



Terms and Conditions of Sales and Delivery

August 2017

1. General

- 1.1. All deliveries and services are subject to these terms and conditions as well as to any separate contractual agreements. A contract is concluded, unless agreed otherwise, with the written order confirmation of the supplier. We deliver and work exclusively according to our general terms of sale and delivery; we shall not accept any terms and conditions of the purchaser which differ from our terms and conditions, unless we have expressly agreed to their validity in writing. Our general terms of sale and delivery shall also apply if we unconditionally carry out the delivery to the purchaser in the knowledge of the conflicting terms and conditions of the purchaser which deviate from our conditions.
- 1.2. The written order confirmation of the supplier shall be decisive for the scope of delivery, in the case of an offer by the supplier with a binding time period and timely acceptance of the offer, unless there is a timely confirmation of order. Supplementary agreements/changes require the written confirmation of the supplier.
- 1.3. The supplier reserves the right to property and copyrights to samples, cost estimates, drawings and similar information of a physical and non-physical nature, including in electronic form. They may not be made accessible to third parties. The supplier undertakes to make information and documents from the purchaser which are designated as confidential accessible to third parties only with the consent of the purchaser.
- 1.4. The offer of the supplier is not binding and does not obligate the acceptance of the order. Illustrations and sketches as well as measurements and weights are approximate and non-binding.

2. Price, payment and minimum order value

- 2.1. In the absence of a special agreement, prices are valid ex-works, unpacked, free loaded, without transport insurance, tariffs, taxes or other public charges which the goods are subject to. The prices are subject to VAT at the statutory rate.
- 2.2. Our prices are subject to alterations, unless a fixed price has been expressly agreed. We reserve the right to change our prices accordingly if, following the conclusion of the contract, cost reductions or cost increases occur, in particular due to wage agreements or material price changes. We will provide this to the purchaser on request.
- 2.3. Unless otherwise agreed, the payment of the purchase price shall be made immediately upon delivery without any deduction. If the ability to pay of the purchaser is worsened during the period between the entry of the order confirmation and the delivery, the supplier is entitled to withhold outstanding deliveries. If the purchaser refuses to eliminate the risk of the purchase price by the payment or deposit of a security, the supplier is entitled to withdraw from the contract.
- 2.4. The right to withhold payments or to offset against counterclaims is granted to the purchaser insofar as the counterclaims are undisputed or legally ascertained.
- 2.5. The minimum order value is 75.00 €. If the order value is less than 75.00 €, we charge a handling fee of 20.00 €, although the maximum amount shall be limited to 75.00 € including the order value.

3. Delivery time, delivery delay

- 3.1. The delivery time results from the agreements of the contractual parties. Compliance with it by the supplier requires that all commercial and technical questions between the contracting parties have been clarified and that the purchaser has fulfilled all its incumbent obligations, such as the provision of the required regulatory approvals, the provision of a down payment, or the supply of provisions such as carrier vehicles. If this is not the case, the delivery time is correspondingly extended accordingly. This shall not apply if the supplier is responsible for the delay.
- 3.2. Compliance with the delivery period is subject to correct and timely self-delivery. The supplier shall notify delays as soon as possible.

