

General Terms and Conditions of Delivery

Z&F GmbH (revision of 12/2016)

1. Area of Application

- 1.1 These terms and conditions are to be applied only in commercial legal relations.
- 1.2 All deliveries, services and offers shall be made exclusively on the basis of these General Terms and Conditions of Delivery. They are an integral part of all contracts we enter into with our contracting partners (hereinafter referred to as "Customer") on the deliveries or services we offer. They shall also apply to all prospective deliveries, services or offers, although they should not be specifically agreed upon once again.
- 1.3 All other agreements, contract amendments and collateral agreements require the written form. To meet the written form requirement, transmission via telefax is sufficient; apart from that, the transmission via means of telecommunication, especially e-mail, is not sufficient.
- 1.4 Terms and conditions of business of the Customer or of third parties shall not apply, even if we should not object to their application separately in a specific case. Also in the event that the Customer makes reference to its terms and conditions of business or a letter containing or referring to terms and conditions of business of the Customer or of a third party, this does not imply any consent to the application of such terms and conditions of business.

2. Offer, Conclusion of Contract, Documents and Property Rights

- 2.1 All offers are subject to alteration and non-binding, unless expressly identified as binding or unless they provide a specific date of acceptance. The Customer may accept our offers within 30 days upon receipt.
- 2.2 The only decisive criterion for the established legal relationships between us and the Customer are written purchase order routines as well as these General Terms and Conditions of Delivery. Oral promises, if any, are not legally binding and oral agreements of the parties are superseded by the written contract, unless they should include the express intention of being continued with binding effect.
- 2.3 Details of the item of delivery or service (e.g. weights, measurements, utility values, load-bearing capacity, tolerance values and technical data) as well as our illustrations thereof (e.g. drawings and pictures) are only approximate values, unless the usability for the contractually provided purpose requires an accurate conformity. They do not represent guaranteed quality features but are rather descriptions or qualifications of the delivery or service. Deviations as customary in the trade and deviations due to legal regulations or such constituting technical improvements, as well as the replacement of components by equivalent parts are permitted, provided that they do not adversely affect the usability for the contractually provided purpose. Warranty for a specific purpose of use or a specific quality is provided only to the extent in which it is expressly agreed in writing; apart from that, the quality and usability risk is the Customer's responsibility. Performance characteristics or other qualities of the deliveries and services other than the expressly agreed ones are not owed. We reserve deviations from physical and chemical quantities such as colours, formulations, processes and the use of raw materials as customary in the trade or as technically unavoidable.
- 2.4 We expressly reserve our title and all copyrights and property rights to all quotations we submitted as well as all drawings, pictures, calculations, leaflets, catalogues, models, tools and other documents and resources provided to the Customer. Unless with the express consent to do so, the Customer shall not allow any third party to get access to such items proper or to their contents and shall not disclose them or use them himself or allow third parties using them or reproduce them. On our request, the Customer shall return such items to us entirely and destroy copies thereof, if any, if the Customer does no longer need them anymore in the ordinary course of business or if negotia-

tions do not result in the conclusion of a contract.

3. Delivery, Delivery Period and Default

- 3.1 Deliveries shall be made on an FCA basis (Free Carrier (Incoterms 2010)).
- 3.2 Periods and deadlines we suggest for deliveries and services always apply approximately only, unless a fix period or a fix deadline has been expressly promised or agreed. Confirmed delivery dates are subject to the correct, complete and timely deliveries to us. If shipment was agreed upon, the delivery periods and delivery deadlines relate to the time of delivery to the forwarder, carrier or other third party contracted for the shipment.
- 3.3 Notwithstanding the Customer's rights for default, we may request the Customer to accept an extension of periods of delivery and service or a postponement of the delivery and service deadlines by such period the Customer fails to comply with its contractual duties to us.
- 3.4 We shall not be liable for the impossibility of the delivery or for delays in delivery if caused by force majeure / acts of god or other occurrences unforeseeable at the time of entering into the contract (e.g. interruptions of operations of any type, difficulties in procuring materials or energy, transport delays, strikes, legal lock-outs, shortage of labour, energy or raw materials, difficulties in obtaining required official approvals, official acts or the failing, incorrect or late delivery by suppliers) not under our control. If such occurrences substantially impede or render impossible the delivery or service and the impediment is not only of a temporary nature, we have the right to rescind the contract. In case of impediments of a temporary nature, the delivery or service periods are extended or the delivery or service deadlines are postponed for the period of time the impediment lasts plus a reasonable start-up time. If as a result of the delay the Customer cannot be reasonably expected to accept the delivery or service, the Customer may rescind the contract by immediately notifying the rescission to us in writing.
- 3.5 We have the right to make partial deliveries if
 - the partial delivery can be used by the Customer in the context of the contractual purposes of use,
 - the delivery of the remaining ordered goods is guaranteed, and
 - it does not cause substantial additional expense or additional costs to the Customer (unless we should agree to take over such costs).
- 3.6 If we delay in providing a delivery or service or if any delivery or service becomes impossible for us for any reason, whatsoever, then our liability is limited to the damages set forth in section 9 of these General Terms and Conditions of Delivery.

