

1. Application of the conditions

Deliveries and offers are made and services rendered exclusively on the basis of these terms and conditions, which apply to all future business relationships even if no explicit reference is made to them. Any counterclaims by the client based on its own terms and conditions of business and purchase are hereby disclaimed. Any deviations from our terms and conditions require our written consent.

2. Offers and conclusion of contract

The Contractor's offers are without obligation and non-binding. Any notices of acceptance or orders are legally invalid unless confirmed in writing by the Contractor, and the same applies to any addenda, amendments or ancillary agreements. Our employees are not entitled to enter into verbal supplementary or ancillary agreements.

Details of the delivered item or service (e.g. weight, dimensions, usage, tolerances, technical data, etc.), as well as illustrations thereof, are non-binding approximate descriptions. We reserve the right to make changes to colours, shapes, functioning, dimensions, specific weights or equipment to the extent typical within the industry, provided said changes are made on grounds of legal provisions, represent technical improvements or [do not] impair usability for the contractually intended purpose.

3. Prices

Unless otherwise stated, the Contractor undertakes to be bound to the prices given in its offers for 30 days from the date of the offer. Our prices apply to the scope of supply specified in our order confirmation. Separate charges will be made for additional or special work or services. The prices apply ex works, excluding assembly or installation, plus the statutory value added tax, but excluding packaging and carriage.

4. Payment terms

Unless otherwise agreed in writing, invoices are payable within eight days of the invoice data at a 2% cash discount or within 30 days net. A cash discount will not be granted if there is an outstanding balance in our favour on the payment date. However, we reserve the right to deliver on an advance-payment or cash-on-delivery basis. In the case of arrears, penal interest will be charged at a rate 3% higher than the Deutsche Bundesbank base rate. However, we remain entitled to prove greater damage caused by delay, and the Client is conversely entitled to prove lesser damage.

Payments may only be withheld by the Client or offset against its counterclaims if these counterclaims are either undisputed or established in law.

If the Contractor becomes aware of circumstances which cast doubt on the Client's creditworthiness, the Contractor is entitled to demand immediate payment of any outstanding debts or to make impending deliveries or other transactions only in return for advance payment. If so requested, the Client must at any time furnish adequate collateral for any delivered but as yet unpaid-for merchandise. If the Client fails to make such advance payments or furnish said collateral, the Contractor is entitled, after granting a reasonable period of grace, either to cancel the contract or to demand damages for non-fulfilment.

5. Delivery deadlines

Delivery deadlines or periods, whether binding or non-binding, must be agreed in writing. Even if binding delivery periods or deadlines have been agreed, the Contractor shall not be held responsible for delays in delivery or rendering of services due to force majeure or to events that significantly hamper the Contractor's work or render it impossible, such as operational breakdowns of any kind, difficulties obtaining materials, transportation delays, strikes, lockouts, lack of manpower, official measures, etc., including such events affecting the Contractor's own suppliers or sub-suppliers.

If the impediment persists for longer than three months, the Client shall be entitled, after granting a reasonable period of grace, to cancel the unfulfilled portion of the contract. However, in these circumstances the Client is not entitled to assert a claim for damages against the Contractor.

The Contractor is entitled at any time to make part deliveries or render partial performance. In the case of call orders, the Contractor is entitled to procure the material for the order, and to immediately manufacture the entire order volume. Accordingly, unless otherwise agreed, any changes required by the Client cannot be implemented once the order has been placed. This paragraph applies correspondingly if the Contractor obtains the merchandise from third parties.

If the Client meets a portion of the costs of tools or other production aids, it shall not thereby acquire any ownership or co-ownership of these items, though this is without prejudice to the Client's design protection rights in this respect. In the event of delivery to countries in the European Union, the Client undertakes to notify us of its VAT identification number before or on placing the order.

6. Transfer of risk, place of performance

The place of performance for deliveries is Maintal, even if we also perform additional services. The risk transfers to the Client as soon as the shipment is surrendered to the person transporting it or once it has left the Contractor's warehouse for shipment purposes.

If delivery is impossible for reasons beyond the Contractor's control, the risk transfers to the Client on notification of readiness for shipment.

If there are delays in rendering the merchandise ready for shipment, in the shipment itself or in its acceptance, on grounds for which the Client is culpable, the Contractor is entitled, after a reasonable period of grace has been granted and has elapsed without result, to dispose of the delivery elsewhere and demand damages for non-fulfilment. The Client must notify the Contractor in good time of any special wishes with regard to shipment and/or packaging.

7. Warranty

The Client must examine the shipment immediately on receipt. The Client's warranty rights are forfeited if it fails to notify the Contractor in writing, providing an accurate description, of any material defects in the delivery or any complaints concerning other non-contractual aspects of the delivery as soon as it becomes aware of them or could reasonably be expected to have done so. At our choice we shall honour the warranty initially either by remedying the defect or by making a replacement delivery within a reasonable period of receiving a corresponding request from the Client. In the case of failure, the statutory warranty rights of rescission or price reduction duly apply.

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When developing novel devices, the Contractor warrants only that the device or devices it manufactures or develops will be free of production defects. No warranty is given for the technical fitness for purpose of these devices. All that is warranted is the existence or fulfilment of the criteria laid down in the requirements specifications. If the Contractor becomes aware that certain requirement specification criteria are not technically or practically feasible, or that their realisation would require unacceptably high outlay, it must notify the Client thereof immediately, and as a consequence the Contractor would no longer be liable in accordance with the provisions of the previous paragraph.

