

Conditions for sale and delivery

1. General Conditions

- 1.1. The following sales and delivery conditions apply to all deliveries and services. They apply only to contractual relationships with traders as defined by §24 of the AGB-law.
- 1.2. Customer conditions that have not been explicitly recognized by the supplier, do not apply even if they are not explicitly rejected by the supplier.
- 1.3. All other agreements, alterations or supplementary agreements require written confirmation.
- 1.4. Inclusion and interpretation of these sales and delivery conditions is governed exclusively by the law of the Federal Republic of Germany. The same applies to the conclusion and interpretation of all legal transactions with customers themselves. The unified laws regarding the conclusion of international contracts of purchase of movable goods (BGBl.1973 1 S.688) and the international purchase of movable goods (BGBl.1973 1 S.856) and the UN purchase laws do not apply.
- 1.5. If individual clauses of these conditions of sales and delivery should be invalid, this does not affect the validity of any of the other clauses. Customer and supplier agree to replace the invalid clauses with new conditions in conformity with existing law and conforming as closely as possible to the original legal and economic purpose.
- 1.6. Within the provisions of the Federal Data Protection Law (BDSG) the customer gives permission to the supplier to process data on the customer, as far as it is relevant to the implementation of the contract, and to transfer this information within departments of the supplier's organisation concerned with the implementation of the contract. The supplier is not required to give further notice of this processing of transfer of information. The supplier reserves the right to take out credit insurance against business contracted with the customer and to transfer relevant data on the customer to the insurer. The customer explicitly acknowledges this right of the supplier.
- 1.7. The parties agree to settle all obligations arising directly or indirectly from this contract, including all financial obligations, at the headquarter location of the supplier.
- 1.8. The court of jurisdiction is the court responsible for the headquarter location of the supplier. The supplier reserves the right to initiate legal proceedings in courts responsible for the headquarters or branch locations of the customer.

2. Tender, Delivery Lot, Conclusion of the Agreement

- 2.1. All tender offers are subject to alterations.
- 2.2.1. The scope of the services agreed in the contract is defined exclusively by the confirmation of order.
- 2.2.2. For customer-specific products, deviations in volume from the quantity ordered of +/-10% are permissible, insofar as they are due to technical causes and remain reasonable for the customer.
- 2.2.3. The supplier reserves the right to make changes in design, materials, specification and construction after despatch of the order confirmation, as long as these changes do not contradict either the order confirmation or the specification of the customer.
- 2.2.4. Partial deliveries are permissible.
- 2.2.5. The customer is obliged to accept delivery. This condition applies regardless of customer rights with reference to liability and product guarantee.
- 2.2.6. Unless the supplier has explicitly stated otherwise pictures, drawings, dimensions and weight specifications supplied with tenders or confirmations of order are to be treated as approximations.
- 2.3.1. Acceptance of an order is indicated by a written confirmation from the supplier, or by delivery of goods, if written confirmation was not possible. Orders once placed are irrevocable.
- 2.3.2. If there is a significant change in the conditions applying when the contract was agreed, the supplier reserves the right to refuse delivery until the customer has fulfilled outstanding obligations or supplied adequate security.

3. Prices and Conditions of Payment

- 3.1. Besides other agreements, prices quoted are factory prices including loading, but excluding packaging and other freight charges. The packaging is charged at cost and is not returnable. Prices are net excluding VAT.
- 3.2. Prices are given in the price list, that is valid at the time of delivery. Volume rebates are specified in the tender and the price list (volume scales).
- 3.3. Minimum order volumes for equipment that is not intended for "sale from stock" are given in the price list. Orders of less than the minimum volume will be charged at the minimum order level.

3.4.1. In case of substantial unforeseen changes in production costs, the supplier reserves the right to agree with the customer a price, differing from that given in the order confirmation.

3.4.2. Additional costs due to changes requested by the customer after confirmation of the order will be charged to the customer.

3.5.1. The customer agrees to make payment in full within thirty days of bill being sent to the customer. A cash discount of two percent will be given within ten days. Invoices for repairs must be paid cash without any discount.

