



Elektro-Automatik

General Terms and Conditions of Sale

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I. General Provisions

1. The scope of the deliveries or services (hereinafter referred to as deliveries) shall be determined solely by the written declarations made by both parties. The Client's General Terms and Conditions of Business and Delivery shall only apply to the extent that the Supplier or Service Provider (hereinafter referred to as the Supplier) has expressly agreed to them in writing.
2. The Supplier reserves its ownership and copyright to cost estimates, drawings and other documents (hereinafter referred to as "Documents") without restriction. The documents may only be made available to third parties with the prior written consent of the supplier and, if the order is not placed with the supplier, they must be returned immediately upon request. This applies mutatis mutandis to documents of the Client; however, these may be made available to third parties to whom the supplier has lawfully transferred deliveries.
3. The Client shall have the non-exclusive right to use standard software with the agreed performance characteristics in unchanged form on the agreed devices. The Client may create a backup copy without an express agreement.
4. Partial deliveries are permissible insofar as they are reasonable for the client.

II. Prices and Terms of Payment

1. The prices are ex works excluding packaging plus the applicable statutory sales tax.
2. If the Supplier has taken over the installation or assembly and unless otherwise agreed, the Client shall bear all necessary ancillary costs such as travel expenses, costs for the transport of tools and personal luggage as well as redemptions in addition to the agreed remuneration.
3. Payments are to be made free of charge to the paying agent of the supplier.
4. The Client may only offset claims which are undisputed or have been established in a legally binding manner.

III. Retention of Title

1. The items of the deliveries (goods subject to retention of title) shall remain the property of the supplier until all claims to which it is entitled against the customer arising from the business relationship have been satisfied. Insofar as 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 release a corresponding part of the security rights at the request of the Client.
2. During the existence of the retention of title, the Client is prohibited from pledging or transferring title by way of security and further sale is only permitted to resellers in the ordinary course of business on the condition that the reseller receives payment from his customer or makes the reservation that ownership will not pass to the customer until the customer has fulfilled his payment obligations.
3. If the customer resells goods subject to retention of title, he shall assign to the supplier his future claims from the resale against his customers with all ancillary rights - including any balance claims - by way of security, without the need for any special declarations at a later date. If the goods subject to retention of title are resold together with other items without an individual price having been agreed for the goods subject to retention of title, the Client shall assign to the supplier that part of the total price claim which corresponds to the price of the goods subject to retention of title invoiced by the supplier, with priority over the remaining claim.
4. If a legitimate interest is substantiated, the Client shall provide the Supplier with the information necessary to assert its rights against the Client and hand over the necessary documents.
5. Until revoked, the Client shall be entitled to collect the assigned claim from the resale. If there is an important reason, in particular in the event of late payment, suspension of payment, opening or refusal to open insolvency proceedings, protest against bills of exchange or if there are comparable substantiated indications suggesting that the Client is insolvent, the Supplier shall be entitled to revoke the Client's right to collect payments. In addition, the Supplier may, after prior threat of disclosure of the assignment of security or the realisation of the assigned claims, disclose the assignment of security and demand that the Client disclose the assignment of security to the Customer within a reasonable period of time.
6. The Client is permitted to process, transform or combine the goods subject to retention of title with other objects. The processing, transformation or connection is done for the supplier. The Client shall store the new item for the supplier with the care of a prudent businessman. The processed, transformed or combined item is considered to be reserved goods.
7. In the event of processing, transformation or combination with other items not belonging to the Supplier, the Supplier shall be entitled to co-ownership of the new item in the amount of the proportion resulting from the ratio of the value of the processed, modified or combined goods subject to retention of title to the value of the other processed goods at the time of processing, transformation or connection. If the Client acquires sole ownership of the new item, the Supplier and the Client agree that the Client shall grant the Supplier co-ownership of the new item created by processing, transformation or combination in proportion to the value of the processed, transformed or combined goods subject to retention of title to the remaining processed, transformed or combined goods at the time of processing, reformation or connection.
8. In the event of the sale of the new item, the Client hereby assigns to the Supplier its claim from the resale against the Customer with all ancillary rights by way of security, without the need for further special declarations. However, the assignment shall only apply to the amount corresponding to the value invoiced by the supplier of the processed, transformed or combined goods subject to retention of title. The share of the receivables assigned to

the supplier is to be satisfied as a matter of priority. With regard to the authorisation to collect and the conditions for its revocation, the provisions of Section III shall apply mutatis mutandis.

