

§ 1 Application, Code of Conduct

1. These General Terms and Conditions of Sale and Delivery apply exclusively. We oppose the validity of all other General Terms and Conditions, especially the General Terms and Conditions of Purchase of our contractual partner. Any differing conditions of the contractual partner do not apply if they are included in any confirmation letter of the contractual partner following our order confirmation and we do not disagree explicitly; in this case our silence shall be deemed as rejection. These General Terms and Conditions of Sale and Delivery do also apply if we fulfil our contractual obligations in knowledge of contrary or differing conditions of the contractual partner.

In the event of contradictions in the previous contractual declarations or confirmation letters, the contract shall be concluded in any case according to our General Terms and Conditions of Sale and Delivery through delivery or other fulfilling performances of the contractual partner.

2. Individual contractual agreements shall have priority over these General Terms and Conditions of Sale and Delivery.
3. Unless anything to the contrary arises from the contract or these General Terms and Conditions of Sale and Delivery, all declarations are to be issued in text form according to sec.126b German Civil Code (BGB).
4. These General Terms and Conditions of Sale and Delivery exclusively apply to entrepreneurs as defined by sec. 14 German Civil Code (BGB), legal entities under public law and special funds under public law.
5. Our General Terms and Conditions of Sale and Delivery shall also apply to all future business with the contractual partner.
6. Additionally the „Business Conduct Guidelines of TRIPS Group“ apply in the respective current version. These can be found on our website www.trips-group.com and define the expectations of the TRIPS Group according to the conduct of involved business partners regarding their business activities with respect of sustainability.

§ 2 Documents from TRIPS / Confidentiality and Non-disclosure

1. We reserve the property and copy rights of all documents and information given to the contractual partner by us, especially of images, drawings, calculations, cost estimates (hereinafter called documents).
2. The contractual partner shall keep all documents as well as information and facts obtained by us strictly confidential and not accessible to third parties insofar as these are neither obvious nor publicly available or we have agreed to that in written form. Obligation of confidentiality is also not given if there are legal requirements of disclosure. In case of doubt, the contractual partner is obliged to confidentiality.
3. All documents acc. to clause 1 are exclusively to be used within the frameworks of the contract negotiations as well as for the execution of the corresponding contract relationship. The documents are to be handed back to us without being asked if the contract relationship is not established or if it is terminated.
3. The contractual partner shall not be entitled to the right to retain documents provided to him acc. to clause 1.
4. The obligation of confidentiality shall continue to exist even if no contract is established or if the contract relationship is terminated. The obligation ends acc. to the requirements mentioned in clause 2.

§ 3 Offer by TRIPS – conclusion of the contract

1. We shall be bound to an offer issued to the contractual partner for 7UKCA; days after the date of the offer, insofar as the offer does not contain any differing term of acceptance.
2. All offers and cost estimates are non-binding with regard to price and delivery volume unless anything to the contrary arises from these.
3. Basis of our quotation and the contract for our engineering performance are the specifications in the document QMF801 Spezifikationsleitfaden für DIN EN 61439-1 -2
4. If the contractual partner does not accept our offer within the deadline in text form (sec. 126b German Civil Code), it becomes invalid. The date of receipt of the acceptance at our company is of relevance.
5. In cases where we have not issued an offer, a contract shall be concluded by our acceptance of a received order (=offer by contractual partner). Insofar as the order does not include an acceptance date, we can accept this offer at least within 4 weeks after receipt of the order. The contract is concluded with the content of our order confirmation.

§ 4 Reservation of Technology DIN EN 61439-1/-2

1. The subject of the contract is manufactured according to the applicable German or European standards (DIN/EN) in general according to DIN EN 61439-1/-2. The manufacturing according any other (national) standards (e.g. US-American standards) requires an explicit written agreement.

If our customer provides any kind of engineering performance in parts or complete we deliver only a routine verification according to DIN EN 61439 -1/-2. The customer approves with the contract agreement all deviations

and modifications to diagrams (red markings) to assembly. The customer stays responsible for the design verification also in case of deviations and modifications of the diagrams.

