

## 1. Scope of application

- 1.1. Unless otherwise agreed, the following contract conditions shall apply exclusively.
- 1.2. Particular agreements and side agreements shall only become valid if we confirm them in writing.
- 1.3. Unless otherwise expressly agreed in writing, any deviating terms and conditions of purchase of the customer which are not expressly recognised by us shall be non-binding, even if we do not object to them in the individual case.
- 1.4. These terms and conditions of sale shall apply to entrepreneurs. Entrepreneurs within the meaning of these terms and conditions of sale are natural persons, legal entities or companies with legal capacity with whom we enter into business relationships and who act in exercise of a commercial or self-employed professional activity.
- 1.5. These general terms and conditions of sale shall apply to all future business transactions even if we have not expressly referred to their validity once again.

## 2. Conclusion of the contract, adaptation of performance

- 2.1. Our offers are subject to change.
- 2.2. The information on performance, dimensions, weights, prices and the like provided in catalogues, brochures, circulars, adverts, illustrations, web pages, e-mails and similar public promotions shall be non-binding unless they expressly become subject matter of the contract. In particular, we are not responsible for the manufacturer's promotions unless we ourselves have expressly taken over information for the performance profile. § 434 paragraph 1 clause 3 BGB (German Civil Code) shall be waived in this respect.
- 2.3. Verbal and written information on the suitability and possible applications of the goods delivered by us and their installation as well as consulting and recommendations by our employees shall be carried out to the best of knowledge. They are non-binding and establish neither a contractual legal relationship nor a secondary obligation from the contract. In particular, the customer shall not be exempted from his obligation to convince himself of the suitability of the goods for the use intended by him by means of a check. The same shall apply to workmanship, provisions of services, work performances and other services to be rendered by us.
- 2.4. Missing or incomplete specifications of the goods on the customer's part shall be filled out by us to the best of knowledge. In doing so, empirical values, among others, can be taken as a basis with the customer, e.g., previous purchase orders as well as the technical specifications of the basic motor on which we build up in case of deviations.
- 2.5. Technical and optical changes (e.g. changes in form, colour and/or weight) with equivalent quality and price are reserved within the scope reasonable for the customer. In particular, technical and optical changes shall be according to the contract, insofar as they are intended for the product improvement and are reasonable.
- 2.6. The purchase order of the customer is a binding offer. A contract shall only be concluded by our final order confirmation or delivery. A preliminary order confirmation does not represent an acceptance of the offer.

## 3. Prices, payment, default, reservation of title

- 3.1. Prices are generally understood in Euro (€) exclusive of the respectively applicable statutory value-added tax.
- 3.2. Our general price quotations (e.g., brochure, internet) are subject to change.
- 3.3. Prices for goods are understood ex stock ("EXW" Incoterm 2010 of the ICC) and do not include, in particular, mounting and assembly on site as well as installation and commissioning. For ordered workmanship, provisions of services, work performances or other services, the price includes the service provision at our principal office. In the event that costs for transport and insurance for goods deliveries as well as costs for arrival and departure times, working hours and waiting times as well as infrastructure costs and accommodation allowance for other services are incurred, they are invoiced separately.

Repair work and other services must be remunerated separately, unless repairs within the scope of the warranty are concerned.

- 3.4. By request, we commission at equitable discretion the transport for the customer (in particular, mode of transport, transport costs and forwarding company) to a delivery address named by him. The customer is then obliged to ensure that the goods can be delivered without obstacles. Otherwise, the common carrier only owes the delivery up to the obstacle.
- 3.5. The shipment of the goods is carried out in the name and for the account of the buyer. In individual cases, we reserve the right to transfer the goods to the common carrier only after the complete payment of the purchase price. Upon the transfer of the goods to the common carrier, the risk is passed to the buyer.
- 3.6. The customer may only set off against claims which are undisputed or established as legally binding. The same applies to the assertion of a right of retention.
- 3.7. Regarding new customers, advance payment shall be deemed to be agreed. Invoices are due in net cash immediately. Default of payment occurs, at the latest, 10 days after the due invoice date. In case of default of payment with respect to the remuneration, the customer shall owe default interests amounting to 8 % above the base interest rate according to § 288 BGB (German Civil Code). Further damage caused by delay on our part remains unaffected by this.
- 3.8. The acceptance of means of payment (e.g.: cheque) does not constitute a fulfilment or deferment of the debt. The costs of safekeeping and encashment, in particular discount charges, shall be borne by the customer.
- 3.9. The delivery items (goods subject to reservation of title) remain our property until the fulfilment of all claims to which we are entitled claims the customer arising from the business relation.

