

# Terms and Conditions of Sale, Delivery and Repair of intimus International GmbH

hereinafter referred to as „intimus International”. All business partners are hereinafter referred to as „the customer”.

The following conditions apply:

## I.

1. These terms and conditions of sale, delivery and repair apply to all current and future business relationships between intimus International and the customer. All shipments of goods, rendered services and repairs are subject to the conditions set forth by intimus International, as well as any separate contractual agreements. Differing, conflicting or supplemental terms and condition of sale, delivery and repair – including those of the customer – are excluded from the contractual agreement, even if notice has been given thereof, unless intimus International has expressly acknowledged their validity in writing. In the absence of a separate agreement to the contrary, the contractual agreement is entered into upon issuance of an order confirmation by intimus International.

2. In the event that goods are ordered via electronic means of communication, a transcript of the contract shall be stored to electronic data media by intimus International, and shall be forwarded to the customer via e-mail upon request, along with a copy of these terms and condition of sale, delivery and repair. The customer confirms herewith that he is familiar with intimus International's terms and condition of sale, delivery and repair. intimus International reserves all copyrights and rights of ownership to samples, cost estimates, drawings and other similar information of all types regardless of their form (printed, electronic etc.), and the customer undertakes to refrain from making such information accessible to any third party of parties.

## II.

1. Quotations and cost estimates issued by intimus International are without engagement. Contract products are subject to change without notice as regards form, colour and weight, to the extent that such changes can be deemed reasonable. Quotations are without engagement until a contract has been concluded. The contract is not concluded until explicit order confirmation has been issued by intimus International. This applies to orders issued via electronic means of communication as well. Order confirmations may be transmitted by intimus International via e-mail, by telefax or in any other appropriate form. Lead-time is based upon agreements entered into by both parties to the contract. Shipment in compliance with such lead-times by intimus International presupposes clarification of all related commercial and technical matters, as well as fulfilment by the customer of all contractual obligations. If an advance payment has been agreed upon, lead-time does not begin until such payment has been received. intimus International's order confirmation is binding as regards the scope and the point in time of delivery. Lead-time shall be prolonged accordingly in the event of force majeure, labour disputes or other events which are beyond the control of intimus International. intimus International undertakes to inform the customer as quickly as possible regarding the initial occurrence and the termination of such circumstances.

2. Shipment in compliance with specified lead-times presupposes correct, on-time delivery to intimus International from its suppliers. The customer shall be informed concerning delivery delays which are beyond the control of intimus International.

3. The specified delivery date has been complied with if the contract goods are shipped from intimus International's place of business, or if the customer has been notified that they are ready for shipment, before such date expires. Delivery is accepted by the customer upon notification from intimus International that the goods are ready for shipment.

4. In the event that intimus International is in default of delivery, the customer is entitled to set a reasonable deadline, the issuance of which must be accompanied by a threat of rejection, specifying that shipment shall be rejected after expiration of such deadline. If shipment has not ensued upon expiration of the deadline, the customer is entitled to withdraw from the contract. All claims for fulfilment of the contract are excluded in this case.

5. In the event of erroneously shipped goods, exchange is excluded if the error is beyond the control of intimus International, or if notification of erroneously shipped goods is not issued on time in accordance with paragraph § 377 HGB (German commercial code).

6. Dates of completion for repair contracts are only valid in accordance with express confirmation issued by intimus International.

## III.

1. Unless otherwise agreed upon, Prices quoted by intimus International are net prices, to which no discount of any sort applies, ex works plus applicable value added tax effective on the date of shipment. Costs for packaging, freight forwarding and insurance are expressly excluded from quoted prices. Carriage free shipments shall be delivered ex curb, i.e. including offloading but excluding transport from the truck to the specified location of use.

2. If cost factors which significantly influence price (e.g. production materials, energy, auxiliary materials, wages, salaries and/or other costs) undergo considerable change after conclusion of the contract and prior to the contractually agreed upon date of shipment, intimus International is entitled to demand the negotiation of a corrected price with a corresponding revision of the contractually agreed upon lead-time. If no agreement can be reached regarding such a corrected price, intimus International is entitled to withdraw from the contract.

3. Payments are due and payable within 8 days after invoice date without discount. If the customer's account becomes past due, intimus International is entitled to invoice interest at a rate of 8% above the base lending rate. intimus International reserves the right to substantiate and enforce claims for damages resulting from past due payment. The customer is only entitled to offset or withhold payments if his claim is undisputed, if a decision in favour

of the customer is immanent or if such claim has been bindingly established by a court of law. Goods for which notification of readiness for shipment has been issued must be picked up without delay, and in any case no later than 10 days after receipt of such notification from intimus International. If such goods are not picked up before this deadline expires, intimus International is entitled to store them at its own discretion at the cost and risk of the customer, and to invoice them as shipped ex works. Notices of alleged defect issued by the customer do not entitle him to withhold payment.

