



Terms and Conditions of Sale and Delivery

§ 1 In general – scope of applicability

1. Our terms and conditions of sale apply exclusively. We do not acknowledge contrary terms and conditions of the customer or those that deviate from our terms and conditions of sale unless we have expressly consented to their applicability in writing.
2. Our terms and conditions of sale are also applicable where we make delivery to the customer without reservation despite our awareness of contrary terms and conditions of the customer or those that deviate from our terms and conditions of sale.
3. All agreements made between us and the customer for the purposes of performing this contract are set down in writing in this contract. Our terms and conditions of sale and delivery apply, at the latest, with the receipt of the goods or services.

§ 2 Offer – offer documentation

Our offer is non-binding and subject to change, unless provided otherwise in the order confirmation. Recalculations, price increases, mark-ups, and details permissible at the time of deliveries are deemed agreed to. We retain ownership rights and copyrights in and to images, drawings, calculations, and other documents. This also applies to such written documents that are characterised as “confidential”. Prior to disclosing them to third parties, the customer requires our express written consent.

§ 3 Prices – payment terms

1. Unless indicated otherwise in the order confirmation, our prices are considered “ex-works”, excluding packaging. The latter is billed separately, unless agreed otherwise with us in writing. Value-added tax is not included in our prices. It is indicated separately on the invoice on the date of invoicing.
2. The deduction of discounts for early payment requires special written agreement. Unless indicated otherwise in the order confirmation, the purchase price is due for payment net (without deduction) within 30 days of the date of invoice, unless something is agreed to separately.
3. Applicable are the statutory rules concerning the consequences of payment default. The customer is entitled to rights of set-off only if its counterclaims have been reduced to a legally enforceable judgment, are uncontested, or have been acknowledged by us. In addition, the customer is empowered to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

§ 4 Delivery period

1. The start of the delivery period indicated by us presupposes the clarification of all technical issues. Compliance with our delivery obligation also presupposes the timely, proper fulfilment of the customer’s obligation.
2. The objection of unfulfilled contract remains reserved. If the customer is in default in acceptance, or if it culpably breaches other duties of cooperation, we are entitled to demand compensation of the damages incurred by us as a result, including any added expenses. Farther-reaching claims or rights remain reserved.

3. In the case of default in acceptance, risk of accidental loss or accidental deterioration of the purchased item passes to the customer at the point at which it becomes in default in acceptance or payment. We are liable in accordance with statutory provisions insofar as the underlying purchase contract is a transaction with a date certain within the meaning of section 286, para. 2, no. 4 of the German Civil Code (*Bürgerliches Gesetzbuch*, BGB) or section 376 of the German Commercial Code (*Handelsgesetzbuch*, HGB). We are also liable in accordance with statutory provisions insofar as a result of delay in delivery attributable to us, the customer is entitled to assert that its interest in continued contract fulfilment has discontinued.

4. We also are liable under the statutory provisions if the delay in delivery is due to any wilful or grossly negligent breach of contract by us, one of our representatives or vicarious agents. If the delivery delay is due to a grossly negligent breach of contract by us our liability is limited to the foreseeable, typically occurring damage.

5. We are also liable under the statutory provisions if the delivery delay is a culpable breach of an important contractual obligation; in this case, the damages shall be limited to the foreseeable, typically occurring damage. In addition, we will be liable in the event of delay in delivery for each completed week of delay for a lump sum compensation to the amount of 3% of the contract fee, but not more than 15% of the contract value.

6. In the case of force majeure, which has led to a delay in delivery of more than two weeks or is likely to result in such, the delivery or acceptance period will be extended by the period of delay, but not by more than five weeks plus the grace period. This also applies if these circumstances occur at the seller's suppliers and their subcontractors. The beginning and end of such hindrances is notified by the seller to the buyer immediately. The buyer may require the seller to declare whether he wishes to withdraw from the contract or he should deliver within a reasonable time. If the the seller does not declare this immediately, the buyer can withdraw. Claims for damages are excluded in any case. The above provisions apply accordingly to the purchaser, if the above hindrances occur for the buyer.

7. If the non-compliance with agreed deadlines due to the fact that the seller himself has not been supplied on time or correctly (no fault of his own), the period agreed upon shall be extended accordingly. Also in the event of such incorrect or non-timely delivery, the seller shall inform the buyer immediately.

