

Terms and Conditions of Sale (as of March 1st, 2018)

1. Application and Entering Into the Agreement

For the entire business relation between the Buyer and the Seller, these Terms and Conditions shall apply exclusively. Seller objects to any Terms and Conditions of Purchase and any other standard terms and conditions of Buyer. In accepting and executing an order, Seller neither accepts Buyer's standard terms and conditions nor waives terms and conditions as set out below, even where Seller fails to explicitly reject Buyer's terms and conditions or to insist on its own terms and conditions. Should any of these terms and conditions of sale be or become invalid, the validity of the contract remains unaffected and such provision is replaced by the statutory provision in this regard. Under no circumstances shall the invalid provision in these Terms and Conditions be replaced by terms and conditions of Buyer. The entering into the Agreement is documented by our order confirmation in writing only. The provisions of § 3.12 e Section 1 Sentence 1 No. 1-3 (German) Civil Code ("BGB") concerning obligations in the e-business are explicitly excluded between the Buyer and the Seller.

2. Prices and Prohibition of Set-off

All prices are agreed on an EXW-basis (INCOTERMS 2010) plus statutory V.A.T., except where explicitly otherwise agreed. Any increase of customs duties, taxes, fees or other expenses occurring after the conclusion of the sales contract shall be borne by Buyer. In particular, any increase of the statutory V.A.T. between the conclusion of the contract and actual delivery shall result in a corresponding increase of the gross purchase price. The same applies for any increase of the costs of transport regardless of the agreed INCOTERMS. Any set-off of the Buyer with counter-claims and any right of retention of the Buyer are explicitly excluded, unless the claims of the Buyer are either uncontested by the Seller or have been confirmed by a final, non-appealable judgement or other court decision; this does not apply to counterclaims arising through the same contractual relationship. These rules relating to set-off and the right of retention also apply in case of quality claims by the buyer.

3. Delivery Periods

3.1 Delivery periods and delivery dates ("delivery time") pertain to, except where explicitly otherwise agreed, the time of the dispatch or of making available for collection and do not constitute a fixed date ("Fixgeschäft"). **All delivery times are subject to the full and timely delivery of Seller's suppliers.** If the delivery time is not complied with, Buyer is entitled to specify a reasonable further period and, after expiry of such additional period, to rescind the contract with regard to goods or quantities not delivered by then. For further claims, especially claims for damages, Section 8 applies.

3.2 Force majeure and all events that Seller cannot influence, including acts of God, labor disputes including strikes and legal lockouts, scarcity of energy and raw materials, transport difficulties or delays or all other business interruptions that cannot be avoided, shall, for the duration of such event and to the extent of its effects, shall relieve Seller of its delivery obligations. If such event does not cease to have effects within a reasonable period of time, Seller is entitled to rescind the contract, in which case all damages claims are excluded. If Buyer proves that a delivery delayed or restricted by such event is no longer of interest to Buyer, Seller shall relieve Buyer from its obligation to take delivery if the detrimental effects of such relief for Seller do not exceed the loss of profit.

3.3 The stipulations in the foregoing Section 3.2 shall also apply to such events with regard to Seller's suppliers.

4. Overdue Payments and Advance Payments

If payment of one of Seller's invoices becomes overdue for more than 14 days or if Seller receives information or knowledge of facts that justify doubts as to Buyer's liquidity or creditworthiness, Seller shall be

entitled, regardless of prior agreements as to payment dates or acceptance of bills of exchange, to demand immediate payment of all outstanding invoices resulting from the business relation. In these events Seller may also demand prepayments as a condition for further deliveries agreed and, should such advance prepayments not be effected within a reasonable period of time, rescind the agreements in this regard.

5. Transfer of Risks

All risks of loss or damage shall pass to Buyer when goods are handed over to the transport company or upon leaving Seller's warehouse. All shipments are effected at Buyer's risk. This even applies if Seller has to bear the costs of such shipment and/or arranges for insurance on the basis of specific agreements in this regard. All INCOTERMS agreed provide for the distribution of costs only.

