

General Terms and Conditions of Business (Germany) Issue 2003

I. Offers:

1. Offers issued by the company - including offers made on the basis of catalogues and brochures - are drawn up free of charge and are without obligation.

2. Any documents and other papers appended to the offer (illustrations, drawings, information regarding weight, dimensions, performance and any other information relating to the object of delivery - including from catalogues and brochures) are only to be understood as guides, if not expressly stated to be binding in the offer.

3. Catalogues, brochures and price lists from the company become invalid at the latest on publication of the new catalogue, brochure or price lists.

II. Conclusion of contract, scope of delivery:

1. In the absence of agreement to the contrary, the supply contract comes into being through written confirmation of the order on the part of the company.

2. The scope of delivery is exclusively defined by the written order confirmation of the company, including any technical or other documents. Information in the order confirmation and/or catalogues, brochures or descriptions which are valid at the time when the contract is concluded which contain information regarding the scope of delivery, appearance, performance, dimensions and weight, ambient temperature, current consumption, power input, breaking capacity or operating costs of the object of delivery form a constituent part of the contract. The information is to be considered as a guide and does not constitute warranted characteristics; it serves as a yardstick in order to establish whether the object of delivery is free of defects, unless specific confirmations to the contrary are contained in the order confirmation or written contract.

3. The company reserves the right to make changes to the object of delivery as regards design, execution and form, including subsequent to conclusion of the contract, in so far as contrary interests of the customer are not unreasonably restricted.

4. The customer is not entitled to assign or transfer claims or rights from any legal or contractual relationship involving obligations towards the company to third parties.

III. Delivery times:

1. Delivery times are basically binding, in so far as they have been confirmed by the company in writing. However, fixed-date purchase contracts are not undertaken. The agreed delivery period begins when the order confirmation is despatched or on the conclusion of the contract, but not before the customer has supplied all the documents, approvals and releases which are due from him and not before all individual (particularly technical) aspects of the object of delivery have been clarified, nor before receipt of any advance payments which may have been agreed. Adherence to the delivery date also presupposes that the customer has fulfilled all his contractual obligations. The delivery period is deemed to have been fulfilled if the object of delivery has left the company factory or if the readiness for despatch has been communicated to the customer before its expiry, in so far as the object of delivery cannot be delivered for reasons which are due to the customer.

2. The delivery period shall be prolonged correspondingly in cases of force majeure and also in the presence of unforeseen uncommon events, such as insurgency or riot, strike, lockout, fire, sequestration, embargo, limitation of energy consumption, incorrect or unpunctual delivery from the suppliers, in so far as these events are not the responsibility of the company, the company was not able to prevent them despite taking the care which is reasonable in the circumstances of the particular case and was not able to achieve timely fulfilment of the contract. If the delivery period is extended unreasonably based on such circumstances, the customer is entitled to withdraw from the contract following expiry of an appropriate period of grace to be set by the customer, or if the customer is interested in a partial delivery, he shall be entitled to withdraw from that portion of the contract which is not fulfilled.

3. If the company is in arrears with regard to the delivery, the customer must agree to a suitable extended delivery period. If this extended delivery period is exceeded by the company, the customer is entitled to withdraw from the contract or, in so far as the customer is interested in partial delivery, to withdraw from that portion of the contract which is not fulfilled. Further claims on the part of the customer - in particular claims for damages based on non-fulfilment or delay - are excluded, in so far as the following Section X does not specify to the contrary.

4. Deliveries made before completion of the delivery period and partial deliveries are permissible in the absence of agreement to the contrary in so far as contrary interests of the customer are not unreasonably restricted.

5. If delivery is agreed on a "call off" basis, the customer shall accept the delivery on the call-off dates.

IV. Prices, Payment:

1. The stated prices are to be understood ex works in Euro plus the relevant valid legal rate of VAT, even if not shown separately, plus costs for packaging, freight, installation, postal charges, insurance costs, any bank or other charges or fees associated with payment and any other ancillary costs. The prices are calculated based on the material prices and wages which apply at the time of conclusion of the contract. Any material price and/or wage increases which occur up to the date of delivery entitle the company to add the proven material price rise and/or wage rise to the price which was originally agreed, in so far as the delivery has to be effected within 4 months of conclusion of the contract - or, in the case of a customer who is a merchant in the legal sense and the contract belongs to the operation of his business or trade, within 2 months.

