

General Terms and Conditions of Sale (As of 08/2016)

I. General

- 1.) All deliveries and services supplied are subject to these terms and conditions and to other individually concluded agreements. Any Buyer's terms of purchase, which vary from these terms and conditions of sale, shall not become part of the contract even after acceptance of the purchase order. A contract shall become effective – unless otherwise agreed - with the written confirmation of the purchase order by the Supplier.
- 2.) For assemblies and commissionings within Germany the "VDMA Domestic Assembly Conditions" in their respective current version are valid. For repairs and maintenances within Germany the "VDMA Conditions for Repair Work on Machines and Equipment for Domestic Business" in their respective current version apply.
- 3.) The Supplier shall retain the copyrights and all industrial property rights to all samples, cost estimates, drawings and other information, both tangible and intangible – also in electronic form; such items may not be made accessible to third parties. The Supplier undertakes to make information and documents designated by the Buyer as confidential only accessible to a third party after receiving the Buyer's permission.

II. Prices and payment

- 1.) Unless otherwise specifically agreed upon, all prices are ex works and include loading in the works, excluding packaging, freight and unloading plus the currently applicable sales tax for domestic business. The transport insurance is to be carried by the Buyer. The minimum order value is € 100.
- 2.) Unless specifically otherwise agreed upon, payment must be effected without any deductions onto the Supplier's account as follows:

1/3 advance payment on receipt of order confirmation,
1/3 as soon as the Buyer has been informed that the main parts are ready for dispatch,
the remaining amount within 14 days after the transfer of risk.
- 3.) The Buyer has no right to retain or offset payments against counterclaims unless the Buyer's counterclaims are indisputable or have become final.

III. Delivery times, delay in delivery

- 1.) The delivery time results from the agreements between the contractual parties. The Supplier can only meet the delivery date if all commercial and technical questions arising between the contractual parties are clarified and if the Buyer fulfils all his contractual duties such as the presentation of required confirmations or permissions by public authorities or the payment of a deposit. If this is not the case, the delivery time prolongs accordingly. This shall not apply where the Supplier is responsible for the delay.
- 2.) The adherence of delivery times shall be subject to correct and punctual deliveries from our sub-suppliers.
- 3.) The delivery time shall be deemed met if the delivery item has left the works or readiness for shipment has been advised before its expiry. If acceptance is required – unless acceptance is refused for good reason – the acceptance date is relevant or alternatively the notification of readiness for acceptance.
- 4.) If the shipment or acceptance of the goods is delayed for reasons attributable to the Buyer, costs resulting from the delay shall be charged starting one month after notification of readiness of dispatch or acceptance to the Buyer.
- 5.) If the delivery time cannot be adhered to because of force majeure, industrial disputes or other events beyond the Supplier's sphere of influence, the delivery time shall be extended accordingly. The Supplier shall notify the Buyer of the commencement and the end of any such circumstances as soon as possible.
- 6.) The Buyer can withdraw from the contract without notice if the entire performance becomes impossible for the Supplier before transfer of risk. Moreover, the Buyer may withdraw from the contract if in the case of a particular order it becomes impossible to carry out part of the delivery and the Buyer has a justified interest in rejecting the part-delivery. If this is not the case, the Buyer must pay the contractual price for the part-delivery. The same shall apply in the event of the Supplier's inability. Otherwise clause VII.2 shall apply.

If the impossibility or inability occurs in default of acceptance, or if the Supplier is solely or predominantly responsible for these circumstances, the Supplier shall remain obliged to perform his part of the contract.

- 7.) If the Supplier defaults and the Buyer suffers a loss or damage as a result hereof, the Buyer shall be entitled to demand a lump-sum compensation for the default. The compensation shall amount 0.5 % for each full week of delay, in total, however, not more than 5 % of the value of the part of the entire delivery which as a result of the delay cannot be utilised in good time or not in accordance with the contract.

If the Buyer - under consideration of the legal exceptions - grants the Supplier a reasonable period for performance following the deadline and if this period is not adhered to, the Buyer is entitled to withdraw from the contract within the framework of statutory regulations.

Further claims as a result of late delivery shall be governed solely by clause VII.2 of these conditions.

IV. Passing of risk, acceptance

- 1.) The risk passes to the Buyer on the date of dispatching the goods, even if the dispatch consists of a part-shipment or the Supplier has agreed to render additional services, e.g. the freight costs or delivery and assembly. If acceptance has to be effected, the acceptance date is relevant for the transfer of risk.

It shall be performed on the acceptance date, alternatively after notification of readiness of acceptance of the Supplier. A non-significant defect does not entitle the Buyer to refuse acceptance.

- 2.) If dispatch or acceptance is delayed for reasons the Supplier is not responsible for, the risk passes to the Buyer from the date of notification of readiness of dispatch or acceptance. The Supplier undertakes to conclude the insurances demanded by the Buyer at the Buyer's expense.
- 3.) Partial deliveries are permissible, in so far as they are reasonable for the Buyer.
- 4.) In the case of custom-made products or products made according to drawings, the Supplier reserves the right to over- or under-supply by up to 10 % of the quantity ordered. The quantity delivered will be invoiced.