Prior to accepting an order, the Contractor is not obliged to check the content of the requirement specifications provided by the Client for technical or practical feasibility.

Any changes made to or repair work carried out on the delivered goods or services by the Client or third parties without our written consent renders our warranty obligations null and void.

The Client alone holds the warranty rights, which cannot be assigned to a third party.

8. Taking back merchandise as a gesture of goodwill

When taking back merchandise as a gesture of goodwill, the Contractor will charge at least 10% of the net invoice value to cover the associated return shipment and remarketing costs. All return consignments are made at the Client's cost and risk.

9. Retention of title

The Contractor hereby retains the title to all the merchandise it delivers (reserved goods) until the Client has settled all liabilities incurred due to its business relationship with the Contractor, including ones only arising in the future.

In the event of breach of contract, and in particular payment arrears, the Contractor shall be entitled to retake possession of the reserved goods. However, this only constitutes cancellation of the contract if the Contractor expressly states that it does.

The Contractor is entitled to remarket the merchandise after retaking possession of it, with the proceeds being offset against the Client's liabilities after deducting reasonable marketing costs.

Provided the Client is not in arrears, it is entitled to process and sell the reserved goods in the normal course of its business activities. The merchandise may not be pledged or used as collateral.

When processing, transforming, combining or mixing the reserved goods, including with other objects not belonging to the Contractor, the Contractor acquires co-ownership of the new item to the extent of the invoice value of the reserved goods as compared with the overall value of the new item at the time of the processing, transforming, combining or mixing. If the Client purchases sole title to the new item, it will grant the Contractor co-ownership of the new item to the extent of the invoice value of the reserved goods as compared with the overall value of the new item at the time of the processing, transforming, combining or mixing. In this respect, the same conditions apply as for the reserved goods. The Client will hold the new item in safekeeping for the Contractor free of charge.

The Client hereby assigns to the Contractor its right to receive from its customers the sale price, or other remuneration rights, plus a fixed 15% mark-up for interest and costs from the onward sale or other onward disposal transaction, and the Contractor hereby accepts said assignment. The Client is only entitled and empowered to dispose of or otherwise exploit the reserved goods if it has been ensured that its claims in this respect pass to the Contractor. The Client may not arrange a prohibition of assignment with its contractual partners, and may only supply goods subject to retention of title. If requested, the Client must disclose the names of its contractual partners to us and furnish us with any information and documents necessary to uphold our rights.

The Client hereby grants the Contractor the irrevocable right to collect the claims assigned to it on the Contractor's own behalf and in its own name. This right of collection may only be withdrawn once the Client has duly met its payment obligations on the agreed terms. If third parties take possession of the reserved goods, the Client will notify them of the Contractor's title to the goods, and will notify the Contractor at once.

The assignment of claims in connection with a factoring transaction is hereby prohibited unless the Contractor has given advance written agreement to said assignment. If the value of the collateral furnished by the Client persistently exceeds the total amount of the Contractor's claims, including contingent claims arising from bills of exchange and cheques, by more than 20%, the Contractor will, if so requested by the Client, release the collateral of its choice.

10. Rights

We reserve all copyright to any documents given to the Client and also all proprietary rights to any documents that are not expressly sold along with the merchandise. Third parties must not be allowed to gain access to the documents, and their content must be treated as confidential.

11. Confidentiality

Unless expressly agreed otherwise, the information disclosed to the Contractor in connection with this contract is not deemed confidential.

12. Limitation of liability

Claims for damages against both the Contractor and its employees arising from active breaches of contract, from culpa in contrahendo, violation of obligations during contractual negotiations and from unlawful acts (including producer liability claims against the Client) are hereby disclaimed except in the case of wilful act or gross negligence. The above also applies to claims to damages for failure to perform, but only in so far as compensation for indirect or consequential damages is demanded, unless the liability rests on a written assurance aimed at safeguarding the Client against the risk of such damage. However, the Client may only claim damages up to a maximum of 10% of the agreed order value. The Contractor's obligation to make recompense for material loss or damage or personal injury is limited to the sum covered by our liability insurance. The Contractor is willing on request to allow the Client to inspect the various policies.

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13. Return and disposal pursuant to the German Electrical and Electronic Equipment Act (ElektroG)

The Client hereby exempts the Contractor from the obligations laid down in §10 paragraph 2 of ElektroG, as well as from associated third-party claims.

The Client must place third-party business enterprises to which it passes on the supplied goods under a contractual obligation to dispose of these after their useful lives in accordance with legal requirements, and, if also passing them on, to impose a corresponding obligation on any subsequent users.

If the Client fails to impose the above contractual obligation concerning disposal on third parties to which it passes on the delivered merchandise, it must at its own cost take back the delivered merchandise after the end of its useful life, and duly dispose of it in accordance with legal requirements.

14. Governing law, place of jurisdiction, partial invalidity

Any legal disputes arising from or in connection with this Contract are exclusively governed by German law. The contractual language is German. UN sales law is hereby excluded, even if orders are either placed abroad or delivered to a foreign destination. If the Client is a registered trader, a juristic person under public law or a special fund under public law, the place of jurisdiction for all disputes arising from this Contract shall be Hanau, Germany.

If the Client regards individual provisions of this Contract as unclear, it must notify us thereof without delay.

If a provision of this Contract or a provision in connection with other agreements is or becomes invalid, this shall be without prejudice to the validity of all other provisions or agreements.

Any invalid provision shall be deemed replaced by a legally valid provision that matches the purpose of the invalid provision as closely as possible.

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