimag in writing so that Sprimag can exercise its rights. The customer is obliged to treat the conditional goods with care and to maintain them; in particular, he is obliged to insure these goods at his own expense against loss and damage for the replacement value. The insurance policy or proof of premium payment are to be provided to Sprimag upon request. The customer hereby assigns all claims under the insurance contract to Sprimag. If the customer does not comply with these obligations, then he shall be liable for any damages that occur.

7.3. If the customer violates the obligations placed upon him under Section 7.2 or if the customer defaults on payment, after prior warning, Sprimag may withdraw from the contract and demand the conditional goods. If insolvency proceedings are initiated against the customer, Sprimag may withdraw from the contract and immediately demand the conditional goods.

8. Obligation of the customer to give notice of defects, liability for defects

- 8.1. Immediately upon receipt, the customer shall carefully inspect the products delivered. Visible defects are to be reported immediately in writing to Sprimag, but no later than five days after receipt of the products; hidden defects are to be reported within five days after their discovery. If the customer does not comply with these time limits, then all warranty claims shall expire.
- 8.2. Sprimag is not liable for defects of title that result because Sprimag works according to technical drawings, designs or other specifications that the customer has made or provided to Sprimag.
- 8.3. In regards to the infringement of rights of third parties by the use of the delivered product outside Germany, Sprimag is only liable when such use is agreed upon with the customer or expected according to the specific circumstances at the time of the conclusion of the contract. In such a case of liability, Sprimag shall be only responsible for ensuring that such a use, at the time the contract was concluded, was not in conflict with existing rights abroad, which Sprimag knew of at the time or, due to gross negligence, did not know.
- 8.4. Sprimag is liable for material defects and defects of title in accordance with current statutory provisions, unless otherwise agreed upon below.
- 8.5. If a defect exists, Sprimag, at its option, shall repair the product or provide a replacement. Costs of supplementary performance, arising from the fact that the product was shipped, after delivery, to a location that is different from the original delivery address, shall not be accepted. Replaced parts shall become the property of Sprimag.
- 8.6. In case of failure of the repair or replacement, the customer can either demand a price reduction, or - if the defect is not insignificant - withdraw from the contract and demand compensation in lieu of performance in accordance with Section 9.1.

- 8.7. Warranty claims shall become statute-barred within twelve months from the transfer of risk, as long as Sprimag has not intentionally or grossly negligently violated its obligations, has not fraudulently concealed the defect, nor taken over an extended warranty nor is an extended statute of limitations provided by law.
- 8.8. If a defect is caused by a substantial third party product, Sprimag is entitled to limit liability initially to the assignment of warranty claims and rights that are due to Sprimag against the supplier of the third party product, unless the satisfaction of the assigned claim or right fails or can not be enforced for other reasons. In this case, the customer is entitled to the rights indicated in Section 8.5.

9. General liability

- 9.1. Claims for damages - of any kind - against Sprimag are excluded if Sprimag, its legal representatives or agents have caused the damage through ordinary negligence. This disclaimer does not apply in case of bodily injury or the acceptance of a contractual guarantee or any breach of material contractual obligations that places the fulfillment of the contract at risk. The liability of Sprimag is, however, limited to the extent of the guarantee or, in case of breach of material contractual obligations, to damages that are typical for the contract and foreseeable. Claims under the Product Liability Act remain unaffected.
- 9.2. Damage claims become statute-barred one year after the customer becomes aware of the damage and its indemnifiability or, were it not for gross negligence, should have become aware. Claims under the Product Liability Act and because of defects and bodily injury remain unaffected.

10. Place of performance, applicable law and jurisdiction

- 10.1. The place of performance for all obligations under the contract shall be the principal place of business of Sprimag.
- 10.2. German law shall apply. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
- 10.3. For all disputes arising under the contract, the competent courts at the headquarters of Sprimag shall have exclusive jurisdiction. Sprimag may, however, also bring actions against the customer in the courts that have jurisdiction over the location where the customer is registered.
- 10.4. Should any part of these Terms and Conditions not apply, either by law or individual contract, the validity of the remaining provisions shall not be affected.