6. Retention of Title

6.1 Until full payment of the Purchase Price and full payment of all other payment obligations due to the Seller at the time of the conclusion of the contract the goods shall remain Seller's property ("goods subject to a retention of title"). Such goods subject to a retention of title shall also remain Seller's property until the time of payment of all future payment obligations of Buyer. Where payment of a purchase price is effected by bill of exchange, title of property shall not pass before full acceptance of such bill by the drawee. Buyer is entitled to use the goods subject to a retention of title in its production and to sell them as part of ordinary business procedures according to the following provisions.

6.2 Any processing of Seller's goods subject to a retention of title by the Buyer or a third party instructed by Buyer is effected for Seller as manufacturer pursuant to § 950 BGB and Seller shall be the owner of the processed goods. If such processing involves materials of others, Seller shall be joint owner of the resulting goods at each stage of the processing proportionately to the invoice value of Seller's goods subject to a retention of title to the total of the value of the materials of others. The same applies in case of joining and commingling pursuant to §§ 947, 948 BGB; the provisions of § 947 Section 2 BGB are excluded. Instead the above provisions on the processing of goods shall apply.

6.3 No goods subject to a retention of title may be pledged or transferred as security. All claims resulting from the sale of goods subject to a retention of title are hereby transferred from Buyer to Seller to the extent of the property rights of Seller, and such transfer is accepted by Seller. This shall also apply in case of a sale of the company (e. g. asset deal). Buyer is entitled to collect the payment claims, but also only as long as Buyer fulfills all of its payment obligations to Seller as agreed. The transfer of such payment claims is excluded.

6.4 If payments of Buyer to Seller are overdue by more than one month or upon discontinuance of payments of Buyer, a protested cheque or bill of Buyer (in so far as Seller is in any way the beneficiary of such cheque or bill), an effected pledging of the goods subject to a retention of title, a petition in bankruptcy or judicial or extrajudicial composition proceedings toward bankruptcy, Buyer's rights to use goods subject to a retention of title in the production process, to commingle goods subject to a retention of title and to resell the goods subject to a retention of title and the right to collect payments on the payment obligation transferred are terminated. Buyer has to inform Seller on the occurrence of any of these events immediately.

6.5 Upon Seller's request Buyer has to provide to Seller all necessary information on the goods subject to a retention of title and on all payment obligations transferred and to inform Buyer's customers of such transfer. Buyer also has to inform Seller immediately of any third party actions with regard to such goods or payment obligations. Buyer undertakes to adequately insure the goods subject to a retention of title against all ordinary risks.

Terms and Conditions of Sale (as of March 1st, 2018)

