

## **General Terms and Conditions of Sale of EAW Relaistechnik GmbH**

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### **§ 1 General**

- (1) Only the following sale and delivery conditions shall apply to all deliveries and other services; the sale and delivery conditions only apply to entrepreneurs as defined in Section 14 of the German Civil Code.
- (2) Any terms and conditions of the buyer that deviate from these terms and conditions and which have not been explicitly recognised by the seller are not binding, even if the seller does not expressly object to them.
- (3) The implication and integration of these terms and conditions of sale and delivery and the agreement and interpretation of the transactions with the buyer himself are subject only to the law of the Federal Republic of Germany. The application of the uniform law on the conclusion of international sales contracts for moveable goods as well as the uniform law on the international purchase of moveable goods from the UN Convention on the International Sale of Goods is excluded.
- (4) The invalidity of any provision of this agreement or its components shall not affect the validity of the other provisions. To the extent which may reasonably be expected, the contractual partners shall be under obligation in accordance with the principle of good faith to substitute any ineffective provision with a valid clause of equivalent material and economic effect, provided this does not substantially alter the content of the agreement. The same applies if no provision is expressly stipulated for a fact requiring regulation.
- (5) The seller's place of business is the place of performance for all obligations arising directly or indirectly from this contractual relationship, including the payment obligation.
- (6) The place of jurisdiction is the jurisdictional venue responsible for the registered office of the seller, provided the buyer is a trader. The seller is also entitled to take action before a court that has jurisdiction for the buyer's office or branch.

### **§ 2 Offers, scope and contract conclusion**

- (1) Contractual offers made by the seller are non-binding.
- (2) The seller's order confirmation is exclusively authoritative for the scope of the contractually-owed services and performances.
- (3) The seller reserves the right to make changes to the design, choice of materials, specification and type, even after an order confirmation has been sent, provided that such changes do not contradict the order confirmation or the buyer's specifications. The buyer will also agree to further changes proposed by the seller insofar as these are reasonable for the buyer.
- (4) The supplier shall retain his ownership and copyright exploitation rights without restriction to cost estimates, drawings and other documents (hereinafter: documents). The documents may only be disclosed to third parties with the prior consent of the supplier, and if the order is not placed with the supplier, they must be returned immediately upon request. Sentences 1 and 2 apply respectively to the customer's documents; however, these may be disclosed to those third parties to whom the supplier has rightfully transferred deliveries.
- (5) The documents that underlie the offer or order confirmation, such as illustrations, drawings, dimensions and weights, are generally to be understood as only approximate, unless they are expressly designated as binding.
- (6) The customer has the non-exclusive right to use the standard software and firmware with the agreed features in unaltered form on the agreed devices. The customer may make a backup copy of the standard software without express agreement.
- (7) Partial deliveries are permitted if they are acceptable to the customer.

### **§ 3 Prices, payment conditions and setoffs**

- (1) Prices are ex-works excluding packaging and other shipping and transport expenses, plus the applicable VAT. Packaging will only be taken back if the seller is required to do so by law.
- (2) Payments shall be made to the supplier's account free of transaction charges. Cheques and drafts are not accepted.
- (3) The minimum order value per single order is € 100.00. If the sum of several individual orders exceeds the minimum order value, this is irrelevant.
- (4) If the supplier is also responsible for assembly or installation and unless otherwise agreed, the buyer shall pay the agreed remuneration and any additional costs such as travel and transport costs as well as allowances.
- (5) The customer can only offset those claims which are undisputed or legally established as final and absolute.
- (6) Invoices are payable within 10 days after the invoice date. New customers and foreign customers will only be supplied subject to advance payment.
- (7) If the period between contract conclusion and delivery is more than 4 months, without the seller being responsible for any delivery delay, the seller may increase the price by a reasonable amount taking into account the material, wage and other additional costs incurred by the seller.
- (8) If the seller takes into account any changes requested by the buyer, the resulting additional costs will be charged to the buyer.
- (9) In case of culpable infringement of the payment deadline, interest in the amount of 8% above the current base rate will be charged subject to the assertion of further claims.

