

General Terms and Conditions of Supply

Article 1 General

1.1 All supplies and deliveries shall be deemed to be based on these General Terms and Conditions of Supply and on any separate contractual agreements. Any divergent customer's terms and conditions of purchasing shall be deemed to become part of the contract neither via acceptance of order nor via lack of any express rejection. These General Terms and Conditions of Supply shall apply only in cases in which the customer is an entrepreneur (see Article 14 German Civil Code [BGB]), a legal entity under public law or a special fund under public law.

Any and all references to the applicability of legal provisions shall be deemed to have only clarifying significance. The legal provisions shall therefore be deemed to apply without such clarification where they are not directly amended or expressly excluded in these General Terms and Conditions of Supply.

1.2 In the absence of any separate agreement, a contract shall be deemed to come into existence upon written confirmation of order by the Supplier. The use of telecommunications and, in particular, of Telefax, shall be deemed to satisfy the requirement for written form provided the copy of the signed confirmation of order is thus transmitted.

1.3 Where no provision to the contrary is made below, the rules of interpretation provided in the most recent edition in each case of Incoterms shall apply where standard commercial terms are agreed.

1.4 Except in cases in which utilisability for the contractually intended purpose necessitates precise accordance and/or in which they have been expressly designated as binding, the Supplier's information and data concerning the object of supply (e.g. weights, dimensions, use values, load-bearing capacity, tolerances and technical data) and the Supplier's presentations of these (e.g. drawings and images) shall be deemed to be only approximately binding. Such information and data shall be deemed not to constitute guaranteed quality criteria but rather descriptions or designations of the supply. Customary deviations and deviations which result from legal requirements or technical improvements, and also replacement of components by other equivalent components, shall be deemed to be permissible provided this does not impair utilisability for the contractually intended purpose.

1.5 The Supplier hereby reserves all property and intellectual-property rights for all quotations, samples, cost estimates, drawings, images, catalogues, models, tools and all other documents, aids and information of both a material and non-material nature, including such in electronic form. Such objects and information may without the agreement of the Supplier neither be reproduced nor made accessible to third-parties in their actual form or in the form of their content. The Supplier hereby undertakes to make information and documentation designated by the customer as confidential accessible to third-parties only with the agreement of the customer. The customer shall at the Supplier's request immediately return such items and information to the Supplier in their entirety and shall destroy any and all copies made thereof where such are no longer needed by the customer for his normal business and/or where negotiations have not resulted in the making of a contract.

Article 2 Price and terms of payment

2.1 In the absence of any separate agreement, prices terms shall be deemed to be ex-works from the Supplier including loading within the works but not including packing and

unloading. Turnover Tax (Value Added Tax) at the rate applicable at the relevant time must be added to these prices.

2.2 In the absence of separate agreement, payment shall be made to the Supplier's account with no deductions, as follows:

- 40% downpayment upon placement of order (receipt of confirmation of order),
- the remainder upon delivery/upon notification of readiness for shipment, where delivery can, for reasons for which the Supplier is not responsible, not be accomplished immediately upon completion.

2.3 Where no other requirements are stated in the confirmation of order, payments shall become due for payment net (without deduction) within 30 days from the date of invoice. The legal provisions concerning the consequences of arrears of payment shall apply.

2.4 The customer shall be deemed to enjoy the right of withholding payment and/or setting payments off against counterclaims only where and to the extent that his counterclaims are undisputed or possess enforceable title at law or have been acknowledged by the Supplier. The customer shall in addition be deemed entitled to the exercise of a lien (right of retention) only where and to the extent that his counterclaim(s) is/are based on one and the same contractual relationship.

Article 3 Delivery period, delay in delivery

3.1 The agreed delivery period shall derive from the agreements made between the parties to the contract. The time of its inception and the Supplier's adherence to it shall presuppose that all commercial and technical issues between the parties to the contract have been clarified and that the customer has met all his obligations including, for example, the furnishing of the necessary official certifications and/or approvals and/or the making of a downpayment. The delivery period shall be extended correspondingly where such preconditions are not met.

The foregoing provision shall be deemed not to apply in cases in which the Supplier is responsible for the delay.

