

# Terms of Sales and Delivery

Our below listed terms of sales and delivery are valid only for business people according to § 1 HGB (German Commercial Code), also for corporate bodies of public law or special funds subject to public law, which are entrepreneurs in terms of the BGB (German Civil Code).

Differing General Terms and Conditions of the buyer, unless expressly accepted by us in written form, are without obligation to us, even if not explicitly contradicted.

Our sales employees and systems engineers have merely power to contract and are not entitled to make verbal supplementary agreements or to give verbal assurances exceeding the written sales contract. In particular they are not entitled to make guarantee statements or to guarantee features without our written authorisation. All agreements between the buyer and us with regard to the execution of this order are binding when put down in writing.

## 1. Extent of Delivery Commitment

Our offers are without engagement and subject to prior sale, unless otherwise expressly stated. Alterations serving the technical progress are reserved as far as reasonable to the customer.

## 2. Prices and Terms of Payment

Our prices do not include the costs for packing, transport insurance, freight and installation, unless otherwise agreed.

If the terms for delivery or fulfilment are 4 months or less after conclusion of the contract, the prices stated in the contract are applied. In case a longer delivery time is agreed, the prices valid on the delivery day will be charged, as far as the price increase is appropriate and reasonable to the customer according to §§ 315, 316 BGB (German Civil Code). If we reserved the right to adjust the prices in case of exchange rate changes, we are entitled to charge the price according to the current exchange rate on the delivery day.

Our invoices are to be paid strictly net on delivery of the goods, unless otherwise agreed.

Cheques or bills of exchange are only accepted in fulfilment of the contract; we expressly reserve the right to refuse bills of exchange. Discount and bill charges are for the buyer's account and are immediately payable.

In case of non-cash payment, the date on which the invoice amount is credited to our account is relevant for the adherence to the term of payment.

Any discounts or special reductions allowed are subject to complete and due payment according to contract. They will particularly expire, if the buyer defaults in payment or partial payment.

If the buyer, after receipt of the notification of readiness for dispatch, fails to accept the goods or to supply the forwarding instructions or the delivery address or to meet his liabilities or to provide a security agreed upon, after expiry of a period of grace, we are entitled to refuse performance of the contract and to claim damages for non-performance, or to withdraw from the contract. We can, regardless of the possibility to claim for higher actual damages, demand 20% of the sales price without evidence as compensation for loss caused by non-performance. The buyer reserves the right to prove that a minor or no loss has been caused.

In case of delayed payment, we can demand an interest of 5% p.a. above the discount rate according to §1 DiskontsatzüberleitungsG. without evidence, but not less than 9% p.a. The claim for further damages is reserved.

## 3. Retention of Title

We reserve the right of property to the goods until the complete purchase price including interest for delay and prosecution costs is paid. The buyer is only entitled to resell the goods sold under reserve according to the rules, if he assigns all present and future claims accruing from the resale to us when the underlying contract is concluded. If the goods sold under reserve are reworked or assembled or compounded with objects being property of the buyer, the buyer yet assigns the claims resulting from the resale with all supplementary rights in full, in case of property of a third party at least up to the value of the goods sold under reserve, to us. We accept the assignment. The buyer commits himself to providing immediate and full information on the stock of assigned claims and the particulars of each third party debtor on demand and, if necessary, to disclosing his sales documents.

The buyer has the revocable right to collect these debts regardless of the assignment. Our right to collect the debts ourselves remains unaffected. We however commit ourselves to making no use of this as long as the buyer meets his liabilities and other obligations (obligation to give information and obligation to disclose) properly.

We are obliged to release the goods sold under reserve by request of the buyer, as soon and as far as the value of the existing securities exceeds the amount of the outstanding debts by 20%.

In case of distraint or confiscation of the goods sold under reserve or other access on the part of any third parties, the buyer is obliged to inform the seller immediately. The buyer has to repay all costs associated with the replevin or the return of the goods, respectively, or to exempt us from these costs on demand.

If the buyer acts contrary to contract, especially in case of delayed payment, the seller is entitled to demand back the goods sold under reserve, and the buyer is obliged to deliver the goods. In this case, the buyer must immediately communicate the whereabouts of the goods. The buyer insofar yet surrenders his proprietorship, we accept this surrender.

The reclaim of the goods sold under reserve by us does not mean the cancellation of the contract, unless the Hire-Purchase Act applies.

## 4. Term of Delivery

Delivery dates or terms of delivery which can be declared to be binding or not to be binding, have to be stated in writing.

Act of God, strikes, inability to deliver without our fault or the fault of one of our distributors extend the term of delivery for the duration of the obstruction.

After the non-committal delivery date or the the non-committal term of delivery is exceeded, the buyer has the right to request us to deliver within a reasonable period of time.

## 5. Passing of Risk

The risk passes to the buyer, as soon as the consignment is passed to the person who carries out transport or as soon as the goods leave our premises for the purpose of transport, irrespective of the place of delivery and of who bears the freight costs. If the goods are ready for dispatch, and the shipping or the acceptance of the goods is delayed for reasons beyond our control, the risk passes to the buyer on receipt of

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the notification that the goods are ready for dispatch. The goods are generally insured against damages in transit at the expense of the buyer, unless the buyer instructs otherwise.

