

General Sales, Delivery and Repair Conditions for Technology (General Terms and Conditions)

I. General

1. Our offers, services and deliveries are based exclusively upon these General Terms and Conditions.
2. They apply exclusively for business persons also for all future business.
3. Orders or assignments are binding for the customer; the agreement is formed by confirmation of the assignment or execution of the order or the assignment at our discretion.
4. We explicitly reject deviating general terms and conditions or counter confirmations. Our silence to such deviating conditions is particularly not regarded as acknowledgement or approval, also in case of future agreements.

II. Quality of goods

1. Construction and/or form changes of the delivery item remain reserved if the delivery item is significantly altered and the changes are reasonable for the customer with respect to the contractual usage.
2. Templates, samples, analysis data and other specifications regarding the quality on our part are only indications within the actually available range of the respective values pertaining to dimensions, colour, quality, chemical composition and action mechanism of the products supplied by us.
3. We only assume the guarantee for quality, durability or the earnings of the delivery item or the procurement risk upon explicit statement, however, not based on the content of product descriptions, technical data and other printed material and information.

III. Prices and payments

1. Subject to special agreement, prices apply ex our warehouse or ex works in case of dispatch from the manufacturers location, exclusive packaging. Specified and agreed prices for business persons are net plus VAT in the statutory amount applicable at the time of execution of the service.
2. Subject to special agreement, payment is due immediately upon delivery or provision and receipt of the invoice without deduction free paying agent. Discount only applies in the event that the customer is not in arrears with the payment of earlier deliveries.
3. Payments to our employees are only permitted if they present a valid Power to Collect.
4. We only accept bills or cheques upon respective agreements and only as payments. Credit notes based on bills and cheques are subject to receipt less expenses with value of the day at which we are able to dispose of the equivalent value.
5. Our claims, also in case of granting of payment deadlines, regardless of the term of any received and credited bills, are due and payable immediately if the customer culpably fails to comply with payment conditions or in case of events raising justified doubts regarding the customer's creditworthiness. Deviating regulations of the Consumer Credit Act remain unaffected.
6. The customer is not permitted to offset our claims unless the claim for offsetting is uncontested or conclusively determined. Business persons are only permitted to assert a right to refuse or retain payment if the underlying claim is uncontested or conclusively determined. This also applies for the corporate right of retention based on §§ 369 to 372 HGB (German Commercial Code).
7. In the event of a payment on SEPA basis or corporate direct debit we notify the customer in case of a one-off SEPA debit and at each SEPA permanent direct debit with changing amounts one working day prior to the direct debit at the latest. In case of a first SEPA permanent direct debit with invariable amounts we shall notify the customer of the first direct debit and the subsequent direct debit at least one working day prior to the first and subsequent direct debit.

IV. Delivery terms and default / self-supply and force majeure

1. Delivery terms and deadlines only apply as approximately agreed unless we have provided an explicitly binding written undertaking. Unless agreed otherwise, the delivery term commences on the day of undersigning a written purchase agreement or the dispatch of our order confirmation, however not before the delivery of the documents, permits or approvals to be provided by the customer as well as the receipt of an agreed deposit.
2. The delivery term is deemed met if the delivery item is assigned to the person responsible for transport by the time of expiration of the agreed date or, in case of self-transport once the goods have left our warehouse or, in case of dispatch ex works once the goods have left the manufacturer or, in case of customer pick-up once the customer has been informed of the readiness for dispatch.
3. We shall inform the customer in writing or text form immediately if we do not, not correctly or not in time receive deliveries/performance from our pre-suppliers for reasons outside of our sphere of responsibility for the provision of contractually owed deliveries/performance despite proper and sufficient respective provision (congruent provision) or in the event of force majeure of a significant period of time (i.e. with a duration of more than 14 calendar days). In this case we are entitled to delay the delivery by the duration of the impediment or partially or entirely withdraw from the agreement with respect to the unfulfilled part if we have complied with our above mentioned duty to provide information and if we have not accepted the risk of procurement. Force majeure includes strike, lock-out, official interventions, energy and raw material shortage, not culpable transport bottlenecks, not culpable operational impediments - e.g. due to fire, water or machine damage - and all other impediments which have not been culpably caused by us based on objective approach. If a delivery/performance date or delivery/performance deadline has been bindingly agreed and if it is exceeded based on the above mentioned events, the customer is entitled to withdraw from the agreement with respect to the unfulfilled part of the agreement following futile expiration of an appropriate period of grace if a further compliance with the agreement is objectively unacceptable for the customer. Further claims of the customer, particularly those pertaining to compensation, are excluded in this case. The regulation above applies accordingly if a conventional delivery/performance deadline has been exceeded by more than 7 calendar days due to the above mentioned reasons, also without the contractual agreement of a fixed delivery/performance deadline. If the agreement for delivery/performance to be provided by us is dissolved entirely or partially by us or the customer due to the above mentioned regulations, we shall immediately refund to the customer the part of consideration with respect to the dissolved part of the agreement in the event that he has paid a deposit.
4. Compliance with the delivery deadline implies that the customer has fulfilled his contractual obligations applicable up to the time of delivery.