- 6.6 Should the value of security rights of Seller exceed the total amount of payment obligations of Buyer to Seller by more than 10 %, Seller shall, upon demand of Buyer, release securities, at Seller's choice, to the extent of such excess. In such assessment the value of securities is determined on the basis of a realization of such value by their sale. Buyer has to provide Seller, upon Seller's demand, with all information necessary for such assessment immediately.
- 7. Initial examination, notification of defects, liability for defects**
- 7.1 The Buyer or the recipient whom he has designated must inspect the goods immediately upon receipt, and in all cases before treatment and processing. After defects have been found, the treatment and processing of the defective Section or material must be ceased immediately. Obvious defects - including the absence of guaranteed characteristics - must be reported immediately in writing, and no later than 7 days after receipt of the goods; hidden defects must be reported immediately in writing, and no later than 7 days after their discovery. If the Buyer omits the inspection or fails to report defects promptly and in the correct form, then he has no rights to claims for defects. The punctuality of the report is based on the timepoint that the Seller receives it.
- 7.2 If acceptance testing or initial sample inspection were agreed, then the reporting of defects is excluded if the Buyer could have discovered them through careful acceptance testing or initial sample inspection.
- 7.3 In the event of justified claims for defects, the Seller is obliged to supplementary performance, at the Seller's choice either through the delivery of fault-free replacement goods or through reworking, in which case the goods under complaint become the Seller's property. As per the legal provisions, the Seller has the right to refuse supplementary performance.
- 7.4 If the Seller does not fulfil the obligation to supplementary performance, then after setting the Seller an appropriate grace period (unless the legal provisions make this unnecessary), the Buyer may at his choice either withdraw from the contract or reduce the price. In the event of withdrawal, the Buyer is liable for deterioration, destruction, and loss of utilisation, not only under his own due care, but also for every occurrence for which he is responsible.
- 7.5 The Buyer's further claims for compensation of damages and expenses because of or in relation to defects or consequential damages, irrespective of their legal grounds, exist only to the extent of the provisions in Section 8. However, even in this case the Seller is liable only for the typical and foreseeable damages.
- 7.6 The Seller's duty relating to responsibility for defects is null and void if defects are not present in the goods delivered by the Seller, i.e. in particular if defects arise from incorrect use, defective or negligent handling, natural wear, or interventions in the delivered goods or object by the Buyer or third parties.
- 7.7 Claims against the Seller arising from liability for defects expire no later than 12 months after delivery of the goods or 12 months after acceptance, with the exception of the cases governed in Section 9.7.
- 7.8 If the end user of the goods is a consumer, then the legal provisions apply to the expiry of a possible right of recourse against the Seller by the Buyer.
- 8. Exclusion and limitation of the Seller's liability to compensation for damages and expenses**
- 8.1 Regardless of the legal basis, for all claims for compensation for damages and expenses directed against the Seller because of neglect of duty, in the case of slight negligence the Seller is liable only in the event of a breach of significant obligations which endangers the purpose of the contract. Other than that, the Seller's liability for slight negligence is excluded.
- 8.2 In the event of liability as per Section 8.1 and liability without fault, the Seller is liable only for the typical and foreseeable damages. The Buyer is not permitted to assert useless expenditures.
- 8.3 For damages for delay, in the event of slight negligence the Seller is liable only up to the amount of 5% of the net value of the contract.
- 8.4 The Buyer decides on his own authority about the use of the goods or services provided by the Seller. Unless the Seller has confirmed in writing specific characteristics and suitability of the products for a contractually specified purpose, technical application advice is non-binding in all cases. For advice provided or not provided, the Seller is liable only as defined in Section 8.1, as long as this advice does not relate to the characteristics and usability of the supplied product.
- 8.5 The exclusion of liability as per Section 8.1 to 8.4 applies to the same extent to the benefit of the Seller's institutions, legal representatives, managing and non-managing employees, and other vicarious agents.
- 8.6 All claims against the Seller for damages and expenses expire 12 months after delivery of the goods, or in the event of tortious liability 12 months from awareness or grossly negligent ignorance of the circumstances justifying the claim or of the identity of the person liable to pay compensation. This does not apply in the event of malice or in the cases specified in Section 8.7.
- 8.7 The provisions of Sections 8.1 to 8.6 or Section 7.7 do not apply to strict liability, if there is a liability for injuries to life, limb, or health, if there is acceptance of a quality guarantee, or if there is malicious concealment of a defect.
- 9. Export control**
- 9.1 Principles
- The Seller advises the Buyer that for the shipment/export of goods (products, software, technology) and for the provision of services in fulfilment of a contractual obligation (e.g. installation, maintenance, repair, instruction/training, etc.) with a cross-border component, European and German foreign trade law is applicable, and that the individual deliveries and technical services may be subject to legal export control restrictions and bans. This applies in particular to armaments and so-called dual-use goods. The applicable legal regulations are regulation (EC) no. 428/2009 (EC Dual Use Regulation) and its attachments, the German Foreign Trade Law (AWG), the German Foreign Trade Regulation (AWV) and its attachment (Part I sections A and B of the German Export List), in their respective current versions.
- Furthermore, there are European and national embargo regulations against specific countries and persons, companies and organisations, which can ban the delivery, supply, provision, export, or sale of goods and the performance of services, or make them subject to approval.
- The Buyer recognises that the abovementioned legal regulations are subject to constant changes and modifications, and that they are to be applied to the contract in their currently valid version.
- The Buyer undertakes to recognise and comply with the European and German export control provisions and embargo regulations, especially if the Buyer is subject to a re-export condition in an approval assigned to the Seller by the export control authorities. The Seller will inform the Buyer of such a condition no later than the shipment/export.
- The Buyer further undertakes not to sell, export, re-export, deliver, or pass on the delivered goods, or to otherwise make them accessible directly or indirectly, to persons, companies, institutions, organisations or in countries if this infringes European or German export provisions or embargo regulations.

Terms and Conditions of Sale (as of March 1st, 2018)

Upon request, the Buyer is obliged to provide the Seller appropriate and complete information about the end use of the goods and/or services to be provided, and in particular to issue so-called end-use certificates (EUCs) and to send them to the Seller in the original, in order to verify the end use and intended purpose of the goods and/or services to be provided, and to be able to demonstrate them to the export control authorities.