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- 3.3. The delivery period is complied with if the delivery item has left the premises of the supplier or has been declared ready for dispatch before its expiry. Insofar as acceptance is to be carried out, except with justified refusal of acceptance, the deadline is decisive, as is the notification of readiness for acceptance.
- 3.4. If dispatch or acceptance of the delivery item is delayed for reasons for which the purchaser is responsible, the costs incurred as a result of the delay shall be charged to the purchaser, starting one month after notification of the dispatch or acceptance.
- 3.5. If the non-compliance of the delivery time is attributable to force majeure, to labour disputes or to other events that are outside the sphere of influence of the supplier, the delivery time is extended accordingly. The supplier shall inform the purchaser of the beginning and the end of such circumstances.
- 3.6. The purchaser is entitled to withdraw from the contract without setting a period of grace if the supplier is finally unable to provide the complete services before the transfer of risk. In addition, the purchaser is entitled to withdraw from the contract if, in the case of an order, the performance of part of the delivery becomes impossible and the purchaser has a legitimate interest in rejecting the partial delivery. If this is not the case, the purchaser shall pay the contract price for the partial delivery. The same shall apply in the event of the inability of the supplier. Section 7.2 applies otherwise. If impossibility or inability occurs during the acceptance delay, or if the purchaser is solely or largely responsible for these circumstances, the purchaser shall remain obligated to effect payment.
- 3.7. If the supplier falls into arrears and the purchaser incurs damages therefrom, it is entitled to demand a lump sum default compensation. For each full week of delay, it shall be 0.5%, but a maximum total amount of 5%, of the value of the part of the overall delivery that can not be used properly or contractually as a result of the delay. The purchaser reserves the right to prove a higher loss, and the supplier a lower loss. If the purchaser sets a reasonable deadline for performance to the supplier after expiry and the deadline is not met, taking the legal exceptions into account, the purchaser is entitled to withdraw from the contract within the scope of the statutory provisions. Further claims as a result of delayed delivery shall be determined pursuant to Section 7.2 of these terms and conditions.

4. Transfer of risk, acceptance, packaging

- 4.1. The risk is transferred to the purchaser when the delivery item has left the premises even if partial deliveries are made or the supplier has undertaken other services such as the shipping costs or delivery and installation. If acceptance is to be carried out, this shall be decisive for the transfer of risk. It must be carried out immediately on the acceptance date, according to the declaration of readiness for acceptance from the supplier. The purchaser may not refuse acceptance if an insignificant defect is detected.
- 4.2. If the dispatch or the acceptance is delayed or not given due to circumstances which are not attributable to the supplier, the risk shall pass to the purchaser from the date of the notification of the dispatch or readiness for acceptance. The supplier is obligated, at the expense of the purchaser, to effect insurance as requested by the purchaser.
- 4.3. Partial deliveries are permitted insofar as they are reasonable to the purchaser.
- 4.4. Insofar as the purchaser requests it, the supplier shall cover the delivery by means of a transport insurance; the purchaser shall bear the costs incurred in this respect.
- 4.5. Separate agreements apply for the withdrawal of packaging.

5. Retention of title

- 5.1. The supplier shall retain ownership of the object of delivery until receipt of all payments from the delivery contract.
- 5.2. The purchaser is obligated to treat the purchased object with care; it is obligated in particular to sufficiently insure this object at replacement value against fire, water damage and theft at its own expense. If maintenance work and inspections must be performed, the purchaser must carry these out on time at its own expense. The supplier is entitled to

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- insure the delivery item at the expense of the purchaser, insofar as the purchaser has not proved the conclusion of the insurance itself.
- 5.3. The purchaser is entitled to resell the purchase item in the ordinary course of business; however the purchaser shall already assign to us all claims in the amount of the final sum (including VAT) of our demand, which arise from the resale to its purchaser or a third party, irrespective of whether the purchase item has been resold without processing or after processing. The purchaser remains entitled to collect this claim even after the assignment. Our authority to collect the claim itself remains unaffected. However, we undertake not to collect the claim, as long as the purchaser fulfils its payment obligations from the revenue collected, is not in arrears with payment and, in particular, no application for the opening of settlement or insolvency proceedings has been filed or suspension of payment is present. If this is the case, we are entitled to demand that the purchaser notify us of the assigned claims and their debtors, make all necessary information ready for collection, hand over the related documents and notify the debtors (third parties) of the assignment. In the case of seizures, confiscation or other orders or interventions by third parties, the purchaser shall notify the supplier in writing without delay.
 - 5.4. The processing or transformation of the delivery item by the purchaser is always carried out for the supplier. If the delivery item is processed with other items not belonging to the purchaser, the supplier acquires the co-ownership of the new item in proportion to the value of the purchased item (final invoice amount including VAT) to the other processed items at the time of the processing. For the item resulting from the processing, the same applies as for the item which is subject to reservation.
 - 5.5. If the delivery item is inseparably mixed with other items not belonging to the purchaser, the supplier acquires the co-ownership of the new item in proportion to the value of the purchased item (final invoice amount including VAT) to the other mixed items at the time of the processing. If the mixing is carried out in such a way that the item of the purchaser is to be regarded as the main item, it is agreed that the purchaser transfers co-ownership to the supplier proportionally. The purchaser shall store the resulting item of sole proprietorship or co-owned property for the supplier.
 - 5.6. In the case of breach of contract by the purchaser, in particular in the event of a delay in payment, the supplier shall be entitled to take back the delivery item after a reminder and the purchaser is obligated to surrender the goods.
 - 5.7. Due to the retention of title, the supplier is only entitled to demand the delivery item if it has withdrawn from the contract.
 - 5.8. An application to initiate insolvency proceedings entitles the supplier to withdraw from the contract and demand the immediate return of the delivered object.