9. If the goods subject to retention of title are combined by the Client with real estate or movable property, the Client shall, without the need for further special explanations, also assign to the Supplier by way of security all claims to which he is entitled as remuneration for the combination, together with all ancillary rights, in the amount of the ratio of the value of the goods subject to retention of title to the other related goods at the time of the connection.
10. In the event of seizures, confiscation or other dispositions or interventions by third parties, the Client shall notify the Supplier immediately.
11. In the event of a culpable breach by the Client of essential contractual obligations, in particular in the event of default of payment, the Supplier shall be entitled to take back the contract after a reminder.
12. The Client is obliged to surrender. The withdrawal or assertion of the retention of title or the seizure of the delivery item by the Supplier shall not constitute a withdrawal from the contract, unless the Supplier has expressly stated this. The Supplier shall be entitled, upon prior threat, to utilise the returned goods subject to retention of title and to satisfy himself from the proceeds thereof by offsetting the open claims.

IV. Deadlines/Delays

1. Compliance with deadlines for deliveries presupposes the timely receipt of all documents to be delivered by the Client, the necessary approvals and approvals, in particular plans, as well as the Client's compliance with the agreed terms of payment and other obligations. If these conditions are not fulfilled or are not fulfilled in time, the deadlines shall be extended accordingly; This shall not apply if the supplier is responsible for the delay.
2. If the non-compliance with the deadlines is due to force majeure, e.g. mobilisation, war, riot or similar events, e.g. strike, lockout, the deadlines shall also be extended appropriately.
3. Claims for damages by the Client due to delay in delivery as well as claims for damages in lieu of performance shall be excluded in all cases of delayed delivery, even after the expiry of any period set for delivery by the Supplier. This does not apply to the extent that liability is mandatory in cases of intent, gross negligence or injury to life, limb or health. The Client may withdraw from the contract within the framework of the statutory provisions only to the extent that the delay in delivery is attributable to the Supplier. A change in the burden of proof to the detriment of the Client is not associated with the above provisions.
4. If, at the request of the Client, dispatch or delivery is delayed by more than one month after notification of readiness for shipment, the Client may be charged storage fees in the amount of 0.5% of the price of the goods of the delivery, but not more than 5% of this price in total, for each month or part thereof. The contracting parties shall be free to provide proof of higher or lower storage costs.

V. Transfer of Risk

1. The risk shall also pass to the Client in the case of carriage-free delivery as follows:
 - a) In the case of delivery without installation or assembly, if they have been brought or collected for dispatch. At the request and expense of the Client, deliveries shall be insured by the Supplier against the usual transport risks;
 - b) In the case of deliveries with set-ups or assembly on the day of acceptance in the company's own company or, if agreed, after flawless trial operation.
2. If the dispatch, delivery, commencement, execution of the installation or assembly, takeover into own operation or trial operation is delayed for reasons for which the Client is responsible, or if the Client is in default of acceptance for other reasons, the risk shall pass to the Client.

VI. Installation and assembly

Unless otherwise agreed in writing, the following provisions apply to installation and assembly:

1. The Client shall assume at his own expense and order in good time:
 - a) All earthwork, construction work and other ancillary work outside the industry, including the skilled and auxiliary staff, building materials and tools required for this purpose;
 - b) the commodities and materials required for assembly and commissioning, as well as scaffolding, hoists and other devices, fuels and lubricants;
 - c) energy and water at the point of use, including connections, heating and lighting;
 - d) at the assembly site for the storage of machine parts, equipment, materials, tools, etc. sufficiently large, suitable, dry and lockable rooms and suitable working and recreation rooms for the assembly personnel, including sanitary facilities appropriate to the circumstances; in all other respects, the Client shall take the measures it would take to protect its own business in order to protect the property of the supplier and the installation personnel on the construction site;
 - e) Protective clothing and protective devices required by the special circumstances of the installation site.
2. Prior to the commencement of the installation work, the Client shall provide the necessary information on the location of concealed electricity, gas, water pipes or similar installations as well as the necessary static information without being asked.
3. Before the start of the erection or assembly, the provisions and objects necessary for the commencement of the work must be located at the installation or assembly site and all preparatory work must be sufficiently advanced before the start of the erection or assembly that the erection or assembly can be started as agreed and carried out without interruption. Access routes and the installation or assembly area must be levelled and cleared.
4. If the installation, assembly or commissioning is delayed due to circumstances for which the Supplier is not responsible, the Client shall bear the costs for waiting time and additional travel required by the Supplier or the installation personnel to a reasonable extent.
5. The Client shall immediately certify to the Supplier on a weekly basis the duration of the working hours of the installation personnel and the completion of the installation, assembly or commissioning.
6. If the supplier demands acceptance of the delivery after completion, the customer must do so within 2 weeks. If this does not happen, the acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place if the delivery has been put into use - if necessary after completion of an agreed test phase.