### **§ 4 Offsetting and retention**

Offsetting and retention are excluded, unless the claim for offset is undisputed or legally binding.

### **§ 5 Delivery time**

- (1) The indication of a delivery time is at our discretion, and the delivery time will be extended accordingly if the buyer delays or fails to provide necessary or agreed participation. The same shall apply in respect of measures relating to industrial action, in particular strikes and lock-outs, and in the event of unforeseen difficulties that are not within the control of the seller, e.g. delays in delivery by suppliers, traffic congestion and operational stoppages, raw material and energy shortages, etc. Changes to the delivered goods instigated by the buyer may also result in the delivery time being extended accordingly.
- (2) If the supplier is in default of delivery, the buyer may – provided he can prove that he has suffered a loss as a result – demand compensation for each full week of the default of 0.5%, but not exceeding 5% of the price for the part of the deliveries which could not be put to appropriate use on account of the delay.
- (3) Both claims for damages by the customer because of delivery delays and claims for damages in lieu of performance that exceed the limits defined in (2) are excluded in all cases of delayed delivery, even after the expiry of a deadline set for the supplier to effect delivery.
- (4) If dispatch and delivery is delayed at the buyer's request by more than one month after notice of readiness for dispatch, the buyer may be charged, for every additional month commenced, storage costs of 0.5% of the price of the supplied items, but not exceeding 5% of the total price. The contracting parties have the right to provide evidence of higher or lower storage costs.

### **§ 6 Transfer of risk**

- (1) Even with freight-free delivery, the risk shall pass to the buyer as follows:
  - (a) For deliveries without installation or assembly, on dispatch or on collection. The supplier will insure the delivery against breakage, transport or fire damage at the request and at cost of the buyer;

(b) For deliveries with installation or assembly, the risk in respect of the delivery transfers to the buyer on the day of acceptance or, if agreed, following completion of a trial run.

(2) If dispatch, delivery, commencement or realisation of installation or assembly, on-site commissioning or the trial run is delayed for reasons for which the customer is responsible, or the customer is late in accepting delivery for any other reason, the risk shall be transferred to the customer.

### **§ 7 Retention of title**

(1) The seller retains title to the delivered goods until payment has been received in full. The retention of title also applies until all claims, including future and conditional claims arising from the business relationship between the buyer and seller, have been satisfied.

(2) The buyer is not authorised to assign the goods as a security or to pledge them, but he is entitled to sell the goods that are subject to retention of title in the normal course of business. He herewith assigns the claims arising therefrom against his business partners to the seller.

(3) If the goods are treated or processed by the buyer, the retention of title also extends to the new item resulting from this. The seller shall acquire joint ownership in the same proportion as the value of his goods to the value of the goods delivered by the seller.

(4) The seller shall be entitled to assert the retention of title rights without withdrawing from the contract.

### **§ 8 Claims for defects**

(1) If the purchase constitutes a business transaction for both parties, the buyer must inspect the goods immediately upon receipt insofar as this is expedient according to proper business routine, and if a defect is discovered, inform the seller immediately in writing. If the buyer fails to inform the seller, the goods are considered approved, unless the defect could not have been recognised during the inspection. In other respects, section 377 ff. HGB (Commercial Code) shall apply.

(2) The buyer may not refuse to receive deliveries due to minor defects.

(3) All defective parts or services shall at the discretion of the supplier be repaired, replaced or supplied again free of charge, provided that the cause existed at the time of transfer of risk.

(4) Any other claims on the part of the buyer which do not arise from the guarantee shall be excluded. This does not apply in the event of intent, gross negligence or the violation of important contractual obligations by the seller.

(5) Retention of payment by the customer following notification of material defects may only be effected to an extent that is appropriate in relation to the material defects. The customer may only withhold payments if there is no doubt concerning the validity of the notified defect. The buyer has no right to withhold payments if his warranty claims are time-barred. If the complaint is unjustified, the supplier is entitled to have any costs incurred reimbursed by the buyer.

(6) Warranty claims expire one year after delivery of the goods.

### **§ 9 Liability**

Damage claims by the buyer are excluded. This does not apply in the case of intent, gross negligence, breach of contract by the seller, or guarantees.