4. Place of Performance, Shipment, Packaging, Passing of the Risk, Acceptance

- 4.1 The place of performance for all obligations under the contract shall be Wangen im Allgäu (Germany), unless provided otherwise. If we also owe the installation, the place of performance shall be place where the installation is scheduled.
- 4.2 Unless agreed otherwise, the delivery shall be made on FCA basis (Incoterms 2010). The types of shipment and packaging are subject to the duly exercised discretion of the seller. Shipment is made on a reasonable shipment route in the usual packaging.
- 4.3 The risk shall pass to the Customer upon the delivery of the delivery item (the beginning of the loading process being decisive) to the forwarder, carrier or other third party appointed for the execution of the shipment. This also applies if partial deliveries are made or if we accepted additional, different services (e.g. shipment or installation). If the shipment or the delivery is

delayed due to a circumstance the Customer is responsible for, the risk shall pass to the Customer on the day on which the delivery item is ready for shipment, provided that we informed the Customer thereof.

- 4.4 Warehousing costs after the passing of the risk shall be borne by the Customer. The claiming and the proof of additional or less warehousing costs, however, remains reserved.
- 4.5 We will insure the shipment against theft, breakage, transport, fire and water damages or other insurable risks only on the express request of the Customer and at its expense.

5. Reservation of Title and Collateral

- 5.1 We reserve our title to all the goods we deliver until all claims – also the conditional ones – including secondary claims we have against the Customer under our business relationship have been satisfied. In this context all deliveries are deemed to be a coherent delivery transaction. With accounts current, the reserved title is meant to serve as collateral securing our current account balance claim. The above provision shall also apply to claims accruing eventually.
- 5.2 The Customer has the right to sale on, process or combine the purchased item in the ordinary course of business. In this context the Customer hereby assigns to us all claims resulting from such resale, processing, combination or on other legal grounds in connection with the contractual item (especially including claims under insurance contracts or for tort) in the amount of the invoice total agreed with us (including value added tax). The sale is equivalent to the use for the performance of contracts for works and services as well as work and delivery contracts by the Customer.
- 5.3 The reservation of title also extends to the products created by processing, combination or amalgamation of our goods at their full value, such processes being made on our behalf with the result that we are considered to be the manufacturers. If in case of processing, combination or amalgamation with third-party goods the reservation of title remains in effect, we acquire co-ownership in the proportion of the objective value of such goods. If our ownership ceases due to processing or combination, the Customer hereby assigns to us all the titles or expectant rights it is entitled to in relation to the new thing or the item in the amount of the invoice value of the goods we supplied. The goods are safeguarded for us free of charge.
- 5.4 The Customer is entitled to collect the claims generated from any resale irrespective of the assignment for as long as we do not revoke such authorisation. We will not collect any claims ourselves as long as the Customer complies with its payment obligations. On our first written request, the Customer shall inform us of the debtors of the assigned claims as well as inform and notify the debtors of the assignment.
- 5.5 We have the right to revoke with immediate effect the Customer's authorisation to resale pursuant to the provisions of sub-clause 5.2 and to collect the claims assigned to us if the Customer gets in default with its payments to us or has financial difficulties due to a substantial deterioration of its assets situation or fails to properly comply with its contractual obligations to us. If the institution of insolvency proceedings against the Customer's assets is applied for or if the Customer suspends all payments or if the Customer makes an affidavit or if in connection with financial difficulties a change of control of the Customer's business occurs, then the authorisation to resale and to collect the claims assigned to us shall cease automatically.
- 5.6 The Customer shall safeguard free of cost the items (co-)owned by us applying the diligence of a prudent businessman and take out insurance to cover them against fire, burglary and other usual risks.
- 5.7 The Customer is prohibited from pledging or assigning as security the goods delivered under reservation of title. The Customer shall inform us immediately of any attachment or other type of interference with the ownership by third parties and to confirm the title both to the third party and to us in writing. Costs we incur in this context (also resulting from a lawsuit) shall be borne by the Customer.

