

Heidolph Elektro - General Terms of Payment and Delivery

I. Scope of the Terms of Payment and Delivery

- All deliveries and contracts entered into in the course of our business relations, i.e. including all future contracts, shall be governed exclusively by the following terms. The customer explicitly acknowledges these terms to be binding for both the current contract and all future contracts, even if the order form or contract includes a reference to the customer's own terms of purchase or contract and claims priority for the same. The following terms of business shall have priority over any contrary terms brought to bear by the customer. Neither our silence nor our performance of contract shall be deemed to imply consent to the customer's terms of business. Any deviations from the following terms required in isolated cases must be confirmed in writing. Should any of the terms be invalid, the validity of the remaining terms shall not be affected.
- Unless agreed otherwise in what follows and in the absence of any additional terms, the "General Terms of Delivery for Products and Services of the Electrical Engineering Industry" shall apply.

II. Acceptance of Contract and Scope of Obligations

Our written order confirmation shall govern the scope and content of the contract.

III. Prices; Terms of Payment

- Our prices are based on the prices specified in the order confirmation plus value-added tax at the rate prevailing on the date of delivery.
- Prices are quoted for delivery ex works excluding packing.
- Minimum invoice amount for small deliveries is 75,00€
- Payments shall be remitted 14 days after the date of invoice with a 2% cash deduction or 30 days net, free point of payment for the supplier.
- 3.1 Bills - accepted only at our discretion - shall be accepted only in fulfillment of our claims and subject to discountability, but without cash deduction and only subject to the reimbursement of all bank charges, discounting and collection charges incurred. Checks shall likewise be accepted only in fulfillment of our claims.
- 3.2 Credit notes shall be issued explicitly to enable the customer to set off its claims against ours. There shall be no claim to the payment outright of the sum in question.
- 3.3 If a check or bill is not honored on time or the credit terms granted are not observed, all claims still outstanding on that date shall become due for payment immediately.
- 3.4 If, after issuing our order confirmation, we learn of circumstances affecting the customer's financial situation which cast doubt on its smooth financial performance of contract, we shall be entitled to demand immediate payment or the return of the goods delivered as well as cash in advance for all future deliveries. If the said circumstances affect one of the parties involved in a bill transaction, we shall be entitled to return the bill and demand immediate payment. Any costs incurred shall be borne by the customer.
- 3.5 In the event of a default on payment, the customer shall not only pay interest on the arrears (at a rate of 8% above the base rate as provided by the German Civil Code/BGB) but shall also bear the costs for reminder notices and collection charges.
- 3.6 The customer shall not set off counterclaims unless these are undisputed or enforceable by law.

The customer shall have no right of retention in respect of unrecognized claims or claims which are not enforceable by law unless these claims ensue from the same contract.

IV. Delivery Period; Partial Deliveries

- Delivery deadlines or delivery periods, which may be binding or otherwise as agreed, must be confirmed in writing.
- Force majeure, strikes, inability to deliver through no fault of our own or our subcontractors shall all result in an extension of the delivery deadline or period in question for as long as the said circumstance prevails.
- In the case of framework agreements, our obligation to deliver shall expire if the customer fails to place call orders at what are approximately regular intervals and quantities.
- In the absence of any other agreement, a term of 12 months shall be deemed to have been agreed.
- Even after the expiration of this period, however, we shall be entitled to demand the customer's acceptance of the goods or damages for non-performance.
- Partial deliveries are admissible.
- Any alterations submitted after the order confirmation shall invalidate the delivery deadline or period originally agreed.

V. Dispatch; Insurance; Packing

The goods shall be dispatched by post or by a forwarder of our choice. We shall insure our shipments as far as the destination and at the customer's expense. Packing shall be invoiced at cost price. Deliveries shall be effected at the customer's expense and risk, even if carriage-paid terms have been agreed.

VI. Acceptance

The goods delivered shall be accepted by the customer even if they prove faulty. Differences of up to 5% shall be accepted.

