

## General business- and delivery conditions for products

### I. General regulations

1. The quantity of delivery is stated in both parties written mutual declarations. General business conditions of the customer are valid in so far as the supplier agreed to explicitly in writing.
2. The supplier keeps the unrestricted copyright on cost estimates, drawings and other documents (hereafter: documents). The documents may only be shown to a third party after the suppliers express written consent, and are have to be returned to the supplier, if the order is not given.
3. The customer has the not exclusive right of using the standard-software with the agreed features in its original version on the agreed devices. The customer may produce a backup without explicit agreement.
4. Partial deliveries are admissible, as far as it is reasonable to the customer.
5. The customers rights are not transferable to a third party. Its resignation is only possible with express written consent.

## II. Prices and terms of payment

1. All payments shall be made, unless otherwise agreed, in EURO, net, ex factory, exclusive packing plus statutory VAT. If the terms of delivery are longer than six months our prices are recommended; in case of increased wages or material prices the supplier is authorized to reasonably adapt the prices.
2. If the supplier takes the installation, and unless otherwise agreed, the customer bears apart from the agreed reimbursement all extras like travel expenses, expenses for the transportation of tools and personal baggage as well as to redeem it.
3. Payments are to be made to the suppliers conditions.
4. The customer is merely able to reckon with those claims, which are undisputed or legitimately established .
5. In case of late payments the supplier charges delay interest rates according to § 288 paragraph 2,247 BGB.

## III Reservation of property

1. The objects delivered (reserved goods) remain the suppliers property until all claims, that he is entitled to receive from the customer in connection with existing business relationship are fulfilled. As far as the value of security rights, which the customer is entitled to, exceeds the full extend of all given claims by more than 20%, the supplier will, at the customers request, release an appropriate part of the security rights.
2. During the reservation of property the customer is prohibited to pawn it or use it as a security. The customer is entitled to sell the product in a usual business relationship and merely to the condition, that the seller is being paid by the buyer or the seller reserves the right, that the object remains his property, until the buyer fulfils the obliged payments.
3. In case of seizures, confiscations or other decrees or interferences of third parties the customer shall be obliged to forthwith notify the supplier.
4. In case of the customer violating his obligations, especially late payments, the supplier is, after granting a given deadline for payment, entitled to withdraw from the contract and reclaim his property. The lawful regulation concerning the deadlines dispensable remain untouched. The customer is obliged to return the object.
5. Repair of damage, with the exception of defaults according to paragraph VIII, that originated in the period between delivery and returning deadline are to be borne by the customer.

## IV. Terms of delivery; delay

1. Receiving all necessary documents, permissions and releases, especially plans on time and maintaining the agreed terms of payment and other obligations by the customer are fundamental for maintaining terms of delivery. In case of those necessities not being provided in time, terms of delivery will adopt appropriately, that is invalid if the supplier is responsible for the delay.

The term of delivery starts after the conclusion of the contract. The term of delivery will be deemed as having been observed if, up to its expiry, the product is ready for shipment from our works.

2. In the event of force majeure, such as mobilization, war, revolt or similar events like strikes or lockouts the terms of delivery shall be reasonably extended.

3. Delivery dates agreed in the contract shall be complied with unless an interruption of in time delivering by our suppliers.

4. In the event of delivery being delayed, the customer is entitled - if he proves that he has suffered a loss - to demand indemnity of 0,5% for every complete week of delay, but no more than 5% of the value of the total consignment which cannot be used timely or expediently as a result of such delay.

5. Claims of redress of the customer because of delayed delivery as well as claims of redress instead of performance, which go beyond Nr 4., even after reaching the deadline for delivery, except those cases cogently liable for intent, gross negligence or because of injury of life, body or health, will be excluded. The customer shall merely be entitled to withdraw from the contract, as written in legal regulations, if the delay is attributed to the supplier. Changes in proofs disadvantageous for the customer are not linked with the previous regulations.

6. The customer shall be obliged, by the suppliers request, explain within a reasonable time, if he withdraws from the contract because of delay or insists on delivery.
  
7. In case of shipment or delivery being delayed at the customers request by more than one month after the readiness for shipment is being reported, the supplier shall be entitled to charge storing fees. The amount will be 0,5% of the price of the product, at the beginning of each month of delay, but no more than 5% of its total. The proof of higher or lower expenses for storing needs further arrangements by both parties.

## V. Transfer of risk

1. The risk is, even if the delivery is free, transferred to the customer as follows:

a) Deliveries without setting up or installation, when they are shipped or picked up.

At the customers request and expenses the delivery will be insured by the supplier against the usual risks of transportation.

b) Deliveries with setting up or installation, at the day of activation in the customers company or, if agreed, after faultless testing period.

