

General Terms and Conditions of Business and Delivery

1. General provisions

All our deliveries and services are provided exclusively on the basis of these terms and conditions of business and delivery. Any provisions deviating from these terms and conditions, in particular also terms and conditions of the buyer, shall only become effective upon our written confirmation.

2. Conclusion of contract

Our offers are non-binding and subject to change. Goods are subject to prior sale. Orders and agreements shall only become binding when they have been confirmed by us in writing. Delivery and invoicing are equivalent to written confirmation.

The information provided with an offer, such as illustrations, drawings, descriptions, dimensional, weight, performance and consumption data, information relating to the usability of equipment for new technologies, are only approximate unless they are expressly designated as binding. Qualities of and services and purchased items are only warranted if they have been agreed in writing. Minor deviations from the description of the offer are deemed to be approved, provided that these are not unreasonable for the buyer. This applies in particular in the case of changes and improvements for purposes of technical progress.

3. Software

The manufacturer's licence or other terms and conditions enclosed with and/or contained on the data carrier shall apply to the delivery of software.

The purchaser undertakes not to make the software available to third parties either in the original or in the form of complete or partial copies. The documentation and other printed material may only be reproduced with our written consent.

Irrespective of the time and reason for termination of the contract, the purchaser undertakes to return the original as well as all copies and partial copies of the software and the documentation to us.

Furthermore, the Buyer and the Seller agree that, according to the current state of the art, software is a defective work created to perform certain tasks. Faults that do not conflict with the intended use or do not unreasonably reduce the usefulness of the software do not constitute a defect. Update regulations for the correction of minor faults are offered for this purpose, which are available free of charge or for a fee from time to time and as required.

4. Terms of payment

Unsere Leistungen und Lieferungen erfolgen, falls nicht anders ausdrücklich vereinbart Unless otherwise expressly agreed, our services and deliveries shall be made at the prices offered at the time of conclusion of the contract.

We reserve the right to adjust prices for goods delivered more than three months after conclusion of the contract.

We reserve the right to charge for the services based to actual expenditure, especially for engineering services.

If our costs on which the contract was based increase by more than 20%, we may demand an appropriate price adjustment even if the price is fixed. If such is not granted, we may withdraw from the contract in whole or in part.

Unless otherwise agreed in writing, payments shall be made strictly net without discounts or other deductions on the specified payment date. If the purchaser defaults on payment, they shall, subject to the assertion of further rights, pay interest on arrears in the amount of 3% above the respective discount rate of the Deutsche Bundesbank, and no less than 10% per year. In the case of engineering services, we reserve the right to make a pro rata advance payment when the order is placed. If the buyer's financial situation deteriorates in a way that casts doubt on their creditworthiness or willingness to pay, in particular in the event of bill or cheque protests, default in payment, payment arrears from other deliveries or slow payment, we shall be entitled, subject to the rights to which we are otherwise entitled, to demand advance payment or securities, to withhold our services until advance payment or securities have been provided and, in the event of insufficient advance payment or securities, to withdraw from the contract in whole or in part.

5. Delivery

Our performance is subject to our receipt of correct and timely supplies. Delivery dates and delivery periods shall only be deemed binding if agreed in writing; verbal promises shall not be binding. In the event of force majeure and other unforeseeable, extraordinary and non-fault circumstances, e.g. operational disruptions due to fire, water and similar circumstances, material, energy, official interventions, etc., even if they occur with upstream suppliers, the delivery period shall be extended by a reasonable time if we are prevented from fulfilling our obligations in good time due to these circumstances. If we do not deliver after expiry of the delivery period extended by a reasonable time, the buyer may set us a grace period and withdraw from the contract after the grace period expires without avail. If a delivery or service becomes impossible or unreasonable due to the aforementioned circumstances, we shall be released from the delivery obligation. If the buyer suffers damage due to the fact that we are at fault for failing to comply with binding agreed delivery times or have fallen into arrears, they shall be entitled, to the exclusion of further claims, to demand compensation in the amount of 0.5% for each week of the delay, but in total not more than 5% of the invoice value of the delivery and service affected by the delay. Compliance with the delivery period requires the fulfilment of all contractual obligations of the buyer.

6. Transfer of risk

The risk of accidental loss and deterioration of the goods shall pass to the client upon orderly handover by the contractor to the shipping company (including post and rail). If desired, we shall take out transport insurance at the expense of the client.

7. Retention of title

All our deliveries and services are subject to retention of title. Ownership shall not pass to the buyer until they have settled all of their liabilities arising from the business relationship with us, and in the case of payment by cheque, not until it has been cashed.