Insofar as the value of all security rights to which we are entitled, exceeds the amount of all secured claims by more than 20 %, we will release a corresponding part of the security rights at the request of the customer. In case of release, we are entitled to choose between different security rights.

If the customer resells the goods subject to reservation of title, he hereby assigns to us all his future claims from the resale against his customers with all ancillary rights – including any possible balance claims – by way of security, without the need for any further special declarations. If the goods subject to reservation of title are resold together with other items, without a unit price having been agreed for the goods subject to reservation of title, then the customer assigns to us that part of the overall price claim, which corresponds to the price of the goods subject to reservation of title invoiced by us.

In the case of breaches of duty by the customer, particular in the event of default in payment, we are entitled, after the fruitless expiration of a reasonable time period for performance, to withdraw from the contract and to repossess the goods. The statutory provisions on the dispensability of setting deadlines remain unaffected. The customer is obliged to surrender the goods. The taking back or assertion of the retention of title or the pledging by us does not constitute a withdrawal from contract, unless this has explicitly been declared by us.

#### **4. Delivery time and delivery obstacles**

- 4.1. Firm deals are not concluded unless expressly agreed otherwise. Insofar as a delivery date is nevertheless agreed, it commences at the earliest with the clarification of all details necessary for the execution of the order, e.g., clear product identification by means of a KAG ident. no. and the corresponding approved drawing, and the timely receipt of all documents to be delivered by the customer, required permits and releases, in particular of plans, specifications, characteristics and product drawings, as well as the observance of the agreed conditions of payment and other obligations on the part of the customer beforehand. Agreed periods shall be extended, if necessary, by the additional time period between conclusion of the contract and clarification of the order, if we are not responsible for the continuance of the lack of clarity.
- 4.2. If due to force majeure, e.g., mobilisation, war, acts of terrorism, rebellion or similar events (e.g., strike, lockout; also at the subsuppliers'), obstacles arising out of German, US regulations as well as other applicable national, EU or international regulations of the foreign trade legislation or due to other circumstances the supplier is not responsible for,

e.g.: virus attacks and other attacks of third parties on our IT system, insofar as they occurred despite observance of care which is usual in case of safety measures, or other circumstances we are not responsible for, we are not able to perform timely delivery, the delivery period is extended for the duration of these events. Strike and lockout are regarded as force majeure. Furthermore, the non-delivery by our upstream supplier, for which we are not responsible, including marine transport, is considered as equivalent to force majeure.

- 4.3. In case of non-availability of the promised service which was not recognisable at the time of the contract conclusion, we are entitled to withdraw from the contract. We undertake to notify the customer of the non-availability without delay as well as immediately reimburse services of the customer. The non-availability of the promised service exists in particular if, through no fault of our own, upstream suppliers do not deliver or perform a defective delivery.
- 4.4. We are entitled, to a reasonable extent, to deliver as well as to execute partial deliveries. Partial deliveries can be immediately invoiced by us.

## **5. Scope of services workpiece production / manual series**

- 5.1. In case of special items/construction parts of the initial sample series, they are initially designed in our CAD system and the customer receives a release drawing. Only after release of the drawing according to paragraph 5.3, the production will be started.
- 5.2. As the new production of customised motors is performed for us and the customer before possible validation tests, a possible intended use is not an integral part of the contract and the performance specifications are not binding.
- 5.3. The customer has to check the release drawing and return to us a copy with the release/non-release within 5 working days. If the customer does not respond within this period, the silence is deemed to be the declaration of release and we will produce bindingly after that.
- 5.4. In case of a series/collective order, a first 0-series in the agreed piece number is produced manually according to the release drawing.
- 5.5. The customer has to check the initial sample test report carefully with the provided initial samples and declare to us the release/non-release within 14 days. If the customer does not respond within the set period, the silence is deemed to be the declaration of release and we will continue producing bindingly according to the initial samples.
- 5.6. After release, the series 1 and all of the following series will be produced by machine or manually.
- 5.7. As the initial sample and the 0-series as well as the respectively following series are produced differently, e.g., manually and by machine, the differences caused by this, insofar as they are reasonable for the customer, represent no deviation of the actual state from the target state.

