

GENERAL TERMS AND CONDITIONS OF DELIVERY AND SALE
for utilisation vis-à-vis entrepreneurs
GMS Gesellschaft für Module und Display Systeme mbH

Preliminary remarks

Our deliveries and services are - also in the future - solely effected on the basis of the terms and conditions set out hereinafter, even if we do not refer to them in much detail in individual cases. Their applicability can solely be excluded completely or in part by means of an explicit written agreement for individual business transactions. General terms and conditions of business, in particular the purchaser's conditions of purchase shall not apply to our deliveries and services. They are not binding for us even if we do not contradict them in individual cases; we contradict them herewith. Our General Terms and Conditions of Delivery and Sale are deemed accepted at the latest upon acceptance of the goods or services.

1. SCOPE OF THE DELIVERY OBLIGATION

1. Our offers are subject to confirmation even if they were made upon request of the purchaser. A legally binding contractual relationship with the purchaser only comes into being upon written confirmation of the order on our part. This can also be effected via fax or computer-typed without signature. The same shall apply with respect to amendments or additions of the agreement.

Our written order confirmation is relevant for the scope, type and time of delivery.

2. We reserve the right to implement constructional changes. Our catalogues are constantly revised. Any illustrations and drawings shown therein are non-binding and do not form part of the agreed condition. They shall not constitute any warranty for durability or quality either.
3. The documents forming part of the offer like drawings, data sheets, illustrations, plans etc. are only approximate values unless they are expressly designated as binding. The documents remain our property; we reserve all rights in this respect. Without our written consent, they may not be made accessible to third parties and shall be returned to us immediately any time upon request.
4. Call orders shall be called and accepted in time and in the stipulated quantities. For call orders without agreement concerning terms, production lot sizes and acceptance deadlines, we can require a binding regulation at the latest 3 months after confirmation of the order. Should the purchaser not comply with this request within 3 weeks, we are entitled to set a grace period of two weeks and to withdraw from the agreement or to refuse delivery and claim damages after fruitless expiry of this grace period.

Should the contractual amount be exceeded by individual callings, we are entitled but not obliged to deliver the excess amounts. For the excess amounts, we may charge the prices applicable at the time of calling or delivery.

II. PRICE

1. Basically, the prices are EURO prices. In addition, statutory VAT is charged in the applicable amount.

The prices applicable upon conclusion of the agreement are based on the Euro / Dollar exchange rate applicable at this time. We reserve the right to adjust and charge the prices in line with the exchange rate applicable at the date of delivery.

2. For deliveries within Germany, the prices are ex works and without insurance and packaging and free German border or fob German air or sea port, including export packaging and transport insurance.
3. Other surcharges and subsequent charges on the agreed remuneration are admissible if we are forced to charge them due to circumstances like e. g. material costs or increases in wage or energy costs or if the delivery or services shall be effected later than 4 months after conclusion of the agreement. In the event of other price increases, the purchaser shall have a right of withdrawal if increase in the list price is considerably higher than the increase in the general cost of living. Deliveries subject to subsequent orders effected after an increase in prices are charged on the basis of the new prices. This does not constitute a right of withdrawal for the purchaser.

III. DELIVERY

1. The period of delivery begins upon sending of the order confirmation but not before clarification of all details of the order performance and not before receipt of any stipulated advance payment or provision of material. The period of delivery is deemed complied with if the object of delivery has been dispatched or collected within the agreed time or if readiness to deliver has been communicated to the purchaser in case the goods were not dispatched through no fault of our own.
2. Force majeure and other events beyond our control that might pose a threat to the smooth processing of the order, in particular delays in delivery or impossibility of delivery on the part of our suppliers, disruptions of traffic and operations, labour disputes, shortages in materials or energy, give us the right to completely or partially withdraw from the agreement or to postpone delivery without the purchaser being entitled to claim damages in this respect. The purchaser can require a declaration from us whether we intend to withdraw from the agreement or intend to perform the agreement within a reasonable period. Should we fail to make such declaration, the purchaser is entitled to withdraw from the agreement.

The above-specified events or circumstances are also deemed not our fault if they arise during a delay in delivery which has already occurred.

