



General Terms of Sales and Delivery

Continental Trading GmbH

All deliveries and other services rendered by Continental Trading GmbH ("The Supplier") are governed exclusively by the General Conditions set out hereunder. Terms or Conditions of the Customer differing here from shall only apply if and when expressly accepted by Supplier in writing.

1. Offers and Formation of Contract

1.1 All offers, proposals or estimates for products, repair or installation work of the Supplier are subject to modifications or alterations without notice, unless it is expressly agreed to the contrary.

1.2 Orders as well as any proposed modifications or verbal ancillary or subsidiary agreements are subject to the Supplier's written confirmation. Such written confirmations shall govern the contractual relation between the parties.

2. Delivery Period

2.1 Agreed deadlines can only be adhered to if the Customer provides the documents, approvals, permits and (particularly) plans to be furnished by it and fulfils his payment obligations and other obligations in sufficient time to enable Supplier to perform its obligations. Should Customer fail to fulfill the requirements imposed hereunder, the deadlines shall be extended accordingly. This shall not apply if the Supplier is held responsible for such delays.

2.2 Should failure to meet the deadlines be due to force majeure, e.g. mobilization, war, riot or similar events such as strikes or lockouts the deadlines for Supplier to perform its obligations shall be extended for a reasonable additional period of time.

2.3 If the Supplier is responsible for the delay, the Customer shall – insofar as the Customer is able to produce prima facie evidence of damages incurred as a result of delays – be entitled to demand for each full week of delay ½ percent, however not more than a total of 5 percent, of the value of that part of the Supplier's products that cannot be put to use in due time or in due conformity with the contract owing to the delay.

2.4 Any claims for damages asserted by the Customer on the basis of delayed delivery, as well as claims for compensation in lieu of performance ("Schadensersatz statt der Leistung"), which exceed the limits stated in 2.3 are excluded in all instances of late delivery, also upon the expiration of any additional period of time allotted to the Supplier. This shall not apply to instances in which mandatory liability is based on willful misconduct, gross negligence, or injury is caused to life, limb or health. The Customer shall only be entitled to rescind from the contract in conformance with statutory provisions should the Supplier be responsible for a failure to deliver in due time. This does not constitute a modification in the burden of evidence to the detriment of the Customer.

2.5 At the request of the Supplier, the Customer shall declare within a reasonable period of time whether it intends to assert his right to receive the supplies due to the delayed delivery and/or which additional claims and rights it intends to assert.

3. Delivery and Acceptance

3.1 The Supplier is permitted to deliver in installments.

3.2 The Customer shall not object to deliveries on account of general modifications in design or workmanship undertaken by the Supplier to the contracted supplies concerned or to other performances before fulfillment of the order whose acceptance by the Customer can reasonably be expected.

3.3 The Supplier shall not refuse to accept the merchandise due to immaterial defects.



4. Transfer of Risk

4.1 Delivery will be from a place within the Federal Republic of Germany to be determined by Supplier. Insurance against loss or damage in transit, breakage, theft and other risks will only be arranged by the Supplier at the Customer's express written instruction and for the Customer's account.

4.2 Risk will pass upon delivery of the contracted supplies at the latest. This shall apply also in cases where the Supplier has additionally undertaken to install the contracted supplies. In case delivery cannot take place for reasons for which the Customer is responsible or should the Customer default on acceptance for any other reason, risk shall pass to the Customer.

5. Price and Payment

5.1 Unless otherwise agreed in writing, prices are "ex works" including loading at the works but exclusive of packing and other charges. Packing will be invoiced at cost to the Customer and is not returnable.

5.2 Turnover tax (value-added tax) at the statutory rate applicable will be added to the prices.

5.3 Where an advance payment is liable to turnover tax by virtue of statutory regulations, the turnover tax arising on the advance payment shall be payable by the Customer with the advance payment.

5.4 In case of an increase in the Supplier's price after the conclusion of the contract, the Supplier may charge the price valid on the day of delivery insofar as the Customer is a trader for whom the contract forms part of his trade, a corporation under public law or a state agency.

5.5 Unless otherwise agreed in writing, payment shall be effected without any deduction whatsoever free to the Supplier's specified place of payment prior to delivery or by cash on delivery. The date of payment is the day on which the amount is received by the Supplier.

5.6 Bills of exchange and checks will be accepted merely as a conditional payment and shall be deemed to constitute payment only upon the unconditional crediting of the countervalue. Banking charges, discount fees and other expenses shall be borne by the Customer.

