

GENERAL CONDITIONS OF SUPPLY AND SERVICES

These conditions are an integral part of all our quotations for and contracts on supplies and services, including current and future business relations. Deviations from these conditions of supply and services, particularly business conditions of the customer, are deemed agreed only if they have been expressly confirmed in writing by us.

1. Conclusion of Contract/ Documents

- 1.1 All information and data – whether in electronic or any other form - contained in general product documentation, price lists and in our quotations are not binding and in case of technical data only approximate values customary in this branch of business. They are binding only to the extent that they are by reference expressly included in the contract.
- 1.2 Contracts made with our company shall be considered in effect only after we have given written acceptance of contracts/ orders received or after we have supplied the goods or rendered the services ordered by the customer. The same applies accordingly to the customer's requests with regards to contract amendments or changes
- 1.3 We retain title, copyright and any other rights to all drawings and technical documents regarding the supplied goods that are placed at our disposal prior or after the conclusion of contract. Without our written approval, the above documents may not be used in any way for purposes other than for what they had been delivered for. They may not be used for other purposes, be copied or reproduced or be made available to third parties without or approval. Upon request, they must be returned to us without undue delay.

2. Prices

Our prices are understood to be in Euro ex company seat Hamburg, excluding costs for packaging, other incidental costs (e.g. installation and commissioning) as well as VAT at the applicable statutory rate.

3. Payments

- 3.1 All payments must be made to us, without any deduction, within 14 days after receipt of our respective invoice.
- 3.2 If the customer delays in payment, in part or whole, we are entitled - irrespective of any other rights of our company – to interest on the delayed payment as of this date, amounting to 8 percentage points above the relevant applicable base interest rate. We reserve the right to assert other damage due to delay.

4. Assignment/ Retention/ Setoff

- 4.1 Our customer is not entitled to assign any claims – except monetary claims – against us to third parties without our written approval.
- 4.2 The customer may not offset any counterclaims against our claims against him except and unless such counterclaims are undisputed, legally established or ripe for judgment (proved).
- 4.3 The customer only has a right of retention, insofar as this is based on the same contractual relationship.

5. Contractual Periods/ Fixed Dates

- 5.1 Any contractual periods agreed with us commence with the date of the written declaration of acceptance by our company.
- 5.2 In the case of changes or amendments to supplies and services in the contract attributable to the customer the contractual periods stated in the above para. 5.1 are prolonged reasonably.
- 5.3 Contractual periods and fixed dates are binding only if expressly agreed in writing. Force Majeure and other abnormal circumstances such as, in particular labour disputes, government acts and transport disruptions - irrespective of whether they occur within our own company or at our suppliers – will relieve us from our obligation to supply/ render services either for the duration of their effects or altogether if it becomes impossible to render the services at all. If such a hindrance exists of more than 6 months, the customer is entitled to withdraw from the contract. Under these circumstances, any penalty possibly agreed upon shall be considered not forfeited.

6. Taking over/ Acceptance

- 6.1 Upon due date the customer must accept or take over our supplies/ services immediately after having been requested to do so by us.
- 6.2 If the customer does not accept/ take over the supplies/ services as per para. 6.1 above, our company is entitled, after unsuccessful reminder, to withdraw from the contract after expiration of a reasonable period set by us and to claim damages, at our option either in the form of a compensation of the loss incurred by us or in the amount of 10% of the agreed price. The customer reserves the right, in particular, to furnish proof of the fact that we have incurred no or only minor loss.

7. Transfer of Risk

- 7.1 We are entitled to make partial supplies and/or render partial services as long as this is not in conflict with the apparent interest of the customer.
- 7.2 The risk for our supplies and services passes to our customer with the acceptance or taking over of such supplies/ services; however, in the case of supplies, the risk passes at the time such supplies leave our company or the plant of our relevant supplier at the latest (*ex works*, Incoterms 2010). This also applies to partial supplies/ services even if we have undertaken further services (e.g. transport).
- 7.3 If the taking over/ acceptance of supplies, or their leaving our company or the plant of our relevant supplier, is delayed for reasons attributable to our customer, the risk passes to the customer upon fruitless expiration of the period fixed by us as per above para. 6.1 at the latest.
- 7.4 If goods are taken into safe custody for the customer by our company, the customer assumes the costs and risk for such custody. Unless agreed otherwise, the customer is obliged to pay to us for such storage the customary fee of a commercial storage company.

