

Conditions of Sale and Delivery

Our supplies and services shall be made and performed exclusively in accordance with the latest version of the General Terms and Conditions of Delivery of Products and Services of the Electrical Industry published by the Zentralverband Elektrotechnik-und Elektronikindustrie e.V. (ZVEI) (Central Association of Electrical and Electronic Industry), Frankfurt am Main.

Excerpt:

I. General provisions

1. For the scope of supplies or services (hereinafter: Supplies) the mutual written declarations shall be decisive. General terms and conditions of business of the company placing the order shall, however, only apply insofar as the supplier or service provider (hereinafter: Supplier) has expressly approved them in writing.
2. The supplier unrestrictedly reserves its right to utilisation of cost estimates, drawings and other documents (hereinafter: Documents) under property and copyright law. The documents may only be made accessible to third parties after the Supplier has given its prior approval and are, if the order is not placed with the Supplier, to be returned to the latter on request without undue delay. Sentences 1 and 2 shall apply by analogy to Documents of the party placing the order; however, these may be made accessible to third parties to which the Supplier has admissibly transferred Supplies.
4. Part deliveries are admissible if they are acceptable for the party placing the order.

II. Prices and terms of payment

1. The prices are to be understood as ex-works excluding packaging plus statutory turnover tax at the respective rate applicable.

III. Retention of title

1. The items supplied (reserved goods) shall remain the property of the Supplier up to and until the meeting of all of the claims to which he is entitled against the party placing the order and arising from the business relationship. If the value of all security interests to which the Supplier is entitled exceeds the amount of all secured claims by more than 20 %, the supplier shall at the request of the party placing the order release an appropriate portion of the security interests.
2. During the existence of the retention of title it shall be prohibited for the party placing the order to carry out pledging or assignment as security and resale shall only be permitted for resellers in the ordinary course of business and only on the condition that the reseller receives payment from its customer or makes the reservation that ownership shall only pass to the customer when the latter has met its financial obligations.
3. In the case of seizures, attachments or other orders or intervention of third parties the party placing the order must notify the supplier without undue delay.
4. In the event of the party placing the order neglecting its duty, in particular in the case of delay in payment, the Supplier shall only be entitled, following the fruitless expiry of a reasonable period of time set for the party placing the order to pay, to withdraw from the order and to take back the goods; the statutory provisions concerning the dispensableness of a setting of a period of time shall remain unaffected. The party placing the order is obliged to return the property.

IV. Periods for deliveries; default

1. The meeting of time limits for deliveries assumes the timely receipt of all of the documents, necessary approvals and releases, in particular of plans, to be provided by the party placing the order, as well as the observance of the terms of payment agreed upon and other obligations by the party placing the order. If these prerequisites are not fulfilled in good time, the time limits shall be extended reasonably; this shall not apply if the Supplier is responsible for the delay.
2. If non-adherence to the time limits is attributable to Force Majeure, e.g. mobilisation, war, riot, or to similar events, e.g. strike, lock-out, the periods shall be extended to a reasonable extent.
6. If forwarding or delivery are delayed at the request of the party placing the order by more than one month after advice of readiness for dispatch, the party placing the order can be charged for every month or part month with storage charges in the amount of 0.5 % of the price of the items of the deliveries, but of not more than a total of 5 %. The parties to the contract shall remain entitled to provide evidence of higher or lower storage costs.

V. Passing of risk

1. Even in the case of delivery freight paid, the risk shall pass to the party placing the order as follows:
 - a) in the case of deliveries without installation or erection, when they are dispatched or have been picked up. At the request and at the expense of the party placing the order deliveries shall be insured by the Supplier against the usual transport risks.

VI. Taking delivery

The party placing the order may not refuse to take delivery of consignments because of insignificant defects.

VII. Material defects

For material defects the Supplier shall accept liability as follows:

1. All those parts or services are to be reworked free of charge, re-delivered or to be performed anew, at the supplier's discretion, which within the period of limitation - regardless of service life - show a material defect, if its cause was already present at the point in time of the passing of risk.
2. Claims on the basis of material defects shall be subject to the statute of limitations within 12 months. This shall not apply if the law according to Articles 438, para. 1, No. 2 (Building structures and items for building structures), 479, para. 1 (Right of recourse) and 634a, para. 1, No. 2 (Structural defects) of the German Civil Code (BGB) prescribes longer periods as well as in the cases of injury to life or limb or health impairment, in the case of an intentional or grossly negligent neglect of duty on the part of the Supplier and in the case of fraudulent non-disclosure of a defect. The statutory provisions concerning suspension of expiration of prescriptions, suspension and new beginning of the terms shall remain unaffected.

