



Zwei- und Mehrkomponenten Gieß- und Heißsprühanlagen  
Apparate-, Maschinen- und Vorrichtungsbau

## General Terms and Conditions of UNIPRE GmbH

### I. Applicability

1. All business transactions of UNIPRE GmbH. (hereinafter „Supplier“) i.e. all contracts, supplies and other services shall be governed solely by the following General Terms and Conditions of Sale, whether or not they are expressly referenced.
2. Terms and conditions deviating from these General Terms and Conditions shall not be binding unless expressly agreed to in a written individual agreement between UNIPRE GmbH and Buyer.
3. Supplier objects to and rejects the General Terms and Conditions of Buyer. They shall not apply unless expressly agreed to in writing by Supplier.

### II. Offer

1. All offers are subject to confirmation. Supplier shall only be obliged to perform delivery if a written order acknowledgement has been issued, subject to availability.
2. All documents forming part of the offer such as illustrations, drawings, weights and measurements are approximate only unless expressly stated as binding. Supplier reserves the right of ownership and copyright on all quotations, drawings and further documents; they must not be made available to any third parties. Supplier is not allowed to make drawings available to any third parties which Buyer has classified as confidential unless Buyer has given its consent.

### III. Scope of Supply

1. The scope of delivery shall be as defined in Supplier´s written order acknowledgement. Any addition or modification must be accepted in writing by Supplier.

2. Protective devices and switchgear will be delivered as far as agreed.

### IV. Prices and Payments

1. All prices set forth in the valid price list, stated in Euro, are ex works Werl, packing not included. Supplier reserves the right to correct these prices if any factor in costs should change before delivery. In case of individual orders for spare parts, repair or special equipment, small-quantity surcharges will be charged. Packaging will be invoiced at cost price and will not be taken back.
2. Invoices for repair work, installation work, tools, development costs and patterns shall be payable at once, strictly net. All other invoices shall be payable within 10 days from date of invoice with a 2% cash discount or within one month without any deduction. Payment shall be regarded as fulfilled when the amount due is at Supplier´s disposal. Buyer shall only be permitted to deduct a cash discount if it is not culpably in arrears with any other payment obligations and provided that the invoice amount is credited to Supplier´s account within the agreed time limit.  
The following terms shall apply to more substantial orders:  
1/3 down payment upon receipt of Order Acknowledgement  
1/3 upon notification of Buyer that the major equipment parts are ready for dispatch  
balance within one further month
3. If Buyer fails to pay within the stipulated time limit, i.e. within one month from date of invoice, it is put in default, even without reminder. If the date of receipt or receipt itself of an invoice is uncertain, payment shall be due at the latest 30 days after receipt of the counter-performance. Thus Buyer shall be in default at the latest from the 31<sup>st</sup> day on calculated from the receipt of the counter-performance.



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4. If Buyer is in default, Supplier shall be entitled to charge interest for default at a rate of 8% p.a. above the currently valid basic interest rate according to § 247 BGB. This does not preclude Supplier's right to claim any further damages.
5. Irrespective of any separately agreed individual payment terms, all claims which Supplier may have on Buyer shall be payable immediately if such circumstances occur in connection with Buyer that it cannot reasonably be expected from Supplier to stick to previously agreed payment terms. This would be the case if there are undoubted signs of a considerable deterioration in the financial situation of Buyer, especially if Buyer stops to pay, in the event of protest of a cheque or bill, or default in so far as this indicates that Supplier's right to counter-performance is jeopardised by the lack in financial means of Buyer. In such cases Supplier shall furthermore be entitled to demand that Buyer performs pari passu with counter-performance or furnish further securities. Furthermore, Supplier shall have the right to fix an appropriate deadline by which Buyer has to perform pari passu with counter-performance or provide collateral, as Supplier chooses. If Buyer fails to meet the deadline Supplier shall have the right to withdraw from the contract.
6. If Buyer files a justified claim which falls within the scope of the statutory liabilities for defects, Buyer shall be entitled to withhold payment only in reasonable proportion to the recognised defect in quality. In all other cases the right of retention is excluded.
7. Buyer shall be entitled to offset due payments only against counterclaims which are undisputed or upheld by a final judgement.

