

General Terms of Business of motrona GmbH

I. General provisions

1. Our terms of business shall apply exclusively; we do not recognise any terms of delivery of the purchaser which are contrary to or deviate from our terms of delivery unless we have explicitly agreed to their validity in writing. Our terms of business shall apply even if we carry out the purchaser's order without reservation in the knowledge of terms of the purchaser which are contrary to or deviate from our terms of delivery. These terms of business shall only apply to dealings with business enterprises in the meaning of Section 310 (1) of the German Civil Code (BGB)
2. We reserve unlimited ownership and copyright exploitation rights to any cost estimates, drawings and other documents (hereinafter referred to as documents). The documents may only be made accessible to third parties after our prior approval, and if the order is not issued to us they must be returned without delay on demand. Sentences 1 and 2 shall apply accordingly to the documents of the purchaser; however, they may only be made accessible to third parties to which we have properly assigned the deliveries.
3. The purchaser shall have the non-exclusive right to use standard software and firmware with the agreed use features in unchanged form on the agreed devices. The purchaser may not make a back-up copy of the standard software without an explicit agreement.
4. Partial deliveries shall be permissible insofar as they are reasonable for the purchaser.
5. The words "claims for compensation" in these terms of delivery shall also include claims for the reimbursement of wasted expenditure.

II. Prices, conditions of payment and set-off

1. Prices shall be as shown in the order confirmation and shall be deemed to be ex works and subject to shipping charges, packaging costs and VAT at the applicable statutory rate.
2. Insofar as we undertake the erection or assembly work, the purchaser shall bear all necessary auxiliary costs such as travel and transport costs and allowances in addition to the agreed remuneration unless any other arrangement has been agreed.
3. Any deduction of discounts requires a separate written agreement.
4. The purchaser shall only be entitled to offset any amounts due against claims which are uncontested or have been awarded by an unappealable ruling. The purchaser shall only be entitled to exercise a right of set-off insofar as the counter-claim is based on the same contractual relationship.

III. Reservation of ownership

1. We reserve ownership on the objects delivered (reserved goods) until we receive payment in full of all accounts receivable arising from the supply contract. This shall also apply to all future deliveries, even if we do not always explicitly point this out. We shall be entitled to take back the purchased goods if the purchaser acts in violation of the contract.

2. The purchaser shall be obliged to treat the purchased goods carefully as long as ownership has not yet passed to the purchaser.

As long as ownership has not yet been transferred, the purchaser shall notify us without delay in writing if the supplied object is placed under levy of execution or subjected to any other action of third parties. Insofar as the third party is not able to reimburse us for the resulting court and out-of-court costs of any action pursuant to Section 771 of the Civil Procedure Code (ZPO), the purchaser shall be liable for the resulting loss.

3. The purchaser shall be entitled to resell the reserved goods in the course of normal business operations. The purchaser's accounts receivable from the resale of the reserved goods are assigned to us in advance with respect to the amount of the final invoice amount (including VAT) agreed with us. This assignment shall apply irrespective of whether the purchased goods have been resold with or without processing. The purchaser shall remain entitled to collect the amounts even after the assignment. This shall not affect our entitlement to collect the claims ourselves. However, we will not collect the amount as long as the purchaser meets its payment obligations from the revenue received, is not in arrears with payments, and especially has as long as no application has been made for the institution of bankruptcy proceedings and no cessation of payments has taken place.
4. Any processing, treatment or reworking of the purchased goods by the purchaser shall always be in our name and on our behalf. In this case, the purchaser's entitlement to acquire ownership of the reworked goods shall remain in force. If the purchased goods are processed with other goods which are not our property, we shall acquire co-ownership of the new goods according to the ratio of the objective value of the purchased goods which are our property in relation to the other objects at the time of processing. The same shall apply if the goods are mingled. If the mingling is carried out in such a way that the purchaser's goods are deemed to constitute the main object, it shall be deemed to be agreed that the purchaser shall assign a proportional co-ownership to us and shall store the resulting sole property or co-owned property for us. To secure our accounts receivable from the purchaser, the purchaser also assigns to us any accounts receivable from a third party to which it is entitled as a result of any connection of the reserved goods with a plot of land; we accept this assignment in advance.
5. We undertake to release the securities to which we are entitled, if the purchaser so demands, insofar as their value exceeds the secured accounts receivable by more than 10%.
6. In the event of a violation of the purchaser's obligations, especially delayed payment, we shall also be entitled to revoke the contract and reclaim the goods if the purchaser fails to meet its obligations even after it has been set a reasonable extension period; this shall not prejudice the statutory provisions for cases in which no extension period need be set. The purchaser shall be obliged to surrender the goods. Any reclaiming of the goods, enforcement of the reservation of ownership or levy of execution of the reserved goods by us shall not be deemed to constitute a revocation of the contract unless we have explicitly declared that we revoke the contract.