2. In the absence of written agreement to the contrary, payment of the price of the goods, plus any further costs as described in No. (1) above, must be made as follows:

- for invoices amounts over Euro 100, plus the valid legal rate of VAT, within 10 days of the invoice date with 2% discount.
- within 30 days of the invoice date, strictly net. Deduction of discount is, however, not permissible if a previous invoice to the customer has not been paid or has not been paid in full.

3. All payments - with the exception of any permitted deduction of discount - must be made without deductions of any kind to the payment location or bank of the company. Other means of payment are only accepted by special agreement and only on account of performance, and all collection or discounting fees associated with the means of payment shall be added to the due amount.

4. Payments are always used to cover the oldest unpaid debts in the customer's account, plus any interest and costs which may have accrued. Before all due invoiced amounts have been paid in full, including interest and costs, the company is not obliged to provide any further deliveries arising from any current contracts. If the customer is in arrears with any payment which is due, the company can demand cash payment of all outstanding amounts, disregarding the normal payment target with immediate effect, including notes receivable or deposits, before the delivery is made. Any invoices which are not yet due for payment can also be claimed as due with immediate effect.

5. Claims may not be offset against disputed counterclaims of the customer which have not yet been finally decided before a court of law or where decision before such a court of law is not yet due. If the customer is a merchant in the legal sense and if the supply contract belongs to the operation of his business or trade, any complaints are without influence on the duty of payment and the due date of payment and he shall not exercise his right to refuse or withhold performance, unless the company or his legal representatives or vicarious agents are guilty of gross infringement of the contract or if the counterclaims of the customer on which the refusal or withholding of performance are based are undisputed, established in law or due for decision before the law or, in the case of defective deliveries, if the company has already received sufficient payment.

V. Transfer of risk, Despatch, Packaging:

1. In the absence of written agreement to the contrary, the object of delivery will be delivered "ex works" of the company.

2. In all cases risk is transferred to the customer when the object of delivery is handed to the person or company responsible for the transport - including risk of seizure. This also applies if the company undertakes the transport itself, if the forwarding is carried out at the expense of the company or if the company undertakes delivery to the customer. If despatch is delayed for reasons which are the responsibility of the customer, the risk is already transferred to the customer when the object of delivery is announced as ready for despatch.

3. In the absence of agreement to the contrary, the company determines the type of packaging and despatch to be used. Despatch of the object of delivery - including of partial deliveries - is always without insurance, unless the customer requested insurance of the goods during transport in writing and confirmed that he shall be responsible for the costs of the transport insurance.

VI. Retention of title:

1. The company retains title to the object of delivery until all the claims resulting from the business relationship with the customer have been met.

2. The customer shall not be entitled to dispose of the object of delivery by way of sale, lien, pledging as security or in any other way during the period when the retention of title is in force.

3. Enforcement of the retention of title is not deemed to constitute withdrawal from the contract in so far as the law regarding ownership and payment by instalment (Abzahlungsgesetz - AbzG) does not apply.

VII. Warranty

1. The company shall be liable for defects of the object of delivery - defects here also to be taken to include the absence of warranted characteristics - in accordance with the following provisions.

2. Complaints due to incomplete or incorrect items delivered or complaints due to obvious defects must be reported to the company immediately following delivery of the item and the complaints must be communicated in writing, as otherwise the object of delivery is deemed to be accepted, unless the company, its legal representatives or vicarious agents are guilty of deception. Defects which cannot be discovered even during careful inspection immediately following delivery must be reported to the company in writing immediately following discovery, in so far as the customer is a merchant in the legal sense and the contract belongs to the operation of his business or trade.

3. The warranty offered by the company is limited to a period of 24 months following delivery of the item and is also limited to the obligation to either repair the items or replace them with defect-free items (at the company's discretion).

4. The customer shall send the defective object of delivery to the company for repair or replacement at his own risk. Any items which are replaced become the property of the company.

5. If repair or replacement is not successful, the customer can demand a reduction in price or cancellation of the contract.

6. Further claims of the customer, in particular because of injury of persons, damage to goods which are not the object of the contract or for loss of profit, consequential costs etc. are excluded, if not stated to the contrary in Item X below.

7. The warranty performance of the company does not cover natural wear and tear and parts which wear out early because of the materials of which they are made or their use, and also does not cover damage caused by incorrect storage, handling or use, excessive loading or stress or electro-chemical or electrical influences. Neither does it cover damage caused by non-observance of regulations concerning installation or use of the items which are supplied by the company. The warranty obligation of the company does not cover defects which are based on materials supplied or specified by the customer or any design laid down by the customer.