3. In the event of a delay in delivery caused by us, a reasonable grace period shall be granted. After expiry of this grace period, the purchaser may claim damages in this respect and / or withdraw from the agreement if no communication about the readiness for dispatch of the goods has been made or if the goods have not been delivered by

expiry of the grace period. A right of withdrawal is not given if we are not responsible for the delay in delivery, i. e. the excess of the delivery period.

The purchaser is solely entitled to claim damages instead of performance if the damage was caused intentionally or by gross negligence on our part. This shall not apply in the event of fixed date transactions.

4. Delivery obligations and delivery periods are suspended as long as the purchaser is in default with the acceptance of the goods or the performance of any other obligations or if the credit line granted by us has been exceeded by the purchaser. This shall not affect our rights due to the purchaser's default. In this case, the risk of accidental loss or accidental deterioration passes to the purchaser at the moment in which the purchaser defaults.
5. The originally stipulated term of delivery is revoked if we give our consent to a modification of the order.
6. Reasonable partial deliveries and deviations (max. +/- 10 %) of the ordered quantities are allowed to the extent to which such deviations are deemed acceptable to the purchaser in consideration of the purchaser's interests.
7. The weight and number of items of the delivered goods as determined by us are relevant for the calculation.

IV. SHIPMENT

1. The shipment is basically effected at the cost and risk of the purchaser from a location determined by us.
2. The packaging, type of shipment and shipment route are chosen by us at our own discretion if the purchaser has not expressed any particular wishes. Any additional costs for special requests of the purchaser are at the purchaser's expense. We do not make any warranty with respect to the cheapest shipment.
3. If the shipment or delivery is delayed at the request of the purchaser, we shall be entitled to set a reasonable acceptance period for the purchaser and to claim immediate acceptance and damages after fruitless expiry of this grace period.

V. CONDITIONS OF PAYMENT

1. For the payment, the conditions stated in our order confirmation are applicable. Payments for deliveries abroad shall basically be effected by means of an irrevocable confirmed letter of credit.
2. Cheques are only accepted subject to the usual proviso and bills of exchange only upon special agreement. Discount charges are at the expense of the purchaser. They shall be paid to us upon issuance of the bill of exchange. In the event of all types of payment, the settlement date is deemed the date at which we can dispose of the amount.

3. If payments are deferreded or made later than agreed, we will charge interest in the amount of 8 percentage points above the applicable base rate in the mean time without a reminder being necessary in this respect. We reserve the right to charge further default damage. The purchaser is reserved the right to provide evidence that a lower default damage has occurred.
4. The purchaser is not entitled to offsetting with counterclaims unless the purchaser's claims are recognised by us, uncontested or determined by final judgment. The purchaser shall not have any right of retention in view of contested counterclaims either.
5. Independent from the term of any accepted and credited bills of exchange, all of our claims become due immediately if the terms of payment are not complied with or we are informed about circumstances that are likely to reduce the purchaser's creditworthiness. Then, we are also entitled to only perform any outstanding deliveries against payment in advance or provision of security or to withdraw from the agreement after setting of a reasonable grace period and/or claim damages instead of performance of the services. Furthermore, we are entitled to ban the resale and the processing of the delivered goods and demand their return or the transfer of direct ownership of the shipped goods at the purchaser's expense and revoke the direct debit authorization according to section IX. 7. The purchaser herewith authorizes us to enter the purchaser's premises in such cases and to seize the delivered goods.
6. Payments are generally set off against the oldest invoice due. As long as any older invoice is still outstanding, the purchaser shall not be entitled to claim any cash discount for the payment of more recent invoices.

VI. COMPLAINTS AND NOTIFICATIONS OF DEFECTS

1. Any complaints on grounds of incomplete or incorrect deliveries or notifications of visible defects shall be made to us in writing immediately but no later than within 2 weeks after receipt of the goods. Other defects shall be communicated in writing immediately, however, no later than within two weeks after detection.

If complaints or notifications of defects are not made in due time, any warranty claims are excluded. In the event of timely notification, we are committed to warranty according to section VII.

2. In the event of transport damages, the purchaser shall procure an establishment of damage from the railways or post office or from the transporter to us.
3. Defects of part of the delivered goods shall not give rise to a right to reject the delivery as a whole unless the partial delivery is not of interest to the purchaser.

