

general terms and conditions

1. Confidentiality

We commit to only passing on data designated as confidential by the customer to third parties in agreement with the customer. We reserve property and copyrights on samples, cost estimates, drawings and the like information of physical and non-physical nature – also in electronic form; they must not be made available to third parties.

2. Summation, Retention

The customer is only entitled to retain payments or to charge them up against counterclaims, if his counterclaims are undisputed or legally attested.

3. Delay in Delivery

a) The adherence to the delivery time on our side presupposes that all commercial and technical questions between us and the customer have been settled and that the customer has exercised all duties incumbent on him, such as the immediate and complete provision of the sample parts in a quantity sufficient for us according to offer section 2.7, the provision of potentially required official certificates and licences or the settlement of the due payments according to offer section 6. If this is not the case, the delivery time is prolonged by an appropriate extent. This does not apply, if we are responsible for the delay.

b) The adherence to the delivery time is subject to correct and timely self-supply. We will inform the customer about any emerging delays as soon as possible.

c) The delivery time is complied with, if the delivery item has left our factory up to the end-date or if it has been announced ready for dispatch. As far as an acceptance date is required, the acceptance date is decisive – except in a legitimate case of acceptance refusal.

d) If the delivery or the acceptance of the delivery item are delayed due to reasons, which the customer is responsible for, he will bear the expenses arising for us due to the delay starting one month after the announcement of readiness for dispatch or for acceptance.

e) If the non-compliance with the delivery time is to be attributed to force majeure, to industrial conflicts or to other events beyond our influence, the delivery time is prolonged to an appropriate extent. We will inform the customer of the beginning and ending of such circumstances as soon as possible.

f) The customer can withdraw from the contract without appointment of a date, if the complete accomplishment becomes ultimately impossible for us before the passing of the risk. The customer can furthermore withdraw from the contract, if at an ordering, the construction of a part of the delivery becomes impossible and if the customer has a legitimate interest in refusing the part-delivery. If this is not the case, the customer is to pay the contract price apportionable to the part-delivery. The same applies at our incapacity. Section 7.2 applies in all other cases. If the impossibility or the incapacity arises during the default of acceptance or if the customer is solely or clearly predominantly responsible for these circumstances, he remains bound to his duty of payment.

g) If we default and the customer – in consideration of the legal exceptions – sets an appropriate time limit for accomplishment after the due date and if we do not adhere to the time limit, the customer is entitled to withdrawal within the limits of the statutory provisions. Further claims due to delay in delivery are exclusively determined according to section 7.2 of these conditions.

4. Passing of Risk, Acceptance

a) The risk passes to the customer when the delivery item has left the factory, also if part-deliveries are carried out or if we have assumed other services in addition, e.g. the forwarding expenses or delivery and assembly. As far as an acceptance is required, it is decisive for the passing of the risk. It is to be carried out immediately at the acceptance date, alternatively after our announcement of readiness for acceptance. The customer must not refuse the acceptance due to a nonessential defect.

b) If the dispatch or the acceptance are delayed due to circumstances, which are not to be ascribed to us, the risk passes to the customer on the announcement date of readiness for dispatch or readiness for acceptance. We commit to effecting the insurances demanded by the customer at his expense.

c) Partial deliveries are permissible as far as they are reasonable for the customer.

5. Retention of Title

All delivered goods (hereafter referred to as "goods subject to retention of title") remain our property up to the fulfillment of all our claims against our customers, irrespective of the legal basis, including future arising or conditional claims from simultaneously or later concluded contracts. This also applies, if payments on especially designated claims are made. We are entitled to insure the delivery item against theft, breakage, fire, water and other damages at the customer's expenses, if the customer does not effect and cover an insurance of that kind himself and submits a verification to us without being asked. Revision and processing of the goods subject to retention of title are effected for us as manufacturers according to § 950 BGB, German Civil Code, without obligation for us. The processed goods are considered as goods subject to retention of title in accordance with these terms. At a processing, combination and mingling of the goods subject to retention of title by the customer, we are entitled to joint ownership of the new item at the applied ratio of the invoice value of the goods subject to retention of title to the invoice value of the other employed goods. If our property expires due to the combination or mingling, the customer already now transfers the property rights to the new inventory or item he is entitled to us to the amount of the invoice value of the goods subject to retention of title and stores it for us free of charge. The joint properties arising hereby are considered as goods subject to retention of title according to these terms. The customer is only entitled to further sell, manipulate or combine the goods subject to retention of title with other items or to integrate it (hereafter also in brief referred to as "resell") in the context of proper business operations and as long as he is not behind schedule. Garnishments or other seizures of the goods subject to retention of title at third hand are to be notified to us