5.7 The Customer may only declare a set-off with counterclaims that are uncontested or have been ruled final and absolute by the respective Court of Justice.

6. Retention of Title

6.1 The merchandise delivered shall remain the property of the Supplier until all claims accruing to the Supplier against the Customer have been fully and completely discharged, during which time a bailment free of charge is agreed. This shall apply also in case of issuance of an acknowledgement of a debit balance. In such case the retained title shall be deemed as security for the claim in respect of the debit balance. When the merchandise belonging to the Supplier is resold or worked – which the Customer is entitled to do subject to revocation within the due and ordinary course of his business - said merchandise shall be substituted by the claim against the third-party purchaser which is already assigned to the Supplier herewith. The Customer shall be entitled to collect the claims arising from re-sale as long as it is not in default with his payment to the Supplier or in financial collapse. Upon demand, the Customer shall furnish the Supplier with the documents required for collection and shall notify the debtor of the assignment of claim. In case the value of the claims assigned to the Supplier exceeds the latter's claims against the Customer by more than 20 percent, the Supplier shall have a duty of surrender or reassignment to such extent if so demanded by the Customer upon presentation of a list of claims.

6.2 The foregoing provisions shall apply analogously in case of connection (particularly integral mounting). When the merchandise delivered is joined with another movable good in such manner that it forms an integral part of another good which has to be regarded as the principal good, the Customer shall assign to the Supplier already herewith proportionate co-title to the new good which the Customer shall hold in bailment on the Supplier's behalf. In case of resale the provisions set out in Clause 6.1 shall apply accordingly.

6.3 The Customer may not pledge the contracted supplies or assign same by way of security. Customer shall notify the Supplier without undue delay in the event of attachments and seizure or other third-party dispositions.



6.4 In the event that the Customer acts in breach of contract, particularly in the event of default in payment, the Supplier will be entitled to retake possession and rescind from the contract and the Customer shall be obliged to surrender the merchandise. In such case the Customer shall be obliged to reimburse all costs arising in connection with retaking possession of the conditionally sold merchandise, in particular the cost of rendering the merchandise fit for resale, and to provide compensation for any loss in value.

6.5 Recourse under such retention of title and attachment of the merchandise by the Supplier shall not be deemed to imply a rescission from the contract unless this has been expressly declared by the Supplier.

7. Material Defects as to Quality

The supplier shall be liable for defects as to quality ("Sachmängel", hereinafter: "Defects") as follows:

7.1 All parts or services which are found to have material defects within the limitation period – regardless of the service life of the same - shall, at the Supplier's discretion, be repaired, refaced or replaced free of charge, insofar as the cause of such Defects existed at the time of the transfer of risk. For the purposes of subsequent performance ("Nacherfüllung") the Supplier is hereby entitled to supply substitute equipment of at least equal value or, in the case of software, an alternative version of at least equal value.

7.2 Claims for Defects shall be subject to a limitation period of 12 months. This shall not apply to the extent that other statutory periods are provided for under § 438(1) no. 2 (Buildings and Building Supplies), §479 (1) (Right of Recourse) and 634a (Building Defects) of the German Civil Code (BGB) and in instances in which injury is caused to life, limb or health as well as in cases of willful misconduct or a grossly negligent breach of obligations on the part of the Supplier and in the case of fraudulent concealment of a defect.

7.3 Should the Supplier rectify defects pursuant to Clause 7.1 in the form of subsequent performance, the limitation period for the subsequently improved or re-delivered goods or parts of the goods shall be 6 months following the transfer of risk; the limitation period shall not however end before, and shall end at the latest, 6 months after expiry of the limitation period referred to in Clause 7.2.

7.4 Notification of defects pursuant to § 377, 381 II German Commercial Code (HGB) shall be made in writing. Negotiations relating to objections lodged shall in no case be deemed as a waiver of the Supplier of its right to object on the grounds of late, inadequate or unfounded notification of defects. Defects shall only be acknowledged in writing. In all other respects the rules regarding the interruption, suspension or recommencement of the limitation period remain unaffected.

7.5 Should a Defect be notified, the Customer shall be entitled to withhold payments provided that such withheld payments are in reasonable proportion to such Defects. The Customer shall only be entitled to withhold payments if a complaint regarding Defects has been notified and provided that there can be no reasonable doubt regarding the justification of such a notification of Defects. Should an unjustified notification of Defect be made, the Supplier shall be entitled to demand compensation from the Customer for the expense incurred by the Supplier as a result.