VII. Warranty; Liability

- Any material faults, incorrect goods or quantities, to the extent that these become apparent during the initial inspection of the incoming goods, shall be reported in writing upon receipt of the goods, but no later than within three working days of the receipt of the goods. If faults which were not apparent during this initial inspection become apparent at a later date, these shall be reported immediately, but no later than within three working days of their discovery. If the customer fails to report such faults in time, the faulty goods shall be deemed to have been accepted. The same shall apply if the customer does not permit a professional examination of the fault after being called upon to do so by us. We shall provide technical advice to the best of our knowledge and ability. This advice shall be without engagement, however, and shall not exempt the customer from its obligation to perform its own inspections and experiments. The customer shall be responsible for compliance with the statutory and official regulations governing the use of our goods. Any information provided on the scope, dimensions, weights, materials, appearance and performance of the goods delivered shall be regarded as a description only and shall not constitute a promise of certain features. To be legally binding, any promise of certain features must be declared explicitly and in writing.
If the promised features are faulty or absent, the supplier shall be liable only subject to the provisions of No. VII. Warranty claims shall lapse within 12 months after the handing-over of the goods to the customer or a person authorized by the customer. In the event of a fault we have the right either to repair or to replace the goods concerned. Repeated repair/replacement is permitted unless unreasonable for the customer in the specific case. In the event that repair or replacement finally fail, the statutory rights of the customer shall remain unaffected. The customer is under the obligation to provide to us the required time and opportunity to carry out repair/replacement. If the customer fails to provide the aforesaid, we are discharged from liability for the fault.
- Only in urgent situations in which the safety of the customer's operations is at risk or in which there is a risk of disproportionate damage, of both of which circumstances the customer shall notify us without delay, or if we have defaulted on the remedying of the fault, shall the customer be entitled to perform the correction work itself or have it performed by a third party and demand the reimbursement of the costs incurred from us. If a replacement delivery likewise proves faulty or if our correction work fails on at least three occasions or if a grace period is allowed to elapse without the fault being remedied, the customer can demand a reduction of the purchase price. If the customer and supplier fail to agree on the extent of such a price reduction, the customer can also demand a cancellation of contract.
- There shall be a twelve-month warranty for correction work and replacement deliveries or services. This warranty shall apply for at least as long as the original warranty for the goods

delivered. The period of liability shall be extended for as long as operations are interrupted as a result of the necessity of correction work and/or replacement deliveries or services for parts of the plant which cannot be operated properly owing to the interruption. To the extent that products delivered by third parties are used in our products, our liability shall be restricted to our assignment to the customer of our warranty claims on the said supplier, in which case we undertake to provide the customer with all the information required to enforce these claims upon receipt of the customer's report of the fault in question. Any warranty going beyond this pursuant to Section VII 1., 2. and 3. shall exist only to the extent that the customer is unable to enforce its claims on our supplier in court. Any products from suppliers which are not incorporated in our products shall be subject to the terms governing faults and delivery contained in the supplier's terms of delivery. There shall be no liability for damage caused by inappropriate or improper use, faulty assembly or commissioning by the customer or a third party, natural wear and tear, faulty or negligent handling, unsuitable expendables or replacement materials, faulty construction work, unsuitable site, chemical, electrochemical or electrical influences to the extent that we are not answerable for the same. If the faulty goods undergo further processing or handling, are mixed with products from a different source or if the customer or a third party which is not our supplier attempts to repair the goods, it shall be up to the customer to prove that the fault in question was already in existence upon the handing over of the goods delivered. Any infringement of third-party rights, especially of patents, ensuing from our execution and delivery of the customer's order according to the customer's specifications and drawings.- 4. Liability: Our liability in cases of slight negligence shall be limited to direct and foreseeable damages typically occurring in such contracts; the foregoing limitation shall apply accordingly for the benefit of our legal representatives and agents. We shall not be liable for slight negligence resulting in violation of non-essential contractual duties. The foregoing limitation of liability shall not apply to claims of the customer based on product liability or other mandatory applicable law. Furthermore, the limitation of liability shall not apply to damage to customer's life, body or health attributable to us.