IV.

Periods/deadlines for delivery/default

1. Adherence to delivery periods/deadlines requires the punctual receipt of all documents to be provided by the purchaser, any necessary approvals and releases, especially for plans, and compliance with the agreed terms of payment and other obligations by the purchaser. If these requirements are not fulfilled in good time, the periods shall be reasonably extended; this shall not apply if we are responsible for the delay.
2. If the failure to comply with the periods/deadlines is due to force majeure, e.g. mobilisation, war, turmoil or similar events, e.g. strike or lockout, the periods/deadlines shall be reasonably extended. The same shall apply if the necessary materials are not supplied to in time or not properly supplied.

3. In the event of a delay in the delivery – if the purchaser can credibly show that it has suffered a loss as a result of the delay – after a two week period the purchaser shall be entitled to demand compensation of 0.5% for every further complete week of the delay up to a maximum of 5% of the price of the deliveries which cannot be used for their designated operational purpose because of the delay.
4. Any claims for compensation by the purchaser due to a delay in delivery and claims for compensation in lieu of performance which exceed the limits stipulated in sub-section 3 are excluded in all cases of a delay in delivery, even after the expiry of any extension period for the delivery which we have been set. This shall not apply if liability is mandatory in cases of deliberate misconduct, gross negligence or because of loss of life, physical injury or damage to health. The purchaser shall only be entitled to revoke the contract under the statutory provisions if we are responsible for the delay in the delivery. The above provisions shall not be deemed to entail any change in the burden of proof to the disadvantage of the purchaser.
5. If we so demand, the purchaser shall be obliged to declare within a reasonable period whether it revokes the contract because of the delay or insists on the delivery.
6. If the despatch or delivery are delayed by more than a month after the notification of readiness for shipment at the request of the purchaser, the purchaser may be charged a storage charge of 0.5% of the price of the objects for every further month or part of a month, but no more than a total of 5% of the price. The parties shall remain entitled to prove that the storage costs are higher or lower.

V. Transfer of risk

1. The risk shall transfer to the purchaser as follows, even with prepaid delivery:
 - a) For deliveries without erection or assembly, when they are taken to the haulage contractor or collected. On request by and at the expense of the purchaser, we insure deliveries against the normal transport risks;
 - b) For deliveries with erection or assembly, on the day when the goods are taken into the purchaser's own operations or, if agreed, after a successful trial run.
1. If despatch, delivery, start-up, implementation of the erection or assembly, acceptance in the purchaser's own operations or the trial run is delayed for reasons for which the purchaser is responsible, or if the purchaser is in arrears of acceptance for any other reasons, the risk shall pass to the purchaser.

VI. Erection and assembly

The following provisions apply to the erection and assembly unless any other arrangement is agreed in writing:

1. The purchaser shall provide the following at its own expense and in good time:
 - a) All normal auxiliary work, including the necessary specialist and ancillary personnel, building materials and tools,
 - b) The requisites and materials that are necessary for assembly and commissioning,
 - c) Energy and water at the connection point, including the connections, heating and lighting,
 - d) Sufficiently large, suitable, dry and lockable rooms at the assembly site for the storage of machine parts, fittings, materials, tools etc., and the appropriate working and recreation rooms for the assembly personnel, including sanitary facilities that are appropriate for the circumstances; in other respects, the purchaser shall take the measures to protect our property and our assembly personnel on the building site that it would take to protect its own property.
 - e) Protective clothing and protection resources which are necessary under the special circumstances of the assembly site.
1. Before the start of the assembly work and without being asked, the purchaser shall provide the necessary information about the location of concealed electricity cables, gas and water pipes or similar facilities and the necessary structural information.
2. Before the start of the erection or assembly work, the supplies and objects which are necessary for work to start must be in place on the erection and assembly site, and all preliminary work must be far enough progressed before the erection work starts so that the erection or assembly work can be started as agreed and carried out without interruption. The delivery routes and entrances and the erection or assembly site must be level and cleared.
3. If the erection, assembly or commissioning work is delayed due to circumstances beyond our control, the purchaser shall bear the reasonable costs of the waiting period and any necessary extra travel by our assembly personnel.
4. The purchaser shall promptly provide us with a weekly confirmation of the working hours of the assembly personnel and notification of the completion of the erection, assembly or commissioning.
5. If we demand the acceptance of the delivery after its completion, the purchaser shall carry this out within two weeks. If this is not done, acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place if the delivery has been taken into service - after the conclusion of the agreed test phase if appropriate.

VII. Receipt of delivery

The purchaser shall not be entitled to refuse receipt of deliveries because of minor defects.

VIII. Material deficiencies

1. Any warranty rights of the purchaser shall presuppose that the customer has properly complied with its examination and notification obligations under Section 377 of the Commercial Code (HGB). Insofar as the purchaser is not a business entrepreneur, it shall notify obvious defects to us in writing within eight days after the receipt of the goods, otherwise any claims arising from such defects are excluded.

2. Claims arising from defects shall expire by limitation 12 months after we have delivered the goods to the purchaser. Our approval shall be obtained before any goods are sent back to us.
3. If the delivered goods have a defect which was already present at the time of transfer of risk, in spite of all our care, we shall at our discretion repair the goods or supply replacement goods on condition that the notice of the defect is provided on time. We shall always be granted the opportunity to render subsequent fulfilment within a reasonable period. Rights of recourse shall remain entirely unaffected by the above provision.
4. If the subsequent fulfilment fails, the purchaser shall be entitled to exercise its contractual right of revocation or reduce the purchase price without prejudice to any claims for compensation.
5. Claims arising from defects shall not apply if there is only a minor deviation from the agreed characteristics and only a minor impairment of the usefulness of the goods.
6. Any claims of the purchaser in relation to the necessary expenditure for the subsequent fulfilment, especially costs of transport, travel, labour and materials, shall be excluded insofar as the expenditure increases because the goods supplied by us are subsequently moved to a place other than the purchaser's branch premises, unless the movement corresponds to the designated use of the goods.
7. Any rights of recourse of the purchaser against us pursuant to Section 478 of the German Civil Code (BGB) shall only exist insofar as the purchaser has not made any agreements with its customer which go beyond the statutory claims for defects. The extent of the purchaser's right of recourse against us under Section 478 (2) of the Civil Code (BGB) shall also be as specified in subsection 6.
8. Any claims of the purchaser for compensation due to a material deficiency are excluded. This shall not apply in the event of fraudulent concealment of a defect, failure to comply with a guaranteed characteristic, any loss of life, injury or damage to health or freedom and any deliberate or grossly negligent violation of obligations by us. The above provisions shall not be deemed to entail any change in the burden of proof to the disadvantage of the purchaser. Any claims of the purchaser for a material deficiency which exceed or differ from the claims specified in this paragraph are excluded.

IX.

Industrial property rights and copyright; legal deficiencies

1. Insofar as there is no agreement to the contrary, we shall merely be obliged to make the delivery free of any industrial property rights and copyright of third parties (hereinafter referred to as property rights) in the country of the place of delivery. If any third party files justified claims against the purchaser because of the violation of property rights by deliveries made by us and used in accordance with the contract, we shall be liable to the purchaser within the period specified in paragraph VIII (2) as follows:
 - a) At our discretion and at our expense we shall either obtain a usage right for the affected delivery, alter it so that the property right is not violated or replace it. If this is not possible for us on reasonable terms, the purchaser shall be entitled to the statutory rights of revocation or price reduction.
 - b) Our obligation to pay compensation shall be governed by paragraph XI.
 - c) The above obligations shall only apply insofar as the purchaser has informed us without delay in writing about the claims made by the third party, has not admitted the existence of a violation and that the right to all defence measures and composition negotiations is reserved for us. If the purchaser ceases to use the delivery to limit the damage or for other serious reasons, it shall be obliged to point out to the third party that the discontinued use does not constitute any admission of a violation of property rights.

