

Standard Terms of Business for Sales and Service

1. General provisions

1.1 These Standard Terms of Business for Sale and Service ("STBs") of

TALIS Management Holding GmbH
ERHARD GmbH & Co. KG
Ludwig FRISCHHUT GmbH & Co. KG
STRATE Technologie für Abwasser GmbH

["us"] apply only to persons who at the time when the contract is concluded are undertaking the exercise of their commercial or independent professional activity (entrepreneurs within the meaning of § 14 BGB) [the German Civil Code], and to corporate bodies under public law and special funds under public law within the meaning of BGB § 310 para. 1 BGB [hereinafter referred to as the "customer"].

1.2 The STBs also apply to all future business relationships, even if they are not expressly agreed again. Standard Terms of Business of the customer which differ from these STBs, or which are contrary to these STBs, are expressly invalidated by them unless we explicitly agree to their applicability.

2. Offers and offer documents

2.1 All our offers are non-binding unless they are explicitly designated as being binding.
2.2 We retain rights of ownership, industrial property rights and copyright in respect of samples, cost estimates, drawings and similar information in any form; they must not be made accessible to third parties.

3. Object(s) supplied, amendments

3.1 The performance of the contract, in particular the characteristics of the objects that are to be manufactured or supplied by us [hereinafter referred to as the "objects supplied"], is exclusively based on our specifications. Dimensions and other tolerances are based on the respective DIN rules, or alternatively commercial practice as well as the state-of-the-art standards.
3.2 We may at any time make changes to the way in which the order is performed or to the objects supplied insofar as such changes are required in order to fulfil statutory or official requirements and they do not materially affect their properties and functions, and insofar as they are reasonable from the customer's point of view.

4. Delivery schedule, delayed delivery

4.1 Our performance or delivery schedules are non-binding unless we expressly confirm in writing that a performance or delivery schedule is binding. The performance period begins only when the customer has clarified with us all the necessary technical issues relating to the provision of the service.
4.2 Adherence to the delivery schedule is subject to correct and timely supply if we have concluded a matching covering transaction. We will inform the customer without delay of any emerging delays, and in the event of our withdrawal we will reimburse the corresponding consideration to it.
4.3 Once our readiness to undertake shipping is notified, the delivery schedule will be deemed to have been adhered to if shipping is delayed or cannot be carried out through no fault of our own.
4.4 If failure to adhere to the delivery schedule is attributable to force majeure, legal labour disputes or other events which are outside of our control, the delivery schedule will be appropriately extended. We will notify the customer of the start and end of such circumstances at the earliest opportunity.

5. Transfer of risk, acceptance inspection, delayed acceptance

5.1 In the case of sold products the risk is transferred to the customer on an ex-readiness basis [EXW INCOTERMS 2020], or immediately upon notification of readiness to ship in the case of shipping delays for which the customer is responsible. If an acceptance inspection has to be carried out, it will determine the transfer of risk. The following clauses 5.2 to 5.6 apply to the acceptance inspection.
5.2 We inform the customer that the services are ready to be inspected.
5.3 A report that is signed by both parties is drawn up in relation to the acceptance inspection. Acceptance cannot be refused due to minor defects. They must be rectified under the guarantee and be recorded in the acceptance report.
5.4 If the customer justifiably refuses to accept the product(s)/service(s) due to existing defects, we will rectify those defects without delay and resubmit the product(s)/service(s) concerned for the acceptance inspection.
5.5 If the customer delays carrying out the acceptance inspection, we may set an appropriate extension period with reference to the consequences according to sentence 2. After the expiry of this extension period the services will be deemed to have been accepted.
5.6 If the customer brings into use – other than for mere testing purposes – articles in respect of which we have carried out assembly or other works, the services are deemed to have been accepted.
5.7 Partial deliveries are permitted insofar as they are reasonable from the customer's point of view, and we will bear the additional shipping costs that are caused.
5.8 If delayed acceptance by the customer leads to a delivery delay, we may demand a monthly flat rate storage fee (pro-rated as applicable) of 0.5% of the value of the goods in question per month or the profit of the contract up to an overall maximum of 10%. The customer is free to assert that a lesser loss has been caused. Alternatively, we are also entitled to have the goods stored by a haulage contractor and to charge the customer the actual expenditure that is incurred by doing so.