immediately. All intervention costs are borne by the customer insofar as they cannot be drawn from the third party (opponent of the motion to vacate) and the third-party motion to vacate has been justifiably filed. If the customer grants a respite of the purchase price to his subpurchaser, he is to reserve property rights to the goods subject to retention of title under the same conditions as we reserved property rights on delivery of the goods subject to retention of title; however, the customer is not obliged to reserve property regarding future arising claims against his subpurchaser. Failing this, the customer is not entitled to any resell. The customer's claims emerging from the resell of the goods subject to retention of title are already hereby conveyed to us. They serve us as a backup to the same extent as the goods subject to retention of title. The customer is only authorised and entitled to a resell, if it is guaranteed that the claims he is thereby entitled to are conveyed to us. If the goods subject to retention of title are sold together with goods which have not been supplied by us, the conveyance of the claims is effected at the amount of the invoice value of the respective goods subject to retention of title sold by us. If the conveyed claim is included in a current account, the customer already hereby conveys a proportion equivalent to the amount of this claim including the final proportion of the current account to us. The customer is entitled to the collection of the claims conveyed to us up to our revocation. We are entitled to revocation, if the customer does not duly meet his payment obligations from the business relation with us or if circumstances become known to us, which are suitable to considerably diminish the customer's creditworthiness. If the preconditions for the execution of the revocation right are met, the customer is to immediately announce the conveyed claims and their debtors on our demand, to provide all necessary information for the seizure of the claims, to deliver all related documents and to announce the conveyance to the debtor. We are also entitled to autonomously announce the conveyance to the debtor. If the liquidable value of the security established for us exceeds the secured claims by more than 20 of 100, we are bound to the release of securities of our choice on demand of the customer. If we assert the retention to title, this is only regarded as a rescission from the contract, if we explicitly announce this in writing. The customer's right to own the goods subject to retention of title expires, if he does not meet his obligations from this or another contract with us. The application for the opening of insolvency proceedings on the property of our customer authorises us to withdraw from the contract and to claim the immediate restoration of the delivery item.

6. Warranty

The warranty period is 12 months, however not more than 2000 operation hours. When a maintenance contract is concluded, we extend the warranty period to 24 months, however not more than 4000 operation hours.

We safeguard for defects of material and title of the delivery item – to the exclusion of further claims and subject to section 7 – as follows:

A. Warranty of Material

a) All parts, which turn out to be defective due to a circumstance before the passing of risk, are at our option either to be repaired or to be substituted by non-defective parts free of charge. The detection of defects of this kind is immediately to be reported to us in writing. Substituted parts become our property.

b) After agreement with us, the customer is to allow us the required time and opportunity for the execution of all rectifications and for the delivery of spare parts considered necessary by us; otherwise we are exempt from liability for the consequences arising thereby. The customer is entitled to remedy the deficiency himself or through third parties only in urgent cases of endangering the operational safety or for the prevention of unreasonably severe damages, whereat we are to be informed immediately.

