

General Terms and Conditions

I. General provisions

1. With regard to the scope of the deliveries or services (hereinafter: Deliveries), the mutual written declarations shall prevail. The General Terms and Conditions of the Purchaser shall only apply if the deliverer or supplier (hereinafter: Supplier) has expressly agreed to them in writing.
2. The Supplier reserves the unrestricted property and copyright exploitation rights relating to cost estimates, drawings and other documents (hereinafter: Documents). The Documents may only be disclosed to third parties with the prior consent of the Supplier and must be immediately returned to the Supplier at his request if the contract is not awarded. Sentences 1 and 2 apply *mutatis mutandis* to the documents of the Purchaser; however, these may be made accessible to those third parties to whom the Supplier has permissibly entrusted the Deliveries.
3. The Purchaser has the non-exclusive right to use standard software with the agreed performance parameters according to a separate software license agreement in unchanged form on the agreed equipment. The Purchaser may produce a backup copy without express agreement.
4. Partial Deliveries are permissible if they are reasonable for the Purchaser.

II. Prices and terms of payment

1. Prices are ex works, excluding packing plus the sales tax/VAT that is applicable in each case.
2. If the Supplier has assumed responsibility for assembly or installation, and unless agreed otherwise, the Purchaser shall pay the agreed remuneration and any incidental costs required such as travel costs, the costs of transporting hand tools and personal luggage as well as accommodation allowances.
3. Payments must be made without any deductions and free of transaction charges to the Supplier's account.
4. The Purchaser may offset only those claims that are undisputed or legally binding.
5. The amounts invoiced must be paid into an account of the Supplier by the due date for payment. For each full or partial month of late payment, interest at the rate of 1% per month will be charged.

III. Retention of title

1. The objects of the delivery (reserved goods) remain the property of the Supplier until each and every claim made out against the Purchaser and arising from the business relationship has been settled. In the event of a breach of contract by the Purchaser, including late payment, the Supplier is entitled to repossess the goods.
2. The Purchaser must treat the goods with care, adequately insure them and, if necessary, service them.
3. During the existence of the retention of title, the Purchaser is prohibited from pledging or transferring ownership, and resale is permitted only in the ordinary course of business and only on condition that the Purchaser (reseller) receives payment from his customer or stipulates that ownership shall only pass to the customer when he has fulfilled his payment obligations. As a precaution, the Purchaser assigns his claim to the Supplier in the event of resale, regardless of whether this takes place before or after any processing of the goods delivered under retention of title. Notwithstanding the right of the Supplier to collect receivables himself, the Purchaser shall remain entitled to collect receivables even after assignment. In this context, the Supplier undertakes not to collect the receivables as long as and insofar as the Purchaser meets his payment obligations, does not apply for the opening of insolvency or similar proceedings and does not suspend payments.
4. The Purchaser is obliged to inform the Supplier immediately of pledges, sequestrations or other disposals or interventions by third parties.

5. Insofar as the above securities exceed the claims to be secured by more than 10%, the Supplier is obliged to release the security at his discretion at the request of the Purchaser.

IV. Deadlines for delivery and delay

1. Compliance with the agreed deadlines for the Deliveries presupposes, moreover, the timely receipt of all the Documents to be delivered by the Purchaser, the requisite permits and approvals, particularly of plans, as well as compliance with the agreed terms of payment and other obligations of the Purchaser. If these conditions are not fulfilled in time, the deadlines shall be extended appropriately; this does not apply if the Supplier is responsible for the delay.
2. If the failure to meet deadlines is due to force majeure, e.g. mobilization, war, rebellion or similar events, such as strikes or lockouts, the deadlines shall be extended accordingly.
3. In all cases of delayed delivery, compensation claims of the Purchaser are excluded, even after any extension granted to the Supplier has expired. This does not apply where liability is legally mandated, such as in cases of intent or gross negligence; a change in the burden of proof to the detriment of the Purchaser is not included. The Purchaser's right to withdraw after fruitless expiry of an extension granted to the Supplier shall remain unaffected.
4. If dispatch or delivery is delayed at the Purchaser's request by more than one month after notification of readiness for dispatch, for every month commenced, the Purchaser may be charged storage costs of 0.5% of the price of the objects of the Deliveries, but no more than 5%. The contracting parties have the right to provide evidence of higher or lower storage costs.