Where the Supplier has made a congruent hedging transaction and neither the Supplier nor his subsupplier is at fault and/or the Supplier is in an individual case not obliged to procure, adherence to the delivery period shall be deemed to be contingent on the Supplier's own correct and on-time receipt of supplies. The Supplier undertakes to notify the customer concerning potential delays at the earliest possible juncture.

3.2 The Supplier shall be deemed to have met the delivery time provided the object of supply has left the Supplier's works prior to expiry of the delivery period or provided readiness for shipment has been notified prior to such expiry.

3.3 Where shipment of the object of supply is delayed for reasons for which the customer is responsible and/or where the customer culpably infringes other obligations to cooperation, the Supplier shall be deemed to be entitled to require reimbursement of loss or damage, including any extra costs, thus incurred by the Supplier. The Supplier shall after the expiry of an appropriate period be deemed entitled without prejudice to any other claims to otherwise dispose of the object of supply and, in particular, to place the object of supply in storage at the customer's risk and expense and/or to supply the customer after an appropriately extended period.

3.4 Where failure to adhere to the delivery time is the result of Force Majeure, such as natural disasters, epidemics, terrorism, sabotage, atomic/nuclear accidents, strikes or legal lock-outs or other occurrences beyond the control of the Supplier, the Supplier shall be deemed to be exonerated from his supply obligations for the duration of such occurrence and the delivery time shall be deemed to be extended correspondingly. The Supplier undertakes to notify the customer concerning the start and termination of such circumstances at the earliest possible juncture.

3.5 The customer shall in cases in which the Supplier incurs delay and the customer as a result incurs loss or damage be deemed to be entitled to require a non-recurring payment in compensation for delay. Such payment in compensation for delay shall be 0.5% of the value of that part of the overall delivery which cannot be used as scheduled or in accordance with the contract as a result of the delay per complete week of delay, but not more than a maximum of 5% of such value. Where the customer - taking account of the legal exceptions - grants the Supplier incurring delay an appropriate period for performance and where the Supplier fails for reasons for which he is responsible to perform satisfactorily within such period, the customer shall be deemed to be entitled to withdraw from the contract within the scope of the legal provisions. The customer hereby undertakes to declare within an appropriate period after request by the Supplier whether he intends to make use of his right of withdrawal.

Any and all other claims and obligations arising from delay in delivery shall be governed solely by Article 7.2 of these General Terms and Conditions.

Article 4 Passage of risk, packaging

4.1 Where no individual agreement to the contrary is made, the risk of accidental loss and accidental impairment of the goods shall be deemed to be transferred to the customer upon handover. In case of sale including delivery to another destination, however, the risk of accidental loss and accidental impairment of the goods and the risk of delay shall be deemed to be passed upon delivery of the goods to the carrier, the freight organisation or to any other person or institution entrusted with the execution of conveyance of the goods. The foregoing provision shall also apply in cases in which part deliveries are made and/or the Supplier has undertaken to perform other services, such as shipment or delivery and installation, for example.

4.2 Where shipment is delayed or does not occur as a consequence of circumstances for which the Supplier cannot be held responsible, the risk of accidental loss or of accidental impairment of the object of supply shall be deemed to pass to the customer from the day of notification of readiness for shipment. The Supplier undertakes to contract at the customer's expense any insurances which the customer shall require.

4.3 Part deliveries shall be deemed permissible where and to the extent that this is reasonable for the customer.

4.4 Transportation and other packaging materials will not be accepted back under the provisions of the Packaging Ordinance; wooden pallets are excepted from this provision. The customer undertakes to assure correct disposal of packaging at his own expense.

Article 5 Retention of title

5.1 The Supplier hereby reserves title to the object of supply until all claims and, in particular, those concerning the outstanding balances to which the Supplier is entitled in the context of the business relationship, have been met (current account reservation of title).

5.2 The customer undertakes to take due care of the object of supply (goods subject to retention of title) supplied with reservation of title; he shall, in particular, adequately insure it at his own expense and at its full replacement value against theft, breakage, fire, water and other damage. Where the customer has not demonstrably contracted such insurance, the Supplier shall be deemed to be entitled to himself contract such insurance at the customer's expense. The customer shall be deemed entitled neither to pledge nor to assign by way of security the object of supply. The customer undertakes to inform the Supplier immediately in case of seizure or confiscation or other third-party actions.