Further we deliver the design verification according to DIN EN 61439 -1/-2 as far as possible only if the customer provides all necessary technical specifications on time. The test documentation can be viewed as far as possible in our company.

2. Coding of the single wires in the switchgear assembly is not included in the offer.
3. The marking of components is carried out with yellow adhesive labels on the mounting plate and on the corresponding component.

§ 5 Switchgear assembly as part of a machine/system

1. The performance of a risk analysis and documentation according to the terms of the Machinery Directive 2006/42/EG as well as a risk analysis according to the Low Voltage Directive 2014/35/EU for the machine or system by TRIPS is not part of the contract. If the risk analysis is necessary for the execution of the contract, the contractual partner is obliged to provide it to TRIPS free of charges.
2. In the event that the transfer of information/documents by the contractual partner becomes necessary in order to deliver engineering services by us (e.g. risk analyses for a machine/system, technical specifications), the contractual partner is obliged to provide these to us in time and free of any charges.

§ 6 CE marking / certification

1. TRIPS will label the subjects of the contract (cubicle) with the CE symbol, to the extent permitted by law. CE-Labeling of the machine/plant is not scope of supply.
2. Please note that we are not considered as manufacturer according to the statutory provisions if engineering services are provided by the contractual partner (e.g. wiring diagrams). For this reason, we cannot execute a CE marking in this case. Here, we will issue a conformity declaration for the subjects of the contract if required by the contractual partner, presumed that the corresponding harmonized standards of the engineering services have been adhered to by the contractual partner and it is permitted by law.
3. Any other marking or certification (e.g. UKCA, EAC, GOST or China Compulsory Certificate (CCC)) of the contractual subjects require an explicit written agreement.
Delays in delivery caused by missing certifications do not constitute claims against Trips.

§ 7 Language and documentation, Software updates

1. Any documents etc. are issued in German, further languages require an explicit written agreement.
2. Contractual language is German.
3. Scope of supply is only TRIPS Standard Documentation. TRIPS delivers only the manuals provided by the respective manufacturer of the devices. Thus the customer cannot demand other languages or any other extent of documentation. No further operating instructions or installation instructions or other documentation are owed.

4. REACH and RoHS documentation and the transmission of corresponding data and information is not included in the scope of delivery and can be offered separately.

5. Software updates and upgrades of any kind are excluded.

§ 8 Items provided by the customer

1. TRIPS is not responsible for the exemption of value added tax for items provided to TRIPS by the customer.
2. Provisions must be delivered to us DDP Grafenrheinfeld bearing our project number.

The contractual partner shall provide to TRIPS all information, data and documents necessary for export/transport/import for all items provided by him for TRIPS in time, e.g. export list number according to EC Dual Use Regulation (AL code number), "U.S. Commence Control List" (ECCN), HS code (numeric code according to the "International Convention of Harmonized System"), country of origin, costs in time. Any delays due to export investigations or approval procedures suspend deadlines and delivery times.

3. The customer shall inform us on the delivery note about dangerous goods included in the customer provided items, especially he shall provide the UN number of the dangerous good. He also shall inform us if batteries are included in the items and about the UN number of batteries. The customer shall deliver the product / safety data sheet. He shall also inform us if REACH or RoHS registered items are included in the customer provided items.

- The inward processing of provided materials is not part of the contract. We reject a temporary usage of provided materials.

§ 9 Export and foreign taxes

- Any delays due to export investigations or approval procedures suspend deadlines and delivery times.
- If our contractual partner is located in Germany, he is exclusively responsible for the export of the contractual goods and shall especially fulfill all national and international export regulations. Further he is obliged to gain all necessary permissions on his own expense.
- Additional certificates and conformity declarations, such as e.g. SASO, for specific country requirements are not part of the contract.
- Foreign taxes, withholding taxes etc. and country specific taxes shall be borne by the customer.

