

§ 1 Validity of General Terms and Conditions

1. Our supplies, services and offers are provided exclusively on the basis of these Terms and Conditions and shall also apply to all future business, even if these terms and conditions are not explicitly agreed and incorporated again. These Terms and Conditions are considered to be accepted latest upon receipt of the goods or performance of services. We hereby contradict any and all adverse confirmations of customers referring to their terms and conditions and/or conditions of purchase.

2. Any and all agreements made between the customer and us for the purpose of carrying out this contract must be in writing.

3. Our conditions of sale and delivery shall only be valid vis-à-vis entrepreneurs as defined in § 310, para. 1 BGB [German Civil Code].

§ 2 Offer and Conclusion of a Contract

1. Our offers are subject to confirmation and are not binding. Any and all declarations of acceptance and orders must be confirmed by us in writing or by fax in order to be binding on us.

2. Our employees are not authorised to make any oral collateral agreements or oral confirmations which are beyond the contents of the written contract.

3. The conclusion of the contract is subject to the proviso that our suppliers deliver to us correctly and in time. This shall apply only in the event that the failed delivery is not our responsibility, in particular, in the event that a congruent covering operation is concluded with our supplier. The customer will be informed immediately about the unavailability of the supplies and services requested. The consideration will be reimbursed as soon as possible.

4. Any and all drawings, illustrations, measures, weights or other performance data shall be binding only as far as they are included and part of the technical product specification..

5. We reserve the property and copy rights for any and all illustrations, drawings, calculations and other documents. This shall also apply to such written documents which are identified as "confidential". The customer is obliged to request and receive our explicit written consent to pass them on to third parties.

§ 3 Prices and Terms of Payment

1. As far as not otherwise stated in our confirmation of order, our prices are "ex warehouse" excluding packing fees which will be charged separately.

2. We reserve the right to modify our prices, if cost reductions or increases occur after the conclusion of the contract, in particular, due to wage settlements and changes of prices for material. We will provide proof of such at the customer's request.

3. The reduction of cash discounts must be separately agreed in writing.

4. The statutory rules with respect to any delay of payment shall apply.

5. We are authorised to use payments to clear older debts, even if otherwise stated in the customer's Terms and Conditions. We will inform the customer about the kind of clearance. In the event that costs and interest had already been incurred, we shall be entitled to clear outstanding costs first, then interest and finally the principal performance.

6. The customer shall only have the right to set-off, if the counterclaims are final and absolute, uncontested or acknowledged by us. Furthermore, the customer is entitled to exercise a right of retention, as far as the counterclaim is based on the same contractual relationship.

§ 4 Period of Delivery and Performance

1. Dates and periods of delivery are only binding if they are agreed in writing.

2. We shall not be responsible - even if the agreed periods and dates are binding - for any delays in delivery and performance, if these delays are due to Force Majeure or due to events which are not only temporarily essentially complicated or render the delivery impossible (including, in particular, strikes, lock-outs, governmental orders etc.), even if they affect only our suppliers or their sub-suppliers. In this event, we shall be entitled to postpone the delivery and/or performance and add the time lost by the complication plus an appropriate restarting time to the agreed periods and dates, or to terminate the contract in full or in part with respect to the part not yet fulfilled.

3. If the complication lasts more than three months, the customer shall be entitled to terminate that part of the contract which has not been fulfilled after allowing an additional respite. In the event that the period of delivery or performance is extended or in the event we are released from our obligations, the customer shall not be entitled to claim any damages. We can rely on the abovementioned circumstances only, if we inform the customer immediately.

4. As far as we are responsible for the non-compliance of any agreed dates and periods or if we are in delay, the customer shall be entitled to a compensation for delay amounting to a half percent for every completed week of the delay, in total however, a maximum of five percent of the invoice value of the supplies and performances affected by the delay. Any and all further claims shall be excluded, unless the delay is caused by gross negligence attributable to our actions.