V. Acceptance

The acceptance of a repair occurs with the unequivocal transfer of the object of repair to the customer or his representative. The customer is in default of acceptance if he has not accepted the repaired object within one week following the notification of completion at the latest. If the object of repair has not been accepted within this period, it can be stored or handed over for storage at the expense and risk of the customer. If the customer requests the dispatch of the repaired object it shall be dispatched at the expense of the customer.

VI. Transfer of risk and transport

1. Unless agreed otherwise, the customer has to pick up the goods from us. If delivery of the goods has been agreed upon, transport route and means are at our discretion unless agreed otherwise. The goods shall be insured at the request and expense of the customer.
2. If the customer is a business person, the risk is transferred to the customer upon handover of the goods to the forwarding agent or freight carrier, however at the latest upon leaving the warehouse or, in case of direct dispatch ex-works upon the goods leaving the factory. This also applies in case of partial deliveries or if the customer is responsible for the shipping costs.
3. If the customer is a business person and if the dispatch is delayed due to reasons owed to the customer, the risk is transferred to the customer at the date of readiness for dispatch.
4. Delivered objects have to be accepted by the customer also if they exhibit insignificant defects, regardless of his rights based on the law and the agreement.
5. Partial deliveries are admissible.

VII. Warranty and notice of defect

1. We warrant for the delivery item according to the statutory provisions unless determined otherwise below and in Item VII.
2. Applicable for consumers:
 - 2.1. The customer's entitlements and rights in case of defects in a used, movable delivery item become statute barred after one year from transfer of risk subject to the regulations in Item VII. no. 4.
 - 2.2. Consumers have to report obvious defects to us within a period of one month following receipt of the goods. If a notice of defect is not received within this period, the warranty rights for obvious defects expire.
3. Applicable for business persons:
 - 3.1. Unless agreed otherwise, the sale of used, movable delivery items occurs excluding any warranty. If the customer is entitled to warranty in individual cases with respect to a used, movable purchased object - i.e. due to special agreement - the claims and rights of the customer based on defects become statute barred one year following the transfer of risk. This does not apply in cases specified in no. 4 of this paragraph.

- 3.2. Claims and rights of the customer based on defects in movable, newly produced delivery items become statute barred after one year following the transfer of risk subject to the regulations in Item VII. no. 4.
- 3.3. Claims of the customer due to defects in repair services expire one year after the time of acceptance of the services or one year after the customer is in default of acceptance.
- 3.4. Subject to our discretion we initially provide replacement delivery or subsequent improvement in case of defects which significantly reduce the value of the goods or suitability for the contractually specified use. In case of insignificant defects we are entitled to provide a reduction instead of subsequent fulfilment.
- 3.5. If the subsequent improvement failed, the customer is entitled to the right of reduction, withdrawal and/or compensation instead of the performance only if he has granted us a period of grace of at least 14 calendar days for subsequent improvement prior to exercising these rights. These rights are furthermore subject to the customer warning us unequivocally that he will not accept subsequent improvement following the expiration of this period. This regulation does not apply if a deadline is unnecessary according to the law.
4. The above mentioned regulations regarding the exclusion of warranty claims of the customer and the limitation periods do not apply in cases of intent or gross negligence on our part, in the event of violation of life, limb or health, the acceptance of a warranty of absence of defects, liability according to the ProdhaftG (Product Liability Act) or acceptance of procurement risk as well as in cases where a longer period is specified according to §§ 438 (1) no. 2 (constructions and parts for construction), and 634 a (1) no. 2 (construction defects) BGB (German Civil Code).

VIII. General liability limitation

Compensation claims of the customer, regardless of the legal reasons, particularly based on the violation of obligations based on contractual obligations and tortious acts are excluded. This does not apply if liability is determined by the law, particularly in cases of malice, intent or gross negligence, in case of violation of life, limb or health, in case of default if a fixed delivery date was agreed upon, in case of acceptance of a warranty for the quality of the delivery item, according to the ProdhaftG (Product Liability Act) or in case of other violation of essential contractual obligations; in this case, the claim for damage compensation is limited to the typical arising damage. „Essential contractual obligations“ are obligations which protect the customer's legal positions essential to the agreement which are just owed to him according to the content and purpose of the agreement. Furthermore, essential contractual obligations are those whereby the fulfilment generally facilitates the proper execution of the agreement and the compliance in which the customer regularly trusts or may trust. A change of the onus of proof to the disadvantage of the Customer is not associated with the above regulations.

