

Terms and Conditions

1. General

1.1. These terms shall apply with regard to entrepreneurs (§ 14 of the German Civil Code [Bürgerliches Gesetzbuch, BGB]), legal entities under public law, and special funds under public law.

1.2. All deliveries and services provided, including pre-contractual negotiations and other ancillary performances, shall be made on the basis of the contractual content in connection with these terms. Terms deviating from these shall not become part of the contract, even if repeatedly sent to us.

1.3. Our offers are non-binding invitations to submit offers. A contract is only formed with our written order confirmation (contractual acceptance).

1.4. We reserve all proprietary and copyrights to all drawings, offers, and other documents, including in electronic form. They may only be made available to third parties with our written consent.

1.5. Unless agreed otherwise, samples shall only be provided in exchange for payment.

1.6. Orders fulfilled in accordance with drawings, sketches, or other specifications provided to us will be carried out at the buyer's risk with regard to patent, design, and trademark rights. If infringements of third-party intellectual occur as the result of the fulfilment of such orders, the buyer shall indemnify us against any resulting claims by the holders of such rights.

1.7. In the event of force majeure or other circumstances which cannot be remedied, the obligation to render performance does not apply; the right to termination and the lapsing of the obligation to render counter-performance remain unaffected thereby.

1.8. Comments, recommendations, or suggestions made in the course of pre-contractual negotiations are non-binding, unless a separate consulting contract was concluded.

2. Price and payment terms

2.1. Unless agreed otherwise, all prices are in Euros and net of statutorily applicable VAT, free ex works, but do not including packing and unloading.

2.2. Unless agreed otherwise, our payment claims shall become due for payment immediately upon delivery.

2.3. No rights of retention or offsetting may be claimed, unless an agreement so providing has been concluded, or the counterclaim is undisputed or legally enforceable.

2.4. In the event of late payment, interest shall accrue at a rate of 10 % above the base interest rate (§ 247 BGB).

3. Transfer of risk, acceptance

3.1. Unless a formal acceptance process has been agreed, the transfer of risk for both Parties shall occur when the delivery item leaves our business premises. This applies also to partial deliveries, and in the event of our assumption of responsibility for additional elements of performance (e.g. shipping, delivery, installation).

3.2. Acceptance shall be made promptly at the agreed point in time, or otherwise after our declaration that the performance is ready for acceptance; acceptance may only be refused in the event of material defects that impair the functionality of the item and which cannot be remedied through minor remedial work.

3.3. Unless agreed otherwise, shipping shall be means of a suitable method of transportation of our choice and at the buyer's risk. Shipping insurance coverage must be separately agreed.

4. Delivery dates and periods

4.1. The delivery period begins once the following requirements are met:

- shipment of order confirmation
- settling of all commercial and technical questions between the Parties
- fulfilment of all the buyer's obligations (e.g. procurement of permits and approvals, documents, drawings, plans, models, releases)
- receipt of any stipulated down payment.

4.2. The delivery period has been complied with if the delivery item has left the supplier's premises prior to the end of such period, or (for agreed pickups) if notification that the item is ready for pickup has been given.

4.3. The delivery period shall be extended accordingly in the event of labour disputes, in particular strikes and lockouts, as well as

in the event of the occurrence of unforeseen impediments outside our control.

4.4. In the event that we receive late or incorrect delivery from our suppliers, we shall promptly inform the buyer; in this event, the delivery period shall also be extended accordingly.

5. Reservation of title

5.1. We reserve title to the delivery items until payment in full of all outstanding claims, including incidental claims, claims for compensation for damages, encashment of checks and bills of exchange, and of subsequently arising claims, including from contracts signed simultaneously or subsequently.

5.2. Title is also reserved until all payments in settlement of the buyer's existing account balance (business relationship); title is reserved up to the amount of the acknowledged balance.

5.3. If items subject to reservation of title are further processed by the buyer, such processing is performed on our behalf, without imposing any obligation on us. We have title to the newly created item; in the event of the inseparable combination of our property with other property, our title shall be in the ratio of the value of our delivery item to that of the other items with which it was combined at the time such combination was carried out.

5.4. The buyer assigns to us its claims from the sale of the goods subject to reservation of title, as well as all ancillary rights thereto and any outstanding balance claims. We accept this assignment of claims. If the delivery item was further processed or mixed or combined with others and we have acquired a share of title to such item, we are entitled to a corresponding share of the sales price claim.

The buyer is entitled to collect on payment claims for such items as long as it continues to meet its payment obligations. In the event of a payment default or a significant deterioration in the financial position of the buyer, we are entitled to revoke such entitlement and may

- warn the buyer that we may collect on such claims directly or by means of a third party
- inform the buyer's customers of the assignment
- collect on the claims ourselves.

5.6. We shall release securities at the buyer's request insofar as their realizable value exceeds the claims secured thereby by more than 20%. We have the right to choose the securities to be released.

6. Defects

6.1. No defect claims may be asserted with regard to insignificant deviations from the agreed characteristics and qualities of the goods, and/or in the case of only insignificant impairment of their utility.

6.2. In the case of defects in the delivery items, we may initially make good on the warranty by means of reworking or replacement delivery.