5.3 The Supplier shall in cases in which the goods subject to retention of title are combined with other property in such a way that they become a significant constituent of such other property be deemed to thus attain co-ownership of the other property. The manufacture of new property by means of combination or processing of the goods subject to retention of title shall in all cases be accomplished in such a way that the Supplier acquires corresponding co-ownership.

5.4 The customer shall be deemed entitled to dispose of the goods subject to retention of title in the course of his normal business. The customer shall be deemed in the case of disposal of the goods subject to retention of title delivered or manufactured in accordance with Article 5.3 to assign to the Supplier even now the claims and receivables arising against his customers (final invoice amount including Value Added Tax) or a corresponding portion thereof complete with all subsidiary rights until such time as the Supplier's claims have been satisfied in full.

5.5 The customer shall be deemed to be entitled to recover the amount receivable assigned in accordance with Article 5.4; the Supplier's authority to himself recover such amount receivable shall be deemed not to be affected by this provision. The Supplier undertakes not to himself recover the amount receivable provided the customer meets his obligations to payment from the amounts received and does not incur arrears of payment and provided no application for the initiation of proceedings for insolvency or composition or for discontinuation of payment has been filed. Where this is the case, the Supplier shall be deemed entitled to require that the customer disclose to the Supplier the amounts receivable assigned as security and provide all information necessary for recovery.

5.6 In case of conduct in infringement of the contract by the customer and, in particular, in case of arrears of payment, the Supplier shall be deemed after submitting reminder for payment to be entitled to repossess the objects of supply and the customer to be obliged to surrender such objects of supply. Such repossession, and seizure by the Supplier, shall be deemed not to constitute withdrawal from the contract by the Supplier.

5.7 Any application for the initiation of proceedings for insolvency shall be deemed to entitle the Supplier to supply and to perform only after receipt of payment in full or only to supply and performance instalment by instalment against concurrent payment.

Article 6 Liability for defects (Guarantee)

The Supplier hereby provides guarantee as follows subject to the provisions of Article 7 and with the exclusion of further claims for material and legal defects:

6.1 Material defects

6.1.1 Any and all claims by the customer on the grounds of a material defect shall be conditional upon the customer having correctly fulfilled his obligations of inspection and notification

in accordance with Article 377 of the German Commercial Code (HGB).

6.1.2 All those items which are proven to be defective as a result of a circumstance occurring prior to the passage of risk shall at the Supplier's option be repaired or supplied again free of charge. The discovery of such defects shall be notified to the Supplier in writing and without delay. Any and all parts replaced shall automatically be deemed to be the property of the Supplier. Subsequent performance shall where the Supplier was not originally obliged to installation be deemed to include neither the removal of the defective item of supply nor renewed installation.

The customer hereby undertakes to return the defective component to the Supplier at the Supplier's request.

6.1.3 In the case of extensive third-party products, the Supplier's liability for material defects shall be restricted to assignment of the Supplier's claims for material defects against his subsupplier. Where fulfilment of the assigned claims for material defects fails, the customer's claims against the Supplier on the grounds of material defect(s) shall be deemed to be revived.

6.1.4 The customer shall after agreement with the Supplier grant to the Supplier the necessary time and opportunity of performing all such repairs and replacement supplies as shall appear necessary to the Supplier; the Supplier shall otherwise be deemed exempt from liability for the resulting consequences. Only in urgent cases of endangerment of operational safety/reliability and/or for the avoidance of excessively severe loss/damage shall the customer be deemed to possess the right to rectify the defect himself or have it rectified by third parties and to require reimbursement of the necessary expense from the Supplier. The Supplier shall be informed immediately in all such cases.

6.1.5 The Supplier shall - where a complaint has proven to be justified - bear of the direct costs arising from subsequent performance (repair/replacement supply) the costs of the replacement item including transportation to the place of performance. He shall also bear all reasonable costs for removal of the defective item(s) of supply and the costs of installation of the replacement item where installation of the defective item of supply was originally included in the contract. The Supplier shall also where this can reasonably be required on the basis of the individual situation bear the costs of any deployment of his installation technicians and auxiliary staff necessary, where and to the extent that such costs have not been increased by the removal of the object of supply to a place other than the place of performance. Where a request for elimination of defects by the customer proves not to be justified, however, the Supplier shall be deemed entitled to require reimbursement by the customer of the resultant costs.

