



General Terms of Business and Supply

(as of: May 2011)

§ 1 General / Scope of Application

1. These terms of delivery and payment shall apply exclusively. We do not accept any objecting or deviating terms of the purchaser, unless we have expressly agreed in writing to their application. These terms shall also apply if we carry out delivery without reservation, despite being aware of the purchaser's objecting or deviating terms.

2. Our offers are subject to confirmation. Purchase orders are only binding on us if we confirm them in writing or fulfil them by shipping the goods; oral ancillary agreements are only valid if confirmed by us in writing. All agreements entered into between us and the purchaser for the purpose of performing this contract are to be recorded in a contract in writing.

Our terms apply on the assumption that the purchaser is an entrepreneur as defined by Section 14 (1) BGB (German Civil Code). These terms shall also apply to all future business transactions with the purchaser.

§ 2 Offer / Offer Documents

1. In the absence of any special agreement, a contract is concluded upon our written confirmation of order.

2. We reserve all rights of ownership and copyrights in illustrations, drawings, cost estimates and other documents; they must not be made accessible to third parties. This applies, in particular, to written documents marked as "confidential".

The purchaser must have our express consent for a disclosure to any third parties.

§ 3 Prices / Terms of Payment

1. Unless otherwise indicated in the order confirmation, our prices are ex works, excluding packaging. Packaging will be charged separately.

2. Applicable value added tax is not included in our prices. It is stated separately in the invoice at the statutory rate on the date of invoicing.

3. Deduction of discounts must be agreed upon separately in writing.

4. Unless otherwise specified in the order confirmation, the purchase price (without deduction) is due and payable net immediately. We grant a payment period of 30 days from the invoice date. If the purchaser is in default of payment, we shall be entitled to charge interest on arrears pursuant to Section 288 BGB.

If we can provide evidence of higher damage due to default, we may claim such higher damage. However, the purchaser is entitled to provide evidence that no damage or considerably lower damage has occurred due to the default in payment.

5. The purchaser may only assert any offsetting rights if its counterclaims have been finally adjudicated or are undisputed or acknowledged by us. In addition, the purchaser may only exercise a right of retention if its counterclaim is based on the same contractual relationship.

If the purchaser has not paid the agreed amount within 30 days from its due date, we, as the seller, may declare cancellation of the contract by a written notice and claim for damages. In the event of late payment and justified doubts in the purchaser's solvency or creditworthiness, we, as the seller, shall be entitled to demand sufficient collateral or advance payments for outstanding deliveries and to declare all claims resulting from the business relationship as due and payable immediately, without prejudice of our other rights.

§ 4 Delivery Period

1. The commencement of the delivery period specified by us is contingent upon all technical and financial issues being clarified.

2. If the purchaser sets us a reasonable period of grace with warning of rejection, once we are already in default, the purchaser shall be entitled to rescind the contract after expiry of this period to no avail. If default is due to intent or gross negligence, the purchaser is only entitled to claim compensation for non-performance up to the amount of the foreseeable damage. In any such case, liability for damages shall be limited to 50% of the losses incurred.

3. The limitations of liability pursuant to para 2. and para 3. above do not apply if a commercial fixed-term business transaction has been agreed; the same applies if the purchaser is able to argue that its interest in performance of the contract has lapsed completely due to the default on our part.

4. Compliance with our delivery obligations is contingent upon the purchaser correctly and punctually performing its obligations and we receiving our orders. Our deliveries are always subject to the reservation that we receive supplies.

5. If the purchaser defaults in accepting performance or breaches any other duties to cooperate, we shall be entitled to demand the losses incurred by us, including any extra expenses. In any such case, the risk of accidental loss or accidental deterioration of the item purchased shall also pass to the purchaser at the time it defaults in acceptance.

§ 5 Passing of Risk

1. Unless otherwise stated in our order confirmation, delivery is effected "ex works". If requested by the purchaser, we will effect transport insurance for the shipment, the costs being charged to the purchaser.

§ 6 Warranty

Subject to § 7, we grant the following warranty for any defects of quality and defects of title, any other claims being excluded:

Defects of quality

1. All parts which prove to be defective as a result of a circumstance existing before the passing of risk shall at the supplier's option be reworked or replaced by non-defective parts free of charge. The supplier shall be notified immediately in writing if such defects are identified. Parts replaced shall become the supplier's property.

