

With heart and soul we want to be an uncomplicated, trustworthy and co-operative supplier. If we exceptionally fail to settle a problem in agreement with you, we have to reserve the recourse to these General Terms and Conditions, because we prefer preserving our economic potential for showing good will to every customer to settling only some single excessive demands.

## General

### 1. General Basis

- 1.1 Our General Terms and Conditions shall only apply to commercial transactions between businesses as defined by Sec. 310 I German Civil Code ("BGB").
- 1.2 The scope of supplies shall be determined by the written declarations of both parties. Our General Terms and Conditions shall apply solely; conflicting or deviating General Terms and Conditions of the customer shall apply only if and when expressly accepted by us in writing. This shall also apply if we execute a delivery without reservation knowing about such General Terms and Conditions.
- 1.3 Legal relations existing in connection with this contract shall be governed by German substantive law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

## Workaday Routine

### 2. Prices and Terms of Payment

- 2.1 Prices shall be ex works, include packaging and exclude shipping; value added tax shall be added at the then applicable rate.
- 2.2 Our invoices are due upon receipt and payable within 10 days from the date of invoice without deduction. We only export upon receipt of your paying either by credit card (VISA/MASTER) or in advance by remittance to our bank.
- 2.3 The customer can request our products as a sample and test them not binding and at no charge, so that he can examine if the product suits to his application. Sample deliveries can be returned within 30 days from receipt; in this case the customer will only pay the return postage.

### 3. Delivery

- 3.1 95 % of all customer orders given in the morning will be dispatched on the same day. Repairs will usually be carried through within one workday.
- 3.2 Partial supplies shall be allowed, unless they are unreasonable to accept for the customer.
- 3.3 Our statements on delivery dates are subject to the condition that our component suppliers keep the promises they made to us. We will inform you immediately if this is not the case. If no amicable solution can then be found, we, like you, are entitled to withdraw from the contract.

### 4. Retention of Title

- 4.1 The supply shall remain our property until full payment of the purchase price.
- 4.2 For the duration of the retention of title, the customer may not pledge the supply or use it as security. Resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its

customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.

- 4.4 The supply shall be taken good care of. In case of any act of intervention or disposition by third parties, especially seizure and distraint, the customer shall refer to our property and inform us forthwith.

### 5. Transfer of Risk

- 5.1 The risk shall pass to the customer at the time when the delivery is shipped or picked up by the carrier. This shall apply even where delivery has been agreed freight free.
- 5.2 The risk shall also pass to the customer if dispatch, shipping or delivery is delayed for reasons the customer is responsible for or if the customer otherwise comes to default in accepting the delivery.

### 6. Support

- 6.1 We document the features of our products as clear and extensive as possible. Documentations and manuals are available for long terms at [www.wut.de](http://www.wut.de).
- 6.2 Inquiries will be answered as quickly as possible. Our technical support will be at your service on Mo-Fr (except public holidays) from 8:00 a.m. to 5:00 p.m. on the phone ++49 202 2680 110 or fax ++49 202 2680 265 or [info@wut.de](mailto:info@wut.de).
- 6.3 We aim at interoperability. Every new interoperability problem will be researched and usually resolved as quickly as possible. Since we develop our hard- and firmware by our own, we can „get to the bottom“ of any problem.
- 6.4 We set store on the long term availability of our products. Our products are constructed of widely available standard components and own developments. Since our firm was established over 40 years ago we haven't had to discontinue a common product!

## Settlement of Claims

### 7. Delay

- 7.1 In case of default of delivery as provided in the statutory provisions we pay for every week of delayed performance a lump sum to the amount of 0,5 % of the supply price; this lump sum is limited to 5 % of the value of that part of the supplies which, owing to the delay, cannot be put to the intended use.
- 7.2 In all other respects our liability in case of delayed performance is governed by No. 10.
- 7.3 Additional legal claims and rights of the customer are reserved.