6. Prices and payments

6.1 Unless otherwise agreed, our prices are ex-works [EXW, INCOTERMS 2020]. Packaging costs are charged separately based on the expenditure involved.
6.2 The respective statutory Value Added Tax that is applicable must be added to the prices. The Value Added Tax is shown separately in the invoice.
6.3 If more than one price applies to the objects of the contract and the date of supply, we are entitled to increase prices. However, we may only do so insofar as it is necessary to compensate for resulting increases in costs, which will be disclosed to the customer on request. The customer is likewise entitled to a price reduction after the aforementioned period if the overall costs decrease, and in the case of substantial price increases the customer has a right of withdrawal in accordance with the legal provisions.
6.4 The minimum order value of orders placed at Erhard GmbH & Co. KG is EUR 250 net. If the minimum order value is not reached, a processing fee of EUR 75 will be charged by Erhard GmbH & Co. KG. The customer is free to assert that a lesser loss has been caused.
6.5 Invoices are payable upon receipt. Initial invoices for new customers are processed on the basis of advance payment by the customer. If the customer does not pay within 14 days following the invoice date, it falls into arrears even without any reminder being issued. The timeliness of payments depends on when the amount is received by us, and specifically when the amount is credited to our account.
6.6 If the customer falls into arrears, statutory arrears interest will be incurred in addition to the purchase price. After other contractual rights remain reserved, in particular we reserve the right to claim a greater amount of damages.
6.7 If the customer has agreed a partial payment with us and if the customer fails to pay at least two consecutive instalments on time, we may make all payments immediately due once we have sent a payment reminder with an appropriate deadline.
6.8 If a direct debit is agreed between the customer and ourselves within SEPA [the Single Euro Payments Area], this is done on the basis of the issuing by the customer of a written SEPA mandate. The pre-notification period is shortened to one day. We will inform the customer of the precise collection date via the pre-notification.
6.9 The customer warrants that it will maintain sufficient funds in the account. Costs for which the customer is responsible due to the non-payment or reversal of the direct debit are borne by the customer.
6.10 The customer is not entitled to assign its claims against us. This does not apply insofar as § 354a HGB [German Commercial Code] is applicable.
6.11 The customer is entitled to offset and withhold amounts in relation to counter claims which do not arise from the same legal relationship as the main claim only in the case of set-off claims which are uncontested or have been ascertained by court in a legally binding decision.
6.12 Otherwise the special provisions in Section 15 apply in respect of prices and payments for services.

7. Reservation of proprietary rights

7.1 The objects supplied by us remain our property until all the amounts receivable arising from the current business relationships have been paid in full ["reserved goods"].
7.2 The customer is however entitled to undertake resale in the normal course of its business activities. It already assigns its amounts receivable from resale to us to the extent of the amounts that are owed to us. This applies regardless of whether or not the objects supplied by us are subjected to further processing prior to being resold, or whether or not they are combined with land or moveable property. If the reserved goods are processed together with objects which are not our property, the processing is undertaken on our behalf as the manufacturer, and we acquire joint ownership of the new object according to the value of the reserved goods in relation to the other processed goods. In

the event of resale following processing together with objects which are not our property, or in the event of combining with land or moveable property, the customer's amount receivable from its purchaser is deemed to be ceded in the amount of the price that is agreed between the customer and us.
7.3 The customer is not entitled to cede amounts receivable for as long as it fulfils its payment obligation to us in accordance with the contract. The customer is not entitled to make other dispositions regarding the objects which are subject to the reservation of proprietary rights (e.g. transfer by way of security or pledging). In the case of interventions by the customer's creditors relating to the objects which are subject to the reservation of proprietary rights, the customer must immediately notify us and also inform the creditor in writing of the reservation of proprietary rights. If we make a claim pursuant to § 777 ZPO [Code of Civil Procedure] in the event of attachments or other interventions, and if the third party is unable to reimburse the corresponding judicial and extra-judicial costs to us in the event of our claim being upheld, the customer shall be liable for any financial loss that is incurred.

7.4 In the event of the exercise of the securities to which we are entitled insofar as their value exceeds the as yet unpaid share of the amount receivable that is to be secured by more than 20%.

7.5 If the customer falls into payment arrears, or if an application is made to open insolvency proceedings in respect of the customer's assets, or if the customer discontinues its payments, we may demand that the customer informs us of the ceded amounts receivable and the debtors in relation to them, provides us with all the information required for collection, and hands over documents to us and informs its debtors of the assignment.
7.6 The customer is obliged to insure – at its own expense and at the contractually agreed premium and throughout the period of the reservation of proprietary rights – the objects which have been supplied by us against all possible risks (e.g. fire, water damage, theft due to forcible and violent entry and theft, vandalism etc.). It shall assign its claims to us up to the value of the objects concerned, or up to the amount of our still outstanding amounts receivable under the insurance.