- 5.8 In case of the Customer acting in breach of contract, especially in case of default of payment, we have the right to repossess the goods. The Customer hereby gives its consent to such repossession. Repossession constitutes rescission of the contract only if we expressly declare such rescission. The costs we incur for the repossession shall be borne by the Customer. The Customer may request the delivery of the goods repossessed without declaring any rescission only after the purchase price and all costs have been paid in full.

6. Prices and Payment

- 6.1 The calculation of the price is made on the basis ex place of business of our company in Euros plus value added tax as applicable from time to time.
- 6.2 If a significant cost increase should occur, e.g. as a consequence of the increase of labour and material costs or if customs duties or taxes are implemented or significantly increased, we have the right to adjust the prices to the changed circumstances. If as a result of the mentioned circumstances the prices should increase by more than 20% in comparison with the initially agreed prices, then the Customer is has a right of rescission. This shall not apply if the price increases result from subsequent requests of the Customer.
- 6.3 Payments shall be made by the Customer as follows:
- In case of purchase orders for ferrules and cable lugs within 14 days with 3% discount or the net amount within 30 days
 - In case of machines within 14 days with 2% discount or the net amount within 30 days
 - In case of laser instruments within 40% upon ordering (payment within 14 days with 2% discount), 50% prior to delivery (payment within 14 days with 2% discount) and 10% (payment within 14 days with 2% discount /net amount) upon acceptance.
 - Service strictly net
- The agreement of partial or complete payment by cash in advance is possible under an individual agreement.
- All other payments shall conform to the agreed terms of payment as applicable from time to time.
- 6.4 In case of cash in advance a discount based on the respective agreement will be granted.
- 6.5 In case of exceeding payment deadlines we have the right to claim interest at a rate of 8 percentage point above the base rate pursuant to section 247 BGB (German Civil Code).
- 6.6 Cheques are accepted as payment upon prior written agreement. They will be considered as payment only upon successful encashment.
- 6.7 In all cases of payment the customer number, the invoice date and the invoice number shall be indicated.
- 6.8 Any reimbursement of payments or any set-off for possibly existing counterclaims shall be excluded except for undisputed claims or claims established without further legal recourse.
- 6.9 Advance payments or payments on account shall not bear any interest.

7. Warranty, Material Defects

- 7.1 The warranty period is one year upon delivery or – where acceptance is required – upon the acceptance.
- This does not apply (i) to claims of the customer based on liability for culpable conduct or liability for injuries with lethal consequences or resulting in physical disability or damage to health for the customer or third parties or (ii) if the defect consists in a real right of a third party based on which the surrender of the item of purchase and/or the contractual item can be claimed or in any other right entered in the land register or (iii) to a building or an object that was used for a building in accordance with its customary manner of use causing its defect or if we concealed the defect in bad faith.
- 7.2 The delivered items and goods shall be inspected immediately

upon delivery to the Customer or the third party appointed by the Customer. They shall be deemed accepted unless we receive a written defect notice regarding obvious defects or other defects detectable in the course of an immediate and thorough inspection within 7 working days upon delivery of the item of delivery or otherwise within 7 working days of detecting the defect or any other, earlier point in time when the defect became obvious for the Customer in the course of the normal use of the object of delivery without any closer inspection. On request, the item of delivery complained about shall be returned to us carriage paid. In case of a justified notice of defect we will reimburse the costs for the most favourable shipment route. This shall not apply if the costs increase due to the fact that the item of purchase is at another location than the location defined for the use as intended. Costs incurred for this reason shall be borne by the Customer.

- 7.3 In case of material defects of the delivered item we are at first obliged and entitled to provide subsequent improvement or replacement delivery at our option to be made within a reasonable period of time. If we opt for subsequent improvement, we shall be allowed two attempts of subsequent improvement, unless the Customer cannot be reasonably expected to accept that. In the event of failure, i.e. impossibility, unacceptability, denial or unreasonable delay of the subsequent improvement or the replacement delivery, the Customer may rescind the contract or reduce the purchase price to a reasonable extent. In case of just minor defects the Customer does not have any right of rescission.
- 7.4 In case of notified defects we shall be given the immediate opportunity to inspect the goods complained about. The goods shall be provided to us on our request and at our expense. In case of unjustified complaints we reserve our right to charge incurring shipment costs as well as the expense for the inspection to the Customer.
- 7.5 We shall not be liable for inappropriate or improper use, especially excessive strain, faulty use by the Customer or a third party, extraordinary external factors, natural wear, improper storage, faulty and negligent treatment and handling, especially by untrained personnel or third parties. We shall also not be liable in case that the Customer alters or has third parties alter the item of delivery without our consent rendering the removal of the defect impossible or making it unreasonably difficult. In each case the Customer shall bear the additional costs for the removal of the defect caused by such alteration.
- 7.6 If a defect is caused by our fault, the Customer may claim damages subject to the conditions set forth in section 9 hereof.

