

General Terms and Conditions of Sale and Delivery

Bader GmbH Industrie Elektronik

- Issue for merchant customers -

We sell and deliver exclusively on the terms and conditions as set forth hereafter. Our terms and conditions shall be applicable to all present and future contracts of sale. Adverse or deviating General Conditions or Conditions of Purchase of our customers will not be accepted, unless we have consented to their applicability expressly in writing. Our conditions shall be exclusively binding, even if we deliver to customer without proviso in knowledge of adverse or deviating conditions of customer. Our terms and conditions shall only apply in business transactions with commercial and merchant customers.

1. Offers

We shall be bound to our expressive, written offers for a period of sixty (60) days.

2. Orders

We shall be bound to orders only, if we have confirmed such orders in writing. In case of immediate delivery, our invoice shall be deemed as confirmation of the order.

3. Delivery Times

(a) We shall comply with delivery times to the best of our efforts. Delivery times are based on individual circumstances, such as capacity of production, delivery times of suppliers, and employment situation. If, in any case, any of those circumstances will change, we shall be free to adjust delivery times. Delivery times shall commence with the day all commercial and technical preconditions for the implementation of the order have been cleared, necessary approvals or authorizations granted, and we have received eventual down payments. We shall not be liable for a delay of deliveries in case of a business brake-down, a production stoppage, a restraint in production, delivery defaults of our own suppliers, lack of work staff, strike, riot, lock-out or in case of force majeure on our part or on the part of our suppliers.

(b) If we cannot deliver timely for reasons we are liable for, or for such reasons which are not mentioned in paragraph (a) above, customer shall have the right to rescind from the contract, if he has granted us an adequate delivery extension and we did not deliver within the extension period granted. Customer shall have no other rights, unless we have caused the delay or the impossibility of performance of the contract with intent or gross negligence.

(c) Changes as to the order which customer has commanded may cause an extend of delivery times.

4. Documents

(a) Alterations of technical documents and subsequent technical changes, in particular changes of construction and measures are to our sole discretion.

(b) We reserve the right of property and copyrights with respect to our cost estimates, technical drawings and other documents in the possession of customer. Any such documents may not be used for other purposes, reproduced, duplicated or made available to third parties and shall not entitle customer to imitate, copy, duplicate or reproduce single parts, unless we have confirmed our acceptance expressly in writing. Any documents in connection with our offers shall be returned without undue delay on our demand, and without demand in case we have not been awarded with a contract.

5. Prices, Dispatch, Passing of Risks, Packing and Insurance

(a) Our prices are valid net unless otherwise agreed upon expressly. Our prices are based on current wage and material costs. We reserve the right to amend prices after conclusion of the contract in case of cost alterations. On demand, we will substantiate cost alterations to customer.

(b) Minimum value of any contract shall be \square 30,00. Offers short of such minimum value will be charged in any case with the minimum value.

(c) Delivery of goods to customer or to any such place customer has requested will be at his cost. Unless otherwise stipulated in the confirmation of the offer, delivery ex factory is agreed. We have the right to deliver in instalments.

(d) Packing material will be charged at cost price and will not be taken back. On demand of customer, we will conclude transportation insurance at his cost.

(e) Deliveries with a net value up to \square 30,00 will be made collect on delivery (COD). Initial deliveries will be made against advance payment or COD.

(f) Value-added tax, if chargeable, will be charged on gross prices and will be shown separate on our invoice.

(g) Stock record may only be deducted, if expressly agreed in writing. We do not grant any other bonifications such as end-of-the-year boni or discounts.

6. Payments

(a) Our invoices are due within thirty days of the invoice date. Payments calculated in foreign currencies shall be based on the exchange rate as of the day of our confirmation of the order.

(b) After the date of maturity, we are entitled to interest at the rate of three (3) percent p. a. above the respective discount rate of the Deutsche Bundesbank. We are entitled to claim further damages, if we can prove such damages. Customer is entitled to establish that default in payment has caused no damages or substantially less damages.

(c) Customer may set off counterclaims only, if those counterclaims have become res judicata, if they are uncontested by us or if we have acknowledged those counterclaims. Further, customer is entitled to make use of a right of retention only, if his counterclaim stems from the same contractual relationship.

(d) In case of default in payment, we are entitled to refuse performance of the contract and to ask for damages of non-performance in the amount of fifteen (15) percent of the purchase price after lapse of a reasonable extension we shall grant to customer. We may claim further damages, if we can prove such damages. Customer may prove that there are no damages or substantially less damages. We may set-off our damage claims against down payments of customer. If we have accepted drafts, any respite of payment connected therewith shall cease. We are entitled to immediate payment of our claims against concurrent return of the draft. In such a case, we may also demand that all eventual discounts or other bonifications as to the unpaid invoice shall be deemed forfeited. If customer uses our goods before they have been returned to us, we are entitled to an adequate compensation.

(e) It shall not be regarded as a waiver of any further going rights, if we accept partial payments.