**V. Delivery Period**

1. The stipulated delivery period commences when Confirmation of Order has been sent, however not before all documents, approvals, confirmations to be provided by Buyer have been furnished and not before any contractually agreed down-payment has been received.
2. The time of delivery is deemed to have been kept if the delivery item is dispatched from the factory or if Buyer is notified that the equipment is ready for dispatch before the delivery period expires.
3. The stipulated delivery date shall be extended by an appropriate time in the event of unforeseeable obstacles beyond Supplier's control – whether in Supplier's works or one of its Sub-suppliers – such as breakdown, strike, delays in the delivery of essential raw or construction materials, in so far as such obstacles have a substantial proven effect on the completion and delivery of the delivery item. Even if Supplier is already in default when such circumstances arise, it cannot be held responsible for them. In all instances of importance Supplier undertakes to inform Buyer as soon as possible of the commencement and the end of such obstacles.
4. If delivery is delayed at Buyer's request, the storage costs will be charged as of the expiry of one month from notification that delivery item is ready for shipment; in case of storage in Supplier's works, however, at least ½ percent of the invoice amount per month. Supplier is, however, entitled to use the delivery item for any other purpose after having set a reasonable deadline and after this deadline has expired fruitlessly and Supplier shall then have the right to deliver within a reasonably extended period of time.



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5. Delivery shall be made within the time stipulated on condition that Buyer has fulfilled all contractual duties.

**VI. Passing of Risk and Acceptance**

1. The risk of accidental ruin and/or loss shall devolve on Buyer at the latest upon shipment of the delivery item(s) or delivery to the person in charge of transport. This does also apply if part deliveries are made or Supplier has taken on further obligations such as freight costs or transport and installation. At Buyer's request, Supplier shall insure the consignment at Buyer's costs against breakage, damage in transit, fire and water damage.
2. If delivery is delayed due to circumstances for which Supplier cannot be held responsible, all risks shall pass to Buyer as of the date when the equipment is ready for shipment. Supplier is, however, obliged, to take out all insurance policies which Buyer may demand at Buyer's costs.
3. All delivered items have to be accepted by Buyer, even if they show minor defects, without prejudice to any rights according to chapter VIII..
4. Part deliveries shall be permitted.
5. Furthermore all risks shall devolve on Buyer as soon as Buyer defaults in acceptance after having received Supplier's notification that the delivery item is ready for shipment.

**VII. Reservation of Title**

1. Supplier reserves title to all goods delivered until Buyer settles all payment obligations including any debit balances from former deliveries. The goods are subject to an extended reservation of title.
2. Supplier shall be entitled to insure the delivery item against fire and water damage and all other damage at Buyer's costs, if Buyer cannot prove that itself has contracted insurance.

3. Buyer shall neither give the delivery item in pledge nor assign it for security. Buyer shall notify Supplier without delay of any seizure, confiscation or any other orders by any third party.
4. If Supplier enforces the right of reservation of title or seizes the delivery item this shall not be deemed as a rescission of contract.

**VIII. Legal Liabilities for Defects of Goods when Delivered**

1. The legal liabilities for defects shall not apply to any insignificant deviations from the agreed quality or insignificant impairments.
2. Supplier cannot be held liable for any defects resulting from one of the following:  
inadequate or improper use, faulty installation or setting into operation by Buyer or any third party, normal wear and tear, faulty or negligent handling – especially excessive use - , unsuitable operating materials, use of substitute materials, poor construction work, unsuitable construction ground, chemical, electrochemical or electrical influences, as far as these are not attributable to Supplier's fault.
3. Buyer undertakes to check immediately whether the delivered goods are in proper condition and shall notify Supplier within 10 days from receipt of the goods in writing of any patent defects. The same period of notification applies to latent defects calculated from the time they are first detected.
4. If the notice of defect(s) is justified, i.e. if there are any material defects the cause of which was already existing at the time of transition of risks, Supplier shall be entitled to choose between subsequent improvement (removal of defects) or subsequent delivery (replacement delivery).