6. Claims for defects

In the event of material defects or deficiencies in the delivery, the supplier shall provide, subject to the exclusion of further claims.

Section 7 - Guarantee as follows:

Defects:

- 6.1. All parts must be remedied free of charge according to the discretion of the supplier, or they must be replaced without defects, which are found to be defective as a result of a circumstance occurring before the transfer of risk. The supplier must immediately notify the supplier in writing of any such defects. Replaced parts become the property of the supplier.
- 6.2. In order to carry out all subsequent improvements and substitute deliveries which appear necessary to the supplier, the purchaser shall allow the necessary time and opportunity after agreement with the supplier. Otherwise, the supplier is exempted from liability for the resulting consequences. Only in urgent cases of endangering operational safety or to prevent disproportionate damage, whereby the supplier is immediately to be informed, the purchaser has the right to rectify the defects itself or by a third party and to demand compensation from the supplier for the necessary expenses.



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- 6.3. The supplier shall bear the direct costs including the replacement part and shipping arising from the rectification or replacement delivery, insofar as the complaint proves to be justified. It shall also bear the cost of dismantling and installation, as well as the costs of any necessary provision of installers and auxiliary staff, including travel expenses, insofar as this does not result in a disproportionate burden on the supplier.
- 6.4. The purchaser shall have the right to withdraw from the contract within the scope of the statutory provisions if the supplier, taking the legal exceptions into account, allows a reasonable time limit set for the repair or replacement delivery to elapse unsuccessfully. If only a negligible defect is present, the purchaser is only entitled to a reduction in the contract price. The right to reduce the contract price is otherwise excluded. Further claims shall be determined pursuant to section 7.2 of these terms and conditions.
- 6.5. No guarantee is given in particular in the following cases: Unsuitable or improper use, incorrect assembly or commissioning by the purchaser or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating equipment, defective construction work, unsuitable foundation, chemical, electrochemical or electrical influences - insofar as they are not the responsibility of the supplier.
- 6.6. If the purchaser or a third party improperly undertakes remedial action, there is no liability of the supplier for the resulting consequences. The same shall apply to any changes to the delivery item made without the prior consent of the supplier.

Legal defects:

- 6.7. If the use of the delivery item leads to the infringement of industrial property rights or copyrights, the supplier will, at its own expense, procure the purchaser the right to continue using the goods or modify the delivery item in a reasonable manner for the purchaser so that the infringement of rights no longer exists. If this is not possible under economically reasonable conditions and within a reasonable period, the purchaser is entitled to withdraw from the contract. Under the above conditions, the supplier is also entitled to withdraw from the contract. In addition, the supplier shall release the purchaser from undisputed or legally established claims of the property right owner.
- 6.8. The obligations of the supplier in section 6.7 are subject to section 7.2 in the case of infringement of rights and copyright. They only exist if the purchaser informs the supplier immediately of alleged infringements of rights or copyright, the purchaser supports the supplier to an appropriate extent in the defence of the asserted claims or to allow the supplier to carry out the modification measures pursuant to section 6.7, all defence measures, including out-of-court regulations remain reserved for the supplier, the defect of title is not based on an instruction of the purchaser and the infringement was not caused thereby, that the purchaser altered the delivery item without authorisation or used it in a non-contractual manner.

