

General Terms and Conditions

November 2018

I. General

1. All deliveries are based on the conditions described hereafter, as well as possible separate contractual agreements. Differing purchase terms and conditions by the Purchaser will not be part of the contract, even if the order is accepted. A conclusion of a contract is binding – in the absence of a specific agreement - with the written order acknowledgement by the Supplier.

2. The Supplier reserves the rights of ownership and copy rights on all samples, cost estimations, drawings and similar information, regardless if physical or immaterial and as well in electronic form. They must not be made accessible to any third party. The Supplier commits himself not to publish any as confidential declared information or documents by the Purchaser without his approval. Provided the Supplier manufactures items according to drawings, models, samples or other documentation handed over by the Purchaser, the Purchaser guarantees that protected rights of any third party will not be violated. The Purchaser indemnifies the Supplier from any respective claims.

II. Prices and Payment

1. Prices are to be understood ex works - unless otherwise agreed - including loading, but excluding packaging, freight and unloading. VAT (value added tax) is to be added according to the valid legal terms and rates.

2. Payment net without deduction is due 14 days after invoice date except otherwise agreed. Effective date of the payment is the day of reception at the Suppliers bank account.

In case of delayed payment the Supplier has the right to charge an interest rate of 9 (nine) percent above the basic interest rate published by the European central bank subject to enforcement of further damage caused by delay.

3. The right to retain the payment is granted to the Purchaser only in case of undoubtedly and as final and absolute established counterclaim exists.

4. The right of the Purchaser to balance the payment with counterclaims of other legal contracts is restricted to indisputable and as final and absolute established cases.

III. Delivery Time, Delay

1. The delivery time results from the agreements between Purchaser and Supplier. In order to allow the Supplier to comply with the agreements all commercial and technical questions between the contract parties have to be finally clarified and the Purchaser has fulfilled all his obligations, e.g. provision of requested governmental certifications or approvals or the provision of a down payment or securities. If this is not the case, the delivery time will be extended accordingly. This does not apply if the Supplier is responsible for the delay.

2. The compliance with the delivery time is depending on correct and on time delivery of sub-contractors. Any delay becoming apparent will be informed as soon as possible by the Supplier.

3. The delivery time is met, if the goods have left the premises of the Supplier or the readiness for supply has been announced to the Purchaser. As far as acceptance tests are agreed the timely delivery depends on the test date, alternatively the announcement of readiness for acceptance test – except major reasons for an acceptance rejection exist.

4. In case of delay in dispatch or missing acceptance due to reasons caused by the Purchaser, the Purchaser will be charged with occurring cost caused by the delay starting one month after notification of readiness for dispatch.

5. If the delay in delivery is caused by force majeure, by industrial disputes and any other circumstance beyond the control of the parties such as but not limited to fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events or terroristic acts the delivery time is prolonged appropriately. The Supplier will inform the Purchaser of begin and end of such circumstances as soon as possible.

6. The Purchaser can declare withdrawal from the contract without notice, if the delivery has become unfeasible for the Supplier before transfer of risks to the Purchaser. Furthermore, the Purchaser can declare withdrawal from contract, if parts of the delivery become unfeasible for the Supplier and the Purchaser has a qualified interest in refusing a partial delivery. Otherwise, the Purchaser has to pay the contractual price for the partial delivery. The same applies to inability of the Supplier. Furthermore, the regulations of section VII.2. apply.

In case of unfeasibility or inability of the delivery during the time of a default in acceptance or in case the Purchaser is responsible for the circumstances alone or widely, his equivalent obligations remain unaffected.

7. In case the Purchaser sets a new deadline date - considering the legal exceptions - for the delivery after due date and an appropriate time for an accomplishment of the delivery and the deadline is not kept, the Purchaser is entitled to declare the withdrawal of the contract under the legal regulations. The Purchaser is obliged to declare in request of the Supplier and in an appropriate timeline, if he makes use of his right to withdraw the contract. Further claims resulting from the delay in delivery are determined in section VII.2. of these general terms, exclusively.