§ 10 Suspension and Cancellation

In the event of a suspension or cancellation of the execution of the order, TRIPS is entitled to invoice immediately all costs incurred at the point of the suspension or cancellation against the contractual partner.

§ 11 Contract supplements

Changes of our scope of supply/service require a written agreement. Any incurring extra charges are to be invoiced additionally. We are not responsible for any delivery delays resulting from this. Delivery times agreed upon may be extended correspondingly due to desired changes of supply/service/works to be carried out.

§ 12 Prices – Payment terms – Setting off – Right of retention

- All prices are quoted in EURO unless otherwise agreed in the contract. All payments are to be made in Euro. Insofar that payments are not made in Euro, all resulting charges and fees for the exchange into Euro have to be covered by the contractual partner.
- All prices are subject to statutory VAT.
If the legal prerequisites for a tax-exempt delivery are not fulfilled, we do invoice VAT additionally.
A tax-exempt delivery requires the direct delivery to the contractual partner.
A possible tax-exempt delivery is not given if we do not deliver directly to our contractual partner but to a third party, a so-called chain supply. In this case, the customer has to state who orders the shipping/delivery.
- The offer prices are valid for the specified quantities listed in the offer. In case of any changes of the quantities, we reserve the right to adjust the prices.
- Loading of the contracted goods on a truck is done, as far as possible, with our own lifting devices. If due to the dimensions, a separate crane vehicle for loading is necessary, this is invoiced separately. The loading is not part of our contractual obligations and the risks are borne by the customer.
- The storing of goods in a container is not part of the contract and thus not included in the price.
- Our offer price does not include any costs for unloading (e.g. forklifts, crane etc.) at the unloading site. Any incurring costs will be invoiced separately.
- We are entitled to set-off and retention rights to the extent provided by law.
- The contractual partner can only claim set off rights if his counterclaims are legally valid, undisputed, acknowledged by us. The right of retention of the contractual partner due to possible receivables against us cannot be applied here, unless the counterclaim is based on the same contract relationship or the counterclaim is legally valid, ready for a judgment or undisputed.

§ 13 Correspondence – necessary details

- The contractual partner shall indicate our complete project number on all documents (shipping papers, delivery notes, faxes, emails etc.) which concern the contracted goods.
- If the contractual partner does not indicate the project number, we are not responsible for any delay in processing.

§ 14 Delivery date - delivery

- Delivery dates and times are only binding if these have been agreed upon as binding explicitly.
- In the event that delivery dates and delivery times are not bindingly agreed upon, the contractual partner is entitled at the earliest twelve weeks after inculpable exceeding an unbinding delivery date or delivery deadline to demand delivery within a reasonable period.
- The delivery time/date commence after prior clarification of all technical, commercial and export-law questions.
- The fulfilment of our delivery obligations requires the punctual and proper fulfilment of all obligations of the contractual partner. The right to raise objection to non fulfilment of the contract is reserved.

- We shall not be held responsible for delays in delivery and services because of events of force majeure or of events that would significantly complicate or render delivery impossible – e.g. strike, lockout, legal or official orders etc. – also occurring at our suppliers. These entitle us to delay the delivery or service for the period of the problem plus a reasonable start-up period or to withdraw from the contract in part or in whole because of the part not completed.

If the impediment lasts longer than three months, the contractual partner is entitled, after setting a reasonable new deadline which has to be at least 2 weeks, to withdraw from the still unfulfilled part of the contract.

We will inform the contractual partner of the existence of such circumstances mentioned in clause 1.

- We are entitled to the statutory rights without any limitations in the event of a default in acceptance by the contractual partner.
If the manufacturing process requires some cooperation of the contractual partner, we are entitled to claim an appropriate compensation if there is a default in acceptance by the contractual partner due to not cooperating or breach of his duties.
- Delivery is carried out EXW Grafenrheinfeld, Hohe Heide 8 (Incoterms 2020). Packaging is carried out in foil on an untreated wooden pallet
- A contractual penalty as a result of delay with a delivery including documentation is excluded.
- We are entitled to partial deliveries or premature deliveries.
- We do not take back any packaging.