4. Cash payment ensues upon delivery against surrender of shipping documents or, in the case of overseas shipments, against irrevocable letter of credit in accordance with UC&P (Uniform Customs and Practice for Documentary Credits, UC&P 500) in its respectively valid version. Unless otherwise agreed upon, all payments must be effected in Euros. In the event of payment by means of check, bill of exchange or other negotiable papers, payment is not deemed effected until intimus International's account has been accordingly credited. intimus International undertakes to present such means of payment to the respectively presiding institute without culpable delay.

5. Hourly rates for required time and replacement parts prices shall be invoiced for repairs in accordance with the currently valid price list published by intimus International. This also applies to required time in the event that no defect can be discovered. Applicable value added tax, as well as freight forwarding and packaging costs, shall be borne by the customer.

## IV.

1. Risk is transferred to the customer as soon as the goods to be shipped have left intimus International's facilities, and in any case no later than surrender to the carrier or freight forwarder. This also applies in the case of partial shipments, as well as in the event that intimus International bears the costs of additional service, for example costs for freight forwarding, delivery and/or setup. Delivery of the product is deemed accepted upon initial start-up, and risk is transferred to the customer no later than the corresponding point in time. In any case, delivery of the product is deemed accepted upon initial start-up in any sense of the term. The customer may not refuse to accept delivery of the product in the event of a minor defect.

2. If shipment or acceptance of delivery is delayed or does not take place as a result of circumstances which are beyond the control of intimus International, risk is transferred to the customer on the day upon which notification of readiness for shipment or pick-up has been issued. intimus International undertakes to arrange for insurance coverage as requested by the customer at the cost of the customer.

3. Partial shipments are permissible to the extent that they can be deemed reasonable for the customer.

4. In the event of transport damage, the customer must issue notification in writing to this effect upon acceptance of delivery, and must obtain confirmation of such damage from the freight forwarder. In the event of externally visible damage, notification must be issued immediately after delivery, and in the case of damage which is not externally visible, immediately after discovery of such damage and in any case no later than four (4) workdays after delivery by truck, airfreight, ocean going vessel or other means of transport. This also applies to delivery by mail, parcel service and rail, as well as short and long-distance haulers. Inobservance of the foregoing shall entail the automatic loss by the customer of any and all rights to any claim against intimus International in connection herewith.

## V.

1. Delivered goods remain the property of intimus International until receipt of full payment of claims resulting from the supply contract, as well as full payment of claims resulting from the ongoing business relationship. Repossession of delivered goods by intimus International does not constitute withdrawal from the contract, unless such withdrawal has been expressly stipulated by intimus International. intimus International is entitled to insure contract goods against theft, breakage, fire, water and other damage at the cost of the customer for as long as they remain the property of intimus International, unless the customer can substantiate that he has procured such insurance coverage himself.

2. The customer may not sell or hypothecate delivered goods, nor may he assign them as security, unless they are to be resold during the course of normal business, in which case the customer undertakes to bind his customer to an extended retention of title clause. The customer hereby transfers to intimus International all claims in the amount of the invoice total resulting from the resale of delivered goods to any third party or parties. intimus International accepts this transfer and reserves the right to collect such claims itself, if and as soon as the customer's account becomes past due. If the customer's account becomes past due, intimus International is entitled to demand disclosure of all information necessary for collection, as well as the submission of all related records, and issuance of notification of such transfer to the customer's debtors or other third parties. Processing and/or modification of delivered goods is undertaken on behalf of intimus International. If delivered goods are combined with other goods which are not the property of intimus International, intimus International becomes co-owner of the new goods to the extent of the proportional value of the delivered goods at the time of processing. If delivered goods are combined with other goods which are not the property of intimus International in an inseparable fashion, intimus International becomes co-owner of the new goods to the extent of the proportional value of the delivered goods. The customer shall hold intimus International's co-ownership in custody. intimus International undertakes to release securities upon request of the customer to the extent that their value exceeds unpaid claims by more than 10%.



