1. General

1.1. These General Terms and Conditions of Purchase for Machines and Systems apply to all affiliated companies of CEWE Stiftung & Co. KGaA in accordance with Sections 15 and 19 of the German Stock Corporation Act (AktG), unless otherwise specified. In addition to these General Terms and Conditions of Purchase for Machines and Systems, the respectively valid General Terms and Conditions of Purchase, which are available for inspection at: https://company.cewe.de/de/ueser-uns/untemehmensgruppe.html shall apply.

1.2. The basis of the contract for the procurement of machines and mechanical systems shall be:

- Our written order or our commercial letter of confirmation with performance description, bill of quantities and the corresponding drawings and attachments (technical order specifications)
- Our call for tenders or enquiry
- These General Terms and Conditions of Purchase for Capital Goods and Services
- The guidelines and technical standards applicable to the agreed services at the time of conclusion of the contract, such as relevant regulations/guidelines including TÜV, VDI, IECEN (International Electrotechnical Commission/European Standard), VDE, DIN, UVV, TRD, TA-Luft and Machinery Directive 2006/42/EC. The company (hereinafter referred to as the ‘Contractor’) shall procure these documents itself.
- The CEWE operating regulations for external companies
- Basic values and principles as well as the CEWE Group Code of Conduct (see https://company.cewe.de/de/ueser-uns/compliance.html)

1.3. The aforementioned documents and regulations are decisive in the order listed.

2. Offers

2.1. The Contractor shall be responsible for obtaining comprehensive information on all details of the call for tenders and the planned work. By submitting an offer, the contractor acknowledges of being informed of all necessary facts and conditions, in particular the content of the call for tenders, the local conditions, the place of assembly/delivery and the traffic conditions. In the event of doubts regarding the plausibility/correctness of the data supplied by CEWE, the Contractor must immediately consult CEWE (project manager/customer). The Contractor shall be responsible for checking the correctness and completeness of the description of the (sub-) project to be processed by the Contractor.

2.2. CEWE shall be entitled, within the scope of what is reasonable, to demand changes in the design and execution of the order / delivery item. The effects, in particular with regard to additional and reduced costs as well as delivery dates, are to be regulated appropriately by mutual agreement.

2.3. All offers are to be provided free of charge.

3. Scope of performance

3.1. The Contractor shall deliver and assemble a complete machine/system within the agreed periods and/or perform the agreed other service in such a way that it contains all parts necessary for operation free of defects in accordance with the contract, even if the individual parts required for this purpose are not listed separately in the order. The scope of services includes in particular:

- The assembly, commissioning of the machine/system as well as the execution of a test run.
- The installation, monitoring, maintenance and proper clearance of the construction/assembly site.
- The provision of all equipment, tools as well as operating materials, their delivery and removal free of charge to and from the construction/assembly site, unloading and transport to the place of use as well as their storage.
- The instruction and training of CEWE employees, such that an independent, faultless operation of the system by CEWE is guaranteed.
- Delivery of all detailed plans and technical documentation required within the scope of the order in accordance with the current standard.

3.2. Machine elements and parts must be designed and arranged in such a way that they can be maintained, inspected and replaced quickly and easily. Wearing parts must have a long service life. Harmful substances must be avoided. If they are to be used, the hazards, storage and handling must be specified when the order is submitted to CEWE.

3.3. The Contractor guarantees to comply with the statutory and other provisions applicable at the contractually agreed place of use. If they are not complied with, the Contractor shall be deemed not to have fulfilled the order. These provisions are – insofar as they are applicable – in particular:

- The Equipment and Product Safety Act (Geräte- und Produktsicherheitsgesetz) in its currently valid version
- Legal ordinances pertaining to the Equipment and Product Safety Act in the respectively valid version
- The Electromagnetic Compatibility of Devices Act (Gesetz über die elektromagnetische Verträglichkeit von Geräten)
- All applicable occupational safety and accident prevention regulations
- The EC Machinery Directive 2006/42/EC including its amendments
- Other applicable community guidelines of the EU

3.4. The obligation pursuant to Clause 3.3 includes that all certifications and proofs required at the respective installation site are provided. This means in particular that:

- the CE marking is affixed to work equipment ready for use,
- work equipment bearing the CE marking must be accompanied by an EC Declaration of Conformity, which must comply with Annex II A of the EC Machinery Directive,
- for technical work equipment in accordance with Annex IV of the EC Machinery Directive, the certificate of an approved testing and certification body and, if applicable, proof of the EC type examination is submitted,
- unless otherwise agreed in individual cases, an operating manual in German is enclosed with a machine,
- for machinery, technical documentation in accordance with Annex V of the EC Machinery Directive is provided.

3.5. The Contractor shall provide the services with sufficiently trained and competent personnel. The Contractor undertakes to duly comply with the statutory obligations to pay taxes, contributions to all social insurances and comparable institutions. In particular, the Contractor undertakes to comply with all statutory and official provisions governing the use of labour, in particular the registration of the personnel employed with the relevant competent professional association and the provisions of the German Employee Secondment Act (Arbeitnehmerentsendegesetz).