§ 15 Obligation to inform Contractual partner – Right of cancellation / withdrawal

- Should a significant deterioration of the assets of the contractual partner arise after conclusion of the contract, so that our claim for consideration is jeopardized, we can refuse performance until payment has been made or our claim for consideration has been secured.
- We are entitled to set an appropriate deadline in which the contractual partner in his discretion has to fulfill our claim of consideration concurrently against performance or has to provide us a security for our claim of consideration. We shall be entitled to withdraw from the contract after unsuccessful expiration of the set deadline.
- The setting of a period acc. to clause 2 is not required if the contractual partner has submitted an affidavit or insolvency proceedings have been opened on his assets or if the opening of insolvency proceedings has been disclaimed due to lack of mass.
- The contractual partner is obliged to immediately inform us if he has submitted an affidavit or if an application has been filed to open insolvency proceeding on his assets.
- Cancellations of the contract require written form.
- If the contractual partner exercises in case of a contract for work his right of cancellation acc. to sec. 649 German Civil Code (BGB), without us being responsible for it, we are entitled to a lump sum (sec. 649 phrase 2 German Civil Code (BGB)) to the amount of at least 10% of the net order sum, unless the contractual partner proves that the claim does not exist or is lower. We reserve the right to further damage claims.

§ 16 Setting up and installation

Unless otherwise agreed in written form, the following regulations apply for the setting up and installation:

- The contractual partner has to pay and provide in time and at his own expenses the following:
 - All excavation, construction and other not trade-related auxiliary works, including skilled and unskilled workers, building materials and tools needed,
 - the required equipment and consumables necessary for installation and commissioning, such as scaffolding, lifting gear and other devices, combustible material and lubricants,
 - energy and water at the place of use, including connections, heating and lighting,
 - sufficient large, suitable, dry and lockable rooms at the place of installation to store contracted goods, apparatus, materials, tools etc. and suitable work and staffrooms for the installation personnel, including appropriate sanitary facilities; furthermore, the contractual partner shall take those measures on the building site for the protection of our assets and the installation personnel, which he would take for the protection of his own assets,
 - protection clothing and protection devices required on the installation site due to special circumstances.
- Prior to the commencement of the work, the contractual partner shall provide unasked all necessary details on the location of concealed current conduction, gas conduction and water pipes and any similar installations as well as required information on statics.

3. Prior to the commencement of the setting up or installation, all necessary customer provided items shall be at the installation site and preparatory work shall be so progressed that installation can be started and implemented without any delay. The approach routes and the setting up or installation site must be leveled and cleared.
4. Should setting up, installation or commissioning be delayed without our responsibility, the contractual partner shall pay for the waiting time and any additional travel costs.
5. The contractual partner shall confirm the working hours of our employees every week. He shall also confirm the completion of the setting, the assembly and the installation immediately.
6. The contractual partner shall ensure at its own expense that the work safety regulations are complied with on site. In areas with (partial) travel warnings or if there is a safety risk for our employees for other reasons, the contractual partner shall bear the costs of appropriate safety measures.

§ 17 Defects – defect inspection - acceptance – warranty for defects

1. Insofar as agreements of the quality have been made between the contractual parties, deviations are permissible due to the relevant technical standards (e.g. ISO or DIN standards) and are thus not to be considered as defects.

Warranty claims shall not apply in the case of insignificant deviations from the agreed quality, in the case of minor impairment of usability, natural wear.

Warranty claims shall also not apply for damages incurred after passing of the risk because of incorrect or negligible handling, transport damage, excessive use, unsuitable operating material, faulty construction work, unsuitable subsoil or because of special external influences which are not established in the contract as well as in case of non-reproducible software errors. We do not give a warranty in particular but not limited to cases like inadequate storage (including deep discharging of batteries), installation, operating, maintenance and damage caused by external factors such as fire, vandalism, small animals, dust, sand, impurities etc.