Prior to this, pledging or transfer of ownership by way of security is prohibited. Resale is only permitted in the ordinary course of business. In the event of resale of the reserved goods, the buyer hereby assigns to us the full amount of their claim for the purchase price against the purchaser.

If the buyer is in default with a payment in whole or in part, if they cease their payments or if there are other justified doubts about their solvency or creditworthiness, they are no longer entitled to dispose of the goods. In such a case, we may assert the rights under section 455 of the German Civil Code (BGB) and/or revoke the buyer's authority to collect from the consignee of the goods. We shall then be entitled to demand information about the recipients of the goods, to notify them of the transfer of the claim to us and to collect the buyer's claims against the recipients of the goods.

Where the value of all security interests to which we are entitled under these provisions exceeds the amount of all secured claims by more than 25%, we shall release a corresponding part of the security interests at the buyer's request.

The buyer shall insure the goods owned by us against fire, water, theft and burglary for the duration of the period of retention of title. The rights arising from this insurance are assigned to us. We hereby accept this assignment.

8. Warranty

In the event of defects in the delivery item, which also include the absence of warranted characteristics, we shall be entitled, at our discretion, to repair the defective delivery item or to effect a new delivery.

The place of performance shall be the company's registered office in Heilbad Heiligenstadt. We guarantee the replacement part and the repair in the same way as for the delivery item. In the event of failure of the rectification or replacement delivery, the purchaser is entitled to demand a reduction of the remuneration (abatment) or cancellation of the contract (redhibition). A repair shall be deemed to have failed if it has been attempted several times and the buyer cannot reasonably be expected to accept a further repair.

Warranty claims by the buyer shall be excluded if the buyer fails to give written notice of obvious defects within two weeks and of non-obvious defects within six months of delivery. This is without prejudice of the obligations of merchants to inspect the goods and to give notice of defects under section 377 and 378 German Commercial Code (HGB).

A prerequisite for the warranty is that the defective delivery item can, at our discretion, either be inspected and checked by us at the buyer's premises or returned to us at our request. Replaced parts become our property.

The foregoing provisions shall apply mutatis mutandis to such claims of the purchaser for repair, replacement delivery or damages which have arisen as a result of suggestions or advice given within the scope of the contract or as a result of a breach of ancillary contractual obligations.

Liability for the consequences of modifications and repair work carried out by the purchaser or third parties is excluded. At the same time, any warranty claim shall expire.

The assignment of warranty claims to third parties is excluded.

If the buyer sells the items delivered by us to third parties, they shall be prohibited from referring to us for the associated statutory and/or contractual warranty claims.

If the buyer is a merchant, notices of defects shall not affect the due date of the purchase price claim unless their justification has been acknowledged by us in writing or has been legally established.

9. Damages

Claims for damages, irrespective of the legal grounds, in particular due to defective performance, positive breach of contract, breach of ancillary obligations and culpa in contrahendo as well as tort, are excluded. This shall not apply in the event of intent, gross negligence, breach of material contractual obligations, default in performance and impossibility of performance for which we are responsible.

Excluded are claims for compensation of lost profit, missed savings, indirect and/or consequential damages. This shall not apply in the event of the absence of warranted characteristics, intent and gross negligence.

We shall not be liable for the restoration of data unless we have caused its destruction intentionally or through gross negligence and the purchaser has ensured that this data can be reconstructed with reasonable effort from data material held in machine-readable form.

10. Right of return

If a right of return is agreed for individual products, exercise of this option requires the goods to be handled with care and returned to us free of charge, complete and in perfect condition in the original packaging by the agreed date. In the event of shipment, the buyer shall pack the goods in a manner safe for transport and insure them at their own expense. The costs for outward and return shipment shall be borne by the buyer. For software, para. 3 shall apply accordingly.

11. Place of performance, place of jurisdiction and legal system

For contracts with fully qualifying merchants, the place of performance for delivery, performance and payment is agreed to be Jena, Germany, subject to the proviso that we are also entitled to bring an action at the place of the registered office or a branch of the purchaser.

The laws of the Federal Republic of Germany shall apply. The provisions of the Uniform Law on the Sale of Goods and the UNCITRAL Sale of Good law shall not apply in the relationship between us and the Buyer.

12. Other agreements

Should any individual provisions of these terms and conditions be or become invalid in whole or in part, this shall not affect the validity of the remaining terms and conditions. Deviations from these terms and conditions must be made in writing. This written form agreement may also only be amended in writing.

The buyer agrees that we may use the data obtained from the business relationship for our own business purposes within the meaning of the German Data Protection Act.

Version dated 15 January 2009.