3. The party placing the order must notify the Supplier about material defects without undue delay.
4. In the case of notifications of defects payments by the party placing the order may be withheld to an extent which is in a reasonable proportion to the material defects which have occurred. The party placing the order can only withhold payments if notification of defects is made, about the justification of which there can be no doubt. If the notification of defects was made unjustly, the Supplier shall be entitled to demand that the expenses incurred by it be compensated for by the party placing the order.
5. First of all the Supplier is to be granted an opportunity for subsequent performance within a reasonable period of time.
7. Claims for defects cannot be made in the case of only insignificant deviation from the condition agreed upon, in the case of only insignificant impairment of the usefulness, in the case of natural wear and tear or damage occurring after the passage of risk due to faulty or negligent treatment, excessive stress and strain, unsuitable operating equipment or consumables, defective construction work, unsuitable building ground or arising due to special external influences which are not assumed according to the contract, as well as in the case of non-reproducible software faults. If alterations or repairs are carried out by the party placing the order or by third parties improperly or incorrectly, for these alterations and repairs and the consequences resulting therefrom there shall also be no claims for defects.
8. Claims by the party placing the order for the expenses necessary for the purpose of subsequent performance, in particular transport, travelling expenses, work and material costs, shall be excluded if the expenses increase because the item supplied has been subsequently transferred to a place other than the establishment of the party placing the order, unless the transfer corresponds to its use for the intended purpose.

VIII. Industrial property rights and copyright; defects of title

1. Unless otherwise agreed, the supplier shall be obliged to carry out delivery merely in the country of the point of delivery free of industrial property rights and copyright of third parties (hereinafter: Property Rights). If a third party makes justified claims on the grounds of the infringement of Property Rights by deliveries made by the Supplier and contractually used against the party placing the order, the Supplier shall be liable towards the party placing the order within the period defined in Art. VIII, No. 2, as follows:
 - a) The Supplier shall, for the deliveries concerned, either obtain, at its discretion and its expense, a right of utilisation, modify them in such a way that the property right is not infringed, or replace them. If this is not possible for the Supplier on reasonable terms and conditions, the party placing the order shall be entitled to the statutory rights of cancellation or price reduction.
 - c) The above-stated obligations of the supplier exist only insofar as the party placing the order notifies the supplier in writing without undue delay about the claims made by the third party, does not acknowledge any infringement and all rights are reserved for the supplier to take any defence measures and conduct any composition negotiations. If the party placing the order discontinues utilisation of the delivery for reasons related to keeping damage or loss to a minimum or for other important reasons, it shall be obliged to draw the attention of the third party to the fact discontinuation of utilisation implies no acknowledgement of an infringement of any property right.

IX. Impossibility; adaptation of the contract

1. If delivery is impossible, the party placing the order shall be entitled to demand damages, unless the impossibility is beyond the control of the Supplier. However, the claim for damages by the party placing the order is restricted to 10 % of the value of that part of the delivery which due to the impossibility cannot be put to the use for which it was intended. This restriction shall not apply if in cases of intent, gross negligence or because of injury to life and limb, or impairment of health liability must be mandatorily accepted; a change in the onus of evidence to the disadvantage of the party placing the order is not entailed herein. The right of the party placing the order to withdraw from the contract shall remain unaffected.

X. Other claims for damages

1. Claims for damages and claims for compensation of expenses by the party placing the order (hereinafter: Claims for damages), no matter on what legal grounds, in particular due to the neglect of duties resulting from the obligation and resulting from a tortious act, shall be excluded.
3. If according to this Art. X the party placing the order is entitled to claims for damages, these shall be subject to the statute of limitations upon the expiry of the limitation period applicable to claims for material defects in accordance with Art. VIII, No. 2. In the case of claims for damages under the Product Liability Act the statutory regulations with regard to the statute of limitation shall apply.

XI. Place of jurisdiction and applicable law

1. The sole place of jurisdiction shall be, if the party placing the order is a businessman/merchant, in the case of all disputes arising directly or indirectly from the contractual relationship, the domicile of the Supplier. The Supplier shall, however, also be entitled to sue the party placing the order at the domicile of the party placing the order.
2. For the legal relationships in connection with this contract, German substantive law shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XII. Binding force of the contract

The contract shall remain binding even in the event of the legal ineffectiveness of individual provisions in its other parts. That shall not apply if the adherence to the contract would mean unreasonable hardship for either party.

XIII. Disposal

The party placing the order undertakes to ensure disposal of the products delivered in accordance with the provisions of the Old Equipment Ordinance. In the event of resale, the party placing the order shall transfer this obligation to its contractual partner.