3. The customer undertakes to inform intimus International immediately in the event that any third party or parties should attempt to seize delivered goods, especially in the case of distraint, confiscation or damage, as well as in the case of any other conspicuous circumstances with regard to goods delivered by intimus International.
4. In the event of default on the part of the customer, especially in the event of past due payment, intimus International is entitled to repossess delivered goods after issuing a reminder, and the customer undertakes to surrender such goods in this case. Enforcement of retention of title, as well as distraint of delivered goods by intimus International, does not constitute withdrawal from the contract unless so specified in writing.
5. In the event of request for adjudication in bankruptcy on the part of the customer, intimus International is entitled to withdraw from the contract, and to demand the immediate return of delivered goods.

#### VI. Guarantee Rights:

intimus International assumes, exclusively to the extent specified in the following stipulations and vis-à-vis the customer as original purchaser, the following liabilities: – in regards of goods, liability for material defects and defective title only; – in regards of repairs, liability for the specific defects and failures that motivated the reparation reoccurring; and – in regards of cutting cylinders mounted in the specific shredder models detailed in Schedule A attached to the Warranty Terms available in intimus International homepage (the “Cutting Cylinders”), liability for any such Cutting Cylinder not maintaining their structural integrity or breaking (it being understood, however, that any chipping or damage occurring in the Cutting Cylinders resulting from their ordinary tear and wear or a misuse, is hereby explicitly excluded herefrom). The assignment of guarantee rights to any third party or parties is excluded.

1. intimus International shall, at its option, and as the customer's sole and exclusive remedy in connection with the relevant good, either: (a) repair the defective good; or (b) replace the entire defective good; or (c) replace those parts which prove to be faulty or defective; or (d) terminate the contract and reimburse the customer the sales price paid by the same. Alternatively, if both parties were in agreement, the customer may be granted a price reduction. Any replaced parts become the property of intimus International.
2. In order to facilitate all reworks and replacement parts deliveries deemed necessary by intimus International, the customer must, in cooperation with intimus International, allocate the necessary time and provide due opportunity to this end. intimus International is otherwise released from any and all liability for consequences resulting therefrom. The customer is only entitled to eliminate the defect himself, or to contract with any third party or parties to eliminate the defect, and to demand reimbursement of associated expenses from intimus International, in urgent cases in which operating safety is endangered, or in order to prevent inordinate damages which would otherwise be incurred.
3. Of the costs incurred for rework or replacement, and to the extent that the claim is justified, intimus International shall bear the costs of required replacement and furthermore, if deemed necessary in any given case in consideration of the mutual interest of both parties to the contract, costs for the deployment of technicians and helpers. Freight costs shall be in accordance with the regulated in paragraph VI section 12.
4. Within the framework of legal regulations – and therefore, provided that the law or any statutory exemption allow so –, the customer will be entitled to withdraw from the contract if intimus International does not complete repair or furnish replacement before expiration of a reasonable deadline set by the customer in writing as a result of defective or faulty delivered goods. The customer is not entitled to any further compensation for damage beyond withdrawal from the contract. If a minor defect or fault exists, the customer is only entitled to a price reduction. The stipulations set forth in this section apply only to contract goods. Refer to paragraph VII regarding consequential damages.
5. intimus International assumes no liability whatsoever for any events, actions or omissions not directly attributable to intimus International, including but not limited to ordinary wear and tear, accidental damage (including but not limited to those arising from transportation), electrical current fluctuations and acts of god. Without limiting the generality of the foregoing, intimus International assumes no liability whatsoever for a good where the customer (or a third party) has incurred in any which one of the following: improper, incorrect or careless handling, use, installation, maintenance, storage or removal; abuse or use for something other than its intended purpose (including but not limited to feeding the good materials or substances for which the good was not intended); damages arising from paper jams or clearing paper jams; negligence, malicious intent or willful misconduct; exceeding the good's recommended feed capacity; operation of the good above its maximum capacity, with or without continuous jamming; having the goods repaired by someone other than by intimus International's qualified engineers or its authorized agent(s); incorrect assembly or initial start-up; use of unsuitable auxiliary materials, or of consumables other than the original manufacturer consumables; non-observance of usage, operating and maintenance instructions and manuals; non-observance of the one-shift operation maximum as regards Industrial machines, customized goods and special projects; and modification or alteration in any way of a good without obtaining previous written consent from intimus International (including but not limited to alteration, defacement or removal of the original model and serial number plate).
6. intimus International assumes no liability for consequences resulting from improperly performed repairs executed by the customer or any third party or parties.
7. If use of contract goods results in the violation of domestic commercial protective rights or copy- rights, intimus International shall furnish the customer with the rights necessary for continued use, or shall modify contact goods in a way which can be deemed reasonable for the customer, and such that commercial protective rights are no longer violated. If such modification cannot be executed at economically feasible costs or within a reasonable period of time, the customer is entitled to withdraw from the contract.

intimus International is also entitled to withdraw from the contract under the aforementioned conditions. Beyond this, intimus International shall hold the customer harmless of all claims asserted by the holders of violated protective rights which are undisputed, or have been bind- ingly established by a court of law.