IV. Transfer of risk, Acceptance

1. The risk is transferred to the Purchaser, when the delivery item has left the premises of the Supplier even so in case of partial delivery or if the Supplier has to perform other services such as transport, delivery or setup. Should an acceptance be agreed the date of acceptance is relevant for the transfer of risk. It has to take place immediately after the acceptance test, alternatively with the announcement of readiness for the acceptance test by the Supplier. The Purchaser must not refuse the acceptance in case of a non-substantial default.

2. On request of the Purchaser the Supplier provides an insurance for the transport of the goods at Purchasers cost. In case of transport damage the Purchaser is obliged to inform the Supplier as soon as possible and to perform all procedures according to the guidelines for transport damages (see Roman Seliger web pages): Especially meet the deadlines, involve a claim agent and inform the damage immediately to the Forwarder and the Supplier. In case the Purchaser has already ownership

of the goods, the Purchaser abandons all entitlements to the Supplier in order to perform the damage settlement.

3. In case the dispatch or the acceptance is delayed or ceased due to circumstances not caused by the Supplier the risk is transferred to the Purchaser with the announcement of dispatch readiness respectively announcement of acceptance test readiness. The Supplier is obliged to provide insurances on request of the Purchaser and on Purchaser's cost.

4. Partial delivery is allowed in reasonable scope.

V. Reservation of proprietary rights

1. The Supplier reserves the proprietary rights on the delivery item until the reception of payment for this delivery contract is completed including additionally ancillary services. In case of default of payment the Supplier is entitled to redeem the delivery item after reminder and the Purchaser is obliged to consign the delivery item. This is valid as well in case of any behavior contrary to the contract.

2. The petition of bankruptcy allows the Supplier to withdraw the delivery contract and demand the immediate withdrawal of the delivery item.

3. Based on the reservation of proprietary rights the Supplier can demand the return of the delivery item only if the contract is withdrawn. In case of seizure or appropriation or other stipulations by third parties the Purchaser has to inform the Supplier immediately.

4. The Purchaser is authorized to sell the delivery item in regular business. He already now makes assignment to the Supplier which result from sales to Consumer or to third parties. The Purchaser is still legitimated to collect these receivables. The authority of the Supplier to collect the receivables by himself remains unaffected.

5. The authority to collect the receivables expires, if

- the Purchaser gets in delay with his obligations to pay the Supplier
- the authority is withdrawn or
- a petition of bankruptcy is filed

The Supplier can demand that the Purchaser

- informs him of the assigned receivables and its obligor
- provides all information for the collection
- hands over all related documents
- informs obligor about the assignment as far as not yet done by the Supplier

6. If the delivery item is sold together with other goods not owned by Supplier, the receivable of the Supplier against the recipient is deemed to be assigned in the amount of the agreed delivery price between Purchaser and Supplier.

7. Processing or transforming of reserved items is always done by the Purchaser in the name of the Supplier. Should the reserved item be processed with other items not owned by the Supplier the proprietary rights of the new object are transferred to the Supplier in the share of the value of the delivery item in relation to the other processed items at the time of processing.

8. Should the goods of the Supplier be combined with other movable equipment to one uniform item or irreversibly merged and the uniform item is the principal thing, the joint ownership is transferred proportionally from Purchaser to Supplier as far as the principal thing is owned by the Purchaser.

9. The Purchaser stores the proprietary or joint proprietary in the name of the Supplier. Furthermore, the regulations for the delivery item are valid as well for the new item built by processing, transforming, combining or merging.

VI. Warranty claim

The Supplier is liable for material defects or defects in title of the delivery by exclusion of further claims – subject to section VII - as follows :

Material defects

1. All components that prove defective according to circumstances occurred before the transfer of risks are to be rectified, eliminated from defects or substituted by choice of the Supplier. The Purchaser shall without undue delay notify the Supplier in writing of any defect which appears. Substituted components become property of the Supplier.

2. The Purchaser shall grant appropriate and sufficient time for rectification or substitution of the defective components in coordination with the Supplier, otherwise the Supplier is exempt from liability for the resulting consequences. Only in urgent cases of endangering the operational safety respectively interference of disproportional damages - where the Supplier shall be notified immediately – the Purchaser has the right to rectify the defect on his own or through third parties and claim reimbursement of necessary expenses from the Supplier.