In the event of modifications or maintenance works are carried out by the customer or by third persons, no claim in respect of defects shall arise for this or any consequences thereof.

2. In case of a purchase contract, precondition of any warranty claim is, that the prerequisites of inspection and notification of defects according to sec. 377 German Commercial Code (HGB) have been fulfilled properly.
3. The notice of defect shall be in written form.
4. The contractual partner may not refuse the acceptance due to insignificant defects.
5. In case of a contract for work, an acceptance has to be carried out. The contractual partner shall carry out the acceptance of our completed work if demanded by us within a deadline of two weeks.
Acceptance shall be deemed given if the contractual partner allows the two-week deadline to pass or if the performance/delivery has been taken into operation.
In case any defects are discovered during the acceptance, we have to provide a defect-free condition within an appropriate time and in case the defects are significant we have to request a new acceptance.
The contractual partner cannot refuse acceptance in the event of insignificant defects; we are responsible to eliminate the determined defect within an appropriate time.
6. If the contractual partner asserts a defect, we are entitled to investigate if a defect actually exists. If there is no defect and if the contractual partner could have realized that, the contractual partner is obliged to pay for any costs incurring in relation with his assertion of a defect (e.g. transport, work and travel costs).
7. Insofar as there is a defect, we are, upon our election, entitled to alternative performance in the form of subsequent improvement or delivery of conforming goods.
8. Place of performance regarding the subsequent improvement is our headquarters. If the goods has been transported to another place all additional costs shall be borne by customer, especially but not limited to travel, flight, accommodation, test, transport of material, export fees, visa costs etc. This also applies for warranty work. The customer is obliged to provide necessary visa free of charge, also for warranty work.
9. In the event that the subsequent improvement fails, the contractual partner is entitled to his choice to demand withdrawal or reduction.
10. If the contractual partner is entitled to withdraw according to warranty provisions and if he exerts this right, the claim for damages instead of performance is excluded.
11. Our liability is limited according to §19.
12. The warranty period for defects on new objects is 12 months. The warranty period commences with the transfer of risk, but at the latest with the handing over to the carrier. Warranty is excluded for used objects.

Sentence 1 does not apply if the warranty time by mandatory law is longer.

Sentence 1 does not apply in the case of intent, fraudulent concealment of the defect.

13. Representations by us are only agreements of quality unless it is explicitly agreed that we grant a guarantee.
14. Transport damages have to be indicated immediately in writing by consulting the carrier.
15. In case of transport damages and/or defects we are not obliged to provide a defect-free condition if the contractual goods has been transported by the customer, unless the damage is not caused by the transport.

§ 18 Limitation of liability

1. Unless otherwise agreed upon below, we, our legal representatives or vicarious agents, are liable for damages limited to the amounts of cover mentioned in our offer.
2. In the event of a slight negligent violation of essential contractual obligations whose fulfilment is essential for the due and proper implementation of the contract, and whose fulfilment Customer could reasonably rely on our liability shall be limited to typical predictable damages.
3. Apart from that, we are not liable for any indirect damages and consequential damages, especially damages for any loss of profit, except in cases of intent or gross negligence.
4. The aforementioned limits of liability do not apply in cases of intent or gross negligence by us, by our legal representatives or by our vicarious agents; likewise, the aforementioned limitations of liability do not apply for our liability according to the German Product Liability Act, in the event of culpable injury of life, body and health as well as in case of a violation of a guarantee.

