

Terms and conditions of business

1. General provisions

1.1. The present General Terms and Conditions (GTC) apply to all of our business relationships with our customers ("Purchaser"). The GTC only apply if the Purchaser is an entrepreneur (§ 14 of the German Civil Code), a legal entity of public law or a special fund under public law.

The GTC particularly apply for contracts about the sale and/or the delivery of transportable objects ("Goods"), regardless of whether we manufacture the Goods ourselves or buy them in from suppliers (§§ 433, 651 of the German Civil Code). Unless otherwise agreed, the GTC apply, in the version valid at the time of the Purchaser's order or in the version last transmitted to them, as a framework agreement for similar future contracts, without us having to refer to them each time.

1.2. Our GTC apply exclusively. Deviating, contradicting or additional General Terms and Conditions of the Purchaser are only part of the contract if we have expressly authorised their validity. This approval requirement applies in any case, also if we make deliveries to the Purchaser without reserve, in full knowledge of their Terms and Conditions. Individual, isolated agreements with the Purchaser (including ancillary agreements, additions and changes) always take priority over these GTC. The content of this type of agreement, subject to counterevidence, is to be determined according to a written contract or our written confirmation.

1.3. Legally relevant declarations and announcements of the Purchaser with regards to the contract (for example deadline agreements, defect notifications, withdrawal or reduction) are to be submitted in writing, i.e. in written or text form (for example letter, e-mail, fax). Legal form provisions and other certificates, especially in case of doubts about the legitimation of the declaring party, remain unaffected.

1.4. References to the validity of legal provisions are only for clarification purposes. The legal provisions therefore apply even if there is no reference, unless they have been modified directly in these GTC or expressly excluded.

2. Quotations and orders

Our quotations shall be subject to change without notice and are non-binding. This applies also to information contained in price lists, leaflets etc. Delivery dates stated in our quotations or given to the purchaser by any other means are approximate, and we shall endeavour to keep to them. Delays in delivery shall give us no right to claims, unless we have explicitly confirmed such delivery dates and an adequate period of grace granted to us has expired. Orders shall only be binding on us when they have been explicitly confirmed in writing, regardless of the form in which they have been placed with us. Statements made in catalogues are simple descriptions of goods and under no circumstances do they constitute warranted qualities. Furthermore, the characteristics of our samples cannot be regarded as warranted characteristics.

3. Prices

Prices shall be valid only when confirmed by us in writing. They are exclusive of VAT at the current rate and incidentals such as postage and packing, freight, insurance etc., as of storage. If delivery is made more than 3 months after the date of order, we shall be entitled to invoice the price valid at the date of despatch, even though different prices were initially confirmed. The price valid at the date of despatch shall also apply if the order was confirmed without prices being stated. When an order on call is placed, partial deliveries shall be invoiced at the price valid at the date of despatch. Any request by the purchaser for subsequent modifications shall entitle us to amend prices.

4. Conditions of payment

The invoiced sum is to be paid net within 30 days of date of invoice and delivery. If the purchaser is in default with any payment, we are entitled to claim interest for such default at the normal rate of interest charged for current accounts. If we are able to prove that we have incurred greater losses as a result of the delay, we shall be entitled to claim compensation for such damages. We are however entitled at any time, in the context of an ongoing business relationship, to execute a delivery in full or in part only against an advance deposit. We shall declare a corresponding reserve at the latest at the confirmation of the contract.

5. Set-off, right to retention

Only claims which have been recognised by us or have become legally binding may be offset against our invoices. Any right to a retention to be exercised by the purchaser in connection with our claims is explicitly excluded. In case of defects in the delivery, the rights of the Purchaser remain unaffected, particularly with regards to point 10.3. of these GTC.

6. Delivery

The delivery is performed from the storage, wherever the place of fulfilment for the delivery and any subsequent fulfilment may be. Upon request by the Purchaser, the Goods will be sent to a different place of their choice (shipped purchase). Delivery of our goods is explicitly made on behalf of and at the risk of the purchaser. The risk shall pass over to the purchaser when the ordered goods leave our premises. The same applies if goods are collected in our premises from the point in time at which we notify the purchaser that they are ready for collection. Unless we have received instructions to the contrary from the purchaser, we shall decide at our discretion on the most economical delivery method without assuming any liability for the chosen means of delivery.

7. Specially manufactured goods

Components made according to a sample or a drawing or by special request must be taken over and paid for, unless they have a defect we are answerable for and which makes the components completely unfit for the purchaser's purposes. If their fitness for the purchaser's purposes is only reduced, the purchaser may request a reduction of payment but the contract shall not be cancelled.

8. Quantities

We are entitled to supply quantities which are above or below the ordered quantities by up to 10%. Such deviations are usual in this trade and the deliveries are deemed as being in compliance with the contract. If delivery quantities fall below the ordered quantities there shall be no right to subsequent delivery of the missing quantity.

