

1. Scope of application
  - 1.1 These contractual terms and conditions apply to entrepreneurs, legal entities under public law or special funds under public law in accordance with Section 310 (1) of the German Civil Code (BGB).
  - 1.2 The following General Terms and Conditions of Sale of TRINAC shall apply exclusively to offers and orders for the sale of TRINAC's products. These terms and conditions shall be deemed authoritative and bindingly recognized for the entire duration of the business relationship, even without express declaration.
  - 1.3 TRINAC shall not be bound by the Buyer's own terms and conditions unless TRINAC expressly agrees to these terms and conditions.
  - 1.4 If TRINAC also provides assembly services for the Buyer in connection with the purchase, the General Terms and Conditions of Assembly and the specifications for site preparation shall apply in addition to the General Terms and Conditions of Sale.
2. Offer, technical changes and conclusion of contract
  - 2.1 Unless otherwise agreed, TRINAC's offers are subject to change.
  - 2.2 Amendments, modifications or other contractual ancillary agreements must be recorded in writing. The possibility of verbal ancillary agreements is thereby excluded. The written form can be maintained by fax; it cannot be replaced by electronic form - in particular by e-mail.
  - 2.3 Illustrations of TRINAC products in brochures, advertisements, on the website or similar are non-binding. Minor, customary deviations in dimensions, weights and performance due to technical improvements are permissible.
  - 2.4 TRINAC shall only assume guarantees in the event of a special agreement. Such an agreement must be in writing to be effective. Any reference to DIN standards shall only serve to describe the object of purchase and shall therefore not constitute a guarantee.
  - 2.5 The written confirmation by TRINAC shall be decisive for the scope of delivery.
3. Prices
  - 3.1 All prices quoted are net plus the statutory value added tax applicable on the day of invoicing. This will be invoiced at the applicable rate in accordance with the applicable tax regulations.
  - 3.2 Prices are quoted net ex warehouse or manufacturer's works. In addition to the statutory value added tax, packaging, loading and shipping costs and, in the case of export deliveries, customs costs, fees and other public charges shall be charged separately.
4. Terms of payment, credit report
  - 4.1 Unless otherwise agreed, payment of the purchase price is due prior to delivery of the object of purchase and without deduction immediately upon receipt of the invoice.
  - 4.2 TRINAC shall be entitled to perform outstanding deliveries and services only against advance payment or provision of security if TRINAC becomes aware after conclusion of the contract that the payment claim is jeopardized by the Buyer's inability to pay.
  - 4.3 Payment orders shall only be accepted by special agreement and - subject to the charging of all collection and discount charges - only on account of performance.
  - 4.4 Interest on arrears shall be charged at 9 percentage points above the prime rate in accordance with Section 288 (2) BGB.
  - 4.5 The Buyer authorizes TRINAC to obtain information on its creditworthiness and solvency from its credit institutions for all transactions.
- 4.6 If the Buyer defaults on payment or its creditworthiness deteriorates, TRINAC shall be entitled to demand securities or to make outstanding deliveries only against advance payment or the provision of a security.
5. Offsetting and right of retention

The purchaser shall only be entitled to withhold payments or offset them against counterclaims insofar as his counterclaims are undisputed or have been legally established; furthermore, the purchaser shall be entitled to withhold payments insofar as his counterclaim is based on the same contractual relationship.
6. Delivery time
  - 6.1 The delivery time depends on the information in the confirmation.
  - 6.2 Delivery periods shall commence upon conclusion of the contract, but not before clarification of all technical and commercial details with the Buyer. If shipment has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with transportation.
  - 6.3 Compliance with the delivery obligation presupposes the timely fulfillment of the buyer's obligations to cooperate.
  - 6.4 In the event of labor disputes, the occurrence of unforeseen obstacles beyond TRINAC's control and obstacles for which the manufacturer is responsible, the delivery date or the delivery period shall be extended by the duration of the delay in delivery caused by these circumstances. This shall apply accordingly if the obstacles occur during an already existing delay in delivery.
  - 6.5 The buyer's claim for compensation for damages due to delayed delivery (§ 280 para. 1, para. 2 BGB in conjunction with § 286 BGB) is limited to a maximum of 5% of the agreed net purchase price in the event of slight negligence.