7. Reservation of ownership

(a) Delivered goods remain our property until we have received payment of all our demands from the business relationship with customer. The foregoing proviso shall also apply to the redemption of a draft accepted by us and shall not cease if a cheque has credited to us in the case we have agreed with customer to the cheque-draft-procedure.

(b) We shall be regarded as manufacturer pursuant to Section 950 of the German Civil Code, if our property is being processed or remanufactured.

(c) Customer is entitled to resell goods under reservation of our ownership in the ordinary course of business. Customer assigns herewith all claims in the amount of his invoice (including eventual VAT) from the resale against his customers or third persons, whether or not any of those goods have been resold with or without agreement. Customer remains, however, entitled to collect any amounts. Our right to collect any such amounts remains undisturbed. We are, however, obligated not to collect any amounts as long as customer meets his payment obligations towards us, customer does not default payment, no applications to open insolvency proceedings have been filed and no insolvency has occurred.

(d) We are only entitled to disclose any assignment of claims, if we have granted to customer a four weeks extension for payment of all our claims and if we have submitted notice to him that in case of non-payment disclosure will take place. If customer performs payment of all our claims within the time period granted, we will not disclose any assignment.

(e) The foregoing does not apply if any application to open insolvency proceedings against customer has been filed.

(f) In the case of the opening of insolvency proceedings or in the case of the customer becoming insolvent, we are entitled to demand that customer notify us of all claims assigned, of all names of debtors and that customer provides us with all necessary information as regards the collection of any assigned claims as well as with related documents and that customer informs his debtors of the assignment of the claims.

(g) As long as our property rights are reserved, customer is not entitled to pledge any of our property or to assign our property by way of collateral security.

8. Liability as to Quality, Other Claims and Liability Restrictions

(a) We warrant that all our goods delivered are free of material defects and have the guaranteed characteristics. The period of warranty is limited to six months beginning with the passing of risks. This period is a limitation period and applies as well to the recovery of consequential damages caused by faultiness or the absence of guaranteed characteristics, unless any such claims are based on tort.

(b) With respect to defects for which we are liable, it is in our sole discretion either to remove any such defects or to substitute all parts which cannot be used because of wrongful construction, bad material or defective workmanship.

(c) It is a precondition for the preservation of customer's warranty rights that he examines all goods without undue delay after delivery and that he notifies us of any defects, unless a defect was not recognizable. If a defect is recognized later, customer must notify us without undue delay after recognition. Additionally, the regulations as contained in Sections 377, 378 of the German Commercial Code apply.

(d) Exempt from any warranties are defects which have been caused by customer because of wrongful or negligent installation, wrongful or negligent operation, application of inappropriate means of operation and equipment or other influences for which we cannot be held liable. Such parts of our goods, which based on their material nature or with respect to their nature of utilization undergo fast wear and tear, e. g. lamps, fuses and switches, are excluded of any warranty as well as all damages caused through light arcs, radiation etc.

(e) Unless otherwise stipulated above, other claims of customer - regardless of their legal ground - shall be excluded. Therefore, we are not liable for damages which do not occur at the goods delivered; in particular we are not liable for loss of profit or other pecuniary damages.

(f) The aforementioned exemption clause shall not apply in case of intent or gross negligence. The aforementioned exemption clause shall further not apply, if customer asserts damages for non-performance pursuant to Section 463, 480 para. 2 of the German Civil Code because of any absence of guaranteed characteristics. The aforementioned exemption clause shall further not apply, if the guarantee of characteristics has comprehended consequential damages pursuant to Section 463, 480 para. 2 of the German Civil Code and damages accrued are based on the absence of the guaranteed characteristics.

(g) If we have failed to comply with an essential contractual obligation, our liability for damages shall be restricted to compensation of our product liability insurance. On demand, customer may take knowledge of our insurance policy. We shall not be liable for indirect damages as well as untypical, unforeseeable damages.

(h) Any other liability for damages then aforementioned is -regardless of the legal ground of the asserted claims -excluded. This does not apply for claims from inability or original or subsequent impossibility. We shall not be liable for damage claims with punitive character (punitive damages) which customer asserts in accordance with the principles of the Law of the United States of America or the particular laws of the singular states of the United States of America.

(i) As far as our liability is excluded, the same applies to any eventual personal liability of our employees, workers, representatives and to all persons involved in the fulfillment of our contractual obligations.

(k) Any claims from product liability pursuant to the product liability concept of Section 823 of the German Civil Code shall be limited to a limitation period which equals the limitation period concerning claims from warranty, irrespective of against whom any such claims are being asserted.

9. Governing Law, Place of Performance, Venue

(a) This contract, its conclusion and its interpretation shall be governed by the Laws of the Federal Republic of Germany. The Uniform European Law on the International Sale of Goods and the Uniform United Nations Law on the International Sale of Goods shall not apply.

(b) Place of performance shall be at our place of business.

(c) Venue shall be Ludwigsburg, Germany.