2. The purchaser shall, after agreement with the supplier, give the supplier the necessary time and opportunity to carry out all reworking and substitute deliveries the supplier deems necessary; otherwise the supplier shall be released from liability for the consequences arising therefrom. Only in urgent cases of danger to operational reliability or in order to avert disproportionately large damage, in which case the supplier shall be notified immediately, shall the purchaser have the right to rectify the defect itself or have it rectified by third parties and to demand reimbursement of the necessary expenses from the supplier.

3. Of the direct costs incurred due to rework or substitute delivery the supplier shall bear - to the extent that the complaint proves to be justified - the cost of the replacement part including the costs of shipment. In addition, the supplier shall bear the cost of removal and installation as well as the cost of necessary installers and auxiliary staff, including travel expenses, unless this results in a disproportionately high burden on the supplier.

4. Within the framework of statutory provisions, the purchaser shall be entitled to rescind the contract if the supplier - taking the statutory exceptions into account - fails to provide reworking or substitute delivery due to a defect of quality within a reasonable period granted to it for rework or substitute delivery. In the case of a minor defect, the purchaser shall only have a right to a reduction in the contract price. The right to a reduction in the contract price otherwise remains excluded.

Further claims are regulated in § 7.2.

5. No warranty is granted, in particular, in the following cases: unsuitable or improper use, deficient assembly or start-up by the purchaser or third parties, normal wear and tear, deficient or negligent treatment, improper maintenance, unsuitable operating resources, deficient construction work, unsuitable building site, chemical, electro-chemical or electrical influences - to the extent that the supplier is not answerable for them.

6. If the purchaser or a third party effects improper reworking, the supplier shall not be liable for the consequences arising therefrom. The same shall apply for modification of the delivery item made without the supplier's prior consent.

Defects of title

7. If the use of the delivery item leads to a breach of industrial property rights or copyrights in Germany, the supplier shall procure the right to further use for the purchaser at its own expense as a matter of principle or modify the delivery item in a way acceptable to the purchaser so that the breach of the industrial property right no longer exists.

If this is not possible on economically reasonable terms or within a reasonable period, the purchaser shall be entitled to cancel the contract. Under the above-mentioned prerequisites, the supplier shall also have a right to cancel the contract.

In addition, the supplier shall hold the purchaser harmless against undisputed or enforceable claims made by the relevant owners of the industrial property right.

8. Subject to § 7.2, the supplier's duties laid down in § 6.7 are final with respect to a breach of property rights or copyright. They shall only exist if:

- the purchaser notifies the supplier immediately of any infringements of property rights or copyrights being claimed,
- the purchaser supports the supplier to a reasonable extent in defending the claims being made or enables the supplier to carry out the modification measures as specified in § 6.7,
- the supplier retains the right to take all defence measures, including out of court settlements,
- the defect of title is not based on an instruction from the purchaser and
- the infringement of rights was not caused by the purchaser modifying the delivery item on its own behalf or using it in a way other than as permitted in the contract.

Defects of quality

9. Claims for defects of quality are statute-barred after twelve months. This does not apply if the statutory provisions of Section 438 (1) no. 2, (buildings and things for buildings), Section 479 (1) (recourse claim) and Section 436 a (1) no. 3 (constructional defects) BGB indicate any longer periods and in the event of injury to life, body or health, intentional or grossly negligent breach of the supplier's obligations and malicious silence regarding a defect. The statutory provisions regarding suspension of the expiry of the limitation period, suspension and re-commencement of the periods shall not be affected.

10. The supplier shall be notified immediately in writing when defects of quality are identified.

§ 7 Overall Liability

1. If the purchaser is unable to use the delivery item as intended in the contract through the supplier's fault as a result of the omission or deficient execution of proposals and advice given before or after formation of the contract or through a breach of other secondary duties under the contract, in particular instructions for operation and maintenance of the delivery item, the regulations of § 6 and § 7.2 shall apply accordingly, any further claims of the purchaser being excluded.

2. The supplier will only be liable for damage not caused to the delivery item itself, on whatever legal grounds, in the event of

- intent,
- gross negligence on the part of the proprietor/corporate bodies or executive employees,
- culpable injury to life, limb or health, defects which the supplier has maliciously failed to disclose or whose absence was guaranteed,
- defects in the delivery item if liability is mandatory under the Product Liability Act for personal injury or property damage to items of private use.