2. If the delay of shipment, the delivery, the beginning of setting up or installation, the activation in the customers company or the testing period is caused by the customer or the customer comes in default by other reasons, the risk is transferred to the customer.

## VI. Installation

The following regulations apply to the installation, unless otherwise agreed in writing:

1. The customer has to take care of and provide on time at his own expenses:

- a) All out of line of business' subsidiary works inclusive the needed skilled and unskilled workers, building material and tools,
- b) The necessary needed objects and materials for installation and activation, such as scaffoldings, hoists and other devices, fuel and lubricants,
- c) Power and water at the place of use the connections, heating and light included,
- d) At the place of installation sufficient large, suitable, dry and lockable spaces to keep the machine parts, devices, materials, tools etc. and proper work and recreation rooms for the installing staff inclusive reasonable sanitary facilities; furthermore the customer ought to take steps of safety measure to protect the supplier's property and the installing staff, which he would take to protect his own property and staff,
- e) Security clothing and security devices, which are necessary under the circumstances at the place of installation.

2. Before the beginning of installation and without request, the customer has to give the necessary information concerning hidden electricity mains, gas mains, water pipes or similar devices, as well as the necessary information concerning statics.

3. Before the beginning of installation, the needed objects and devices for taking up work have to be at the place of installation and all necessary work in advance has to be

done, so the installation shall begin as agreed and be completed without interruption. The route and the place of installation have to be smoothed and cleared.

4. If the installation or the activation are delayed due to circumstances that were not caused by the supplier, the customer shall bear a reasonable amount of the expenses for waiting time and additional necessary trips of the supplier and the installing staff.
5. The customer shall report the staff's working hours weekly, and to certify the finishing of installation or the activation immediately.
6. If the supplier demands the acceptance of the delivery after its completion, the customer shall do it within two weeks. If that is not done, the acceptance will be regarded as valid. The acceptance is also valid, if the device - if necessary after an agreed testing period - is being used.

## VII. Acceptance

The customer is not entitled to refuse the deliveries acceptance due to minor defects.

## VIII. Defaults

The supplier is liable for defaults as follows:

1. All those parts or services are to be rendered or mended for free, newly delivered or newly be done at the suppliers choice, which show a defect within the statute-barred period of time - without consideration of the devices' running duration - if the reason already existed before the transition of risk.
2. Claims of defaults come under the statute of limitation after two years. Cases of injury of life, intend or gross negligence of duty by the supplier and in cases of insidious secret keeping of a defect shall be excluded. The regulations as stated in law concerning inhibition of process, general inhibition and the starting all over of the terms remain untouched.
3. The customer shall notify the supplier about defaults immediately.
4. In the event of justified complaints the customer shall be entitled to withhold an amount of the invoiced payment that describes a reasonable relation to the default. The customer is merely entitled to withhold payments if he did report complaints, which are justified without any doubts. In the event of the complaints being not justified, the supplier is entitled to request compensation for the made efforts.
5. The customer must afford the supplier the opportunity to fulfil those services within a reasonable period of time.

6. If the default was not successfully remedied, the customer is entitled - unnoticed any claims of damages as stipulated in article XI - to withdraw from the contract or to lower the reimbursement.

7. Complaints are invalid, if the deviation is merely insignificant regarding the agreed conditions, if the regular use is insignificantly affected, in the event of natural wear and tear or defects, which originated after the transfer of risk from excessive use, unsuitable measures, poor construction works, defective foundation, or effects of special natural phenomena, which are not provided in the contract, as well as irreproducible defects in the software. If the customer or a third party carries out improper changes or repairs, complaints are invalid for those and the following defects.

Excluded from complaints are wearing parts, such as:

- parts underlying slip wear, especially caused by abrasive dust, such as:
  - trapezoidal spindles and nuts
  - slip bearings
  - guide ways
  - swivelling bolts and others
  
- parts, which are directly or indirectly used by the spark protector, like caps, covers etc
  
- air tyres due to wear and tear resp. effects of heat
  
- damages due to overload, improper operation resp. for not intended use
  
- failure of components due to poor maintenance, or maintenance which did not take place

8. The customers claims, due to the purpose of the satisfaction of the claim necessary expenditures, especially costs for transportation, travel, labour and material, are excluded, if the increased expenditures attribute to the device's transportation to an other place as the customers establishment, except the transportation corresponds to its regular suggested use.

9. The customers claims of recourse against the supplier in compliance with § 478 BGB (recourse of the industrialist) are merely valid if both parties did not agree otherwise in writing in excess of statutory warranty claims. For the extend of the customers recourse against the supplier in compliance with § 478 BGB subsection 2 BGB no. 8 is valid in addition.