3.5.2. The date of payment is the day on which the customer initiates the payment of the outstanding amount.

3.5.3. In case of default on payment the customer will be charged interest at five percent on the outstanding amount and, once a reminder has been sent, four percent above the current discount rate of the ECB. The supplier reserves the right to make further claims in case of default.

3.5.4. Bills of exchange and cheques will be accepted only as a means of payment and credited to the customer only after they have been cleared. Bank charges, discounting and other expenses will be charged to the customer.

4. Delivery Periods, Acceptance and Shipping

4.1.1. To the best of his ability the supplier will meet the delivery dates agreed. The delivery dates set by the supplier are best estimates and subject to alteration, provided that fixed delivery dates were not agreed in the order confirmation.

4.1.2. The delivery period begins with the date on which the order confirmation was sent. A reasonable extension to the delivery period will be added if the customer fails to supply relevant documents, licenses etc. or fails to comply with important contractual conditions or financial obligations. An extension period is permissible in case of labour disputes, particularly strikes or lock-outs, and the occurrence of other unforeseen obstacles to delivery beyond the control of the supplier - such as delayed delivery by suppliers, transport or technical problems, shortages of materials or power. These conditions are subject to the occurrences having a demonstrable impact on the production and delivery, that have already been incurred.

4.1.3. The delivery period is met if the goods have left the factory by the end of the delivery period or if notice has been given of readiness for shipping within the agreed period.

4.1.4. If the supplier fails to make delivery within a reasonable extension period set by the customer, and the customer suffers demonstrable harm as a result of this delay, the customer has the right to charge for each full week of delay the sum of 0,5% of the value of the part of the delivery that is not available to the customer as a result of the delay, up to a maximum of five percent of the value of the delayed delivery. If the customer exercises this right, all other claims relating to the delayed delivery will be considered void. All further claims to damages on the part of the customer are excluded in case of late delivery on the part of the supplier. The supplier accepts liability only in case of intentional delay or negligence.

4.1.5. The customer has the right to withdraw from an order agreement, if the supplier fails to meet an extension date set for delivery.

4.2.1. If no collection date has been otherwise arranged, the customer must collect the delivery within eight days of notice having been given.

4.2.2. If the customer has placed a call-order, he must make calls for the full amount within twelve months of the order having been placed. Clause 4.2.1. applies. Special conditions apply to development contracts.

4.2.3. If the customer fails to comply with 4.2.1 and 4.2.2. the supplier is entitled to demand immediate payment, to put the delivery in storage at customer's expense, or to dispose of the delivery in any other way and to make delivery to the customer at the earliest possible moment. On notification of readiness for collection, liability for damage or deterioration of the delivery is accepted by the customer.

4.3.1. Shipping from the factory will be charged to the customer. The supplier accepts no liability for damage during shipment. The supplier will obtain insurance against freight risks, other damage and theft only on instruction by the customer and at the expense of the customer.

4.3.2. If the customer requests that shipping be delayed, he will be charged for the costs incurred in factory storage, starting from one month after notification of readiness for delivery. Storage will be charged at going rates or at a monthly rate of one half of a percent of the delivery value, whichever is higher. Should the customer fail to take delivery within a reasonable extension period, the supplier is entitled to dispose of the delivery as he sees it and to make delivery to the customer within a reasonable period.

5. Setting-up and Assembly

The "Business Conditions for Setting-up and Assembling Equipment" that have been made available to the customer apply to all such services agreed in the contract.

6. Transfer of Liability

Liability is transferred to the customer after he takes delivery, after refusal to take delivery, if the customer fails to take action after expiry of extension periods as discussed in 4.2.1 and 4.2.2, or after expiry of delivery periods agreed between the parties. If shipping to the customer or third parties have been agreed, liability goes over to the customer when the goods are transferred to the transport agent (Freight company, rail operator etc.). Liability is accepted by the customer in any case when the goods are taken into use. If goods are returned to the supplier for reasons which he is not responsible, then the customer accepts liability until the goods are received by the supplier.