IX. Reservation of title

1. Applicable for business persons:
 - 1.1. We reserve the right of ownership of the delivery item up to the receipt of all payments due to the business relationship with the customer. The reservation of title also includes the approved balance if we book claims against the customer in current accounts (reservation of current account).
 - 1.2. The Customer is entitled to on-sell the delivery item in the context of the proper course of business.
 - 1.3. Treatment and processing of the reserved goods occurs on our behalf as manufacturer in terms of § 950 BGB (German Civil Code), however without obligations for us. If the reserved goods are processed or inseparably combined with objects not belonging to us, we procure co-ownership to the new item at the ratio of the invoice value of our goods to the invoice value of the other processed or combined objects. If our goods are combined with other movable objects to one uniform object and if the other object is to be considered the main object, it is deemed agreed upon that the customer hereby assigns to us the proportionate co-ownership to the item. The customer preserves the thus created ownership or co-ownership for us free of charge. The thus created co-ownership rights apply as reserved goods. At our request, the customer is obligated to provide us with the necessary information required to pursue our ownership or co-ownership at any time.
 - 1.4. If we procure new ownership in the cases of Item 1.3, we hereby transfer the specified claims to the customer subject to the full payment of claims stipulated Item 1.1 of the paragraph.
 - 1.5. The customer hereby assigns to us a first-ranking part of the claim from the on-selling of the delivery item or the goods produced from this delivery item by treatment or processing in the amount of the purchase price calculated by us for the delivery item.
 - 1.6. Subject to revocation at any time, the customer is authorised to collect the assigned claims from the on-sale. At our request, the customer is obligated to nominate the debtors of the assigned claims, to inform them of the assignment and to present to us the notice of assignment or facilitate direct notification. We shall not disclose the assignment as long as the customer complies with his payment obligations. If the estimated value of the securities provided for us exceeds our claims against the customer by more than 30 %, we are obligated to release the securities to this extent at our discretion upon the customer's request.
2. Applicable for customers which are not business persons:
 - 2.1. We reserve ownership of the delivery item up to the complete payment of the purchase price and any invoiced amounts accrued up to that date for the delivery of spare parts for the respective purchased object and any repairs performed on the item as well as interest and the like.
 - 2.2. The customer is not entitled to on-sell, process or inseparably combine, mix or intermingle the delivery item without our consent until our claim according to Item 2.1 of this paragraph has been paid.
3. Applicable for all customers:
 - 3.1. If the customer does not intend the immediate, justified on-sale of the delivery item or if we demand insurance, the customer has to insure the goods belonging to us against the usual risks to the appropriate extent at his expense and assign to us the insurance claims. We are also entitled to pay the insurance premium costs at the expense of the customer.
 - 3.2. If we withdraw from the agreement due to conduct contrary to the agreement by the customer, the customer - among other - is obligated to pay the costs of the return and processing of the delivery item as well as the thus incurred administration costs. These costs amount to 10 % of the realisation proceeds including VAT without verification. They are to be assessed higher or lower if we prove higher or the customer lower costs. The revenue is credited to the customer following deduction of the costs and other claims by us related to the purchase agreement.
 - 3.3. The customer is obligated to immediately inform us in writing in the event of levies of execution or other interventions by third parties to enable us to file a petition according to § 771 ZPO (Code of Civil Procedure). If the third party is not able to reimburse us for the judicial and extra-judicial costs of a successful petition according to § 771 ZPO (Code of Civil Procedure), the customer is liable for the damage we incurred.
 - 3.4. In the event of the existence or conclusion of a credit agreement based on pledging the business inventory, the customer is obligated to insure our proprietary rights based on the reservation of title and pertaining to the unpaid delivery items at the respective credit institute.

X. Credit assessment

To check the creditworthiness of the customer, we can request corresponding information (e.g. also a so-called score value) from external service providers and credit agencies. The information requested includes not only the name but also information about the customer's address and, in the case of natural persons, the date of birth. This processing of the personal data of the customer takes place for the implementation of pre-contractual measures according to Art. 6 Para. 1 b) of the EU-General Data Protection Regulation (GDPR). In addition, we have a legitimate interest in carrying out creditworthiness inquiries pursuant to Art. 6 para. 1 f) GDPR. The data will not be processed for any purpose other than credit assessment, passed on to third parties or transferred to a third country. In case of a data request the customer will be informed within one month from which source the personal data originates. The personal data will be deleted by the contractual partner as soon as the purpose of the processing is completed and there is no legal obligation to keep this data.

XI. Alternative consumer dispute resolution proceedings (Art. 14 section 1 ODR-VO and § 36 VSBG)

The European Commission provides for an online dispute resolution platform, which you can access here: <http://ec.europa.eu/consumers/odr/>. We are not obliged to participate in alternative consumer dispute resolution proceedings and do not provide this alternative.

XII. Place of jurisdiction, applicable law

1. If the customer is a legal person under public law or a public special fund, the place of jurisdiction for all legal disputes is our registered address. This also applies for claims asserted during summary proceedings for recovery of debt or liquidated demand. We are also entitled to raise claim at the customer's general place of jurisdiction.
2. The legal relationship between the contractual parties is exclusively based on the laws of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG). The legal process of consumer-protected standards of the state of the customer's usual residence remains unaffected.