VII. Receipt

The Client may not refuse to accept deliveries due to insignificant defects.

VIII. Material defects

The supplier shall be liable for material defects as follows:

1. All those parts or services shall be repaired, redelivered or re-provided free of charge at the supplier's discretion which have a material defect within the limitation period - regardless of the period of operation - provided that the cause of this defect already existed at the time of the transfer of risk.
2. Claims for material defects expire in 24 months. This shall not apply to the extent that the Act pursuant to Sections 438 (1) No. 2, 479 (1) and 634 a para. 1 no. 2 BGB prescribes longer deadlines as well as in cases of injury to life, limb or health, in the event of an intentional or grossly negligent breach of duty by the supplier and in the event of fraudulent concealment of a defect. The statutory provisions on the suspension of expiry, suspension and new start of the time limits shall remain unaffected.
3. The Client shall immediately notify the Supplier in writing of material defects.

4. In the event of notices of defects, payments by the Client may be withheld to an extent that is proportionate to the material defects that have occurred. The Client can only withhold payments if a notice of defects is asserted, the justification of which can be beyond doubt. If the notice of defects was wrongly made, the supplier is entitled to demand reimbursement of the expenses incurred by him from the Client.
5. First of all, the supplier must be given the opportunity to remedy the defect within a reasonable period of time.
6. If the subsequent performance fails, the Client may withdraw from the contract or reduce the remuneration, without prejudice to any claims for damages under Article IX.
7. Claims for defects do not exist in the event of an insignificant deviation from the agreed quality, in the event of only insignificant impairment of usability, in the event of natural wear and tear or damage that arises after the transfer of risk as a result of incorrect or negligent handling, excessive stress, unsuitable equipment, defective construction work, unsuitable building ground or that is due to special external influences that are not required by the contract, as well as in the case of non-reproducible software bugs. If improper modifications or repair work are carried out by the Client or by third parties, there are also no claims for defects for these and the resulting consequences.
8. Claims by the Client on account of the expenses necessary for the purpose of subsequent performance, in particular transport, travel, labour and material costs, shall be excluded to the extent that the expenditure increases because the object of the delivery has subsequently been moved to a place other than the Client's establishment, unless the packaging corresponds to its intended use.
9. Recourse claims of the Client against the supplier pursuant to Section 478 BGB (recourse of the contractor) exist only to the extent that the Client has not entered into any agreements with its customer that go beyond the statutory claims for defects. No. 8) shall also apply mutatis mutandis to the scope of the Client's recourse claim against the supplier pursuant to Section 478 (2) BGB.
10. In addition, Article XI (other claims for damages) shall apply to claims for damages. Further or other claims of the Client against the Supplier and its vicarious agents on account of a material defect other than those regulated in Article VIII shall be excluded.