§ 19 Property rights

1. Unless otherwise agreed upon, we are only obliged to provide delivery in the country of the delivery place free of any industrial property rights and copy rights of third parties (hereinafter property rights). In the event that a third party raises justified claims to the contractual partner due to a violation of property rights by deliveries provided by us and used according to the contract, we shall be liable to the contractual partner within the deadline stipulated in § 18 clause 12 as follows:
2. We will at our option and at our expenses either obtain a right of use for the corresponding deliveries, will change them in such a way that the property rights are not infringed or will exchange them. If we are not able to do so at reasonable conditions, the contractual partner shall be entitled to the statutory right of rescission or reduction.
Our obligation to pay damages is governed by § 19.
The aforementioned obligations shall only apply insofar the contractual partner informs us immediately in written form of any claims asserted by the third party, he does not acknowledge any infringement and we reserve the right to all defensive measures and settlement negotiations. If the contractual partner ceases to use the delivery for reasons of damage reduction or for other important reasons, he shall be obliged to inform the third party that no acknowledgement of a violation of property rights is connected with the cessation of use.
3. All claims of the contractual partner are excluded as far as he himself is responsible for the violation of property rights.
4. Further, claims of the contractual partner are also excluded as far as the violation of property rights is caused by special requirements of the contractual partner, by a for us unforeseeable application or by a change of the delivery by the contractual partner or by using our products together with products not being supplied by us.

§ 20 Retention of title

1. We shall retain the title to the goods supplied until receipt of all payments resulting from the business relationship in full. In case of breach of contract of the contractual partner, including, but without limitation, default in payment we are entitled to take possession of the goods. Taking back the goods shall not be regarded as a cancellation of the contract.
2. Resale is only permitted to resellers in the ordinary course of business if the reseller agrees upon a corresponding retention of title with his customer.
3. Receivables obtained through resale or installation of supplied goods against his customers are assigned by the contractual partner to us in order to secure our complete claims resulting from the business relationship. We herewith accept the assignment.
4. We are entitled to disclose the assignment at any time. Furthermore, we are entitled to request information from the contractual partner on which receivables against which customers are affected by the assignment. Also after assignment, the contractual partner remains entitled to collect his receivables assigned to us until revoked by us.
5. The contractual partner is obliged to insure the goods against the usual risks. In the case of damage, he assigns his corresponding claims against the insurance company to us. We accept the assignment.

The contractual partner is obliged to immediately inform us in written form in the event of pledges, seizure or any other impairment concerning the products subject to retention of title. The contractual partner shall be liable for any costs incurring to us.

Processing or modifying the products subject to retention of title shall always be accomplished on behalf of us. In the event that the products subject to retention of title are processed, modified, connected to or mixed with other goods which do not belong to us, it is hereby agreed that TRIPS shall acquire co-ownership of the new goods based on the relation of the value of the products subject to retention of title to the goods processed, modified, connected or mixed at the time of the processing, modification, connection or mixture.

6. Upon demand of the contractual partner, TRIPS is obliged to release the granted securities to the extent as their value is exceeding the open claims to be secured by more than 10 %.

§ 21 Non-assignment

Without any written agreement from us, the contractual partner is not entitled to assign any claims against us to third parties.

§ 22 Reservation Clause

We are not obliged to fulfill the agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or embargoes and/or other sanctions and/or needed letter of invitation are not provided by the customer, necessary visa and/or work permit and/or other required licenses (e.g. contractor's license) are not granted or if there is any danger to health, to life or of being kidnapped. In this case, the contractual partner cannot demand the shipment of goods and/or fulfilment of the contract by TRIPS. The contractual partner is not entitled to compensation for damages. TRIPS is entitled to invoice immediately all incurred expenses (e.g. material, wages etc.)

Any incurring costs will be invoiced separately.

§ 23 Jurisdiction – place of performance – applicable law

1. The exclusive place of jurisdiction is our headquarters in 97506 Grafenrheinfeld, Germany, for all claims from or in connection with this contract. However, we are entitled to sue the contractual partner at his place of jurisdiction.
2. Arbitration agreements require our explicit written agreement to be valid.
3. Place of performance is our headquarters in Grafenrheinfeld.
4. All legal relationships of the parties shall exclusively be governed by German law, excluding conflicts of law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).