9. Reservation of proprietary rights

9.1. All goods supplied shall remain our property until all current and future claims resulting from the Purchase contract and the business relationship with the purchaser (secured claims) have been paid in full. The purchaser is entitled to dispose of the purchased goods in the ordinary course of business transactions. Reservation of proprietary rights also applies to products resulting from processing, mixing up or combining our goods, in which case we are considered as manufacturers. In the case where our goods are processed, mixed up or combined with goods of third parties, and the proprietary rights of such third parties remain in force, we are entitled to co-ownership according to the proportion of the amount invoiced for such processed goods. In such cases such rights to co-ownership shall be safeguarded by the purchaser.

9.2. The purchaser shall transfer to us, as a security, his claims against third parties resulting from the re-sale of our goods in full or in the proportion of our co-ownership (see subparagraph 9.1). He is entitled to collect the amount of such claims on our behalf until revoked or until cessation of his payments made to us. The purchaser is not entitled to assign these claims to third parties.

9.3. The purchaser is not entitled to mortgage or transfer the goods which are subject to reservation by way of security.

9.4. The purchaser shall advise us immediately at any seizure of our goods or of any infringement of our rights by third parties.

9.5. In case of a default in payment or a deterioration in the financial situation, we are entitled to request immediate handing over of the goods which are subject to reservation. Any time limited claims shall immediately become due.

9.6. If the value of the securities exceeds our claims by more than 20%, securities to a corresponding amount will be released by us on request at our discretion.

9.7. The extended retention of title (9.1.) does not apply to prepayment orders that have been paid in full.

10. Warranty

10.1. We expressly point out that all information and data is given to the best of our knowledge and belief. The user is solely responsible for the proper use of our products and he should check their suitability for the intended application. Fischer Elektronik do not assume any warranty, whether expressed or implied, for the suitability, function or merchantability of their products in specific or general applications, and they cannot be held liable for accidental or consequential damage due to non-observance of the above.

10.2. Claims for defects can only be considered if the purchaser has complied with their obligation to check goods and submit a complaint as per Sections 377, 381 of the German Commercial Code [HGB]. If goods have a defect attributable to us, we are obliged to effect a cure, excluding the purchaser's right to withdraw from the contract or to reduce the purchase price

(reduction), unless we are entitled to refuse to effect a cure by virtue of legal regulations. The purchaser shall grant us an adequate period of grace for effecting a cure. A cure may at our discretion be an elimination of the defect (rectification) or the supply of new products. We are entitled to determine the cure owed according to the payment of the purchase price due by the Purchaser. The Purchaser, however, is entitled to retain a part of the purchase price that is proportionate to the defect. The expenses incurred for the verification and cure, particularly transport, road, work and materials costs (not: expansion and installation costs) are borne by us, if there is indeed a defect. Otherwise, we can require that the Purchaser bear the costs arising from the unjustified defect rectification request (particularly examination and transport costs), unless the Purchaser could not have been aware that the defect rectification was unnecessary.

10.3. If rectification of the defect has failed, the purchaser shall be entitled to request a reduction in the purchase price (abatement) or to withdraw from the contract. Rectification shall be deemed to have failed after the second vain attempt, unless further attempts are reasonable in view of the object of the contract and can be reasonably imposed on the purchaser.

10.4. The purchaser's right to put forward further claims for damages shall remain unaffected by this.

10.5. The purchaser's warranty claims shall be subject to a time limit of 12 months from the delivery of the goods to the purchaser, unless we have fraudulently concealed the defect. In this case, the legal regulations shall apply.

10.6. The purchaser's claims for damages shall be subject to a time limit of 12 months from the delivery of the goods. This does not apply if we, our legal representatives or other vicarious agents are responsible for death, personal injury or physical harm, or if we or our legal representatives have been grossly negligent, or if our vicarious agents have acted with intent.

10.7. Contractual penalties which have been agreed between our customers and their customers cannot be imposed upon us unless we have been notified of them and have agreed to them in writing prior to accepting an order.

10.8. If it becomes apparent (by the opening of an application for an insolvency procedure for example) after the conclusion of the contract that our claims to the purchase price are endangered due to lacking payment capacities of the Purchaser, we will then be entitled to refuse the delivery and – after a possible period of notice – to withdraw from the contract in accordance with the legal provisions (§ 321 of the German Civil Code). For contracts about the manufacturing of specific items (making to specification), we can declare the withdrawal immediately; the legal regulations about the dispensability of giving a period of notice remain unaffected.

11. Withdrawal

When delivery in accordance with the contract is not possible for reasons beyond our control, we are entitled to withdraw from the contract. Such withdrawal shall not entitle the purchaser to assert any right against us.

12. Export clause

We are not obliged to reimburse damages arising from delays in delivery or it being completely impossible to deliver as a result of statutory or official export restrictions, unless we act with intent or gross negligence suffered by the Customer or other persons. The Customer's duty to pay the agreed remuneration shall not be affected by disruptions in our performance as a result of export restrictions. We shall be entitled to withdraw from the contract if, after the contract is signed, our performance is disrupted as a result of export restrictions.

13. Place of performance and jurisdiction, applicable law

13.1. The place of performance and the place of venue for deliveries and payments and for any litigation arising between us and the purchaser shall be the headquarters of our company.

13.2. The relationship between the contractual parties shall be regulated solely in accordance with the law in force in the Federal Republic of Germany. The regulations of international uniform law, particularly the UN CISG, shall not apply.