5. We are entitled to carry out partial deliveries and partial performances at any time, unless the partial delivery or partial performance is unreasonable for the customer.

6. The compliance with our delivery and performance obligations is subject to the correct and punctual compliance of the customer with his duties.

7. In the event that the customer is in delay of acceptance, we shall be entitled to claim damages. At the beginning of the delay in acceptance, the risk of accidental deterioration or accidental loss passes to the customer.

§ 5 Passing of Risk

The risk passes to the customer, as soon as the consignment is handed over to the person carrying out the transport or as soon as the consignment leaves our warehouse for transport. In the event that the consignment is delayed upon the customer's request, the risk shall pass to the customer when the notice of readiness is given.

§ 6 Liability for Defects

1. Only such conditions of the goods are agreed that are included in the technical product specification. Public remarks and advertisements about the conditions of the goods are not a binding description of the goods. Efficiency calculations and predictions of profit included therein are just calculation examples and not binding.

2. Discolouration found on modules which do not affect their efficiency are not to be considered as diversions from the agreed conditions of the goods.

3. Claims of the customer based on defects require that the customer has duly fulfilled his/her duty to examine the goods and to make a complaint with respect to the defect immediately after receipt of the goods as outlined in § 377 HGB (Commercial Code).

4. In the event that goods are defective we shall be entitled to choose a posterior fulfilment either by removal of the defects or by providing a new consignment.. If we choose to remove the defects, we are obliged to bear all expenditure necessary for the removal of the defect, in particular, transport, travel, labour and materials costs, as far as these costs are not increased because the good have to be transported to a place other than the place of performance.

5. In the event that the posterior fulfilment fails, the customer is entitled to either choose to terminate the contract or to request a reduction of the purchase price.

6. The period of limitation with respect to claims based on defects is 12 months, starting to run with the passing of risk.

7. In the event of a delivery recourse in accordance with § 478, § 479 BGB [German Civil Code] the period of limitation shall remain unaffected; it amounts to five years, starting with the delivery of the defective goods.

8. In the event that the customer is provided with a defective assembly instruction, we shall be obliged to deliver a correct assembly instruction only and provided that the defective assembly instruction prevents the orderly assembly.

§ 7 Overall Liability

1. We are liable for damages claimed by our customer based on gross negligence or wilful misconduct as well as for gross negligence and wilful misconduct of our servants, vicarious agents and agents according to the statutory law. As far as we are not liable for wilful breach of contract, damages are limited to the typical and foreseeable damage to be caused by the wilful breach of contract.

2. According to statutory law we are liable but only for a fault-based breach of fundamental contractual obligations; in this case damages are limited to the typical and foreseeable damage.

3. The liability for fault-based injury of life, body and health remains unaffected; this also applies to the mandatory liability according to the Product Liability Act.

4. Subject to the above any liability on our part is excluded.

5. The aforementioned limitation of liability and exclusion of liability also applies to the non-contractual claims and claims for vain expenditures and disbursements according to § 284 BGB substituting claims for contractual damages.

6. If our liability is excluded or limited, this shall also apply to any liability of our employees, members of staff, co-operators, representatives, servants and vicarious agents.

§ 8 Reservation of Title

1. We reserve the title to the goods until all payments resulting from the business relationship with the customer have been received. If the customer breaches the contract, in particular, in the event of delay of payment, we shall be entitled to take back the goods. If we take back the goods, this shall be considered as a withdrawal from the contract. After we have taken back the goods we shall be authorised to utilise them. The utilisation revenues must then be set-off with the customer's liabilities, less appropriate utilisation costs.

2. The customer undertakes to treat the goods carefully. In particular, the customer shall be obliged to sufficiently insure the goods at their new value and at the customer's own expense against fire and water damage and theft. As far as maintenance and inspection work is necessary, the customer must carry out that work at the customer's own expense and in time.