IX. Industrial Property Rights, Copyrights, Defects of Title

1. Unless otherwise agreed, the supplier is obliged to make the delivery free of industrial property rights and copyrights of third parties (hereinafter referred to as "property rights") only in the country of the place of delivery. If a third party asserts justified claims against the Client due to the infringement of intellectual property rights by deliveries made by the Supplier and used in accordance with the contract, the Supplier shall be liable to the Client within the period specified in Article XIII No. 2 as follows:
 - a) The Supplier shall, at his option and at his own expense, either obtain a right of use for the supplies in question, amend them in such a way as not to infringe the intellectual property right, or exchange them. If this is not possible for the supplier on reasonable terms, the customer is entitled to the statutory rights of withdrawal or reduction.
 - b) The Supplier's obligation to pay damages is governed by Article XI.
 - c) The above-mentioned obligations of the Supplier shall only exist to the extent that the Client immediately notifies the Supplier in writing of the claims asserted by the third party, does not acknowledge a violation and the Supplier reserves the right to take all defensive measures and negotiate a settlement. If the Client ceases to use the delivery for reasons of mitigation of damage or other important reasons, it is obliged to inform the third party that the cessation of use does not imply an acknowledgment of an infringement of an intellectual property right.
2. Claims of the Client are excluded insofar as the Client is responsible for the infringement of intellectual property rights.
3. Claims by the Client shall also be excluded insofar as the infringement of intellectual property rights is caused by special specifications of the Client, by an application not foreseeable by the Supplier or by the fact that the delivery is modified by the Client or used together with products not supplied by the Supplier.
4. In the event of infringements of intellectual property rights, the provisions of Article XIII Nos. 4, 5 and 9 shall apply mutatis mutandis to the claims of the Client governed by No. 1 a).
5. In the event of other defects of title, the provisions of Article XIII shall apply mutatis mutandis.
6. Claims of the Client against the Supplier and its vicarious agents on the basis of a defect in title other than those regulated in this Article IX shall be excluded.

X. Impossibility/Contract Adjustment

1. Insofar as delivery is impossible, the Client shall be entitled to claim damages, unless the Supplier is not responsible for the impossibility. However, the Client's claim for damages is limited to 10% of the value of that part of the delivery that cannot be put into appropriate operation due to the impossibility. This limitation does not apply to the extent that liability is mandatory in cases of intent, gross negligence or against injury to life, limb or health; this does not involve a change in the burden of proof to the detriment of the Client. The Client's right to withdraw from the contract remains unaffected.
2. If unforeseeable events within the meaning of Article IV No. 2 significantly change the economic significance or content of the delivery or have a significant effect on the Supplier's operations, the contract shall be appropriately amended in good faith. If this is not economically justifiable, the supplier has the right to withdraw from the contract. If he wishes to make use of this right of withdrawal, he must inform the Client of this immediately after becoming aware of the significance of the event, even if an extension of the delivery time has initially been agreed with the Client.

XI. Further claims for damages

1. Claims for damages and reimbursement of expenses by the Client (hereinafter referred to as claims for damages), regardless of the legal grounds, in particular due to breach of obligations arising from the contractual relationship and from tort, are excluded.
2. This does not apply to the extent that liability is mandatory, e.g. under the Product Liability Act, in cases of intent, gross negligence, injury to life, limb or health, or breach of essential contractual obligations. However, the claim for damages for the breach of essential contractual obligations is limited to the foreseeable damage typical for the contract, unless there is intent or gross negligence or liability is incurred for injury to life, limb or health. A change in the burden of proof to the detriment of the Client is not associated with the above provisions.
3. Insofar as the Client is entitled to claims for damages under this Article XI, these shall become time-barred upon expiry of the limitation period applicable to the claims for material defects in accordance with Article VIII No. 2. In the case of claims for damages under the Product Liability Act, the statutory statute of limitations applies.

XII. Disposal in accordance with the Electrical and Electronic Equipment Act (only applies to products marked "B to B")

1. User assumes the obligation to properly dispose of the supplied goods at his own expense in accordance with the statutory provisions after the end of use or to hand them over to the company Elektro-Automatik GmbH for disposal free of charge.
2. The goods are passed on to commercial third parties, they must be contractually obligated to dispose of the goods properly at their expense in accordance with the statutory provisions after the end of use or to hand them over to them for disposal as a free return shipment for Elektro-Automatik GmbH.
3. The manufacturer's claim to takeover/indemnification by the customer does not expire before the expiry of two years after the final termination of the use of the device.



XIII. Place of jurisdiction

If the customer is a merchant, the sole place of jurisdiction is the registered office of the supplier in all disputes arising directly or indirectly from the contractual relationship. However, the supplier is also entitled to sue at the customer's registered office.

XIV. Severability clause

The contract remains binding in its remaining parts even if individual provisions are legally invalid. In the event of the invalidity of an individual provision, the parties undertake to make a provision that comes as close as possible to the economic sense of the invalid provisions.