8. Warranty

In the event of defective performance we are liable as follows:
8.1 Defects claims do not exist in the case of only minor deviations from the agreed characteristics or in the case of only minor impairment of usability.
8.2 If the works supplied or the newly supplied parts evidently have physical defects, in particular due to defective structure or materials or defective design, they must be rectified by us without charge or – supplied by us according to the option that is chosen by us [subsequent performance]. The customer must allow us a reasonable period of necessary time and a reasonable opportunity to carry out subsequent performance. If it refuses to do so, we are exempted from our obligation to undertake subsequent performance. Replaced parts pass into our ownership.

8.3 Liability for physical defects is excluded if they are attributable to the natural wear of wear parts (e.g. O-rings, spindle nuts, insulating clamps and rubber parts) or to damage which has occurred after the transfer of risk or acceptance as a consequence of defective or negligent handling, excessive loading, unsuitable work materials/equipment, defective works, or unsuitable subsoil, or chemical, electromagnetic, electrical or similar influences. The guarantee is also excluded if the customer, without having our agreement to do so, alters the newly supplied parts or the works that have been carried out, or has them altered by third parties, and if the rectification of defects thereby becomes impossible or is made unreasonably difficult. In each case the customer must bear the additional defect rectification costs which are caused by the alteration.

8.4 If we fail to comply with a demand for rectification despite the existence of a corresponding defect and despite having been given in writing a reasonable period in which to carry it out, or if the customer cannot reasonably be expected to accept further attempts to carry out rectification, the customer may have the rectification carried out by third parties and may demand from us reimbursement of the required reasonable expenses for doing so. If the rectification carried out by us has repeatedly failed, the customer has a free choice between exercising the right to secure a reduction of the price or withdrawing from the contract.

8.5 If there is a statutory duty to bear the costs of the necessary expenditure for rectification that are incurred, we are not obliged to bear them insofar as the expenditure is increased due to the fact that the object of the supplies or services is transported to a location other than the customer's business premises and the customer must apply if the transportation of the object of the object's intended use. The applicability of BGB § 445a and 478 (seller's recourse claim) remains unaffected. Notwithstanding our further claims, in the event of an unjustified notice of defect the customer must reimburse to us the inspection/checking expenditure for checking work, and – if demanded – the expenditure for notifying the defect.

8.6 Further claims by the customer against us in respect of defective works or defective newly supplied parts are excluded, in particular for the reimbursement of consequential losses such as loss of use and loss of profit. This does not apply if there is mandatory liability according to the Produkthaftungsgesetz [German Product Liability Act] in the case of bodily injury or loss of damage to property, or in the case of gross negligence on the part of the manufacturer or breaching of material contractual obligations. Claims of the customer due to loss or damage which has arisen to the object of the works itself are governed by Section 10.

9. Limitation of defect claims

9.1 The limitation period for claims and rights due to defects in supplies or services, irrespective of the legal basis, is one year. However, this does not apply in the case of BGB § 438 para. 1 no. 1 [defective title in relation to immovable property] or BGB § 438 para. 1 no. 2 [structures, property used for structures] or BGB § 434a para. 1 no. 2 [structures or works whose success consists in the provision of services, monitoring services, etc.]. The excluded cases referred to in sentence 2 above are subject to a limitation period of three years. However, the provisions of this para. [1] do not apply as a whole to the limitation of the seller's recourse claim according to BGB § 445b para. 1 in the event that the ultimate purchaser is a consumer.

9.2 The limitation periods according to para. [1] also apply to any compensation claims made against us that are connected to the defect – irrespective of the legal basis for the claim.
9.3 However, the limitation periods according to para. [1] and para. [2] apply subject to the following proviso:

a) The limitation periods do not generally apply in the case of intent or the fraudulent concealing of a defect, or if we have agreed to provide a guarantee for the work or the supplied parts or for any other health or safety matter.
b) The limitation periods also do not apply to compensation claims in the event of a grossly negligent breach of duty, in the event of the culpable breaching of material contractual duties which does not consist of the supplying of a defective product or the provision of defective works, or in cases of the culpable causing of death, bodily injury or health impairment, or in the case of claims under the Produkthaftungsgesetz.
c) The limitation periods for compensation claims also apply to the reimbursement of wasted expenditure.