V. Transfer of risk

1. The risk, even with freight-paid delivery, is transferred to the Purchaser as follows:
 - a) With Deliveries without installation or assembly, when they have been delivered or picked up. Deliveries are to be insured by the Supplier against the usual transport risks at the request and expense of the Purchaser.
 - b) With Deliveries with installation or assembly on the day of installation in the Purchaser's own works.
2. If the dispatch, delivery, start, performance of installation or assembly, acceptance in the Customer's own works is delayed for reasons imputable to the Purchaser or the Purchaser is in default of acceptance for some other reason, the risk shall pass to the Purchaser.

VI. Installation and assembly

Unless otherwise agreed in writing, the following provisions apply to installation and assembly:

1. The Purchaser shall make available at his own expense and in good time:
 - a) all earthworks, construction works and other ancillary works, including the requisite skilled and unskilled labour, construction materials and tools,
 - b) all the implements and materials such as scaffolding, lifting equipment and other devices, fuels and lubricants required for assembly and commissioning,
 - c) energy and water at the point of use, including connections, heating and lighting,
 - d) at the site of assembly sufficiently large, suitable, dry and lockable rooms for the storage of machine parts, apparatus, materials, tools etc. and appropriate workrooms and recreation rooms, including appropriate sanitary facilities for the assembly personnel; furthermore, the Purchaser has to take measures to protect the possessions of the Supplier and the assembly staff at the construction site that he would take to protect his own property.
 - e) Protective clothing and protective devices required due to special circumstances at the assembly site.
2. Before the assembly work starts, the Purchaser shall provide the information required regarding the location of concealed electric, gas and water lines or of similar installations as well as the necessary structural data.

3. Before installation or assembly work starts, the materials and equipment required for the commencement of the work must be available at the installation or assembly site and all preliminary work have progressed so far prior to installation that installation or assembly can be started as agreed and carried out without interruption. Access roads and the installation or assembly site must be levelled and cleared.
4. If there is a delay in installation, assembly or commissioning on account of circumstances for which the Supplier is not to blame, the Purchaser has to bear the costs for the waiting time and any additional trips of the Supplier or the assembly personnel to an appropriate extent.
5. The Purchaser shall attest to the Supplier at weekly intervals the hours worked by the assembly personnel as well as the completion of installation assembly or commissioning.
6. If after completion, the Supplier demands acceptance of the delivery, the Purchaser must comply therewith within two weeks of ordering. If not, then the work shall be considered as accepted. Acceptance is also deemed to have occurred if the Deliveries have been put to use – possibly after completion of an agreed test phase.

VII. Acceptance

Deliveries must be accepted by the Purchaser, even if they have minor defects.

VIII. Guarantee

1. The prerequisite for any warranty rights of the Purchaser is his proper performance of all obligations to inspect and complain due under Article 377 HGB (German Commercial Code).
2. Warranty claims expire 12 months after the transfer of risk. If a defect in the delivered item is present, the Supplier is obliged, at his discretion, to provide supplementary performance in the form of repair or the delivery of a new defect-free product if a repair has failed twice. In the case of substitution, the Supplier shall bear the necessary expenses only up to the amount of the purchase price.
3. If the remedy fails, the Purchaser is entitled, at his discretion, to demand withdrawal or reduction.
4. The warranty does not extend to natural wear and tear or damage arising, after the transfer of risk, from faulty or negligent handling, excessive load, unsuitable equipment, defective construction work, unsuitable building or damage incurred due to special external influences that are not presupposed after contract conclusion as well as to non-reproducible software errors. If improper modifications or repair work is carried out by the Purchaser or third parties, then there is no warranty for them or the resulting consequences.
5. Other warranty claims of the Purchaser against the Supplier and his vicarious agents shall be excluded; Article XI (Other Liabilities) remains unaffected.