VII. WARRANTY

1. In the event of defects of the delivered goods, we are - at our election - entitled to remedy the defect or perform a replacement delivery within a warranty period of 12 months. This shall not apply to the extent to which longer periods are mandatory by applicable law. In the event of remedying the defect, we are obliged to bear all

expenses required for remedying the defect, in particular transport, labour and material costs unless such costs increase due to the fact that the objects of delivery were transported to a place other than the place of performance.

2. For the remedying of defects, the purchaser shall grant us the time and opportunity required at our equitable discretion. Any replaced parts become our property.
3. If the subsequent performance fails, we let an adequate period expire, which has been set to us for this purpose, without effecting a new delivery or remedying the defect or if the subsequent performance is impossible or refused by us, the purchaser shall be entitled to withdrawal or reduction. This shall also apply in the event of inability of the subsequent performance on our part.
4. The warranty does not relate to defects and/or damages due to normal wear and tear. Furthermore, it does not relate to defects and/or damages subject to wrongful or negligent treatment, excessive use, improper utilization, improper handling etc. as well as such influences which are not provided for in the agreement, provided that the damages are not due to any fault on our part.
5. The warranty claim may not be transferred to any third parties without our consent.
6. In the event of modifications and repair works of the delivered products performed in an improper manner by the purchaser or third parties, we shall not be liable for defects arising in this respect.
7. For any essential third-party products, our liability shall be limited to the assignment of warranty claims we have against the supplier of the third-party product unless the satisfaction of the assigned right fails or the assigned claim cannot be asserted for other reasons.
8. Any further claims of the purchaser against us on any legal grounds whatsoever are excluded, provided that nothing to the contrary is stipulated in the following. This shall in particular relate to any claims for damages which do not occur and / or exist on the delivered goods (e. g. loss of profits, consequential damages, other financial losses). This disclaimer of liability shall not apply to the extent to which liability is legally required on grounds of intention, gross negligence or within the scope of a warranty assurance or in the event of violation of an essential contractual obligation or in the event of damages to body, life and health.

In case of negligent but not grossly negligent violation, our liability is limited to the compensation for the typical foreseeable damage.

9. The above-specified provisions shall apply to deliveries that do not correspond to the contractually stipulated goods.

VIII. LIABILITY, STATUTE OF LIMITATIONS

1. The exclusion and the limitation of our liability to pay damages, as stipulated in section VII. 8. shall apply mutatis mutandis to all cases of liability to pay damages on grounds of violation of obligations arising from legal transactions or obligations similar to legal

transactions or from unauthorised actions. This shall not affect claims according to Sections 1, 4 of the Product Liability Act and on grounds of hindrances to performance upon conclusion of the agreement or impossibility on our part. This disclaimer of liability shall not apply to the extent to which liability is legally required on grounds of intention, gross negligence or within the scope of a warranty assurance or in the event of violation of an essential contractual obligation or in the event of damages to body, life and health.

2. If our obligation to pay damages is excluded or limited, this shall also apply to the personal liability of our organs, employees and vicarious agents or assistants.
3. The claims of the purchaser specified in paragraph 1 basically become time-barred 24 months after the end of the year of transfer of risk. Should the legal statutes of limitation be less than 24 months, this period shall also apply to the relevant claims of the purchaser. The reduction of the statute of limitations shall not apply to claims arising from unauthorised actions or product liability.
4. The legal provisions regarding the burden of proof shall remain unaffected.

IX. RETENTION OF TITLE

1. All delivered goods shall remain our property (goods subject to retention of title) until settlement of all claims, in particular also the respective balance claims we have against the purchaser to the business relation. This shall also apply if payments are made for specifically designated claims.
2. In the event of combination and mixing of the goods subject to retention of title with other goods by the purchaser, we acquire co-ownership in the new product in the ratio of the invoice value of the goods subject to retention of title to the invoice value of the other processed goods. If our ownership based on the combination or mixing expires, the purchaser shall transfer to us now the purchaser's title in the new product to the extent of the invoice value of the goods subject to retention of title and stores them for us free of charge. The subsequently arising co-ownership rights shall be deemed as goods subject to retention of title in the meaning of section 1. We accept the transfer.
3. The purchaser may solely sell the goods subject to retention of title in normal business transactions subject to their terms and conditions of business if they include a comprehensive retention of title corresponding to these provisions and as long as the purchaser is not in default, provided that the claims resulting from the resale according to sections 4. and 6. are transferred to us. The purchaser is not entitled to dispose of the goods subject to retention of title in any other way. In particular, the entitlement to dispose of the goods subject to retention of title shall be revoked immediately if an insolvency proceeding is requested in view of the purchaser's assets or if liquidation was initiated.
4. The claims of the purchaser from the resale of the goods subject to retention of title are assigned to us now. They serve as collateral to the same extent as the goods subject to retention of title. We herewith accept the assignment.