## **6. Limitation of liability**

- 6.1. Damage claims against us due to violations of obligations shall be excluded unless the damage is based on intent or gross negligence, or the damage consists in an injury to life, body or health, or we have culpably violated an essential contractual obligation (material contractual obligation). Damage claims shall also not be excluded if the exclusion of liability represents, for other reasons, an unreasonable disadvantage to the customer.
- 6.2. Insofar as we are liable on the merits for the violations of obligations, our liability is limited – with the exception of the case of the gross fault (intent and gross negligence) – to the average, direct damage typical for the contract and foreseeable according to the type of the goods. In case of slight negligence, the liability is limited to the amount of the agreed invoice value. The previous sections of this paragraph do not apply if the damage consists in an injury to life, body or health.
- 6.3. Generally, damage claims of the customer have a limitation period of one year, unless we shall be liable due to intent or gross negligence, or the protests concern the injury to life, body or health. The commencement of the limitation period is determined by law.
- 6.4. The aforementioned paragraph 6 does not apply to damage claims arising from rights regarding defects.
- 6.5. Other liability limitations do not concern claims of the customer arising from product liability.

## **7. Rights regarding defects**

- 7.1. For the customer, the obligation of inspection and notification of defects according to the statutory rule of §§ 377, 381 HGB (German Commercial Code) applies.
- 7.2. If there is a defect of the object of sale for which we are responsible, we are entitled, at our option, to the supplementary performance in the form of a remedy of the defect or to the delivery of a new defect-free object. In the event of the remedy of the defect, we are obliged to bear all expenses necessary for the purpose of remedying the defect, in particular transport, infrastructure, labour and material costs, unless they increase by the fact that the object of sale was brought to a place other than the place of fulfilment or unless this corresponds to the intended use.
- 7.3. If the supplementary performance fails, the customer is entitled, at his option, to withdraw from the contract or to claim reduction in price. In case of only insignificant infringement of the contract, the customer is, however, not entitled to withdraw from the contract.
- 7.4. The period of limitation for any and all claims based on defects is 12 months, calculated from the transfer of risk. The above provisions of this paragraph shall not apply in case of an injury to life, body, health or gross fault, fraudulent concealment of the defect as well as in case of non-compliance with a guarantee of quality. §§ 479 BGB (German Civil Code), 377, 381 HGB (German Commercial Code) remain unaffected.
- 7.5. If a defect occurs after assembly/installation which was not carried out by us, we shall only be liable within the scope of the material defect liability if assembly or installation of the object previously processed or sold by us was carried out competently and professionally, in particular according to recognised rules of technology, and no improper changes or repair work were carried out by the customer or third parties, unless the defective assembly/installation has nothing to do with the material defect and does not complicate the supplementary performance. Special requirements of the manufacturer for assembly, installation, maintenance and repairs shall be deemed as agreed if these conditions are known to the customer. The competent and professional assembly or installation, changes and repair work must be proven by the customer.
- 7.6. The claims for defects which occur due to natural wear, faulty or negligent handling, improper storage, unsuitable or improper use or non-compliance with the processing and usage instructions by the customer shall be excluded. Deviations from quality, dimensions and quantities which are customary in trade do not represent a defect. We shall only be liable for the suitability of the goods for certain uses as well as for the chemical resistance during subsequent processing if we have expressly guaranteed this quality.
- 7.7. The warranty expires if repairs or changes have been carried out on the goods by the customer or by a third party, contrary to our processing and usage instructions, or if damages occur due to the use of unsuitable foreign materials.
- 7.8. Damage claims of the customer due to a defect shall be excluded. The above limitation does not apply if accusations of intent or gross negligence can be made against us, in case of injury to life, body or health, in case of fraudulent concealment of the defect, in the event of the non-compliance with a guarantee of quality or if we culpably violate an essential obligation of the contract; in this case, however, the liability for damages is limited to the foreseeable, typically occurring damage. A change of the burden of proof to the customer's detriment is not connected with the above provisions.
- 7.9. In case of an unjustified request to remedy defects, we reserve the right to charge the actual expenses of the test measures according to our price list.