7. Liability

- 7.1. If, due to the fault of the supplier, the delivery item can not be used by the purchaser for the contractually agreed purpose, due to negligence or faulty execution of proposals or deliberations made before or after conclusion of the contract or by the violation of other subsidiary contractual obligations, in particular instructions for operating and maintaining the delivery item, the provisions of Sections 6 and 7.2 shall apply accordingly to the exclusion of further claims of the purchaser.
- 7.2. The supplier shall be liable for damage which has not occurred to the delivery item itself, for whatever legal reason, only in the event of intent, gross negligence on the part of the owner/organisation/responsible employee in case of culpable damage to life, body and health, in the case of defects which have been fraudulently concealed or whose absence has been guaranteed, in the case of defects in the delivery item, insofar as according to the product liability law it is liable for personal injury or property damage to privately used items.

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- 7.3. In the case of culpable violation of essential contractual obligations, the supplier shall also be liable in the case of gross negligence by non-executive employees and for slight negligence, in the latter case, this is limited to the reasonably foreseeable damages typical of this type of contract. Further claims are excluded.
- 7.4. Used goods will be sold under exclusion of any liability for material defects on the basis of the applicable used machines warranty conditions of the supplier.

8. Limitation period

All claims of the purchaser, for whatever legal reason, expire in 12 months. The statutory time limits apply for claims for damages pursuant to section 7.2. They shall also apply to deficiencies in a building or to delivery goods which have been used for a building according to their normal use and which have caused their defect.

9. Use of software

Insofar as software is included in the scope of delivery, the purchaser is granted a non-exclusive right to use the delivered software including its documentation. It is provided exclusively for use on the intended delivery item. Use of the software on more than one system is prohibited. The purchaser may reproduce, revise, translate or convert the software from the object code to the source code only to the extent permitted by law (§§ 69 a ff. UrhG). The purchaser undertakes not to remove or to modify the manufacturer's data (especially copyright notes) without the prior express consent of the supplier.

10. Data protection, machine and position data

- 10.1. The supplier is entitled to store and process the data relating to the business relationship or in connection with the purchaser, whether these originate from the purchaser itself or from third parties, in accordance with the Federal Data Protection Act. The supplier is not entitled to pass on data to third parties, unless a legal obligation exists. Excluded from the transmission of the data are such data, which are necessary for the fulfilment of the contract.
- 10.2. Insofar as the delivery item is provided with a machine and/or position data acquisition unit, these data may be stored by the supplier and used as intended. The supplier is not entitled to pass on data to third parties, unless a legal obligation to do so exists.
- 10.3. The supplier does not assume any liability for the correctness, completeness, integrity, consistency, evaluability and accuracy of the machine and/or position data recorded in section 10.2. The supplier is also not liable for damages of any kind (such as loss of profit, loss of data, etc.) resulting from the use of the recorded data, the impossibility of the application or due to application errors. This exclusion of liability does not apply to damages caused by intent or gross negligence on the part of the supplier.
- 10.4. The purchaser may revoke its consent to the collection, processing, storage and use of its machine and/or position data at any time. Such revocation must be submitted to the supplier in writing. The revocation does not affect the effectiveness of the contractual relations between the supplier and the purchaser and in particular does not affect the payment obligations of the purchaser.



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11. Applicable law, place of jurisdiction

- 11.1. The relevant law of the Federal Republic of Germany shall apply exclusively to all legal and contractual relations between the supplier and the purchaser.
- 11.2. Jurisdiction is the court competent for the registered office of the supplier. The supplier shall, however, be entitled to take legal action at the registered office of the purchaser.

12. Consumer protection, information according to § 36 VSBG (Consumer dispute resolution law)

The supplier is neither prepared nor obligated to participate in dispute settlement proceedings before a consumer arbitration board.

13. Miscellaneous

The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply, unless expressly agreed in writing. It is in the duty of the foreign purchaser to ensure that the delivery items are delivered according to the respective national safety regulations. Only German law applies to contractual relations.

14. Severability clause

Should one or all of the aforementioned conditions be or become invalid or become ineffective or impracticable in their entirety or in part, the validity of the remaining agreements will not be affected thereby.

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