8. If certain performance criteria are laid down by the company in order to achieve a certain performance by the object of delivery, establishment of the performance may only be in accordance with these criteria.

VIII. Withdrawal from the contract

1. The customer can - apart from the other cases regulated in these conditions - also withdraw from the contract by means of written declaration to that effect if the company has become totally unable to fulfil the contract prior to the transfer of risk. In cases of partial impossibility, the right of withdrawal only applies if the partial delivery or the partial performance is demonstrably not of interest for the customer; otherwise the customer can require appropriate reduction in the price. Further claims of the customer against the company are excluded, if not stated to the contrary in Item X below.

2. If neither of the contractual partners is responsible for the impossibility, the company has a claim to the payment which corresponds to the work which has already been performed.

IX. Special manufacture, New development:

1. If the object of delivery has been specially manufactured for the customer, or if it is a new development undertaken according to specifications, drawings and instructions from the customer, any tools which have been purchased or manufactured for such special manufacture or new development shall remain in the ownership of the company and shall be charged to the customer as a separate item, in so far as there is no specific agreement between the parties to the contract. The company undertakes to keep such tools for one year following delivery of the objects of delivery. If the customer informs the company before this period has elapsed that orders will be placed within a further year, the period for which the tools have to be kept is also prolonged by a further year. Following elapse of the period for keeping the tools, the company can dispose freely of the special tools and other documents.

2. The customer is responsible for ensuring that rights and industrial property rights of third parties - in particular patents etc. - are not infringed in the course of manufacture, new development or special manufacture of an object of delivery in accordance with specifications, drawings and instructions of the customer. The customer undertakes to hold the company harmless without limitation in every respect, including time, as regards claims from any third parties, particularly claims arising from infringement of industrial property rights or patents.

X. Liability:

1. The customer is basically not entitled to make any other or further contractual or legal claims against the company, its legal representatives or vicarious agents, than are allowed for in these general terms and conditions of business or are expressly accepted by the company in writing.

2. Any other liability of the company, its legal representatives or vicarious agents, in particular in the cases described above in Items III. (3), VII. (6) and VIII. (1), is limited in cases of blame as a result of contract negotiations and positive violation of a contractual duty - to cases of deliberate intent, gross negligence, tortious infringement of fundamental contractual obligations or cardinal duties or the absence of warranted characteristics.

Deliberate intent, gross negligence or the lack of warranted characteristics allow the company, its legal representatives or vicarious agents to be liable to the full extent; otherwise, liability of the company, its legal representatives or vicarious agents is restricted to compensation for the foreseeable damage which is typical for this type of contract.

If the company has covered the risk which is typical of this type of contract by means of third-party liability insurance, the liability of the company, its legal representatives or vicarious agents is limited to the performance offered by the third-party liability insurance, in so far as the customer is a merchant in the legal sense and the contract belongs to the operation of his business or trade. If the insurance company is not obliged to pay, the company shall be liable to provide compensation up to the amount of the cover provided by the insurance out of its own pocket.

XI. Place of performance, legal venue, governing law:

1. The place of performance for payment obligations of the customer is 72186 Empfingen (Germany), for obligations of the company, the location of the company's supply factory.

2. The legal venue for all claims arising from the legal relationship, including those from bills of exchange and cheques, is 72160 Horb/Neckar (Germany), in so far as the customer is a merchant in the legal sense and the contract belongs to the operation of his business or trade.

3. All contractual and business relationships between the company and the customer shall be exclusively governed by the law of the Federal Republic of Germany, excluding the unified laws regarding the international sale of goods.

XII. Final provisions:

1. If one or more of the aforementioned provisions should be or become ineffective, this shall not influence the effectiveness of the remaining provisions.

2. These general terms and conditions of business apply for all supply of goods and services to the customer.

The customer shall raise an express objection or express objections if he is not in agreement with the above general terms and conditions or parts thereof.

Placement of an order or issue of a confirmation on the part of the customer while pointing out his own terms and conditions of business shall not be deemed an objection and the terms and conditions of the company shall remain unaffected, unless the company has accepted the terms and conditions of business of the customer or parts of these in the order confirmation or in another written context.

In cases of doubt, the German version of these general terms and conditions of business shall be binding.