9.4 The limitation period begins upon delivery in the case of all claims, and in the case of works when acceptance takes place.
9.5 Unless specifically stated otherwise, the statutory provisions remain unaffected in relation to when the limitation period starts to run, the suspension of its expiry, and the suspension and commencement of time limits.
9.6 The aforementioned provisions apply correspondingly to compensation claims that are not connected with a defect; para. [1] sentence 1. applies accordingly to the limitation period.

9.7 No change to the burden of proof to the detriment of the customer is associated with the aforementioned provisions.

10. Other liability

10.1 We are liable in cases of intent or gross negligence on our part or the part of one of our representatives or servants as well as in the case of the culpable causing of death, bodily injury or health impairment in accordance with the statutory provisions. Otherwise we are only liable under the Produkthaftungsgesetz due to the culpable breaching of material contractual duties, or if we have fraudulently concealed the defect or have agreed to provide a guarantee for the characteristics of the supplied object.

10.2 The provisions in para. [1] above apply to all compensatory claims [in particular for damage to property or health] and to claims for damages (in the service), irrespective of the legal reason, and in particular due to defects and the breaching of duties arising from contractual obligations or under tort. They also apply to claims for the reimbursement of wasted expenditure.
10.3 Our liability in respect of the impossibility of performance or default and in respect of the reimbursement of wasted expenditure is limited in total to 10% of the value of the service. Further claims by the customer in respect of the impossibility of supply or default are also excluded after the expiry of any deadline that is set for us in relation to the provision of the service. The customer's right to withdraw from the contract remains unaffected. The restriction and exclusion do not apply in the case of the culpable breaching of material contractual duties.

10.4 Compensation claims in the event of gross negligence or the breaching of material contractual duties are limited to the loss which is foreseeable and typical under contract if another of the exceptional circumstances specified in para. [1] does not simultaneously apply.
10.5 No change to the burden of proof to the detriment of the customer is associated with the aforementioned provisions.

11. Ex gratia claims

11.1 Returns in return for a credit can only take place with our prior written agreement. In the case of returns of items with a net sales price of less than EUR 500 [relating to the individual product within each item (price per individual unit)] credit notes are not generally issued.

11.2 Generally excluded from returns are valves or pipe fittings which a) are not [any longer] included in the product portfolio, b) are produced on a one-off basis, c) returns of valves or pipe fittings which are made more than 12 months after the original supply of the item [delivered more than 12 months ago], d) are already installed, as well as e) accessories.

11.3 In the case of the free-of-charge return of in-stock, as-new valves or pipe fittings, a maximum credit of 60% of the net invoice value is provided if the return takes place within 6 months following the original supply. Furthermore, the customer is entitled to a credit for the net invoice price of the pipe fittings to be reimbursed all the costs that are expended by us as a result of the return, in particular outward and return freight charges, freight settlement amounts, cartage charges, hauliers' costs, reconditioning costs, and prompt payment discounts that have been reduced upon payment etc.

11.4 We explicitly draw attention to the fact that returns can only be accepted following our prior written approval and subject to the enclosing of the return waybill.

12. Advertising

We draw the customer's attention to the fact that from time to time we send to the email address that we have received from the customer in connection with the sale of a good or a service information about similar goods or services [such as the latest news, contact partners, customer satisfaction surveys etc.]. The customer can cancel this use of the emails at any time by using the previously provided contact details or by using a link in the email in question, without incurring any costs for doing so other than transmission costs at the basic rate.

13. Use of software

Insofar as software is included within the scope of supply, the customer is granted a non-exclusive right to use the supplied software including the documentation that is provided for it. It is provided for use in the object supplied for which it is intended. Use of the software in more than one system is forbidden. The customer may only reproduce, revise or translate the software – or change it from the object code to the source code – insofar as this is legally permitted [§ 49 and following of the UrhG [Copyright Act]]. The customer undertakes not to remove the manufacturer's details – in particular copyright marks – or to alter them without obtaining our prior written permission to do so. All the other rights relating to the software and the documentation, including the copies of it, are retained by us and/or the software supplier. The granting of sub-licences is not permitted.

14. Replaced, exchanged or newly supplied parts

Exchanged or replaced parts may differ from the original parts as regards their shape and colour and the material that they are made from, provided that their quality, functionality or durability is not inferior to or less than that of the original parts.