3. The Supplier bears – as far as the claim proves justified – the direct cost of rectification respectively substitution including cost for product delivery. In addition the Supplier bears cost of dismounting and mounting as well as cost for possible technicians or assistance including transportation cost, as long as no inappropriate burden occurs for the Supplier.

4. The Purchaser has the right – subject to the legal provisions – to terminate the contract, if the Supplier - under consideration of the legal exceptions – fails to meet an appropriate timeline set by the Purchaser for the rectification or substitution of the defective component. Should the defect be of insignificant character the Purchaser has only the right to reduce the contract price. Apart from that the right of price reduction is excluded.

5. Further rights are exclusively derived from section VII 2 of these terms and conditions.

6. No liability will be assumed in case of:

Unsuitable or incorrect use, defective assembly respectively placing in operation by the Purchaser or third parties, natural wear and tear, inaccurate or disregardful usage, unduly maintenance, inapplicable operating materials, inadequate construction works, inapplicable foundation ground, chemical, electrochemical or electrical influences –as long as not caused by the Supplier.

7. In case of improper rectification by the Purchaser or a third party there will be no liability for resulting consequences by the Supplier. The same applies for modification of the delivery item without prior approval by the Supplier.

Defect of title

8. Should the use of the delivery item lead to a violation of domestic industrial property rights or copyrights the Supplier will take care that the Purchaser will get entitled to furthermore use the delivery item or reasonably modify it in a way that the violation will not exist any more.

If this is not possible on economically reasonable terms or within a reasonable time, the Purchaser is entitled to withdraw from the contract. Under the aforementioned conditions, the Supplier is also entitled to withdraw from the contract.

In addition, the Supplier shall exempt the Purchaser from undisputed or legally established claims of the respective holder of the intellectual property rights.

9. The in section VI. 8 mentioned obligations of the Supplier are, subject to Section VII.2, final in the event of a breach of property rights or copyrights.

They only exist if

- the Purchaser informs the Supplier without delay of asserted protective or copyright infringements
- the Purchaser assists the Supplier to a reasonable extent in the defense of the asserted claims or to carry out the modification measures in accordance with Section VI. 8
- the Supplier retains all defensive measures, including out of court settlements
- the defect of title is not based on an instruction of the Purchaser and
- the infringement was not caused by the Purchaser having arbitrarily changed the delivery item or used it in a non-contractual manner.

VII. Liability of the Supplier, disclaimer

1. If the delivery item cannot be used by the Purchaser as a result of culpably neglected or incorrect proposals or consultations made before or after the conclusion of the contract or due to the culpable violation of other contractual secondary obligations - in particular instructions for operation and maintenance of the delivery item - then by exclusion of further claims of the Purchaser the provisions of sections VI and VII.2 are valid.

2. For damages, which did not originate at the delivery item itself the Supplier is liable - for whatever legal reasons - only

- a. in deliberate action,
- b. in the case of gross negligence of the owner or his executive officers,
- c. at culpable injury to life, body or health,
- d. in the case of defects that he has fraudulently concealed,
- e. as part of a guarantee commitment,
- f. in the case of defects of the delivery item, as far as according to product liability law for personal injury or material damage to privately used objects he is liable.

In the event of culpable violation of essential contractual obligations, the Supplier is also liable for gross negligence of non-executive employees and for slight negligence, in the latter case limited to the contract-typical, reasonably foreseeable damage.

Further claims are excluded.

VIII. Limitation

All claims of the Purchaser - for whatever legal reason - expire in 12 months. For damage claims according to section VII. 2 a-d and f, the statutory periods apply. They also apply to defects in a structure or to delivery items that have been used for a structure in accordance with their normal use and have caused its defectiveness.

IX. Applicable law, jurisdiction

1. For all legal relationships between Supplier and Purchaser, the law of the Federal Republic of Germany, which governs the legal relations between domestic parties, applies exclusively.
2. Jurisdiction is the competent court for the location of the Supplier. However, the Supplier is entitled to file a claim at the Purchaser's headquarters.