10. Paragraph XI (other claims of damages) is valid for other claims of damages. Further or other claims of the customer, against the supplier than those being regulated in this Paragraph VII and its fulfilment because of a default, are excluded.

## IX. Industrial property right and copyright; lack of title

1. Unless otherwise agreed, the supplier is obliged, to carry out the delivery without the industrial property rights and third parties copyrights (hereafter proprietary rights) merely in the country of delivery. In the event of a third party legitimately claiming a violation of the proprietary rights against the customer because of a delivered by the supplier, contractual used delivery, the supplier is liable to the customer within the in paragraph VII no. 2 estimated time as follows:

a) The supplier will by his choice and expenses either acquire usufructuary rights for the concerning deliveries, change it so the proprietary rights remain inviolate, or exchange them. If that is impossible for the supplier to do to the suitable conditions, the customer is entitled to use his recourse or deduction right.

b) The obligation to pay damages goes by paragraph XI.

c) The suppliers previously mentioned obligations are valid in so far, as the customer informed the supplier about the claims of the third party immediately in writing, not acknowledges the violation and the supplier reserves all defensive steps and comparative hearings. In the event of the customer discontinuing the utilization of the delivery for the diminution of the loss or other important reasons, he is obliged to point out to the third party, that the discontinuation is not linked with the acknowledgement of the violation of proprietary rights.

2. The customers claims are excluded if he is responsible for the violation of the proprietary rights.

3. Further the customers claims are excluded, if the violation of proprietary rights is caused by the customers special parameter, by utilization, which was unexpected by the supplier, by changes, which were done to the delivered device by the customer or if the device is used with other products, which were not delivered by the supplier.
4. In the event of violation of proprietary rights, the in no. 1 a) regulated claims of the customer usually the regulations in paragraph VIII no 4,4 and 9 are effective.
5. If other defects of title exist the regulations of paragraph VIII are effective.
6. Further or other than in this paragraph IX regulated claims of the customer against the supplier and its vicarious agents, due to a lack of title, are excluded.

## X. Impossibility; adaptation of contract

1. As far as the delivery is impossible, the customer is entitled to request redress, unless the the supplier is not responsible for the impossibility. However the claim of redress is limited to 10 % of the worthiness of that part of the delivery, which cannot be put into its functional operation, due to the impossibility. This restriction is invalid, in the case of mandatory liability because of intent, gross negligence or because of injury of life, body or health; a change of the proofs that puts the customer at a disadvantage is not linked with that paragraph.

The customers right to withdraw from the contract remains untouched.

2. In the event of unpredictable occurrences in the meaning of paragraph IV no 2 considerably change the economical importance or the contents of the delivery, the contract will be adapted in good faith. As far as the adaptation is economically not justifiable, the customer is entitled to withdraw from the contract. If he plans to use his right of rescission, he shall inform the supplier immediately after realization of the extent of the occurrence, that is also after an agreed extension of the delivery period by both parties.

## XI. Other claims of damages

1. The customers claims of damages and for operating reimbursements (hereafter claims of redress), indifferent to the legal basis, especially for the violation of duties of the contractual obligations and for unauthorized actions, are excluded.
2. This is invalid in the case of mandatory liability, e.g. the statutory product liability, in cases of intent, gross negligence or injury of life, body or health, due to violation of essential contractual obligations. However the claims of redress for the violation of essential contractual obligations is limited to a typical for the contract, predictable loss, unless intent, gross negligence or injury of life, body or health are available. A change of the proofs that puts the customer at a disadvantage is not linked with the previous regulations.
3. As far as the customer is entitled to claim damages, those become statute-barred after the expiration of the statutory period for claims of defaults in accordance with paragraph VIII no 2. The statutory of limitation is valid for claims of damages according to the product liability.

## XII. Venue and applicable right

1. If the customer is a merchant, the exclusive venue is the suppliers location, with all out of the contractual relationship indirectly or directly resulting disputes, inclusive claims under a bill and cheques. The same venue is valid, if the customer does not own a general venue in the home country, or moves his residence or general whereabouts out of the home country, or his residence or general whereabouts is unknown at the moment of the filing of a suit. The supplier is also entitled to file a suit at the customers location.
2. For the legal relationship in connection with this contract the German material right is valid excluding the agreement of The United Nations about the contracts about the international sales of goods (CISG).

## XIII. Binding power of the contract,

### Validity of the general terms of delivery

The contract remains valid in its remaining parts, even if single regulations are legally ineffective. This is invalid, if holding on to the contract means unreasonable hardship for one party.

Deviation from the general terms of delivery is merely valid, if explicitly agreed to in writing.

Translated by J. Kunst