6.1.6 The customer shall be deemed entitled within the scope of the legal provisions to withdraw from the contract in cases in which subsequent performance fails, i.e., is not possible, cannot reasonably be expected or is refused, and/or in cases in which the Supplier - taking account of the legal exceptions - permits an appropriate period granted to him for repair or replacement supply to expire without satisfactory result. The customer shall in case of only insignificant defect or defects be deemed to possess the right only of requiring reduction of the contract price. The right of reduction of the contract price shall in all other instances be deemed to be excluded.

6.1.7 The Supplier provides no guarantee in the case of defects which are attributable to provisions or design measures which the customer has expressly demanded or which occur in materials or products which the customer has

himself provided or of which the customer has, in contradiction of advice by the Supplier, demanded the use.

6.1.8 Any and all further claims shall be governed solely by Article 7.2 of these Terms and Conditions.

6.1.9 No guarantee liability will be accepted in the following cases, in particular:

Improper or incorrect use, incorrect installation/commissioning by the customer or by third-parties, natural wear and tear, incorrect or negligent treatment, incorrect/deficient maintenance, unsuitable operating utilities, incorrect civil works, unsuitable sites, neglected/inadequate securing of data records by the customer; neglected or inadequate analysis of programs and data for computer viruses by the customer, non-typical effects of any and all types (e.g. vibrations caused by other equipment, ingress of foreign bodies), chemical, electrochemical and/or electrical influences, where not culpably caused by the Supplier.

6.1.10 The Supplier accepts no liability for any consequences of incorrect repair performed by the customer or by a third-party.

The same provision shall also apply to any and all modifications to the object of supply performed without the prior agreement of the Supplier.

6.1.11 The foregoing guarantee provisions shall apply correspondingly - subject to Article 8.2 - to the elimination of defects itself.

6.2 Legal defects

6.2.1 The Supplier hereby undertakes where the use of the object of supply results in the violation of industrial property rights and/or intellectual property rights within Germany in all cases to at his own expense obtain for the customer the rights to continued use or to modify the object of supply in a manner reasonably acceptable to the customer such that the violation of such property rights is then excluded. Where such remedies are not possible under economically rational conditions or within an appropriate period, the customer shall be deemed to be entitled to withdraw from the contract. The Supplier shall under the preconditions stated also be deemed to possess the right to withdraw from the contract.

The Supplier shall in addition in the case of his own culpability indemnify and hold harmless the customer from undisputed or legally enforceable claims by the corresponding owners of industrial property rights.

6.2.2 The Supplier's obligations as stated in Article 6.2.1 shall subject to the provisions of Article 7.2 be deemed to be conclusive for the case of violation of industrial-property and/or intellectual-property rights.

Such obligations shall exist only provided

- the customer informs the Supplier immediately concerning any claims raised on the grounds of violation of industrial-property/intellectual-property rights;
- the customer provides the Supplier with an adequate scope of assistance in defending against the claims raised and, where appropriate, enables the Supplier to perform the modification work in accordance with Article 6.2.1;
- the Supplier retains all provisions for defence, including out-of-court settlements;
- the legal defect is not the result of an instruction by the customer or of the fact that the violation occurs only as a consequence of the combination by the customer of the object of supply with products or supplies not included in the Supplier's scope of supply and
- the violation of the relevant rights is not the result of the fact that the customer has modified the object of supply

without authorisation and/or has used such object of supply in a manner not conformant with the contract.

6.2.3 The Supplier shall be deemed not to be responsible for ensuring that the end products created on the basis of the object of supply, including the production process used for this purpose, are free of third-party industrial property rights.

Article 7 Liability

7.1 The provisions of Articles 6 and 7.2 shall apply accordingly and to the exclusion of further claims on the part of the customer in cases in which the object of supply cannot be used by the customer in accordance with the contract as a result of negligence on the part of the Supplier in the form of non-fulfilment/inadequate fulfilment of proposals and advice made prior to or after the making of the contract and/or as a result of the infringement of other subsidiary contractual obligations and, in particular, of the requirement for an instruction manual for the operation and maintenance of the object of supply.