8. Safety Notes and Warnings, Property Rights Notes, Logos and Trademarks

The Customer is prohibited from altering, covering or removing any safety notes and warnings, property rights notes, logos and trademarks affixed on the goods.

9. Liability for Damages based on Fault

- 9.1 Our liability for damages on any legal ground, whatsoever, especially due to impossibility, delay, defective or wrong delivery, breach of contract, breach of duties in contract negotiations and for tort is limited according to the following provisions, provided that in each case fault is the decisive aspect.
- 9.2 We shall not be liable in the event of simple negligence of our corporate bodies, legal representatives, employees or other agents with vicarious liability, unless material contractual duties are violated. The duty to perform the delivery and the installation of the item of delivery free of substantial defects as well as the duties of consulting, protection and safeguarding aimed at enabling the Customer's use of the item of delivery in accordance with the contract or at protecting the health or the life of the Customer's personnel or at protecting its property from substantial damage constitute material contractual duties.
- 9.3 If we are liable for damages on the merits, such liability shall be limited to damages we foresaw at the time of entering into

the contract as a possible consequence of a breach of contract or which we ought to have foreseen had we applied due diligence. In addition, indirect damages and consequential damages which result from defects of the item of delivery are only eligible for damage compensation to the extent in which such damages can be expected as typical in connection with the use as intended of the item of delivery.

- 9.4 In case of violations of property rights we shall be liable in accordance with the above provisions if and to the extent in which the use of our products as contractually provided entails the violation of such property rights which are in effect in the Federal Republic of Germany and have been published by the date of our delivery. This shall not apply where the items of delivery were manufactured on the basis of drawings provided by the Customer and we are not aware of whether or not they violate any property rights or we could not be expected to be aware of any such violation in connection with the products we developed. In such a case the Customer shall be liable for violations of property rights already occurred or yet to occur. The Customer shall inform us immediately and indemnify us against any third-party claims and all costs and expenses incurred.
- 9.5 In case of claims for defects of the delivered products the period of limitation is 12 months as of the commencement of the period of limitation as provided by law which shall not be later than upon the delivery of the products. Apart from that, the statutory periods of limitation shall apply. The claims for price reduction and the exercise of any right of retention shall be excluded if the claim for subsequent improvement has become statute-barred.
- 9.6 The above exclusions and limitations of liability shall apply to the same extent for the benefit of our corporate bodies, legal representatives, employees and other agents with vicarious liability.
- 9.7 If we provide technical information or consulting and should such information or consulting be no part of the contractually agreed scope of performance we owe, then we will do so free of cost and excluding any and all liability.
- 9.8 The above limitations shall not apply to our liability for wilful acting, guaranteed quality characteristics, injuries with lethal consequences or resulting in physical disability or damage to health or under the German Product Liability Act (Produkthaftungsgesetz).

10. Final Provisions

- 10.1 Venue of court for all disputes under the business relationship between us and merchants (Kaufmann), public-law legal entities or special funds under public law shall be - at our option - either Wangen im Allgäu, Germany, or the place of the customer's registered office. The exclusive venue of court for lawsuits against us shall be Wangen im Allgäu, Germany. Mandatory legal regulations on exclusive venues of court shall not be affected by this provision.
- 10.2 The relationship between the seller and the Customer shall be governed by the law of the Federal Republic of Germany on an exclusive basis. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 10.3 If in the contract entered into between us and the Customer or in these General Terms and Conditions of Delivery there should be any unintended omissions, then such legally effective provision shall be deemed agreed upon to fill such omission which the contracting parties had agreed upon in consideration of the economic objectives of the contract and the purpose of these General Terms and Conditions of Business had they been aware of such omission.

11. Data Protection Notes

The Customer acknowledges that we save data relating to the contractual relationship for the purpose of data processing and

that we reserve our right to forward the data to third parties (e.g. insurance companies) to the extent as required for the performance of the contract.