1. Any claims by the purchaser are excluded insofar as the purchaser is responsible for the violation of property rights.
2. Any claims by the purchaser are excluded insofar as the violation of the property rights is caused by any special requirements of the purchaser, any use which was not foreseeable for us, any change in the delivered goods by the purchaser or any use of the delivered goods together with products not delivered by us.
3. In the event of violations of property rights, the claims of the purchaser specified in sub-section 1 a) shall in other respects be subject to the provisions of paragraph VIII No. 3. and No. 7. accordingly.
4. In the event of any other legal deficiencies, the provisions of paragraph VIII shall apply accordingly.
5. Any claims of the purchaser against us and our sub-contractors for a legal deficiency which exceed or differ from the claims specified in this paragraph are excluded.

X.

Impossibility; adjustment of the contract

1. Insofar as the delivery is impossible, the purchaser shall be entitled to demand compensation unless we are not responsible for the impossibility. However, the purchaser's claims for compensation shall be limited to 10% of the value of the part of the delivery which cannot be used for its designated purpose because of the impossibility. This restriction shall not apply if liability is mandatory in cases of deliberate misconduct, gross negligence or because of loss of life, physical injury or damage to health; this shall not be deemed to entail any change in the burden of proof to the disadvantage of the purchaser. The purchaser's right to revoke the contract shall remain unaffected.
2. If any unpredictable events as specified in paragraph IV should significantly change the economic meaning or content of the delivery or have a major effect on our business operations, the contract shall be adjusted appropriately in good faith. Insofar as this is not economically justifiable, we shall be entitled to revoke the contract. If we exercise this right of revocation, we shall notify the purchaser of this fact without delay after we recognise the significance of the event, even if an extension of the delivery period was initially agreed with the purchaser.

XI.

Other claims for compensation; expiry by limitation

1. Any claims for compensation by the purchaser on whatever legal grounds, especially on the grounds of a violation of contractual obligations or tort, are excluded.
2. This shall not apply insofar as liability is mandatory, e.g. under the German Product Liability Act, in cases of deliberate misconduct or gross negligence, in the event of any loss of life, physical injury or damage to health or in the event of any violation of cardinal contractual obligations. However, any claims for compensation for the violation of cardinal contractual obligations shall be limited to the damage that is foreseeable in contracts of this type in cases of deliberate misconduct or gross negligence or in cases of loss of life, physical injury or damage to health. The above provisions shall not be deemed to entail any change in the burden of proof to the disadvantage of the purchaser.
3. Insofar as the purchaser is entitled to claims for compensation, these shall expire by limitation at the end of the period of limitation stipulated in paragraph VIII No. 2. The same shall apply to claims by the purchaser in connection with measures to prevent damage (e.g. recall of goods). In the event of claims for compensation under the Product Liability Act, the statutory provisions on expiry by limitation shall apply.

XII.

Place of jurisdiction and applicable law

1. This contract and the entire legal relationship between the parties shall be subject to the law of the Federal Republic of Germany to the exclusion of the provisions of UN commercial law (CISG).
2. The place of performance and the sole place of jurisdiction for all disputes arising from this contract shall be our registered place of business in 78239 Rielasingen.
3. For countries abroad outside Europe, the following shall apply:
All disputes arising from or in connection with this contract shall be fully and finally settled according to the arbitration code of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with this arbitration code.

XIII.

Binding nature of the contract

Even if individual provisions of this contract are legally invalid, the other parts of the contract shall remain binding. This shall not apply if abiding by the contract would constitute an unreasonable hardship for one of the parties.