



# General Terms and Conditions, Terms for Delivery

*Dated: 11/2015*

## **I. Validity**

1. The supplier's terms of delivery are exclusively valid for all deliveries and services. The General Terms and Conditions of the purchaser are not applicable even if the supplier does not expressly object.

## **II. Offer and Size of Delivery**

1. Our offer is non-obligatory.
2. Provided nothing else has been arranged, the size of the delivery is bound by the written confirmation of the order by the supplier. Subsidiary agreements and amendments require written confirmation from the supplier.
3. The supplier reserves the copyright-related rights of use for property without restriction for an estimate of the charges, drawings and other documents; they are not permitted to be made available to third parties. Drawings and other documents included in the offer should be promptly returned if the order is not issued.

## **III. Price and Payment**

1. The prices shall be understood ex-works and exclude packaging. Legal sales tax is added to the prices at the prevailing rate.
2. Provided other agreements have not been made, payments are to be made within 30 days after delivery free of deductions to the supplier.
3. The purchaser can only offset such claims that are undisputed or legally binding.

## **IV. Delivery Deadline and Delay in Delivery**

1. Compliance with an agreed-upon delivery time assumes the on-time provision of all the documents, approvals and releases to be delivered by the purchaser as well as the fulfillment of other obligations by the purchaser. Should this not be the case, the deadline is adequately extended unless the supplier is responsibly for the delay.
2. The delivery time shall be considered observed when the goods or item to be delivered have left the factory before the expiry of the deadline or the readiness for dispatch has been noted.



3. Should the non-compliance to the delivery deadline be traced back to an act of nature, labor disputes or other events beyond the control of the supplier, the delivery deadline is extended appropriately. The supplier will notify the purchaser of the beginning and end of such conditions as soon as possible.
4. Should the supplier be delayed and the purchaser suffers damages as a result, the purchaser is then entitled to request a flat-rate compensation. It would amount to 0.5% for each complete week of the delay; a total, however, of a maximum of 5% of the value of the item of delivery which as a result of the delay cannot be used on time or in accordance with the contract.
5. Should the supplier be delayed, the purchaser can only then rescind from the contract if the supplier is responsible for the delay and the supplier has let an appropriately set deadline for the delivery expire fruitlessly.
6. The purchaser is obligated at the request of the supplier to explain within a reasonable period of time whether he will rescind from the contract on account of the delivery delay and/or require compensation instead of the service or insist on delivery.
7. Additional claims due to delays conform exclusively to section VII.

## **V. Transfer of Risk and Shipment**

1. The risk is, at the latest, transferred to the purchaser with the dispatch of the delivered items and also namely when partial shipments occur or the supplier has accepted other services, e.g. the shipping costs or transport, as well.
2. Should the shipment be delayed due to conditions the purchaser is responsible for, the risk is transferred to the purchaser on the day of readiness for dispatch.
3. At the purchaser's request, the shipment is insured at the cost of the purchaser through the supplier according to the purchaser's data.
4. Partial shipments as well as deviations from the quantity ordered up to +/- 10% are permitted provided this is reasonable considering the purchaser's interests.

## **VI. Rights regarding Defects**

1. The purchaser must promptly give written notice of defects in delivery or services upon their discovery.

Or:



2. The purchaser must inspect the deliveries and services for defects immediately after receipt. Should defects be found, they must be immediately reported in writing no more than 10 days after detection.
3. Defective parts of the delivery or service are repaired, delivered anew or produced again at the discretion of the supplier.
4. The purchaser must provide the supplier the necessary time and opportunity to perform the improvements and replacement deliveries deemed necessary by the supplier. Otherwise, the supplier is freed from the liability of the consequences arising from this. Only in urgent cases of risk to the security of the factory or prevention of disproportionately great damage whereby the supplier is to be immediately notified does the purchaser have the right to remove the defect or have it removed by a third party and to request replacements for the required applications.
5. Should the reparations or replacement delivery fall through or should the supplier have fruitlessly let an adequate deadline for the repairs or replacement delivery expire, then the purchaser has the right, regardless of any claims or damages under Section VII, to reduce the contractual price within the scope of the legal provisions or rescind from the contract. However, in the case of minor defects, the purchaser only has the right to reduce the contractual price.
6. Defect claims do not exist, provided the defects were not the responsibility of the supplier, in the case of inappropriate or improper use, faulty installation or setting into operation by the purchaser or a third party, normal wear, faulty or negligent handling, improper maintenance, unsuitable equipment, software errors that are cannot be reproduced as well as chemical, electrochemical or electrical influences.
7. Should the purchaser or a third party perform improper alterations or incorrectly set a device into operation, there are no defect claims for this and likewise the consequences resulting from it.  
The liability disclaimer is also valid when the defect can be traced back to a material delivered by the purchaser.
8. Replacement parts are the property of the supplier.
9. Defect claims are subject to a statute of limitations of 12 months. The legal deadlines are applicable in the case of injury to life, body or health, in the case of an intentional or grossly negligent breach of duty on part of the supplier and in the case of fraudulent concealment of a defect. The legal deadlines are also applicable for recourse claims (§§ 438 subparagraph 1 in the German Civil Code), for defects in construction or for delivered goods that in accordance with their customary use were used in construction and have caused its defectiveness (§§ 438 subparagraph 1, number 2 and 634a subparagraph 1, number 2 in the German Civil Code).



## **VII. Liability**

1. For damages that were not caused to the delivered item itself, liability is excluded regardless of their legal grounds.
2. The liability disclaimer, however, is not valid for malicious intent or gross negligence, culpable injury to life, body or health, for defects that have been fraudulently concealed, for assuming a guarantee or procurement risk, for the violation of essential contractual obligations or for defects in the delivered goods insofar as liability exists under the Product Liability Act for personal injury or damage to property for privately used items.
3. In the case of violation of essential contractual obligations, the claim for damages for slight negligence is limited to reasonably foreseeable damage that is typical of the contract.
4. As long as the purchaser is entitled to claims according to section VII, these are subject to a statute of limitations according to Section VI, number 7.

## **VIII. Reservations of Proprietary Rights**

1. The property of the delivered goods belongs to the supplier until all claims against the purchaser arising from their business relationship are fulfilled. Provided the value of all security rights due to the supplier exceeds the amount of all insured claims by more than 20%, a corresponding portion of the security rights will be released to the supplier at the request of the purchaser.
2. The supplier is authorized to insure the delivered goods against theft, breakage, fire, water and other damages at the cost of the purchaser unless the purchaser can prove that he/she has taken out insurance.
3. The purchaser cannot sell, pledge or transfer the delivered goods as security. The purchaser must immediately notify the supplier in the case of pledge, confiscation or other disposals by third parties.
4. In the case of conduct on part of the purchaser that is in violation of the contract, in particular a delay in payment, the supplier is entitled to take back the delivered goods after a warning, and the purchaser is obligated to hand them over.
5. Based on the property reservation, the supplier can only demand the delivered items when he/she has rescinded from the contract.
6. The application to begin insolvency proceedings entitles the supplier to rescind from the contract and demand the immediate return of the delivered goods.



## **IX. Court of Jurisdiction and Applicable Law**

1. For all disputes arising from the contractual relationship, the supplier files a claim with the court of his/her jurisdiction. The supplier is also entitled to file a claim at the headquarters of the purchaser.
2. German law according to the German Commercial Code and the German Civil Code applies to the contractual relationship.