

General Terms and Conditions of Trade

I.

Validity

The following General Terms and Conditions of Trade are valid for all contracts, deliveries and other services rendered, including advisory services in so far as they are not amended or excluded with the explicit approval of the supplier. The General Terms and Conditions of the purchaser shall not be binding even when the latter are not explicitly contested by the supplier.

II.

Prices and Payment

1. The prices are to be understood as including loading, but excluding packaging, transportation and insurance costs. In addition to the prices, the respective, legally valid Value Added Tax will be charged. Additional services, such as initial briefing, commissioning for operational readiness, etc. are not included in the price.

2. Payment shall be effected in cash without any deductions to the payment office of the supplier as follows:

One third initial payment on confirmation of order;
One third as soon as the purchaser has been notified that the goods are ready for delivery;
One third within a further period of one month.
For deliveries with a due date later than 4 months after conclusion of contract, price increases shall be permissible in so far as they are based on changes effecting price binding factors occurring after conclusion of the contract which were unforeseeable when the contract was concluded. Such price increases must be justified by the change in price binding factors and shall be notified to the purchaser within a reasonable period of notice.

III.

Offsetting and Withholding Payment

The purchaser shall be entitled to declare the offsetting of payments or exercise his right to withhold payment solely in respect of undisputed or legally determined claims against the supplier.

IV.

Transportation, Transfer of Risks

The costs of packaging and transportation shall be borne by the purchaser. The supplier shall only conclude a transportation insurance contract if he is explicitly requested to do so by the purchaser. The corresponding insurance costs shall be borne by the purchaser. The transfer of risks to the purchaser shall be effected as soon as the operationally ready goods have been consigned

for transportation or have been collected from the supplier. This shall also apply if carriage free delivery has been agreed. The above provisions shall also apply if the consigned objects are sent directly to the purchaser by a third party. The transportation costs in this case, however, shall not exceed those that would have been incurred if the goods had been sent from the seat of the supplier.

V.

Term of Delivery

1. Binding terms of delivery must be explicitly agreed in writing. Terms such as "approximately", etc. shall not be deemed binding delivery dates but rather shall merely signify the expected date of delivery.
2. The period of delivery shall begin when the confirmation of order has been sent, but not, however, until the purchaser has submitted the required documents, approval and release certificates and not until the agreed initial payment has been received from the purchaser.
3. The terms of delivery shall be deemed fulfilled when the consignment of the delivery object has left the factory or when the purchaser has been informed of the readiness for delivery within the agreed period.

VI

Force Majeure

In the event of Force Majeure and other unforeseeable, extraordinary circumstances, arising through no fault of the supplier, - e.g. difficulties in material procurement, operational disruptions, strike action, lock-outs, lack of transportation means, official interventions, energy supply problems, etc. - also if these shall occur to sub-contractors or sub-suppliers, the delivery period shall be extended in commensurate measure if the supplier is hampered in the punctual fulfilment of his delivery obligations. Should the aforesaid circumstances render it impossible or unacceptable for the supplier to meet the delivery or service obligations, the supplier shall be freed from said obligations.

In so far as the delay in delivery persists for longer than 4 weeks, the purchaser shall be entitled to withdraw from the contract. Should the delivery period be extended or if the supplier is freed from his delivery obligation, the purchaser shall not be entitled to lodge claims for damages on these grounds.

VII.

Retention of Title

The supplier retains title to the delivery objects until all claims arising from this contract and all other claims – including future claims against the purchaser have been fully met. The purchaser shall neither be entitled to pledge nor assign the delivery object as security. In the event of compulsory enforcement, sequestration or other legal interventions by third parties, the purchaser must inform the supplier immediately.

If the purchaser is a re-seller, the re-sale of the goods delivered in the normal course of business is permissible provided that the claims arising from said re-sale, including all additional rights, may already at this point be assigned to the supplier.

Should the purchaser fall into arrears or should he fail to fulfil his obligations in respect of the retention of title, the supplier shall be entitled to demand that the purchaser return the goods and, after a commensurate period of warning notice, freely sell said goods at the best obtainable price, offsetting the proceeds against the purchase price. All costs arising from the recovery and disposal of the goods shall be borne by the purchaser. The return of the goods does not constitute a declaration of withdrawal from the contract,

The supplier shall undertake to free securities assigned to him in so far as their realisable value exceeds the claims thus secured, in the event that said claims have not already been settled, by more than 20% .

VIII.

Warranty

In the event of faults, the supplier shall bear the following liability:

1. The purchaser shall inspect the goods immediately on receipt in respect of quantity, condition and promised characteristics and properties. He shall immediately complain to the supplier in writing of any obvious faults discovered.

2. Justified faults may be remedied by repair or replacement of the faulty items at the discretion of the supplier.

3. The supplier shall grant the purchaser the opportunity and a reasonable period of time for the remedying of faults, in particular, he shall make the faulty item or a sample thereof available to the supplier, otherwise the warranty shall become invalid.

4. In the event that the supplier fails to remedy the fault or replace the faulty goods within a reasonable period of grace or should it be impossible to remedy the fault or replace the item in question or should the supplier refuse to do so,

the purchaser shall be entitled to exercise his right to have the contract annulled (Transformation) or to demand a price reduction (Reduction) at his own discretion.

5. In the event of any modifications or maintenance work on the items delivered being improperly performed by the purchaser or other third parties, any liability on the part of the supplier for the resulting consequences shall be null and void.

6. The warranty covers a period of six months.

IX.

Liability Limitations

Liability for damage claims on the grounds of impossibility and delay, in the case of ordinary negligence, shall be limited to the damages pertaining to the contract object. Liability for subsequent damage claims is excluded. Other damage claims arising from positive violation of contractual obligations, indebtedness on conclusion of contract, unlawful action or from other legal violations shall be limited to cases of malicious intent and gross negligence.

The provisions of the product liability law shall remain unaffected.

X.

Applicable Law, Place of Fulfilment, Court of Jurisdiction

Exclusively German law shall be applicable. Should the purchaser be a merchant registered in the Trade Register, a public legal entity or a special public legal asset, the place of fulfilment and court of jurisdiction is Krefeld. The same shall apply if the purchaser shall be without a general court of jurisdiction in Germany or if the purchaser, after conclusion of the contract, shall relocate his place of residence or normal place of abode outside of Germany or if the place of residence or normal place of abode is unknown at the time of instituting legal proceedings.