6.3. If substitute performance fails, the customer may, at its option, either demand a reduction in the purchase price or the rescission of the contract. However, the buyer has no right of rescission for minor contractual nonconformities, in particular for minor defects.

6.4. Notification of defects must be given in writing within a period of two weeks after receipt of the delivery items, unless the defects were not identifiable at the time of acceptance or receipt. Otherwise, the assertion of a warranty claim is excluded. The sending of such notification within the two-week period shall constitute timely notification. The buyer is fully responsible for demonstrating compliance with the requirements for a warranty claim, in particular for the existence of the defect, the time at which the defect was identified, and compliance with the notice period.

6.5. If, after an attempt at substitute performance has failed, the buyer chooses to rescind the contract due to a material defect or defect of title, it may not assert a claim for compensation for damages arising from the defect.

6.6. Subject to any explicit special arrangements that have been made, our product description shall be the agreed standard for the quality and characteristics of the goods. Public statements, promotion, or advertising, on the other hand, do not represent contractual specifications of the quality and characteristics of the goods. Information and data contained in data sheets, brochures, and other advertising and informational material serves only as a guideline, and shall only become binding contractual content if we have explicitly consented to its integration in the contract.

6.7. In the event that the buyer receives defective installation instructions, our liability is limited to the delivery of defect-free installation instructions. No liability attaches in the case that the defect in the installation instructions does not hinder the proper installation of the item.

6.8. Specifications regarding the quality and characteristics of the goods shall only constitute warranties if explicitly described as such. The same applies for the assumption of a risk of procurement.

7. Liability and warranty

7.1. We are liable without limitation for tortious or grossly negligent violations of contractual obligations, and in the event of a culpable loss of life, physical injury, or injury to health, for all consequential losses, unless otherwise provided by statute or contractual agreement.

7.2. In the event that a loss is incurred as a result of the grossly negligent act or omission of a non-managerial employee, the claim to compensation for property damage and financial loss shall be limited to the typical and foreseeable amount for the contract in question.

7.3. Liability for property damage and financial loss resulting from simple negligence shall apply only in the event of a violation of material contractual obligations. The claim to compensation shall be limited to the amount typical and foreseeable for the contract in question.

7.4. Other claims for compensation for losses, in particular those for reimbursement for consequential damages or asserted under §§ 823, 831 BGB, are excluded. Liability under the provisions of Product Liability Act [Produkthaftungsgesetz] shall remain unaffected.

7.5. Clauses 7.1. - 7.4. apply also to claims asserted in the cases addressed in Clause 1.8., insofar as liability applies.

8. Limitation period

8.1. All claims of the buyer, regardless of their legal basis (subject to Clause 8.2. of these Terms and Conditions), shall expire after the passage of 12 months.

8.2. For claims for compensation for losses

- in accordance with Clauses 7.1 - 7.2.,

- arising in consequence of fraudulent concealment,

- from warranties, and

- in accordance with the Product Liability Law for personal injuries and damages to private property

the statutory and contractual limitation periods shall apply. They apply also in the case of building defects and of delivery items used in accordance with their usual purpose in a building and which caused such building defect in question.

9. Use of software

9.1. Insofar as software is included in the scope of delivery, the buyer is granted the nonexclusive right to use the software supplied and the corresponding documentation. They are provided for use on the corresponding delivery item. Use of the software on more than one system is prohibited. The buyer may only copy, edit, or translate the software or compile it from the object code into the source code within the statutorily permissible scope (§§ 69 a ff. of the Copyright Act [Urheberrechtsgesetz, UrhG]. The buyer undertakes not to remove or alter manufacturer information – in particular, copyright notices – except with the supplier's explicit prior consent.

9.2. All other rights to the software and documentation, including copies thereof, remain with the supplier or the software supplier. The granting of sub-licenses is not permitted.

10. Device leasing / rental

10.1. The clauses of Section 10. apply vis-à-vis the Parties in the event that equipment or systems are provided on a loan or lease basis.

10.2. The buyer shall be liable for any loss of the property in question, and for any damage incurred from the time the equipment is picked up until the time at which it is returned; this liability shall be to the amount of the replacement cost of such equipment. This obligation to make good losses shall not be limited by the fact that the loss has resulted from events or circumstances outside the buyer's control.

10.3. The buyer undertakes to insure the property against loss and damage with a domestic insurer. The policy shall be in our favour, and shall cover the full amount of any damage claim.

10.4. If a lease payment has been agreed, the payment shall be due in advance for each month or part thereof.

10.5. The return of the leased or loaned property shall be made to our registered premises, and shall only be considered to have been performed in accordance with contractual requirements once a property return receipt has been signed by both Parties.

10.6. The owner shall be promptly informed of any damage to or loss of the property. Any delay in renewed rental / leasing of the property resulting from the repair or remediation of damage or defects shall give rise to a claim for compensation for losses.

11. Place of performance and of jurisdiction

11.1. The place of performance and of jurisdiction for both portions of the contract shall be our place of business, or the local or regional court [Amtsgericht/Landgericht] having jurisdiction over it.

11.2. The laws of the Federal Republic of Germany shall apply.

12. Miscellaneous

Should individual provisions of these terms and conditions of delivery and payment become or be found to be invalid, in whole or in part, the validity of the remaining provisions shall not be affected thereby.