V. Retention of title

- 1.) The goods delivered by the Supplier remain the property of the Supplier until full payment of all claims arising from the business relationship has been effected.
- 2.) The Buyer is not entitled to neither pledge nor assign the delivered goods subject to retention of title as security for a debt. In the event of seizures and other court orders by third parties, the Buyer must inform the third party about our reservation of title and must notify the Supplier immediately in writing.
- 3.) The Buyer is entitled, subject to revocation at any time, to resell, to combine or to process the delivered goods in the ordinary course of business.
- 4.) In the event of the resale of retained goods, the Buyer hereby assigns the Supplier (without the necessity of an explicit assignment) his claims from the resale as well as all security and ancillary rights against his customer up to the amount of the value of the respective resold goods in order to secure our claim. The Buyer is revocably entitled and obliged to collect the assigned claim.

- 5.) The processing or combination of our goods with other products shall be performed for us as manufacturer, however, without any obligations for us. If our ownership ceases as a result of combining or processing, the Buyer agrees that we shall acquire co-ownership rights to the items resulting from any such processing or combination, to the extent of the value of the goods delivered by us. The delivery will be superseded by the Buyer safeguarding the item on our behalf. The co-ownership rights resulting hereafter shall be deemed as goods subject to retention of title. If the goods resulting from the processing or combination are re-sold, clause 4 shall apply correspondingly. The claim arising from the resale (including the security and ancillary rights) up to the amount of the contract price agreed between us and the Buyer is assigned to us.
- 6.) In the event of suspension of payment or bankruptcy filing of the Buyer or in case the Buyer is in default of payment, the authorization for resale, processing or combination as well as for the collection of customer claims by the Buyer automatically expires.
- 7.) In the event of default of payment or other behaviour contrary to the contract, the right of the Buyer to possess goods subject to retention of title expires. In this case we are entitled to take back the goods delivered subject to retention of title and to access the Buyer's premises, where the goods are stored. Taking back the goods does not constitute a withdrawal from the contract. The return costs are to be carried by the Buyer. If we demand the release of the retained goods, the Buyer is obliged to follow this request without delay. In case retained goods are re-sold, the Buyer must inform the Supplier on request immediately in writing, to whom he has sold the goods and which claims have arisen as a result of this resale.
- 8.) If the value of the collateral exceeds our outstanding claims by more than 20 %, the Supplier must release individual securities on request of the Buyer. The choice of security to be released is at the Supplier's discretion.
- 9.) If the agreed retention of title or the assignment is not legally valid according to the law applicable where the retained goods are located, then a security corresponding to the retention of title or the assignment shall be deemed to be agreed. If the involvement of the Buyer is necessary for this purpose, he must take all measures at his own expense that are required for substantiating and maintaining such rights.

VI. Claims for defects

The Supplier is liable for material defects and defects of title of the supplied goods to the exclusion of additional claims – subject to clause VII – as follows:

Material defects

- 1.) All parts found to be defective due to circumstances occurring prior to the passing of risk must be repaired or replaced by parts free of defects. Such repairs and replacements are free of charge. The choice of carrying out repairs or of replacing defective parts is at the Supplier's discretion. The Supplier must be informed immediately in writing of any identified defects. Replaced parts become the property of the Supplier.
- 2.) After notifying the Supplier, the Buyer must allow the Supplier sufficient time and opportunity to perform all repairs or replacements considered necessary by the Supplier, otherwise the Supplier shall be released from his liability for any consequences ensuing. The Buyer may only rectify the defects himself or commission a third party to rectify the defects and demand that the Supplier shall reimburse the costs accruing in urgent cases where the operational safety is threatened or to prevent disproportionate damages; In such cases the Supplier must be notified immediately.
- 3.) With regard to the direct costs arising in connection with the repair or replacement - provided the complaint is legitimate - the Supplier will bear the costs of the replacement part including shipping costs. The Supplier will additionally also bear the costs of removal of the defective part and installation of the new part together with the cost of providing the necessary service technician and assistants including travelling expenses, as long as this does not constitute an unreasonable burden on the Supplier, and unless the costs do not increase because the purchased item has been brought to a location other than the place of performance.
- 4.) The Buyer has the right to withdraw from the contract in compliance with the legal regulations if the Supplier - after due consideration of the special statutory exemptions - allows a reasonable period of grace given to him for the rectification or replacement of the defective parts to expire fruitlessly. If the defect is merely a non-serious defect, the Buyer is only entitled to abate the contract price. The right to abate the contract price shall be excluded in all other cases. All further claims are determined in accordance with clause 7.2 of these terms and conditions.
- 5.) No warranty is given for the following cases: unsuitable or improper use or storage, faulty assembly or commissioning by the Buyer or a third party, disregard of danger warnings, natural wear and tear, faulty or careless handling, improper maintenance, the use of unsuitable equipment, faulty construction work, unsuitable foundations, chemical, electrochemical or electrical factors - provided that the Supplier is not responsible for them.
- 6.) If the Buyer or a third party carries out incorrect repairs, the Supplier will not be liable for any consequences resulting therefrom. The same applies to any alterations to the supplied article carried out without the prior approval of the Supplier.