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5. After having come to an understanding with Supplier, Buyer shall give the Supplier the required time and opportunity to take all remedial actions or effect all replacement deliveries which are deemed necessary at the Supplier's reasonable discretion. Otherwise, Supplier shall be released from its liability for defects. Only in very urgent cases where safe working is endangered, whereof Supplier must be advised without delay, or if Supplier is in default with rectifying the defect, shall Buyer be entitled to remove the defect itself or engage a third party to do so and to demand of the Supplier an adequate compensation for the incurred costs.
  6. Provided that the complaint proves to be justified and considering all immediate costs caused by such remedial measures or replacement deliveries, Supplier shall be obliged to bear the costs of the replacement part itself including transport as well as all adequate costs for dismantling and mounting and furthermore, as far as this can be reasonably expected, the costs of sending its engineers or assistants. All other costs shall be borne by the Buyer.
  7. The same legal liabilities shall apply to the replacement part and the repair as for the delivery item itself. The validity period of the legal liabilities for defects of the delivery item shall be extended by the time during which operation had to be interrupted because of any remedial actions.
  8. Supplier shall be entitled to refuse the removal of defects as long as Buyer does not fulfil its obligations.
  9. Supplier shall not be liable for any consequences resulting from any modifications or repair work which Buyer or any third party may have executed without prior approval of Supplier.
  10. Supplier's responsibility that the delivered goods are suitable for the purposes for which the Buyer intends to use them shall be precluded. Likewise, Supplier rejects to make good for any damage which may occur in connection with the processing of the goods.
  11. Further claims of Buyer, especially a compensation for any damage where the delivery item itself is not involved, shall be excluded.
  12. Buyer shall have a legal right of recourse against Supplier only in so far as all legal prerequisites are fulfilled. Thus the right of recourse shall not exist if Buyer has entered into any additional agreements by way of a guarantee or by way of goodwill with its own client that go beyond the rights stipulated by law.
  13. If the legal regulations for consumer goods (§§ 474 ff BGB) especially with regard to the right of recourse (§§ 478 ff BGB) do not apply in the absence of the legally stipulated prerequisites, a liability period of one year shall apply.
  14. The legal consequences of a violation of the commercial duty of examination and notice of non-conformity (§§ 377, 378 HGB) shall remain unaffected.
- IX. Supplier's Right of Withdrawal**
- Supplier shall have the right to withdraw from the contract in whole or in part if any unforeseen events in terms of chapter V of the Terms and Conditions of Sale should happen which have a considerable impact on the commercial significance or the substance of the performance or on the Supplier's works or if it is later recognised that it will be impossible to perform. Buyer shall not be entitled to claim any damages for such a rescission. If Supplier intends to make use of its right of withdrawal, it shall inform the Buyer as soon as the momentousness of the event is clear, also if at first an extension of the delivery period had been agreed between Buyer and Supplier.



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**X. Installation**

Please refer to separate terms and conditions.

**XI Miscellaneous, Venue**

For both parties, the place of performance and venue for all contractual duties as well as venue for any action arising out of a bill shall be Werl.

In all other respects, the sales and delivery terms of the Verein Deutscher Maschinenbuanstalten (VDMA) shall apply. The contract is subject to German law. Upon annulment of a provision of the General Terms and Conditions or a regulation of any further agreement, all other provisions shall remain valid.

Any terms and conditions of Buyer which are in contradiction with these General Terms and Conditions of Sale shall not be binding on the Supplier even if the order is based on them and the Supplier has not contradicted them.

**XII Damages / Liability**

1. The Buyer cannot claim any damages for whatever legal reason, especially on account of the violation of an obligation arising from the debt relationship or on account of a civil offence unless where the Product Liability Act (Produkthaftungsgesetz) provides mandatory liability such as liability for wilful or gross negligence or if a human being is killed, injured or affected in his health or if an essential contractual duty is violated.
2. The right to claim damages if an essential contractual duty is violated shall, however, be limited to the typically foreseeable damage unless where a limitation of liability is excluded for any other reason due to wilful and gross negligence or if a human being is killed, injured or affected in his health.
3. In case of non-performance due to reasons for which Supplier is responsible, Buyer's right to claim damages shall be limited to 10% of the value of that part of the delivery which cannot be put into appropriate service because of the non-performance provided that Supplier has not acted with wilful and gross negligence and except

where liability is imperative because a human being is killed, injured or affected in his health. The Supplier's right to withdraw from the contract remains unaffected.

4. If one of Buyer's clients or a client thereof rightfully claims post-performance, Buyer shall give Supplier within a reasonable period of time the opportunity to provide itself such post-performance before Buyer tries to find a "replacement". Buyer shall impose this duty accordingly on its own client(s). If Buyer offends against this duty, Supplier shall be entitled to reimburse only such costs as would have been incurred when Supplier itself had provided post-performance- § 444 BGB remains unaffected.
5. Furthermore, Buyer shall not have any right of compensation for costs in connection with post-performance if Buyer has not availed itself of the right to refuse this kind of post-performance or both kinds of post-performance because of excessiveness of costs although it is obliged to loss mitigation.
6. Buyer shall not be entitled to claim compensation for any expenditure in connection with post-performance, especially transport, travel, labour and material costs if such expenditure is increased due to the fact that the delivery item was later transferred to a different place which is not identical with consignee's address as indicated by the Buyer unless such transfer is coherent with the designated use of the delivery item. The same applies to the right of recourse.
7. The statutory limitation period for any claims for damages and the compensation of expenditure in connection with the non-conformance of goods shall apply.

Unipre GmbH  
Langenwiedenweg 94  
59457 Werl  
Germany  
Tel.: +49 2922 87840 00  
Fax: +49 2922 87840 20  
E-mail: [info@unipre.de](mailto:info@unipre.de)  
Internet: [www.unipre.de](http://www.unipre.de)  
[www.unipre.com](http://www.unipre.com)

Registered: Amtsgericht Arnsberg HRB 4551  
Tax no. 343 5739 0490  
Managing director: T. Hunold  
VAT Reg. No.: DE 126 638 231