3.6. In important cases, the Contractor shall nominate in writing a project manager for each order before the start of the work, who shall be available to CEWE as a permanent contact person and who shall procure from the Contractor the information required for the performance of the work and bring about the decisions at the Contractor required for the continuation of the work.
The Contractor shall also appoint one or more deputies to its project manager. An exchange of the employees deployed by the Contractor in the project must be approved in advance by CEWE. CEWE shall not be entitled to refuse such consent without cause.

3.7. When storing materials of all kinds, the Contractor shall strictly observe the statutory and official regulations on environmental protection. In particular, the Contractor shall be responsible for taking precautions against any leakage when storing materials and substances which are likely to contaminate the soil and the water or otherwise adversely affect them.

4. Technical documentation
The Contractor shall provide CEWE with a complete technical documentation of the system at the latest upon acceptance. This consists in particular of the actual execution of corresponding drawings, calculations, complete spare parts lists and other technical documents. The technical documentation must be prepared in accordance with the currently applicable standards. In particular, the Contractor shall hand over the documentation of the control system and the control software including any source codes.

5. Price, invoices and entrepreneurial lien
5.1. The prices include everything that the Contractor has to effect in order to fulfil its obligation to perform at the agreed place of performance. Services shall be provided carriage-free to the agreed destination.

For example, the scope of services and thus the price includes all costs for technical processing, execution documents and contract-specific aids (e.g. templates) of the Contractor, materials to be supplied, wages and ancillary wage costs, installation, monitoring, provision and proper clearance of the construction site, provision of all equipment, transport of all materials etc. from the storage site to the place of use as well as the costs of storage.

5.2. For each order, including any supplementary orders, an invoice shall be issued with the complete proof of performance. This includes the declaration of acceptance and, if applicable, the time sheets countersigned by us. The invoice must comply with the requirements of Section 14 of the German Value Added Tax Act (Umsatzsteuergesetz), clearly and comprehensibly list the services rendered, stating the order number.

5.3. CEWE shall be entitled to avert any existing entrepreneurial lien of the Contractor against the provision of an unlimited and directly enforceable guarantee by a credit institution licensed in Germany.

6. Dates and breaches of duty
The agreed dates and deadlines are binding. Unless otherwise agreed in writing, compliance with the delivery dates shall be determined by the commissioning of the machine/system and the provision of the agreed service by CEWE. The assembly work at CEWE that follows the delivery must be agreed with the responsible contact person/project manager at CEWE.

7. Warranty
The Contractor's warranty shall be governed by the statutory provisions with the following proviso:

7.1. The Contractor guarantees that all services rendered comply with the state of technology, the relevant legal provisions and the regulations and guidelines of authorities, professional associations and trade associations. In addition, the Contractor guarantees compliance with all requirements documented in the specifications.

7.2. The warranty period is two years. The duration of guarantees depends on the individual contractual agreements or any binding commitments of the Contractor. The periods begin with acceptance and apply to the multi-shift operation of the system.

7.3. For delivery parts which do not remain in operation during the investigation of a defect and/or the remedy of the defect at the company, the period(s) shall be extended by the period of operational interruption.

7.4. The Contractor shall commence work on remedying the defect immediately in each case. Appropriately qualified employees must be deployed for this purpose.

7.5. If CEWE demands the removal of a defect and the Contractor does not comply with the reasonable deadline set by CEWE, CEWE is allowed to take the necessary measures itself or have them taken by qualified third parties at the expense and risk of the Contractor – notwithstanding the continuing warranty/guarantee obligation(s). Furthermore, in urgent cases (e.g. endangerment of operational safety, risk of CEWE's own debtor default vis-à-vis other contractual partners, etc.) CEWE may, after consultation with the Contractor, immediately remedy the defect itself or have it remedied by qualified third parties and demand reimbursement from the Contractor for the necessary expenses. The same applies if there is a risk of high damages. Further claims and existing warranty/guarantee obligations of the Contractor shall remain unaffected.

7.6. Defect claims may also be asserted after expiry of the limitation period(s) if the Contractor has been notified of the corresponding defects in writing before expiry of the limitation period.

8. Software
If software is included in the scope of delivery, CEWE shall be granted an unlimited, irrevocable and unrestricted right to use the software and its documentation. CEWE may transfer this right to third parties in the course of the transfer of ownership of the machine/system or grant a right of use thereto.

9. Acceptance
9.1. After delivery and assembly of the machine/system to be constructed, the Contractor shall inform CEWE of completion. CEWE shall then have the opportunity to check within a reasonable period of time whether the performance of the contract has been fulfilled. Acceptance shall only be deemed to have taken place if CEWE recognises the performance as being in conformity with the contract by means of a written declaration within the period or if CEWE fails to make such a declaration gross negligently or intentionally although performance in conformity with the contract is obvious. At CEWE's request, the parties shall carry out the acceptance at a joint meeting and document the result. In the event of non-acceptance, CEWE shall inform the Contractor of the defects found. The Contractor's notification of the rectification of the defects shall set in motion a further reasonable period of time.