  - 6.6 All further claims for damages by the Buyer due to delayed delivery are excluded in the event of slight negligence. In the case of slight negligence, the Buyer shall in particular not be entitled to claim damages in lieu of performance (§ 280 para. 1, para. 3 BGB in conjunction with § 281 para. 1 BGB).
  - 6.7 If shipment is delayed due to circumstances for which the Buyer is responsible, TRINAC shall be entitled to demand compensation for the damage incurred, including any additional expenses (e.g. storage costs).
7. Transfer of risk and dispatch and acceptance of the purchased item
  - 7.1 The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer upon handover of the goods. If the goods are shipped at the buyer's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the buyer upon delivery to the forwarding agent, carrier or other person or institution designated to carry out the shipment, irrespective of whether the shipment is made from the place of performance and who bears the shipping costs. If the goods are ready for dispatch and the dispatch or acceptance is delayed for reasons for which TRINAC is not responsible, the risk shall pass to the Purchaser upon receipt of the notification of readiness for dispatch.
  - 7.2 TRINAC shall only insure the purchased item against transport damage at the express request of the Buyer and at the Buyer's expense.
  - 7.3 TRINAC shall not be obliged to choose the cheapest method of shipment. Claims for damages by the Buyer due to incorrect shipment or defective packaging shall be excluded in the event of slight negligence.

8. Material defects/defect rights
- 8.1 Any liability for material defects and thus any warranty is excluded for the sale of used goods. This shall not apply in the event of gross negligence or injury to life, limb or health. The exclusion of warranty shall also not apply if TRINAC fraudulently conceals a defect or has assumed a guarantee for the quality of the purchased item.
- 8.2 The following applies to the sale of new items:
- a. The buyer's claims due to a material defect in the purchased item - regardless of the legal grounds - shall expire 12 months after delivery. This shall not apply in the event of gross negligence or injury to life, limb or health. The standard limitation period shall apply if TRINAC has fraudulently concealed a defect or has assumed a guarantee for the quality of the purchased item and in the case of claims under the Product Liability Act.
  - b. Unless TRINAC has fraudulently concealed the material defect or has assumed a guarantee for the quality of the purchased item, the Buyer's claims due to a defect in the purchased item already existing at the time of the transfer of risk shall be limited to subsequent performance in the form of rectification of the defect or delivery of a defect-free item, at the Buyer's discretion. If the chosen form of subsequent performance (rectification of defects or delivery of a defect-free purchased item) fails, the Purchaser shall be entitled to reduce the purchase price of the purchased item or to withdraw from the contract at its discretion.
  - c. In the following cases, TRINAC shall not assume any warranty:
    - Natural wear and tear.
    - Unsuitable or improper use.
    - Incorrect installation or commissioning/start-up by the buyer or third parties.
    - In the event of incorrect or negligent handling of the purchased item, in particular with regard to these operating instructions.
    - If unsuitable operating materials and substitutes are used.
  - d. The Buyer shall not be entitled to assert claims for material defects if - except in emergencies - a repair, modification or replacement of individual parts of the purchased item is carried out by a person not expressly authorized to do so by TRINAC. The costs incurred as a result of such measures - leading to the loss of claims for material defects - shall be borne by the Buyer.
  - e. The Buyer must inspect the purchased item immediately - at the latest within 3 working days - after receipt. The Buyer must notify TRINAC in writing of the discovery of defects in the purchased item without delay - in the case of recognizable defects, however, within three working days of receipt at the latest, in the case of non-recognizable defects within three working days of recognition; otherwise the goods shall be deemed to have been approved.
  - f. The Buyer's rights to liability for defects presuppose that he has properly fulfilled his obligations to inspect and give notice of defects in accordance with Section 8.2.e. of these General Terms and Conditions.
9. Liability
- 9.1 If the purchased item lacks a guaranteed quality, TRINAC shall be liable in accordance with the statutory provisions.
- 9.2 TRINAC shall be liable in accordance with the statutory provisions if the Buyer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of its representatives or vicarious agents.
- 9.3 TRINAC shall be liable in accordance with the statutory provisions in the event of culpable breach of material contractual obligations, including liability for gross negligence on the part of non-executive employees and for slight negligence, but in the latter case limited to reasonably foreseeable damage typical of the contract.