3. In the event of a seizure of property or other interventions of third parties, the customer must inform us immediately in writing so that we can take legal action pursuant to § 771 ZPO [Civil Code of Procedure]. As far as the third party is not in a condition to reimburse us for the judicial and extra-judicial costs of an action pursuant to § 771 ZPO, the customer shall be liable for the incurred loss.

4. The customer shall be entitled to resell the goods in an orderly business procedure, however, the customer assigns to us all claims already now, amounting to the final invoice amount (including VAT) of our claim, which accrue for the customer from the resale vis-à-vis the purchaser or third parties, regardless of whether the goods were resold with or without further processing. The customer shall remain entitled to collect this claim also following the assignment. Our right to collect the claim ourselves shall remain unaffected. However, we undertake to refrain from collecting the claim as long as the customer meets the payment obligations from the collected revenues, is not in delay of payment or, in particular, has not filed an application to open composition or insolvency proceedings, or cessation of payments is given. However, if this is the case, we can require that the customer informs us about the assigned claims and the respective debtors, provides all information necessary for the collection, hands over the necessary documents and informs the debtor (third party) about the assignment.

5. Any and all processing and reorganisation of the goods by the customer shall always be considered to be carried out for us. In the event that the goods are processed together with objects which are not owned by us, we acquire the co-ownership in the new object in relation of the value of the goods (final invoice amount, including VAT) to the other processed objects at the time of processing. With respect to the object arising through the processing, the same shall apply as to goods which were delivered conditionally.

6. In the event that the goods are inseparably combined with other objects which are not owned by us, we acquire the co-ownership in the new object in relation to the value of the goods (final invoice amount, including VAT) to the other combined objects at the time of combining. In the event that the combining of the goods is carried out in such a way that the customer's object becomes the principal object, it is considered to be agreed that the customer assigns the proportional co-ownership to us. The customer keeps the goods we solely own or we own in co-ownership in safe custody for us.

7. The customer shall assign to us the claims which accrue vis-à-vis a third party by connecting the goods with real property in order to secure our claims against the customer.

8. We undertake to release the securities we are entitled to upon request of the customer if the value which can be realised from our securities exceeds the claims to be secured by more than 10 %. The selection of the securities to be released shall be in our responsibility.

§ 9 Construction Modifications

We reserve the right to modify the construction at any time, however, we are not obliged to carry out such modifications to products already delivered.

§ 10 Utilisation of software

If the consignment includes software, the customer is admitted a non-exclusive and non-transferable right to use the software and its documentation: The software is provided exclusively for appliance and utilisation of the specific consignment. The utilisation, duplication, revision, translation of the software as well as the conversion of the object code to the source code for other purposes is prohibited.

§ 11 Confidentiality

We undertake to treat any and all information and documentation provided to us by the customer as confidential if they are expressly marked as confidential. We will provide these confidential information and documentation only to third parties if the customer gives permission. The authorisation to provide these confidential information and documentation to third parties subject to statutory law and official order remains unaffected.

§ 12 Right to withdraw

1. We reserve the right to withdraw from the contract partly or completely , if
- the commencement of liquidation proceedings over the customer's assets is applied for
- we are informed that the customer was rated as unworthy for credit at the time of conclusion of the contract
- the customer discontinues his business.

2. With respect to continuing obligations the right to withdraw is substituted by the extraordinary right to terminate the contract without prior notice.

§ 13 Applicable Law, Jurisdiction and Partial Invalidity

1. The laws of the Federal Republic of Germany shall apply to these business relationships and any and all legal relationships between the customer and us. The provisions of the UN Purchase Law shall not apply.

2. If the customer is a businessperson, a legal person, a public law entity or a special fund under public law, our commercial residence, jurisdiction for any and all disputes arising directly or indirectly from this contractual relationship shall be exclusive.

3. In the event that any provision of these Terms and Conditions or a provision within other agreements is or becomes invalid, the validity of the other provisions or agreements shall not be affected.