8. Subject to paragraph VII, section 2, intimus International's obligations as listed in para- graph VI, section 7, are final with respect to the violation of protective rights and copyrights. Further claims are excluded. In so far as claims against intimus International are conceivable in this form, they are only valid if: – The customer informs intimus International without delay and in writing regarding any alleged violations of protective rights or copyrights – The cus- tomer provides intimus International with support to a reasonable extent, and allows intimus International to execute modifications in accordance with paragraph VI, section 7 above – The customer does not obstruct exonerative measures to which intimus International is entitled, including any opportunities for out-of-court settlements, by means of action which has not been agreed upon in advance – Defective title cannot be traced back to an instruction issued by the customer – The violation has not been caused by a modification to delivered goods executed by the customer which has not been carried out in compliance with the contract.
9. The warranty periods shall be: – In regards of goods, as indicated below for each the specific good and commencing on the date of invoicing of the relevant good: (i) new “Of- fice Shredders” (i.e. all single-phase shredders and model 852 CC3): two (2) years; (ii) new “Industrial Machines”, new “Customized Products” and new “Special Projects”: subject to the good being used only in single-shift operation (i.e. up to a maximum of 8 uninterrupted hours per calendar day), the earlier of (a) the elapsing of one (1) year or (b) the reaching of the Warranted Working Hours (as detailed in the relevant customized Product or special project agreement or statement of work); (iii) new goods (for the avoidance of doubt, other than those referred in the previous points): one (1) year; and (iv) used goods: six (6) months. – In regards of repairs, six (6) months commencing on the date of invoicing of the relevant repair. – In regards of Cutting Cylinders, as per Schedule A above mentioned commencing on the date of invoicing of the relevant good in which such Cutting Cylinders are mounted
10. Any claims of a customer under this guaranty rights can only be enforced if notification of material defect or defective title is issued in writing within ten (10) workdays after delivery of the relevant good to the customer, or within a four (4) workday term after discovery of the defect provided that earlier detection by means of careful inspection by the customer was impossible. Any such notice of claim shall be dated and clearly state the following informa- tion: (a) invoice number and date; (b) model description and serial number; and (c) reasonably detailed description of defects. Inobservance of the foregoing shall entail the automatic loss by the customer of any and all rights to any claim against intimus International in connection herewith. In either case, submission of notification is the decisive criterion.
11. In all cases, the customer shall take any and all steps necessary to mitigate any dam- ages suffered or incurred by it in connection herewith. The product description published by intimus International has sole validity as regards agreed upon product characteristics. It is acknowledged that public statements, recommendations and advertising issued by intimus International do not constitute contractual specifications for the characteristics of the pur- chased goods and are not to be deemed as such. Separately agreed upon manufacturer's warranties remain unaffected by this clause.
12. Any returns of goods by the customer to intimus International during the applicable war- ranty period must be approved in writing by intimus International prior to such return, and, if so, shall be returned packaged in their original packaging or, alternatively, in a proper packaging equivalent to the original one. The customer shall be responsible for any ship- ping and freight costs associated with returning the goods to intimus International (including those arising from re-packaging of such goods, where the customer had not observed such obligation), and intimus International shall be responsible for any shipping and freight costs associated with shipping the repaired or replaced good or, where applicable, any replace- ment parts, to the customer. intimus International may elect, in its reasonable discretion, the terms of shipment. The customer shall fully cooperate with intimus International to such end.
13. All costs associated with repairs and/or replacements, including but not limited to parts (including ordinarily worn and torn parts), labor and call out charges or transportation to and from the service center (including shipping and freight costs, as well as packaging if the obligation as to this matter set forth in paragraph VI, section 12 above), which may be derived in any way from any of the foregoing warranty exclusions will be chargeable to the customer. For the avoidance of doubt, in no event will the customer or the carrier transporting the goods be deemed an agent of intimus International.
14. The customer acknowledges that, as concerns the goods, all other representations, war- ranties, remedies and guarantees of any kind which might be provided or implied by ap- plicable law or commercial practice are hereby expressly excluded to the maximum extent permitted by law, including but not limited to those of quality, merchantability and fitness for a particular purpose. The statute of limitations for any and all customer claims, regardless of their legal grounds, is limited to the applicable warranty period. This also applies to delivered goods which, in accordance with their intended purpose, have been installed into a building structure. In any event it is acknowledged that (i) intimus International's liability shall not ex- ceed, in aggregate, the price paid by the customer for the defective good, and (ii) any and all indirect and consequential damages are expressly excluded from indemnification, including but not limited to loss of production, loss of anticipated or future profit, loss of revenue, loss of reputation, loss of contract, loss of opportunity and loss of goodwill.