7.6 The Supplier shall always initially be granted the opportunity to cure any defects within a reasonable period of time.

7.7 Should subsequent performance be abortive, the Customer shall be entitled to require rescission of the contract or a price reduction.

7.8 Claims regarding Defects shall not be asserted on the basis of insignificant deviations from agreed quality levels or fitness for use, natural wear and tear, particularly on the basis of wearing parts (such as CD/DVD drives, inscriptions on keys/switches, mechanical front panels, driving shafts for vehicle equipment, incandescent lamps, glasses or ink ribbons, rubber rollers, tensioning ties, magnetic tapes, types, magnetic heads, filters, batteries, accumulators) or damages occurring subsequent to the transfer of risk as a result of incorrect, negligent or excessive use, inappropriate operational equipment, external influences not envisaged by this contract or non-reproducible software errors. Claims for Defects may not be asserted on the basis of improper changes or repair work or the results of the same performed by the Customer or third parties.

7.9 Provided that such costs are incurred in the Federal Republic of Germany, the direct labor costs incurred for installing and dismantling and for performing subsequent repairs, including the costs of dispatching substitute equipment, shall be borne by the Supplier. All other costs, in particular traveling expenses, shall be borne by the Customer. This shall not apply to traveling expenses incurred when traveling up to 150 km in one direction if such a journey is undertaken for the purpose of performing repairs on stationary systems which, owing to their design, must be repaired on site. Further claims asserted by the Customer relating to expenses necessarily incurred in the course of subsequent performance, in particular transit, transport, work and material costs, are excluded.



7.10 The Customer's right of recourse against the Supplier pursuant to § 478 German Civil Code (BGB) shall only apply if the Customer has not reached an agreement with his own customer which exceeds the scope of statutory claims for material defects. No. 10 shall apply accordingly to the scope of the Customer's right of recourse against the Supplier.

7.11 Warranted characteristics ("Beschaffenheitsgarantie") and durability ("Haltbarkeitsgarantie") shall only be regarded as such if stipulated individually and expressly as such in writing.

7.12 A charge shall be made for cost estimates submitted in response to all repair inquiries made after the limitation periods stipulated in Clause 7.2 have lapsed; the charge for this cost estimate will be deducted from the final price charged by the Supplier should a repair order subsequently be placed.

7.13 Further Customer claims or Customer claims asserted against the Supplier and its vicarious agents on the basis of Defects other than those claims governed by Clause 7 are excluded, regardless of the legal standing of such claims unless such claims are due to a willful or grossly negligent breach of contract or if injury is caused to life, limb or health, or unless the Supplier has warranted the absence of a defect. The above provisions do not constitute a modification in the burden of evidence to the detriment of the Customer.

8. Intellectual Property Rights and Copyright; Defects of Title

8.1 Unless otherwise agreed, the Supplier shall only be obliged to ensure that the supplies are not subject to third party intellectual property rights and copyright (hereinafter: intellectual property rights) in the country to which delivery is made. Should, owing to an infringement of intellectual property rights, a third party asserts justified claims against the Customer based on the contractually agreed use of the supplies, the Supplier shall be liable to the Customer within the periods stipulated under Clause 7.2 as follows:

a) The Supplier shall, at its discretion and cost, either acquire a license for the relevant supplies, modify the supplies in such a way that they no longer infringe the intellectual property rights, or exchange such supplies. Should the Supplier not be able to carry out any of the above measures at reasonable conditions, the Customer shall be entitled to assert his statutory right to withdraw from the contract or to demand a reduction in price.

b) The duties of the Supplier referred to above shall only apply if the Customer immediately informs the Supplier in writing about the claims asserted by the third party, does not acknowledge such an alleged infringement, and ensures that measures to ward off such claims or composition negotiations remain the exclusive preserve of the Supplier. Should the Customer cease to use the supplies with the aim of minimizing any claims or for any other material reasons, the Customer shall advise the third party that such cessation of use shall not be deemed to be a recognition of the infringement of the relevant intellectual property rights.

8.2 Customer claims are excluded to the extent that the Customer is responsible for the infringement of the intellectual property rights.

8.3 Customer claims shall also be excluded to the extent that the infringement of the intellectual property rights is due to special instructions issued by the Customer, to a use, which could not be foreseen by the Supplier, or to the supplies being modified by the Customer or used with other products not supplied by the Supplier.