7. Reservation of Proprietary Rights

7.1. Goods sold to the customer remain the property of the supplier until all obligations arising from the contract of sale have been satisfied. The supplier will release equivalent sureties when 90 percent of the financial claims have been settled.

7.2. The customer may not use goods delivered under these reservations as security against loans. The customer agrees to inform the supplier immediately, if the goods provided by the supplier are impounded by creditors or any other claims are made on the goods by third parties.

7.3. If the goods are modified or processed by the customer the right of the supplier extended to the new product. If the goods supplied are processed, joined to or amalgamated with other materials, the supplier acquires rights over the joint product equivalent to the proportionate value of the products involved at the time of processing, joining or amalgamation. The customer is entitled to make regular business transactions involving the goods subject to reservation of proprietary rights. If the customer agrees to sell the goods to a third party without receiving immediate payment in full or equivalent payment for the quantity of goods supplied, the customer himself must agree to the reservation of proprietary rights over the goods. The financial claims and rights of the customer arising from this transaction are transferred immediately to the original supplier. On request of the supplier, the customer agrees to provide the name of the third party and to supply the information and documents necessary for the supplier to make claims against the third party.

8. Guarantee Agreement

8.1. Faults reported within six months of the equipment coming into use and no more than nine months after transfer of liability to the customer will be repaired by the supplier. The supplier reserves the right to replace the faulty equipment rather than carry out repairs. Written notification of faults must be made to the supplier within 14 days of receiving the goods in case of obvious defects and immediately on detection in case of invisible faults. If repair or replacement should prove unable to remedy the defect, the customer has the right to demand that the contract be cancelled or that there be a reduction in price. Spare or replacement parts should be checked on delivery from the supplier and any faults should be reported immediately. The supplier accepts no responsibility for faults that could have been detected prior to installation or processing.

8.2. If the customer checks the goods supplied and reports a fault for which the supplier would be responsible under section 8.1, he is responsible for costs incurred by the supplier, if it should be established subsequently that there was no such a fault.

8.3. Further claims on the part of the customer resulting from faulty goods - insofar as these do not arise from failure to meet agreed specifications - will be considered invalid. This condition does not apply, if the supplier is proven to have acted intentionally or negligently.

8.4. The costs of packaging and returning the goods will be born by the supplier, as long as there is no other agreement between the parties.

9. Liability

9.1. Claims for damages on the part of the customer - for whatever reason and including those resulting from illegal actions of the supplier or further damage ensuing from faulty goods - are invalid. This condition does not apply if the supplier can be proven to have acted intentionally or negligently, or the goods supplied fail to meet the specification agreed.

9.2. If the customer claims damage to persons or property, ensuing from faults to the goods supplied, under the terms of the product liability law (Produkthaftungsgesetz), then the above exclusion of liability does not apply.

9.3. The supplier will no be liable for damage resulting from the following causes: unsuitable or incorrect use of the goods; incorrect assembly or operation by the customer or third parties; failure to follow operation instructions: incorrect or negligent use of the goods; normal wear; chemical, electrochemical or electrical influences, insofar as these influences are not due to intentional actions or gross negligence of the supplier; unauthorised modifications or servicing.

9.4. The supplier is responsible for advice given to the customer, particularly on the use of the equipment, only if it is given or confirmed in writing.

10. Repairs

The "Business Conditions for Service and Repairs" that have been made available to the customer, apply to all such services agreed in the contract.

11. Copyright

11.1. The supplier retains property rights over drawings, sketches, and cost estimates and all other documents supplied with all tenders and confirmations of order. The customer may use them only for agreed purposes and may not reproduce or distribute these to third parties without permission from the supplier. On request, these documents and all copies made of them shall be returned to the supplier.

11.2. Tools and/or installations produced by the supplier remain his property, even if some or all of the costs have been charged to the customer. On request by the customer, the supplier is required to make payment to the customer equivalent to the time value of any tools and/or installations. If the supplier should refuse to do so, the customer has the right to demand that the tools and/or equipment be made over to him.

Commercial register: Darmstadt, HRB No. 54689

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