- 9.4 TRINAC shall be liable in accordance with the statutory provisions for damages resulting from injury to life, limb or health that are based on a negligent breach of duty or an intentional or negligent breach of duty by one of its representatives or vicarious agents. Liability for damages shall be limited to the foreseeable, typically occurring damage.
- 9.5 Liability for damages due to defects in the purchased item, insofar as liability exists under the Product Liability Act for personal injury or property damage to privately used items, remains unaffected.
- 9.6 TRINAC shall only be liable for damage to the Purchaser caused by material defects in the purchased item and not in the purchased item itself if
  - in the event of gross negligence,
  - in the event of injury to life, limb or health,
  - in the event of a culpable breach of material contractual obligations that jeopardizes the achievement of the purpose of the contract with regard to the typical damage foreseeable at the time the contract was concluded,
  - in cases where liability exists under the Product Liability Act for personal injury or property damage to privately used items in the event of defects in the purchased item,
  - in the absence of expressly warranted characteristics of the purchased item, if the purpose of the warranty was precisely to protect the buyer against damage not occurring to the purchased item,
  - as well as in the event of fraudulent concealment of defects or the assumption of a guarantee for the quality of the purchased item.
10. Other claims for damages
- 10.1 Any further liability for damages other than that provided for in the provisions of these contractual terms and conditions is excluded, regardless of the legal nature of the asserted claim. This applies in particular to claims for damages due to a pre-contractual or contractual breach of duty, due to default or due to a tortious act.
- 10.2 The mandatory provisions of the Product Liability Act remain unaffected.
11. Right of withdrawal
- 11.1 TRINAC shall be entitled to rescind the contract in whole or in part if the Buyer is in default with the payment of two consecutive installments or with a not insignificant part of the installment due in each case if payment in installments has been agreed.
- 11.2 Furthermore, TRINAC shall be entitled to withdraw from the contract in whole or in part if the Buyer applies for insolvency proceedings or comparable statutory proceedings, or if such proceedings are opened or their opening is rejected due to lack of assets.
12. Exclusion of liability in the event of force majeure
- 12.1 If TRINAC is prevented from fulfilling its obligation due to the occurrence of unforeseeable extraordinary circumstances that cannot be averted despite reasonable care in the circumstances of the case - regardless of whether these circumstances occur at TRINAC or at the plant of its subcontractor - e.g. operational disruption, official intervention, delay in the delivery of essential raw and construction materials, energy supply difficulties - the delivery period shall be extended by a reasonable amount, provided that performance does not become impossible.

- 12.2 If performance becomes impossible due to the above-mentioned circumstances, TRINAC shall be released from performance.
- 12.3 Even in the event of strikes and lockouts, the delivery obligation shall be extended to a reasonable extent if the delivery or service does not become impossible. If performance becomes impossible, TRINAC shall be released from its obligation to perform.
- 12.4 If the delivery time changes in the above-mentioned cases or if TRINAC is released from its delivery obligation, any claims for damages and rights of rescission of the Buyer derived from this shall lapse.
13. Retention of title
- 13.1 The goods shall remain the property of TRINAC until full payment of all claims arising from the business relationship between TRINAC and the Buyer (goods subject to retention of title). The inclusion of individual claims in a current invoice and the striking of a balance and its recognition shall not affect the retention of title. Payment shall only be deemed to have been made upon receipt of the equivalent value by TRINAC.
- 13.2 In the event of conduct in breach of contract, TRINAC shall be entitled to take back the goods subject to retention of title. The repossession and seizure of the reserved goods by TRINAC shall not constitute a withdrawal from the contract.
- 13.3 The Purchaser shall be entitled to resell the goods subject to retention of title in the ordinary course of business; however, it shall not be permitted to lease, pledge, transfer by way of security or assign by way of security. The Purchaser shall be obliged to secure TRINAC's rights in the event of the resale of goods subject to retention of title on credit.
- 13.4 The Buyer hereby assigns to TRINAC the claim arising from the resale of the goods subject to retention of title; TRINAC accepts this assignment. Notwithstanding the assignment and TRINAC's right to collect, the Purchaser shall be entitled to collect as long as it fulfills its obligations towards TRINAC and does not fall into financial collapse. At TRINAC's request, the Purchaser shall provide TRINAC with the information required to collect the assigned claims and notify its debtors of the assignment.