VIII. If we are unable to honor our contractual obligations, the general statutory provisions shall apply subject to the following terms:

1. If the delivery of the goods or services is rendered impossible by gross negligence, the customer shall be entitled to cancel the contract or demand damages. The damages, however, shall be restricted to 10% of the value of those goods or services which cannot be used for the purpose for which they were intended. Gross negligence on the part of one of our suppliers shall entitle the customer to damages only if we failed to monitor our supplier properly.
2. To the extent that unforeseen circumstances such as strikes, lock-outs, war etc. result in a drastic change in the economic significance or content of the goods or services to be delivered or have a serious impact on our operations, we shall be entitled to cancel the contract. If we exercise this right, the customer shall be notified immediately of the scope of the circumstances in question, even if the customer has already agreed to an extension of the delivery period.
3. If the customer cancels the contract without just cause or refuses to honour the same, we shall be entitled to claim damages in the amount of the invoice total, minus any expenses saved. Our right to claim damages going beyond this, subject to the submission of evidence thereof, shall not be affected by this.
4. The customer shall have no claims on us or our vicarious agents going beyond this, irrespective of the legal basis of the same. This shall not apply in cases of absolute liability as a result of intent or gross negligence.

IX. Reservation of Title

1. We shall retain our title to the goods delivered pending the receipt of all payments ensuing from our contractual relations with the customer. This reservation of title shall also cover the customer's balance, to the extent that our claims on the customer are settled by current account.
2. Our reclaiming of the goods delivered shall not constitute a cancellation of contract, to the extent that the terms of the law on payment by instalments are not brought to bear, unless we submit an explicit declaration to the contrary. The attachment of the goods delivered shall always constitute a cancellation of contract. The customer shall notify us immediately of the attachment of the goods or similar intervention by a third party, thus enabling us to enforce our claims on the said third party. To the extent that the said third party is not in a position to reimburse the court costs or out-of-court expenses incurred by such a suit pursuant to Section 771 of the Code of Civil Procedure (ZPO), the customer shall be liable for the said costs.
3. The customer is entitled to sell the goods delivered in the course of its normal business operations. It hereby assigns to us any claims on the buyer or other third party accrued as a result of the sale of the goods in the amount of the invoice total (including value-added tax), irrespective of whether the goods delivered were sold before or after processing. The customer is empowered to collect these claims even after assigning the same. Our right to collect these claims ourselves is not affected by this, although we undertake not to collect the claims for as long as the customer duly meets its payment obligations and is not in default. If the customer is in default, we can require the customer to notify us of the claims assigned and to provide us with the name of the creditor and the necessary documents as well as informing the creditor (third party) of the assignment of claims.
4. Any processing or transformation of the goods delivered by the customer shall always be undertaken on our behalf. If the goods delivered are combined with other goods not supplied by us, we shall acquire co-ownership of the new product in proportion to the value of the goods delivered in relation to the other goods in the said product at the time of its creation. Instead of handing over the new product, the customer shall safeguard our co-ownership of the same by keeping the said product on stock on our behalf. The new product created by the combination of our goods with other goods shall be subject to the same terms as the goods subject to a reservation of title.
5. The customer shall assign to us any claims to collateral security to secure its claims on a third party after the goods delivered have been incorporated in real estate.
6. The supplier undertakes to release the collateral security to which it is entitled at the customer's request to the extent that this collateral security exceeds the value of the outstanding claims by 20%.
7. The customer consents to the registration of this reservation of title at the office responsible (notary public, court or the like), to the extent that the state laws provide for such a registration.

X. Surrender of the Goods; Composition; Bankruptcy

If the customer fails to honor its commitments to us, if it handles the goods delivered in an improper manner or defaults on payment, we shall be entitled to demand the immediate surrender and return, carriage paid, of the goods delivered subject to a reservation of title. If the customer suspends payments before the goods delivered have been paid for in full, we shall be entitled to reclaim those goods or parts thereof which have not been paid for.

XI. Place of Performance and Jurisdiction

1. Our contractual relations shall be governed by the laws of the Federal Republic of Germany. Application of conflict of law provisions and of the UN Convention on Contracts on the International Sale of Goods (CISG) is excluded.
2. Any disputes arising out of this contract shall be settled at Kelheim Local Court or Regensburg Regional Court. These shall also have jurisdiction for any litigation over bills and documents arising in connection with the delivery. We can also bring an action at the court with jurisdiction for the customer.