#### VII.

1. In the event that contract goods cannot be used by the customer for their contractually intended purpose as the result of faulty performance or violation of contractual obligations on the part of intimus International (e.g. faulty operating or maintenance instructions for the



contract product), the stipulations set forth in paragraph VI, as well as paragraph VII, section 2, shall apply to the exclusion of all other customer claims.

2. Liability for damages other than those sustained by the contract product: intimus International is only liable for damages other than those sustained by the contract product itself, regardless of legal grounds and to the exclusion of all other claims, in the event of: – Malicious intent – Gross negligence on the part of company management or supervisory personnel, and in consideration of the following paragraph – Substantiation of fault which results in death, bodily injury or impairment of health – Deceitfully concealed defects, or expressly guaranteed characteristics which have not been implemented – Defective contract goods, to the extent that liability is enforceable in accordance with product liability law for personal injury and property damage In the event of violation of significant contract obligations, intimus International is also liable in the case of gross negligence on the part of supervisory and non-supervisory personnel, limited always to typical contract damages which can be reasonably foreseen. Any and all further claims are excluded.

#### VIII.

Without prejudice to the regulated in paragraph IV section 4 for claims relating to transport damages and the regulated in paragraph VI for claims relating to guarantee rights, the statute of limitations for any customer claims other than the aforementioned ones shall be, regardless of their legal grounds: (i) one (1) year from the date of invoice of the relevant good; or (ii) an extended statute of limitations as specified by means of special agreement between both parties to the contract or as required by law. This also applies to delivered products which, in accordance with their intended purpose, have been installed into a building structure.

#### IX. Setup, Initial Start-Up, Installation and Training:

In so far as intimus International has entered into a contract with the customer for installation of the contract product, intimus International shall invoice the customer for installation in accordance with intimus International's currently valid hourly rates. This also applies to overtime rates, surcharges for work performed on Sundays and holidays and any other applicable extra charges. Travel time shall be invoiced in full as work time in addition to freight costs. Costs for overnight accommodation and other expenses shall be borne by the customer. The following installation work must be arranged for by the customer: masonry, carpentry, roofing and electrical work, as well as the provision of scaffolding, hoists, cranes and any other required equipment. intimus International is entitled to deploy contract technicians and subcontractors for the execution of installation work. If installation proves impossible or is delayed for reasons beyond the control of intimus International, intimus International is nevertheless entitled to invoice installation time and travel expenses, as well as other costs in the amounts actually incurred. The customer shall place helpers, installation materials, electricity, heating and lighting at the disposal of intimus International. The customer undertakes to provide accurate information regarding concealed supply lines, statics and other information required for installation and setup. The customer shall ensure that required parts are on hand, and that preliminary work is completed before the agreed upon installation date. The customer shall bear the costs of waiting time in the event that preliminary work has not been completed on time. Installation, setup and training shall be invoiced separately. The customer is responsible for transport from the point of offloading to the installation site, and assumes liability for any damages which occur as the result of such transport.

#### X.

intimus International is entitled to store all data transferred during the course of the business relationship, including contractual stipulations and other data. As regards to personal data, intimus International undertakes to observe all directives set forth in German federal data security legislation, as well as other security regulations.

#### XI.

1. The laws of the Federal Republic of Germany which regulate relationships amongst domestic parties apply to all legal relationships between intimus International and the customer. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

2. Any disputes arising hereunder shall be settled by a competent court of law with jurisdiction at intimus International's place of business. However, intimus International is entitled, at its own discretion, to institute legal proceedings at the customer's place of business.

#### XII.

If any of the individual stipulations of contracts entered into by intimus International and the customer, including these terms and condition of sale, delivery and repair, are or should become invalid, either in part or in their entirety, this shall have no effect on the validity of any of the remaining stipulations. The fully or partially invalid stipulation shall be replaced with a stipulation whose content corresponds to that of the invalid stipulations as closely as possible. The same applies in the event that loopholes are detected during the course of execution of the contract which require amendment.