- 13.5 The Purchaser shall inform TRINAC immediately in writing of any enforcement measures taken by third parties against the goods subject to retention of title or the claim assigned in advance, handing over the documents required for an intervention. Insofar as the third party is not in a position to reimburse TRINAC for the judicial or extrajudicial costs of an action pursuant to Section 771 ZPO, the Purchaser shall be liable to TRINAC for the costs incurred by TRINAC. In the event of seizure of the goods subject to retention of title, any costs incurred by TRINAC for replacement shall also be reimbursed to TRINAC by the Purchaser.
- 13.6 TRINAC undertakes to release the securities existing in accordance with the above provisions at its discretion at the Buyer's request to the extent that their value exceeds the claim to be secured by 20% or more.
- 13.7 The buyer is obliged to insure the reserved goods adequately against theft, destruction and damage at his own expense.
- 13.8 The buyer is obliged to treat the reserved goods with care. If maintenance and inspection work is required on the reserved goods, the buyer must have this carried out in good time at his own expense.
14. Data protection
- 14.1 The Purchaser shall be obliged to keep confidential all illustrations, drawings, calculations and other documents and information received in connection with the purchase. They may only be disclosed to third parties with the written consent of TRINAC, unless the Purchaser is obliged to do so on the basis of statutory or official regulations. The confidentiality obligation shall also extend to personal data. The confidentiality obligation shall also apply after completion or failure of the contract; it shall expire if and insofar as the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known. Sub-suppliers shall be obligated accordingly.
- 14.2 The conclusion of the contract shall be treated confidentially. The conclusion of the contract with TRINAC may only be referred to in Buyer's advertising materials after written approval. TRINAC and the Buyer undertake to treat as business secrets all commercial or technical details which are not in the public domain and which become known to them through the business relationship. Upstream suppliers shall be obligated accordingly.
15. Severability clause
- 15.1 Insofar as these contractual terms and conditions do not contain any provisions, the statutory provisions shall apply. Unless the contracting parties have expressly agreed otherwise in writing.
- 15.2 Should one or more provisions of these contractual terms and conditions be invalid or unenforceable, this shall not affect the legal validity of the remaining provisions. In place of the invalid/unenforceable provisions, a valid provision shall be deemed to have been agreed which comes as close as possible to the economic intentions of the contracting parties. The same applies in the event of any loopholes.
16. Contract language  
The language of negotiation and contract is German. This also means that the contract will be executed verbally and in writing in German.
17. Applicable law  
The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods and the conflict of laws rules and private international law.
18. Code of Conduct - Restriction of competition
- 18.1 The Buyer warrants and undertakes to comply with the Code of Conduct for Contractual Partners (Code of Conduct) of HOCHTIEF Aktiengesellschaft (Code of Conduct). In particular, the Buyer expressly assures and undertakes to comply with the anti-corruption, antitrust and competition regulations referred to in the Code of Conduct. Its employees and subcontractors (insofar as subcontracting by the Supplier is provided for or agreed under this contract) shall be required to comply with the Code of Conduct. The Code of Conduct is available at [www.trinac.de](http://www.trinac.de). In the event that Purchaser violates the provisions of the Code of Conduct and does not remedy this violation within a reasonable period of time after being requested to do so by TRINAC, TRINAC shall be entitled to terminate the contract for good cause with immediate effect or to withdraw from the contract.
- 18.2 In the event of a breach of applicable anti-corruption or antitrust and competition regulations or other serious breaches of duty against the Code of Conduct, TRINAC shall be entitled to terminate the contract for good cause or withdraw from the contract without setting a grace period.
- 18.3 If the Buyer or the persons commissioned by it or acting on its behalf have demonstrably entered into an agreement that constitutes an unlawful restriction of competition, the Buyer shall pay as damages 10% of the net contractual order amount incurred during the cartel period for the product affected by the agreement. This does not apply if the buyer is not responsible for the unlawful restriction of competition. TRINAC shall be at liberty to prove that higher damages have been incurred.

The Buyer shall be at liberty to prove that no damage or lesser damage has been incurred.

19. Place of jurisdiction  
Insofar as there are no mandatory statutory provisions to the contrary, the place of jurisdiction for all disputes arising from the contract shall be, at TRINAC's discretion, the Essen District Court and, in the case of actions with higher amounts in dispute, the Essen Regional Court.