9.2. The fact that the plant is put into operation or used with the Contractor's consent, or that a formal acceptance does not take place within a certain period, does not mean that the acceptance is notionally deemed to have taken place.

9.3. Acceptance tests prior to commissioning on plants containing substances hazardous to water shall be performed by an authorised expert in accordance with the Ordinance on Installations for the Handling of Substances Hazardous to Water (Verordnung über Anlagen zum Umgang mit wassergefährdenden Stoffen - VawS) at the Contractor's expense.

10. Spare parts
10.1. After completion of the system, the Contractor shall submit to CEWE an offer for a spare parts package. The spare parts package must contain all components that can lead to a production downtime at CEWE in the event of a failure and which have longer delivery times.

10.2. The Contractor undertakes to supply CEWE with all spare parts for the entire duration of the delivered system, but at least for a period of ten years from the date of acceptance.

10.3. The warranty period for spare parts is two years from commissioning, notwithstanding the warranty periods. When submitting an offer, CEWE shall be provided with a defined list of wearing parts indicating prices.

11. Payment
11.1. We shall make payment after acceptance and invoice verification, at the earliest at the end of the month following the submission of the final invoice. By making our payments/partial payments, we neither acknowledge the faultlessness of the services nor do we waive any claims against the Contractor. Payments/partial payments do not constitute an acknowledgement of the correctness of the invoice and/or the conformity of the services with the contract, but are made subject to subsequent verification.
11.2. If the Contractor does not object to the final payment within 14 days of receipt, all claims of the Contractor – with the exception of any retentions on our part – shall be settled in full with the final payment if we have informed the Contractor in writing of this consequence.

11.3. Settlement authorisation: CEWE reserves the right to pay payment obligations of companies of the CEWE Group to the Contractor by central settlement.

12. Insurance

12.1. The Contractor shall take out standard business liability insurance with the exclusion of recourse against the purchaser – unless another coverage amount is stipulated in the contract - with a minimum coverage amount of EUR 5 million and maintain it for the entire term of the contract, unless otherwise agreed in writing in an individual contract. Upon request, the insurance cover shall be proven to us by presentation of a certificate from the insurer.

12.2. In addition, the Contractor shall take out adequate assembly insurance for all damages, including insurance of the purchaser's risk and waiver of recourse against us, its personnel and other contractors involved in the construction, at its own expense, and maintain such insurance until complete acceptance of the contractually agreed services. In the event of damage, any existing fire or liability insurance policies of the customer shall be subordinated to the assembly insurance policy.

Upon request, the insurance cover shall be proven to us by presentation of a certificate from the insurer.

12.3. If the Contractor violates the above paragraph or other insurance obligations arising from the contract, it shall place us in the same position as if the contractually owed insurance cover had been established and/or maintained.

13. Transfer of risk

The risk of compensation in kind and consideration shall be transferred to CEWE upon final acceptance.

14. Data protection

We are entitled to store and process all data required by the Contractor within the scope of the performance of the contractual relationship with the Contractor in accordance with the statutory provisions, including in the event this data concerns personal data. The processing and forwarding of the data is carried out on the basis of Article 6(1)(a) of the EU General Data Protection Regulation for the contract and on the basis of Article 6(1)(f) of the EU General Data Protection Regulation for further processing.

15. Confidentiality

15.1. Our execution documents, of whatever type and origin, of which the Contractor and its vicarious agents (such as its own employees and subcontractors) acquire knowledge, shall be kept confidential by them and by the Contractor. The same shall apply to all other operating methods and figures, models, drawings, sketches, pictures and other information which come to the attention of the Contractor or its vicarious agents in connection with the execution of the order and in which we have an interest in secrecy by their nature. The information mentioned in Clauses 1 and 2 may not be published, reproduced, made available to third parties or used for any purpose other than that originally intended, without our prior written consent.

15.2. All orders may only be used or published beyond the scope of the order with our prior written consent. The same applies to photographs taken within our factory premises and their publication.

15.3. The Contractor shall pass on the above obligations to the vicarious agents employed by the Contractor.

15.4. The Contractor undertakes to observe all protective rights of CEWE such as patents, trademarks, registered designs, etc. The use of any information and objects outside the terms of the individual contract is prohibited and requires the prior written consent of CEWE in individual cases.

16. Place of performance, applicable law and jurisdiction

16.1. The place of performance for all obligations of the Contractor shall be the destination. For payments, the place of execution is always Oldenburg (Oldb).


16.3. The exclusive place of jurisdiction for all disputes arising from and in connection with the contract between us and the Contractor is Oldenburg (Oldb).