## **8. Guarantees**

- 8.1. We shall not provide the customer with guarantees in the legal sense.
- 8.2. If a guarantee has been agreed upon in an individual contract, it must be made in writing to be valid. The cancellation of this clause relating to the written form must also be made in writing.

## **9. Copyright / property rights of third parties**

- 9.1. We reserve our patent property rights and copyrights in data sheets, drawings and other documents (hereinafter: documents) without limitation. The documents may be made accessible to third parties only after our prior written consent and must be returned to us immediately upon demand if the order is not placed with us.
- 9.2. We are obligated to check, only for the territory of the Federal Republic of Germany, that our deliveries do not violate any property rights of third parties.
- 9.3. The parties shall notify each other without delay if third parties claim the violations of the property rights. We shall bear the costs for legal disputes and decide on the legal defence measures as well as in case of settlement conferences.
- 9.4. If any use according to the contract impairs the property rights of third parties, we have the choice, at our expense, to either obtain a right of use for the corresponding deliveries, change them in such a way that the property right is not infringed, or exchange them.
- 9.5. If we do not eliminate the rights of third parties within the meaning of paragraph 9.4, the rights regarding defects and damage claims of the customer, if and insofar as they exist, are based on the provisions of these terms and conditions of sale.

## **10. Passing of risk for purchase contracts and contracts for work and materials**

- 10.1. The risk of accidental loss and accidental deterioration of goods shall pass to the customer in case of EXW agreements according to their provisions, otherwise with the handover of the goods (§ 446 BGB (German Civil Code)). In cases of shipment, the risk shall already pass to the customer with the handover of the goods to the commissioned carrier (§ 447 BGB).
- 10.2. If the respective delivery is ready for shipment and shipment or acceptance is delayed for reasons beyond our control, the risk shall already pass to the customer upon notification of readiness for shipment.
- 10.3. Costs and risk for sent parts, whether for the retrofit or as samples, are borne by the customer.

## **11. Reservation of fulfilment / embargo clause**

- 11.1. The fulfilment of the contract is subject to the reservation that no impediments caused by applicable economic sanctions, trade sanctions or financial sanctions and/or embargoes of the European Union or the Federal Republic of Germany or other applicable international provisions of foreign trade legislation are opposed. This also applies to economic, trade or financial sanctions and/or embargoes imposed by the United States of America, unless they would be contrary to European or German legal provisions.
- 11.2. The customer is obliged to procure all information and documents that are required for exportation, transfer or importation or that are requested by an authority or other government agency.
- 11.3. The customer is personally and solely responsible for the compliance with the embargo provisions and trade restrictive measures, in particular on the basis of the foreign trade legislation. In particular, he has to check and ensure by suitable measures that
  - he does not violate an embargo of the European Union, the United States of America and/or the United Nations by such transfer to third parties, by arrangement of contracts on such goods, work and service performances, or by the provision of other economic resources in connection with such goods, work and service performances, also in consideration of possible limitations for domestic business and possible circumvention prohibitions;
  - such goods, work and service performances are not intended for a prohibited use which is subject to approval, or related to armaments, nuclear or weapon technology unless possibly required approvals are available;
  - it is complied with the regulations of all applicable sanction lists of the European Union and the United States of America concerning the business transactions with the companies, persons or organisations named therein.

- 11.4. The customer undertakes, in particular, to inform us without delay and unrequested when he intends to deliver products or services obtained from us to or use them in regions which are subject to such provisions. He shall exempt us from all legal consequences which arise from the violation of such provisions and, if necessary, pay damages.

## **12. Final provisions**

- 12.1. The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 12.2. The customer's data concerning the business purpose are processed as defined in the Federal Data Protection Act.
- 12.3. The place of fulfilment for delivery and payment is Hanover.
- 12.4. The place of jurisdiction for all claims from our legal relationship with customer is Hanover. This place of jurisdiction shall be exclusive for any claims against us. We are also authorised to make claims against the customer before any other court competent according to the statutory provisions.
- 12.5. If individual provisions of the contract with the customer, including these general terms and conditions, be or become completely or partially void or unenforceable, this shall not affect the validity of the other provisions of this contract. The same applies in the event that the contract contains a regulatory gap. The invalid or unenforceable provisions or the gap shall be replaced by an adequate provision which comes closest to what the contracting parties would have intended, as far as this is legally possible, provided that they had considered this point when the contract was concluded.