7.2 The Supplier shall be deemed liable for loss or damage not incurred on or to the object of supply itself, irrespective of the legal bases, only

- in case of intent;
- in case of gross negligence on the part of the Supplier's owner/representative bodies or of managerial staff;
- in case of culpable harm to life, limb, or health;
- in case of defects which the Supplier has knowingly concealed;
- in the context of promised and guaranteed quality features;
- where, in case of defects in the object of supply, liability is borne for harm to persons and/or property on privately used objects under the Product Liability Act.

In case of his culpable infringement of material contractual obligations, the Supplier shall also bear liability in case of gross negligence on the part of non-managerial staff and in case of negligence, restricted in the latter case to reasonably foreseeable loss or damage typical of such contracts. Material contractual obligations shall be defined as obligations, only the fulfilment of which makes trouble-free implementation of the contract as intended at all possible and of the adherence to which the customer may normally be confident.

7.3 Any and all further claims for reimbursement of loss or damage shall be deemed excluded, irrespective of their legal basis. Any provision for exclusion or restriction of the Supplier's liability to reimburse loss or damage shall also be deemed to apply to the personal liability for restitution of loss or damage borne by the Supplier's employees.

7.4 Where no provision to the contrary is made, the customer shall be deemed entitled to withdraw from or terminate the contract on the grounds of an infringement of obligations not taking the form of a defect in cases in which the Supplier is responsible for the infringement of obligation. An unrestricted right of termination on the part of the customer (and, in particular, in accordance with Articles 651, 649 BGB) is hereby expressly excluded. The legal preconditions and legal consequences shall apply in all other instances.

Article 8 Barring of claims

8.1 All claims by the customer shall, irrespective of their legal bases, be deemed barred after twelve (12) months. The periods provided by law shall apply in case of intent and deliberately fraudulent conduct, gross negligence on the part of the Supplier's owner/representative bodies or managerial staff, in case of culpable harm to life, limb and/or health, and in case of claims under the Product Liability Act. They shall also apply to defects in any structure and to objects of supply which have been used, in accordance with their normal and

accepted manner of use, for a structure, and have caused the defectiveness of such structure.

8.2 Where new rights arise for the customer as a result of material defects in the context of the Supplier's elimination of defects, all claims shall be deemed to be barred not later than twenty-four (24) months from the date of delivery of the original component.

Article 9 Use of software

9.1 Where the scope of supply includes software, a non-exclusive right to use the software supplied, including its documentation, shall be granted to the customer. Such software shall be provided for use on the object of supply designated for this purpose. Use of such software on more than one system shall be deemed not to be permissible.

9.2 The customer may copy, revise, and/or translate the software, or convert it from the object code to the source code, only to the legally permissible extent (Articles 69 a ff. German Copyright Act [UrhG]). The customer undertakes not to remove manufacturer's data and, in particular, copyright indications nor to modify such without the prior written agreement of the Supplier. All other rights to the software and the documentation, including any and all copies, shall be deemed to reside with the Supplier/the software supplier. Sublicensing shall be deemed not to be permissible.

9.3 The customer shall perform independent back-up of data at regular intervals in order to provide protection against loss of data caused by computer viruses. The customer shall also implement provisions for protection against computer viruses and other destructive software. The Supplier shall in case of loss or manipulation of data bear liability only for the labour and expense necessary for the restoration of correct data given correct data back-up by the customer.

Article 10 Applicable law, legal venue

10.1 The relevant law of the Federal Republic of Germany shall apply exclusively to all legal relations between the Supplier and the customer.

10.2 The court of jurisdiction for the Supplier's registered office shall be the legal venue. The Supplier shall, however, also be deemed entitled to file suit at the customer's principal domicile.

Article 11 Miscellaneous provisions

11.1 Where the confirmation of order contains no statement to the contrary, the place of performance for the mutual obligations arising from the contractual relationship shall be the Supplier's domicile. The same shall also apply in cases in which standard commercial terms have been agreed.

11.2 Any and all declarations establishing, preserving and/or exercising rights shall require to be in written form. Where written form is not legally prescribed, transmission by telecommunications means and, in particular, by Telefax, shall be deemed to fulfil the requirement for written form, provided the copy of the signed declaration is thus transmitted.

11.3 The customer shall be deemed not to be entitled without the written agreement of the Supplier to assign his contractual rights to third-parties.