Of the immediate costs arising through the rectification or the spare-part delivery, we bear the costs of the spare part including its delivery – as far as the objection turns out to be legitimate. Furthermore, we bear the costs of the demounting and mounting as well as the costs of the potentially required provision of mechanics and assistants including travelling expenses, as far as no unreasonable burden arises for us.

d) The customer is entitled to withdraw from the contract within the limits of the statutory provisions, if we – in consideration of the legal exceptional cases – effectlessly let elapse a reasonable time limit set for us for the rectification or the spare-part delivery due to a material defect. If only an insubstantial defect is on hand, the customer is only entitled to a lowering of the contract price. The right to a lowering of the contract price remains otherwise excluded. Further claims are determined by section 7.2 of these conditions.

e) We do not assume any warranty especially in the following cases: Application of parts, which deviate from the sample parts according to section 2.7, inappropriate, incorrect or not contract-based use, faulty assembly or start-up by the customer or by third parties, natural abrasion, faulty or careless handling, incorrect maintenance, inappropriate utilities, faulty assembly work, inappropriate foundation, chemical, electro-chemical or electrical influences – as far as we are not responsible for them.

f) In a case of incorrect backfitting by the customer or by third parties, we are not liable for the consequences resulting hereby. The same applies to changes on the delivery item, which have been carried out without our prior consent.

B. Warranty of Title

a) If the application of the delivery item nationally leads to a breach of intellectual property rights, we will principally procure the right of further application for the customer at our own expense or we will modify the delivery item in a manner, which is acceptable for the customer, so the breach of the property right is not persistent anymore. If this is not possible at economically reasonable conditions or within a reasonable period of time, the customer is entitled to withdraw from the contract. At the specified conditions, we are also entitled to withdraw from the contract. Furthermore we will indemnify the customer from undisputed or legally determined claims of the holders of the respective rights.

b) Our obligations stated in paragraph "a)" are subject to section 7.2 and are concluding in a case of a breach of intellectual property rights.

They only persist, if

- the customer immediately informs us about asserted claims to intellectual property rights.

- the customer supports us to a reasonable extent in averting the asserted claims or if he makes the execution of the modification measurements possible for us according to paragraph "a)".

- all averting measurements including amicable arrangements are reserved to us.

- the defect of title is not based on a direction of the customer and

the breach was not effected by the customer who altered the delivery item at his own authority or who used it in a non-contractual way.

7. Liability

7.1) If the delivery item cannot be applied by the customer according to contract due to our negligence in consequence of defaulted or faulty provision of suggestions and consultations prior to or after the conclusion of the contract or due to a breach of other contractual obligations – especially the instructions regarding operation and maintenance of the delivery item –, the regulations of sections 6 and 7.2 respectively apply to the exclusion of further claims by the customer.

7.2) We are liable for damages, which did not incur on the delivery item itself – for whatever causes in law – only

a) at intention,

b) at gross negligence by our proprietor / our board members or executive employees

c) at culpable injury to life, body or health

d) at defects, which we fraudulently conceal or the absence of which we have guaranteed for

e) at defects of the delivery item as far as we are liable for bodily injuries or material damages to privately used objects according to the Product Liability Act.

At a culpable breach of essential contractual obligations, we are also liable for gross negligence of non-executive employees and for slight negligence, in the latter case limited to the reasonably foreseeable damages typical for this type of contract. Further claims are excluded.

8. Statute of Limitations

All claims of the customer – from whatever causes in law – prescribe after 12 months. The claims for indemnity according to section 7.2 paragraphs a to e are subject to the legal respites. They also apply for defects of a construction or for delivery items, which have been applied for a construction according to their customary application instruction and which have caused its defectiveness.

9. Software Utilisation

As far as software is contained in the scope of delivery, the customer acquires a non-exclusive right to use the delivered software including its documentations. It is left for the exclusive utilisation on the delivery item intended therefor. A utilisation of the software on more than one system is prohibited. The customer may copy, revise, translate or transform from object code to source code to the legally admissible extent (§§ 69 a et seq. German Copyright Act). The customer commits to not removing any manufacturer information – especially copyright marks – or to alter them without our prior explicit consent. All other rights to the software and its documentations including copies remain with us or with the software supplier. The granting of sublicenses is not admissible.

10. Applicable Law, Jurisdiction

a) Exclusively the authoritative right of the Federal Republic of Germany for the legal relations among national parties applies for all legal relations between the customer and us.

b) The court of jurisdiction is the court responsible for our domicile (Dortmund). However, we are entitled to file suit at the customer's principal office.

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