## 6. Packing

Packing is charged at cost price, dual-use packages are prorated.

Packing is non-returnable unless a dual-use package is used which is marked by us accordingly. Such dual-use packages must be returned by the buyer freight paid. In case we are obliged to take back the package according to the German Packing Regulation, the buyer will fully assume this obligation and exempt us therefrom in every respect.

## 7. Installation

Unless a lump sum is stipulated for installation or mounting of the goods, the wages per hour plus daily allowances and travel expenses are invoiced according to the current price list. The buyer must enable unhindered installation in one operation. Even if a lump sum is agreed, surplus labour or waiting periods will be charged according to the price list, unless they are due to our actual fault.

## 8. Warranty, Liability

8.1. We give warranty for defects subject to the following conditions: The buyer is always obliged to examine the delivered goods without delay and to give notice of obvious defects to us immediately, but at the latest two weeks after delivery in writing. We are entitled to refuse delayed notices of defects. Ex-gratia acceptances of delayed notices of defects will not constitute future claims, unless pointed out by us correspondingly. Hidden defects must be given notice of immediately after their occurrence. The buyer must hold ready the defective object to us or the persons authorised by us for the purpose of examination during normal trading hours.

Complete devices comply with the regulations of FTZ/A. As far as legal or governmental regulations beyond this or other operating or safety regulations apply, their observance is the buyer's duty.

8.2. In case of defects to the goods for which we are liable, we are either entitled to remedy the defects or to deliver replacement at our own choice. In the event of remedy of defects, we are obliged to bear all expenses necessary for the remedy of defects, in particular transport, labour and material expenses, except when the expenses increase because the goods are brought to a place other than the place of performance. In case of replacement we must be allowed a reasonable time for delivery. Any further liability during the completion of the remedy or replacement is excluded, except for our liability for damages to persons according to 8.5. The buyer can only assert his further legal rights under the terms of § 437 BGB (German Civil Code) if the remedy or replacement failed or further attempts are unreasonable.

8.3. In case we are not willing or able to remedy defects or to deliver replacement, particularly if the replacement delivery delays more than a reasonable period of time, for reasons we are liable for, or if the remedy / delivery fails otherwise, the buyer is entitled either to withdraw from the contract or to ask for an appropriate reduction of the purchase price.

8.4. Unless anything else arises from the following, further claims of the buyer - no matter on what legal basis - are excluded. We are therefore not liable for a loss other than to the delivery item itself. In particular, we are neither liable for loss of profit nor for any other property damages the buyer may claim.

8.5 Above exemption from liability is void in case the damage is caused deliberately or through gross negligence by our executive employees or executive bodies or auxiliary persons. The exemption from liability is also void, if there exists a warranty of certain qualities including the risk of consequential loss, and the damage depends on the absence of a warranted quality. In these cases however, our liability for damages is also limited to the foreseeable loss. We are liable without limitation for damages resulting from fatal injury, bodily injury or damage to health, if these are due to an act of negligence by us or an act of gross negligence or wilful neglect of duty by a legal agent or an auxiliary person.

8.6 Should we negligently breach fundamental contractual duties, our liability to pay damages for property loss is limited to the payment of compensation by our product liability insurance. This applies especially also to breach of duties before or during contract negotiations or after conclusion of the contract, as well as to faults in choosing the means of transport or the transport route. We will be pleased to show the buyer our policy on request. In these cases however, our liability to pay damages is also limited to the foreseeable loss. Beyond this, as well as beyond the liability provided for in items 8.4 and 8.5, we exclude liability for damages as far as legally allowed.

8.7 We give a twelve months' warranty starting from the transfer of risk. This term is a prescription period and does also apply to claims for damages for consequential loss due to defects, as far as no claims in tort are lodged.

If we are obliged to deliver replacement due to the above-mentioned regulations and/or legal provisions, the buyer has to make up for surplus value due to technical improvements vis-à-vis the original delivery, provided that the improvement to the product is an objective advantage for the buyer.

## 9. Damage in Transit

If the delivery is carried out by a forwarding agent, by rail or mail, the goods have to be examined immediately upon receipt. All damages must be immediately reported to the railway or the postal authorities or to the forwarding agent as well as to the seller in written form. If possible, complaints must already be made on receipt of the goods. The carrier must receive the notice of claim within no more than six days after delivery. The buyer is responsible for the fulfilment of these obligations.

## 10. General Rules

The buyer is not entitled to transfer his rights to a third party without the explicit consent of the seller.

If one or more of the above sales conditions or other agreements are void or invalid, the validity of the contract or the other sales conditions is not affected.

## 11. Place of Jurisdiction

For all disputes resulting from the contract, also for actions on bills of exchange and cheques, for active and passive legal proceedings, the non-exclusive place of jurisdiction is Munich.

We are also entitled to take legal action at the buyer's headquarters.