9.2 Withdrawal, compensation for damages by the Seller

If the possibly required export or shipment approvals, or other approvals or releases under foreign trade law are not issued or not issued in good time by the responsible authorities, or other obstacles impede the fulfilment of the contract or delivery because of the regulations regarding customs, foreign trade, and embargo regulations which the Seller as exporter and/or shipper or the Seller's suppliers must comply with, then in addition to Section 3, the Seller has the right to withdraw from the contract and/or the individual delivery or service obligation. This applies even if relevant export control and legal embargo obstacles first arise (e.g. because of a change in the legal situation) between conclusion of contract and the delivery or performance of the service, as well as when asserting guarantee rights, and these make the performance of the delivery or service temporarily or permanently impossible because necessary export or shipment approvals or other approvals or releases under foreign trade law are not issued, or are withdrawn, by the authorities responsible, or other legal obstacles prevent the fulfilment of the contract or the delivery or service because of customs, foreign trade, and embargo regulations which must be complied with.

Section 8 applies to possible claims for damages by the Buyer on this basis.

9.3 Delivery times

Release or assignment of export or shipment approvals or other types of approval under foreign trade law by the authorities responsible can be a prerequisite for compliance with delivery times. If the Seller is impeded in on-time delivery because of the duration of the correct execution of a customs or foreign trade application, approval, or inspection process, then the delivery time is extended accordingly by the duration of the delay caused by this official process. Furthermore, the provisions in **Section 3** remain unaffected.

9.4 Compensation for damages payable by the Buyer

The Buyer is liable to the full extent for damages and expenses arising to the Seller through the Buyer's culpable non-compliance with the European and/or German export provisions or embargo regulations.

10. Property rights

10.1 If goods are manufactured according to the Buyer's specifications, and this infringes the property rights of third parties, then the Buyer indemnifies the Seller for all claims by third parties because of the infringement of the property rights.

10.2 In the event of breaches of contract by the Buyer, his property rights do not prevent the Seller from exploiting the goods as per contract.

11. Data Protection

11.1 The Buyer's personal data is collected, processed, and stored taking into account the provisions of the German Federal Data Protection Act.

11.2 The Seller reserves the right to obtain information on the Buyer's credit rating at an information bureau (Schufa-Company at the seat of the Buyer or other information bureau) for purposes of solvency check.

12. Place of Performance, Jurisdiction and Choice of Law

12.1. Place of performance of delivery is the place of the plant or warehouse from which such delivery is effected.

12.2 The place of jurisdiction is Düsseldorf. However, the Seller also has the right to sue the Buyer at his general place of jurisdiction.

12.3. The contractual relationship is subject to the law of the Federal Republic of Germany.

12.4 If the Buyer's registered office is outside of Germany, then the CISG ("UN Sales Law") applies, with the following special provisions:

- Contractual modifications or cancellations must be made in writing. This also applies to understandings about renunciation of this agreement to the written form.
- If non-conforming goods are delivered, the Buyer has the right to cancel the contract or to obtain a replacement delivery only if claims against the Seller for damages are excluded or it is unreasonable for the Buyer to use the non-compliant goods and to claim the remaining damages. In these cases, the Seller first has the right to correct the defects. If the correction of defects fails and/or it results in an unreasonable delay, then the Buyer has the choice of declaring that the contract is cancelled or of demanding a replacement delivery. The Buyer also has the right to this if the correction of defects causes unreasonable inconvenience or there is doubt about the reimbursement of possible outlays made by the Buyer.

12.5 The INCOTERMS in their latest valid version apply to the interpretation of agreed delivery terms, regardless of the provision made in Section 5 for the transfer of risk.

13. Partial ineffectiveness

If individual provisions of the contract are ineffective, then the remaining provisions remain fully effective. In place of ineffective provisions, a provision applies without further ado which, within what is legally permitted, comes as close as possible to what had been financially intended by the sense and purpose of the ineffective clause.

14. Precedence of German version

These terms and conditions of sale are to be interpreted according to German legal understanding. If the legal meaning of a translation deviates from the German legal meaning, then the German meaning will take precedence.