5. If the goods subject to retention of title are sold by the purchaser together with other goods not sold by us, the assignment of the claims arising from the resale shall only apply in the amount of our invoice value of the sold goods subject to retention of title. If goods in which we have a co-ownership according to section 2 are sold, the assignment of the claims shall only apply in the amount of these co-ownership shares.
6. If the goods subject to retention of title are used by the purchaser to fulfil a contract for work and materials, sections 4. and 5. of this agreement shall apply *mutatis mutandis* with respect to the claim.
7. The purchaser shall be entitled to collect claims from the sale according to sections 3., 5. and 6. in the event of withdrawal on our part which is admissible any time. We will only exercise our right of withdrawal in the cases stipulated in section V. 5. Any other assignment of claims by the purchaser is not allowed in any case. Upon request by us, the purchaser shall be obliged to inform their customers about the assignment on behalf of us - provided that this is not done by us - and to provide us with the information and documents relevant for the collection. The purchaser is not allowed to conduct any pledging or assignment by way of security of the goods subject to retention of title.
8. Our retention of title is conditional in that the title in the goods subject to retention of title passes to the purchaser upon payment of all claims and the purchaser may dispose of the claims assigned to them without limitations. If the value of the existing securities exceeds the secured claims by more than 20 %, we shall, upon request of the purchaser, release securities to that extent at our election. For the evaluation of the securities, their realisable value is decisive.
9. Prior to any pledging or any other threat or impairment of our rights of ownership and claim vis-à-vis third parties, the purchaser shall inform us immediately by presentation of the pledging protocol or any other documents and shall take every step necessary to safeguard our rights.
10. We shall at any time be entitled to enter the warehouse and the business premises of the purchaser in order to remove, discard or mark the goods subject to retention of title. Upon request, the purchaser shall provide us with all relevant information about the goods subject to retention of title and the required documents. The purchaser shall be required to insure the goods subject to retention of title extensively at the purchaser's expense and provide evidence for the insurance to us on request. The purchaser herewith assigns all insurance claims in this respect to us now; we accept the assignment.
11. The assertion of our retention of title does not constitute a withdrawal from the agreement. The purchaser's right to own the goods subject to retention of title expires if the purchaser does not perform their obligations from this or any other agreement. Then, we shall be entitled to take possession of the goods subject to retention of title ourselves and to exploit them as best as possible by private sale or public auction without prejudice to the payment obligations and any other obligations of the purchaser. The proceeds thereof are set off against the purchaser's liabilities after deduction of the costs. Any excess amount shall be paid out to the purchaser.

12. Should the retention of title or the assignment not be effective according to the law of the jurisdiction within which the goods are situated, the security corresponding to the retention of title or the assignment is deemed stipulated. If the cooperation of the purchaser is required in this respect, the purchaser shall take all steps required for the substantiation and maintenance of such rights.

X. OTHER CONDITIONS

1. The place of performance and - provided that the purchaser is a merchant - the place of jurisdiction for both parties to the agreement is 78048 Villingen-Schwenningen, Germany, also for proceedings related to bills of exchange and cheques. We are also entitled to sue the purchaser at the purchaser's general place of jurisdiction.
2. All legal relationships between us and the purchaser are exclusively governed by the law of the Federal Republic of Germany. The application of the United Nations Convention on the International Sale of Goods (CISG) and of German international private law are excluded.
3. Should any individual provisions or provisions of the agreement be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provisions shall be reinterpreted in that the intended legal and economic purpose is complied with. The same shall apply if a legal gap requiring supplementation arises during the implementation of the agreement. The parties to the agreement undertake to replace the invalid provision immediately by a legally valid provision or to fill the contractual gap.
4. The purchaser's data is collected by us within the framework of the intended purpose of the contractual relationship.