- 7.) Claims for defects by the Buyer are subject to him having fulfilled the inspection and notification obligations properly in accordance with § 377 HGB (German Commercial Code).
- 8.) Guarantees referred to § 443 BGB require an explicit written agreement. The same applies to availability commitments. All the particulars provided by the Supplier on the item sold or service rendered in its catalogues, brochures and price lists are only descriptions, identification markings or reference values, as far as they are not explicitly designated as binding in the order confirmation.

Defects of title

- 9.) If utilization of the supplied article leads to a violation of industrial or intellectual property rights within Germany, the Supplier will obtain the rights to allow the Buyer to basically continue utilizing the supplied article or the Supplier will modify the supplied article in an appropriate and reasonable manner such that it no longer violates the property rights; the costs of obtaining these rights or of modifying the article will be borne by the Supplier.

If this is not possible under reasonable economic conditions or within a reasonable period of time, the Buyer is entitled to withdraw from the contract. Under these conditions the Supplier also has the right to withdraw from the contract.

Moreover, the Supplier will release the Buyer from all indisputable claims or claims which have become final filed by the respective holder of the property rights.

- 10.) The Supplier's obligations as mentioned in clause VI.9 are subject to the provisions of clause VII.2 final for all violations of industrial and intellectual property rights.

These obligations only exist if

- the Buyer notifies the Supplier immediately of any assertion of violations of industrial and intellectual property rights,
- the Buyer adequately supports the Supplier in averting the asserted claims or allows the Supplier to carry out modifications as mentioned in clause VI.7,
- the Supplier has the right to implement all possible defensive measures including out-of-court settlement,
- the defect of title is not due to instructions issued by the Buyer and
- the violation of rights was not caused by a modification of the supplied article by the Buyer acting without authority or by utilizing the article in a manner not specified in the contract.

VII. Liability

- 1.) If the Buyer is unable to utilize the supplied article as specified in the contract in consequence of a fault on the part of the Supplier or due to a failure to carry out or the faulty execution of recommendations and consultations which took place before or after the conclusion of the contract or as a consequence of the violation of other contractual secondary obligations - in particular of the instructions concerning the operation and maintenance of the supplied article - the regulations in clause VI and clause VII.2 shall apply accordingly, to the exclusion of any further claims by the Buyer.
- 2.) For damages which do not directly affect the supplied article itself - irrespective of the cause in law - the Supplier shall only be liable
 - a. in cases of wilful intent,
 - b. in cases of gross negligence on the part of the owner/institution or executive staff,
 - c. in cases of culpable damage to life, body or health,
 - d. for defects which the Supplier intentionally misrepresented by silence or whose absence the Supplier guaranteed,
 - e. for defects of the supplied article insofar as the German Product Liability Act makes the Supplier liable for bodily injury or damage to privately used property.

In the event of a culpable violation of important contractual obligations the Supplier will also be liable for gross negligence by non-executive staff and for slight negligence; in the latter case the liability is limited to foreseeable damages typical for this kind of contract.

All other claims are excluded.

VIII. Statute of limitations

For indemnity claims as mentioned in clause VII.2 a – e, the legal statutory periods of limitation shall apply. They also apply for any defects of building construction or of supplied articles, which were used as typically intended in a building and were responsible for the construction's defects. For the rest the statutory period of limitation for all claims of the Buyer is – irrespective of the cause in law – one (1) year from the legal start of limitation.

IX. Software utilization

Insofar as the delivery also includes software, the Buyer has a non-exclusive right to utilize the supplied software together with the documentation. The software is provided for use on the article supplied for this purpose. The software may not be used on more than one system.

The Buyer may only copy, revise or translate the software or transform the object code into a source code within legally permissible bounds (§§ 69 a ff. UrhG [Urheberrechtsgesetz = German Copyright Act]). The Buyer undertakes not to remove any manufacturer's information - in particular any copyright notations - or to alter them without the Supplier's prior express permission.

The Supplier or the provider of the software retains all other rights to the software and its documentation including the rights to all copies. The granting of sublicenses is not permitted.

X. Applicable law, legal venue

- 1.) The legal relations between the Supplier and the Buyer are governed exclusively by the applicable laws regulating legal relations between domestic parties of the Federal Republic of Germany excluding the UN Convention on the International Sale of Goods (CISG).
- 2.) The legal venue shall be the responsible court having jurisdiction at the Supplier's registered offices. However, the Supplier has the right to file a suit at the Buyer's registered offices.

For our customers outside Germany, the ORGALIME - General Conditions for the Supply of Mechanical, Electrical and Electronic Products (S 2000) and Appendix ORGALIME S 2000 apply. You can find the current version of ORGALIME S 2000 on the web site <http://www.orgalime.org>.

In the case of uncertainty regarding the translation or the interpretation of our General Terms and Conditions of Sale or in any other case of doubt, the German text of these General Terms and Conditions of Sale will prevail.