15. Special provisions relating to servicing

15.1 In cases in which the order has to be carried out by us on site, the customer must ensure, a) that the available plant can as far as possible be accessed by our employees in a depressurised, emptied and non-operational condition, b) that plant supports/tools/supplies that are required, such as scaffolding, ladders, fork-lift trucks, cranes, water, electricity, compressed air, gas monitors, or breathing apparatus etc. is provided free of charge, c) that the available plant is disconnected and/or tanks are emptied as necessary, d) in the case of weights of over 20 kg, that appropriate lifting aids or assembly aids are provided free of charge, e) that the available plant is cleaned in at least in a rudimentary fashion, f) if necessary, that a workplace is available for drawings and the storage of documents as well as suitable changing rooms and washing facilities, g) that for the purpose of bringing valves into service the existing plant is fully mechanically, electrically, pneumatically and hydraulically installed and operational, and that sufficient fluid (water, gas, etc.) is available at short notice from 15.2 to 15.4.

15.2 Waiting periods for which the customer is responsible are billed according to expenditure based on the current service and maintenance conditions.
15.3 We are also entitled to use sub-contractors for carrying out the inspection and repair works.

15.4 For the provision of all services we require a written order which specifies the work site. Agreed schedules for servicing works must be confirmed in writing by the customer at least one week prior to the final time of departure. In order to carry out training sessions, we need the precise details of the site where it is to be provided, the timetable, number of participants, and the required training content.

15.5 If a representative is not present at the time when the works are completed, the findings made by our service personnel are deemed to be binding, and we will advise the customer of this again before undertaking the works.

15.6 The customer shall carry out the acceptance of the works that have been actually provided within one week following the completion of the works. Acceptance subject to reservations is not permitted. If the customer brings into use articles in respect of which we have carried out works for other than mere testing purposes, the services are deemed to be accepted.

15.7 Cost estimates for the overall costs or the duration of inspection or repair works are non-binding unless otherwise expressly agreed in writing. The customer is obliged to pay the calculated fee even if it exceeds the costs estimate which is stated to be binding by up to 20%. Our services are billed according to the hourly rates and the prices of materials that are valid when the order is placed.

15.8 We charge: a) our respective costs rates which are applicable at the time when the order is placed for each hour of working, travel or waiting time, irrespective of whether the time involved is overtime, night-work or work on Sundays, b) Periods of waiting time for which we are not responsible as well as other additional services that have not been agreed are charged as normal working time and are billed based on a separate time sheet.

c) For assignments carried out under difficult conditions (e.g. extreme heat or noise levels) and in the case of activities which are subject to the Strahlenschutzverordnung [German Radiation Protection Ordinance] the next higher cost rate applies.
d) For travel costs the applicable cost rate (travel allowance) at the relevant time for the service vehicle, or alternatively the costs of 2nd class rail travel or flight costs, plus any surcharges for the transportation of luggage, parts and tools for installation and spare parts at the respective current list prices.
e) For materials to be provided by the customer, our cost prices.
f) For other costs such as telephone charges and similar items based on evidence. The time sheets that are signed off by the orderer / customer / final customer are used as the basis for settlement; if owing an important reason it is not possible to sign off the time sheets, the hours recorded by the service personnel apply.

g) Signature of the sheets also confirms that the assembly work has been properly carried out. If for any reason the assembly work has not been able to be completed to the customer's satisfaction, this must be noted in an abbreviated form in the "Comments" section of the time sheet.

15.9 If there is a change to a cost item due to statutory changes, changes to standard wage rates or due to increases in material or ancillary costs, we are entitled to adjust the price accordingly. We may increase the price at the earliest two years after the concluding of the contract, subject to providing 6 weeks' advance written notice prior to a quarter-end.

15.10 If the customer gives notice to cancel the works upon completion of the works without us being responsible for this, we are entitled to make the claims set out in BGB § 649. Instead of making the claims set out in BGB § 649, we may demand the following flat-rate amounts to cover our expenditure and loss of profit: 15% of the agreed total remuneration if notice of cancellation is given 1 to 19 working days prior to the scheduled date of the works. 25% of the agreed total remuneration if notice of cancellation is given on the scheduled date of the works itself. This does not apply if the customer proves that the amount to which we are entitled according to BGB § 649 is significantly less than the flat-rate amount.

16. Place of jurisdiction, place of performance, applicable law and severability clause

16.1 The exclusive place of jurisdiction is Ulm, including for judicial cases relating to defaults and bills of exchange. We are however entitled to choose any other place of jurisdiction that is responsible for the customer.

16.2 For all the legal relationships between the customer and ourselves the law of the Federal Republic of Germany which is applicable to the reciprocal legal relationships of domestic parties shall apply, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

16.3 Any ineffectiveness of individual provisions of the contract does not affect the validity of the other provisions or of the contract itself.