8. Retention of Title

- 8.1 We retain title to all of the goods supplied by our company until we receive the payments of the full purchase price. We retain title until we receive all payments related to the business relationship in case the customer is a merchant. In case of a breach of contract by the customer, particularly in case of a payment default, we are entitled to recover the goods subject to retention of title subsequent to withdrawal from the contract.

- 8.2 The customer is obliged to treat goods subject to retention of title with care; in particular, he is obliged to adequately insure, at his own expense, such goods at their reinstatement value against damage by fire, water and theft.
- 8.3 In the case of attachment or other interventions by third parties, the customer must immediately inform us in writing and must assist us in taking any measures necessary to protect our title to the goods concerned.

9. Defects

- 9.1 The customer shall notify us in writing of any defects of quality immediately after their discovery. Excluded are normal wear and tear and defects due to improper usage.
- 9.2 First, we are to be given the opportunity to provide for rectification of the defect within a suitable period of time, i.e. at our option either by elimination of the defect, the delivery of goods free from defects or by manufacture of a new product.
- 9.3 If the rectification definitely fails, could not be reasonably expected by us or by the customer or is possible only with excessive cost/ expenses, the customer is entitled to withdraw from the contract or to reduce the remuneration – irrespective of any other damages.
- 9.4 The customer at his own expense shall care for dismantling and assembling of equipment which is not part of the supplied goods as far as this is necessary for the rectification of the defect.
- 9.5 Supplied goods outside the territory of the Federal Republic of Germany in case of a defect shall be sent to us by the customer. After examination we will provide for rectification of the defect at our option either by elimination of the defect and resending the defect-free good or by delivering a new product.
- 9.6 Any claims of the customer against our company due to expenses required for the purpose of rectification, in particular costs for transportation, traveling, labour and material, are excluded as far as the expenses increase due to the fact that the subject matter of supply/ services has been transferred to a place outside the Federal Republic of Germany.
- 9.7 Legal claims of the customer against our company under a right of recourse exist only in so far as the customer has not reached any agreements with his clients beyond the legal warranty claims and rights. Furthermore, the above para. 9.5 shall apply accordingly as far as the scope of the customer's claim against our company under a right of recourse is concerned.
- 9.8 In case of notices of defects, payments of the customer may be withheld in a reasonable amount proportionate to the defects.
- 9.9 The period of limitation for defects of quality and in the title amounts to one year, commencing with the transfer of risk. This does not apply if and in so far as longer periods of limitation apply as per §§ 438 para. 1 No. 2, 479 para. 1, 634 a para.1 No. 2 BGB (German Civil Code), if and to the extent the defect has been fraudulently concealed of if one of the cases of liability stated in para. 10.1 below applies.
- 9.10 Our obligation to pay damages is set out in para. 10. below.

10. Damages and Liability

- 10.1 Claims for damages and compensation of expenses (hereinafter „damages“) of the customer against our company are excluded, irrespective of the cause in law, unless they are based on the provisions of the Product Liability Act, on an intentional or grossly negligent violation of contractual or legal obligations on our part, on injuries to health and physical injuries of the customer due a violation of duties for which we are responsible, the take-over of a guarantee for the existence of a characteristic feature or the violation of essential contractual obligations by our company.
- 10.2 Damages for the violation of essential contractual obligations shall be limited to foreseeable damage which is typical for the contract, unless it is based on intent or gross negligence, on assumption of a liability with regard to injuries to health or physical injuries or due to the taking-over of a guarantee for the existence of a characteristic feature.
- 10.3 A violation of duties by our company is equivalent to a violation by our legal representatives or vicarious agents.

11. Secrecy

- 11.1 All documents and information received by the customer during and for the purpose of the performance of a contract are to be treated confidentially by the customer as long as they are not in the public domain.
- 11.2 These obligations remain effective even after the end of a contract and are – in the event of a permitted disclosure - to be imposed also upon third parties.

12. Place of Jurisdiction/ Applicable Law

- 12.1 The sole place of jurisdiction for both parties with regard to all disputes directly or indirectly arising from the contractual relationship shall be Hamburg (courts of City of Hamburg). At our option, however, we remain entitled to assert claims against the customer at the courts which have jurisdiction over the customer's place of residence, registered office or assets.
- 12.2 German law shall apply, excluding the convention of the United Nations on contracts concerning the international sale of goods dated 11.04.1980 (UN-CITRAL/ CISG).

13. Severability

Should individual provisions of a contract on supplies and services, of which these provisions are an integral part, be or become invalid, this will not affect the validity of the remaining provisions of the contract.