IX. Industrial property rights and copyrights

1. Insofar as a third party asserts a justified claim against the Purchaser on account of an infringement of an industrial property right or copyright (hereinafter: Property Rights) caused by goods delivered by the Supplier and used as specified in the contract, the Supplier is liable to the Purchaser as follows:
 - a. The Supplier shall choose whether to acquire, at his discretion and at his own expense, either a licence to use the product, to modify the product so that the property right is not infringed, or to exchange the product. If it is not possible for the Supplier to do so under reasonable conditions, he has to take back the product and refund the purchase price.
 - b. The above-mentioned obligations of the Supplier shall only apply when the Purchaser notifies the Supplier of any such claim asserted by the third party immediately in writing, does not acknowledge an infringement, and leaves any protective measures and settlement negotiations to the discretion of Supplier. If the Purchaser stops using the product for reasons of the mitigation of damage or for other important reasons, he is obliged to point out to the third party that the suspension of use

does not mean the acknowledgment of an infringement of an industrial property right.

2. Claims of the Purchaser shall be excluded if he himself is responsible for the infringement of the industrial property right.
3. Claims of the Purchaser shall also be excluded if the breach of the industrial property right is caused by special instructions of the Purchaser, by a use not foreseeable by the Supplier, or by the fact that the product has been modified by the Purchaser or used together with products not provided by the Supplier.
4. Further claims against the Supplier are excluded; Article XI (Other Liabilities) remains as unaffected as the Purchaser's right to cancel the contract.

X. Impossibility of performance, adaptation of contract

1. If the Delivery that the Supplier is obliged to carry out becomes impossible for a reason for which he is to blame, the Purchaser is entitled to claim damages. However, the claim for damages paid to the Purchaser shall be limited to 10% of the value of that part of the delivery which cannot be put to its intended use due to the impossibility of performance. This shall not apply insofar as in cases of intent, gross negligence or initial lacking performance liability is legally mandated; there is no change of the burden of proof to the disadvantage of the client under this article. The right of the Purchaser to cancel the contract remains unaffected.
2. Insofar as unforeseeable events within the meaning of Article IV No. 2 substantially change the economic importance or the contents of the Deliveries or substantially affect the Supplier's business, the contract shall be adapted accordingly in good faith. Where doing so is economically unreasonable, the Supplier shall have the right to withdraw from the contract. If he wishes to exercise this right to rescission, he shall immediately notify the Purchaser after having acknowledged the repercussions of the event, even if an extension of the delivery period was initially agreed on with the Purchaser.

XI. Other liability

1. Under the statutory provisions, the Supplier is liable if the Purchaser asserts claims for damages based on intent or gross negligence, including intent or gross negligence of its representatives or vicarious agents. If no intentional breach of contract is imputed to the Supplier, the liability for damages is limited to foreseeable, typically occurring damage.
2. Under the statutory provisions, the Supplier is liable if he culpably violates an essential contractual obligation; in this case, however, liability for damages is limited to foreseeable, typically occurring damage. An essential contractual obligation exists if the breach of duty relates to a duty, the performance of which the customer has relied upon and indeed was entitled to rely upon.
3. The liability for culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.
4. Unless regulated otherwise above, liability is excluded.

XII. Place of jurisdiction

1. If the Purchaser is a merchant who has been entered as such in the commercial register, the sole court of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is, at the discretion of the Supplier, the headquarters or branch of the Supplier.
2. The contractual relationships are governed by German law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XIII. Bindingness of the contract

Even with the legal invalidity of individual items, the remaining parts of the contract remain binding. This does not apply if adherence to the contract would represent an unreasonable hardship for one party.