8.4 In the event of an infringement of intellectual property rights, the Customer claims governed by no.1 a) shall also be subject to the provisions of Clause 7.5 and 7.6.

8.5 In the event of any other defects of title, the provisions of Clause 7 shall apply accordingly.

8.6 Further Customer claims or Customer claims asserted against the Supplier and its vicarious agents on the basis of defects other than those claims governed by this Clause 9 are excluded regardless of the legal standing of such claims, unless such claims are due to a willful or grossly negligent breach of contract or if injury is caused to life, limb or health, or unless the Supplier has warranted the absence of a defect. The above provisions do not constitute a modification in the burden of evidence to the detriment of the Customer.



9. Impossibility of Performance; Adaptation of Contract

9.1 Should delivery be impossible, the Customer shall be entitled to claim damages unless the Supplier is not responsible for such impossibility. Claims for damages shall however be limited to 10% of the value of that part of the supplies, which – owing to impossibility of delivery – cannot be put into appropriate operational service. This shall not apply to instances in which mandatory liability is based on willful misconduct, gross negligence, or injury of life, limb or health; this does not constitute a modification in the burden of evidence to the detriment of the Customer. The Customer's right to rescind the contract remains unaffected.

9.2 In the event of temporary impossibility, Clause 2 (Delivery Period) shall apply.

9.3 Should unforeseeable circumstances as defined by Clause 2 no. 2 result in a significant impairment to the business value or contents of the supplies or have a significant impact on the Supplier's business operations, the contract shall be amended in accordance with the requirements of good faith. Should it be economically unreasonable to make such amendments, the Supplier shall be entitled to rescind the contract. Should the Supplier wish to assert this right of rescission, the Supplier shall – bearing in mind the implications of the relevant event – inform the Customer accordingly immediately even if an initial agreement has been reached with the Customer to prolong the delivery period.

10. Liability

10.1 The Supplier shall bear unlimited liability for injuries to life, limb and health and shall provide compensation for property damages for which it is responsible. Compensation for property damages shall cover the costs of remedying the same and shall be limited to a maximum of 500,000 Euros per instance of damages. In the event of damages to data carrier material, the duty to replace shall not include the cost of restoring lost data and information.

10.2 Regardless of their legal standing, further claims for damages or compensation for expenses (hereinafter referred to as claims for damages), in particular claims asserted on the basis of a violation of obligations arising in connection with the contract and tortious acts, are excluded.

10.3 This disclaimer shall not apply to the extent that mandatory liability is borne, e.g., according to the provisions of the German Product Liability Law ("Produkthaftungsgesetz"), in cases of willful misconduct or gross negligence, if the characteristics of a good are warranted, in cases of fraudulent concealment of a defect, or in cases of breach of a substantial obligation of the contract ("Verletzung wesentlicher Vertragspflichten"). Claims for damages based on fundamental breach of contract shall however be limited to typically foreseeable damages unless such damages are due to willful misconduct or gross negligence.

10.4 Should the Customer be entitled to assert claims for damages on the basis of this clause, these claims shall become statute barred on expiry of the limitation period, which applies to claims for Defects pursuant to Clause 7.2. This shall not apply to willful acts or to gross negligence, or if injury is caused to life, limb or health, in the case of fraudulent concealment of a defect, or in the case of claims based on the German Product Liability Law.

10.5 The above provisions do not constitute a modification in the burden of evidence to the detriment of the Customer.

11. General

11.1 Contractual relations shall be governed by German substantive law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

11.2 The Customer authorizes the Supplier, under waiver of notice, to process personal data and to pass on such data to the offices within the Group involved in the handling of the contractual relations within the scope permitted under the German Data Protection Act ("Bundesdatenschutzgesetz") and to the extent necessary for the purposes of handling the contractual relations.

11.3 If any provisions of this Contract are found to be null or void, this shall not affect the validity of its remaining provisions. This shall not apply should continued adherence to the contract constitute an unreasonable hardship for one of the parties.

11.4 The place of performance for payments is Frankfurt am Main; the place of performance for deliveries is the Supplier's branch responsible for contractual dispatch.



11.5 Any additions or modifications to this contract are only valid if made in writing. Electronic form shall not be deemed to be written form.

11.6 Should the Customer be a merchant, a corporation under public law or a public agency, the sole place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship shall be the court that has jurisdiction over the Supplier's registered office. The Supplier also has the right to bring action before a court that has jurisdiction over the registered office or a branch of the Customer.