### 8. Warranty

Irrespective of the expiry of the limitation period as provided in the statutory provisions we repair resp. replace equipment failing for reasons of a redhibitory

defect within a five-year period from delivery free of charge, if the equipment is sent back to us free domicile. The repaired resp. new equipment will be sent to the customer at our cost; additional cost we won't assume in this case. In all other respects the following shall apply:

- 8.1 All claims based on defects presuppose that the customer has carried out duly his obligation to examination and complaint pursuant to Sec. 377 German Commercial Code ("HGB").
- 8.2 Insofar as there is a defect of the subject-matter of the supplies (Sec. 434, 435 BGB), we are in the first instance entitled and obliged to supplementary performance within a reasonable period of time. In this respect we shall choose whether to repair, replace or provide again free of charge all parts or services where a defect becomes apparent. If supplementary performance is unsuccessful, the customer shall be entitled to cancel the contract or reduce the remuneration, irrespective of any claims for damages it may have according to No. 10.
- 8.3 In case of infringement of third parties' industrial property rights and copyrights we are only liable, if the customer does not concede the existence of an infringement and leaves any protective measures and settlement negotiations to our discretion. If the customer stops using the supplies in this connection, it shall be obliged to point out to the third party that no acknowledgement of the alleged infringement may be inferred from this reaction. In the first instance we are to be given the opportunity to choose within a reasonable period of time either to acquire, at our own expense, the right to use the industrial property right/copyright with respect to the supplies made by us or to modify or replace the supplies to such a degree that they no longer infringe the property right/copyright, if this is possible on reasonable terms. Otherwise the customer may cancel the contract or reduce the remuneration pursuant to the applicable statutory provisions.
- 8.4 There shall be no claims based on defects in cases of
  - insignificant deviations from agreed quality or only minor impairment of usefulness,
  - natural wear and tear,
  - damage arising after the transfer of risk from improper modifications or repair work carried out by the customer or third parties, faulty or negligent handling, excessive strain, unsuitable equipment, defective workmanship, inappropriate foundation soil or from particular external influences not assumed under the contract,
  - non-reproducible software errors,
  - infringement of third parties' industrial property rights and copyrights, if the customer itself is responsible for it or the infringement is caused by modifications of the supplies carried out by the customer, the supplies being used together with products not provided by us, a type of use not foreseeable by us or specifications made by the customer.
- 8.5 The customer shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel and transport, labour and material, to the extent that expenses are increased because the subject-matter of the supplies was subsequently brought to another location than the customer's branch office, unless doing so complies with the intended use of the supplies. This shall apply mutatis mutandis to the scope of the right of recourse the customer has against us pursuant to Sec. 478 para. 2 BGB.
- 8.6 Claims based on defects are subject to a limitation period as provided in the statutory provisions.

8.7 Furthermore, the provisions of No. 10 shall apply in respect of claims of damages.

## **9. Impossibility of Performance**

- 9.1 In case of impossibility of performance our liability shall be governed by the statutory provisions.
- 9.2 Insofar as we are not mandatory liable based on intent, gross negligence, injury of life, body or health, the customer's claim for damages pursuant to No. 9.1 shall be limited to an amount of 10 % of the value of the part of the supplies which, owing to the impossibility, cannot be put to the intended use; this does not imply a change in the burden of proof to the detriment of the customer. The customer's right to cancel the contract shall remain unaffected.

## **10. Other Claims for Damages and Reimbursement of Expenses**

- 10.1 Our liability shall be governed by the statutory provisions, if the customer asserts a claim for damages based on intent or gross negligence, including intent or gross negligence of our representatives or persons employed in performing an obligation (Sec. 278 BGB). Insofar as we are not charged with an intentional violation of contract, our liability for damages shall be limited to the foreseeable damage, which is intrinsic to the contract.
- 10.2 Our liability shall be governed by the statutory provisions, if we violate culpably a condition, which goes to the root of the contract ("wesentliche Vertragspflicht"); however, in this case our liability for damages shall be limited to the foreseeable damage, which is intrinsic to the contract.
- 10.3 Our liability based on culpably injury of life, body or health shall remain unaffected; this shall also apply in the case of mandatory liability under the German Product Liability Act („Produkthaftungsgesetz“).
- 10.4 A liability exceeding the provisions above – based on whatever legal reason – shall be excluded. This shall also and in particular apply in the case of claims for damages based on culpa in contrahendo, any other infringement of duties or to tortious claims for damages to property according to Sec. 823 BGB.
- 10.5 The limitation pursuant to No. 10.4 shall also apply if the customer claims for reimbursement of expenses instead of a claim for damage in lieu of performance.
- 10.6 Insofar as our liability is excluded or limited, this shall also apply in the case of personal liability of our nonmanual employees, employees, personnel, representatives and persons employed in performing an obligation (Sec. 278 BGB).

## **11. Venue**

If the customer is a businessperson, sole venue for all disputes arising directly or indirectly out of the contract shall be Wuppertal. However, we may also bring an action at the customer's place of business.