Liability also exists if a guarantee has been taken over.

3. If the purchaser is entitled to damage claims pursuant to § 7, these shall be statute-barred upon the expiry of the period of limitation applicable to defects of quality. For damage claims under the Product Liability Act, the statutory provisions of limitation shall apply.

In the event of a culpable breach of material contractual duties, the supplier is also liable for the gross negligence of non-executive employees and for slight negligence, limited in the latter case to the damage reasonably foreseeable for a typical contract of this kind. This does not apply to cases of mandatory statutory liability.

Any further claims are excluded.

§ 8 Reservation of Title

1. We reserve title to the purchased item until such time as all the payments under the entire contractual relationship have been received, i.e. including under the entire software control programme, licensing agreement and hardware supply agreement. If the purchaser is in breach of contract, in particular if it defaults in payment, we shall be entitled to take back the purchased item. The taking back of the purchased item on our part does not constitute rescission of the contract, unless we have declared this expressly in writing. The attachment of the purchased item by us shall always be regarded as rescission of the contract. After taking back the purchased item, we shall be authorised to realise the same, whereby the realisation proceeds - minus reasonable realisation costs - shall be counted towards the purchaser's liabilities.

2. The purchaser is obliged to treat the purchased item with care and, in particular, to insure it adequately at its own cost at the sliding replacement value against damage due to fire, water and theft.

If any maintenance and inspection work is necessary, this shall be performed by the purchaser at its own cost and in due time.

3. The purchaser must inform us in writing without delay in the event of attachment or any other third-party interference so that we are able to initiate third-party action against execution pursuant to Section 771 ZPO (German Code of Civil Procedure). Insofar as the third party is not able to refund the judicial and extra-judicial costs of a suit pursuant to Section 771 ZPO, the purchaser is liable to pay the expenses incurred by us.

4. The purchaser is entitled to resell the purchased item within its normal course of business. However, the customer here and now assigns to us all its receivables up to the amount of the final invoice (including VAT) thus accruing to it from its own customers or third parties due to the resale of the items, irrespective of whether the purchased item is resold without being processed or after processing. Even after assigning them, the purchaser remains authorised to collect these receivables. Our right to collect the debt ourselves shall not be affected. We undertake not to collect the debt, as long as the purchaser fulfils its payment obligations from its proceeds, does not default in making payments, as long as no petition for the institution of bankruptcy or composition proceedings has been filed and as long as it has not ceased making payments. However, if this is the case, we may demand that the purchaser notifies us about the assigned receivables and the parties owing the same, provides all the particulars required for collecting them, hands over all the relevant documents and notifies the debtors (third parties) of the assignment or has them notified thereof. The purchaser undertakes to send us a copy of any agreements concluded by it with third parties for hardware and/or software supplied by us, within 14 days from the conclusion of the agreement; the same applies to associated delivery notes, acceptance certificates and invoices.

5. Any processing or conversion of the purchased item by the purchaser shall always be effected on our behalf. If the purchased item is processed along with other items not belonging to us, we acquire co-ownership in the new item to the extent of the value of the purchased item in relation to the other items processed at the time of processing. For the item created by such processing, the same applies as for the purchased item delivered.

6. If the purchased item is inseparably combined with other items not belonging to us, we shall acquire co-ownership in the new item to the extent of the value of the purchased item in relation to the other items combined at the time of combination. If the combination is effected in such a manner that the purchaser's item is to be regarded as the main item, it shall be deemed as agreed that the purchaser transfers proportionate co-ownership to us. The customer shall hold in safe custody for us the sole ownership or co-ownership thus created.

7. In order to secure our claims against the purchaser, the purchaser shall also assign to us any receivables which it accrues against a third party from the combination of the purchased item with real estate.

8. At the purchaser's request, we undertake to release the security to which we are entitled insofar as the value of such security exceeds the receivables being collateralised by more than 10%. We are free to choose the security to be released.

§ 9 Place of Jurisdiction / Place of Performance

1. Provided that the purchaser is a full merchant, our registered office shall be the place of jurisdiction. However, we are also entitled to sue the purchaser at its place of business or residence.

2. Unless otherwise stated in our order confirmation, our registered office shall be the place of performance.

3. German law shall apply exclusively, the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 14.04.1980 being excluded.

The language at court is German. All the other provisions of international private law shall not apply.