8. The seller is liable in terms of timely delivery only for his own negligence and that of his agents. For the negligence of his suppliers he is not responsible because these are not his vicarious agents. The seller is, however, obliged to assign any claims of the sub-suppliers to the buyer.

9. The extension occurs only when the other party is given immediately notice of the reason of disability as soon as it is foreseeable that the above deadlines cannot be met. After that, we are entitled to withdraw from the contract completely or partly. This applies even if the delivery due to the amount of force majeure has become impossible. Claims for compensation or replacement are excluded. The incidents of majeure include, in particular in case of war, labour disputes, governmental regulations, lack of raw materials or other disruptions of operations.

10. The export of certain goods can lead to licensing requirements, for example, on account of their nature, intended use or their final destination. The buyer, in the case of exports will refer to the relevant national and international export regulations, such as the export control regulations of the



European Union. For compliance with any import regulations or customs regulations of the importing country, the buyer bears responsibility. The products we sell are registered trademarks and may be subject to special requirements. Any deviation or violations of these trademarks is prohibited. Likewise, re-imports are strictly prohibited. Deliveries to the buyer are subject to national and international law, foreign trade provisions, embargoes or other legal prohibitions.

§ 5 Retention of title

1. All of our deliveries are made subject to retention of title pursuant to section 449 BGB. With the following modification and supplementations:

We retain title to the goods until all claims have been satisfied, including those that came into existence prior to transfer of title to the customer (for details, see below). In the case of current accounts, retention of title is considered security for the corresponding balance. If the secured goods are combined or intermixed with other objects (sections 947 and 948 BGB), we retain title or co-title to the new object or the intermixed stock.

2. If the secured goods are processed and made into a new item, we retain title to them at each stage of manufacture. Acquisition of title by the buyer pursuant to section 950 BGB is precluded. Processing is always done on our behalf. The processed goods serve as our security in the amount of the value of the secured goods. In the case of processing with other goods not belonging to us by the customer, we are entitled to co-title to the new item in the ratio that the secured goods have to the other processed goods at the time of processing. For the new item resulting from the processing, the same applies as for the secured goods. It is considered a secured good within the meaning of these terms and conditions. The buyer is obligated to manage the secured goods and the stocks with which they are intermixed or the objects with which they are combined, as well as any new items manufactured from them, on our behalf with commercial care. For this purpose, we are entitled to obtain insurance at the buyer's expense against reduction of value and/or loss, unless the buyer proves that it has obtained its own insurance in the scope envisioned by us and that it has assigned to us its claims under such insurance. The buyer is prohibited from making a pledge or an assignment as security of the secured goods or of the stocks intermixed, the objects combined, or the new items manufactured with them. The buyer must promptly notify us about liens or any other interference with our rights by third parties, including providing information about all particulars that enable us to raise objections to the interference with our rights. The buyer is entitled to sell the secured goods – regardless of their condition – in the ordinary course of business. However, it must pass on the retention of title in the extent claimed by us. The buyer hereby assigns to us its claims from the resale of the secured goods with all ancillary rights, irrespective of whether they are resold to one or more purchasers. The assigned claim serves as our security only in the amount of the value of the respective sold secured goods. If the secured goods should be sold together with other goods not belonging to us, whether without or after processing, intermixing, or combining, the assignment of the purchase price claims is applicable only in the amount of the value of our secured goods that with other goods are the subject of the purchase contract or part of the purchased object. Provided that the buyer is meeting its payment obligations, it is authorised to collect the claims from the resale that have been assigned to us. It cannot dispose of such claims through assignment. The proceeds to which we are entitled from the assignment are to be forwarded to us immediately upon receipt. When we so request, the buyer must notify its purchasers about the assignment of the purchase price claim and provide us with the names of the debtors of the assigned claims so that we ourselves can disclose the assignment and/or collect the claims assigned to us.



3. Our retention of title is subject to the condition that upon full satisfaction of all claims to which we are entitled under paragraph 1 of this section, title to the secured goods automatically vests in the buyer, with the buyer being entitled to the assigned claims. If the value of the security to which we are entitled exceeds by more than 20% the total claims against the buyer specified in paragraph 1 of this section, we are obligated at our discretion to release it when so requested by the buyer.

4. Our assertion of retention of title does not constitute rescission of the contract. The buyer's right regarding ownership of the secured goods is extinguished if it does not fulfil its obligations under this or another contract. In such case, we are entitled to take possession of the secured goods and, irrespective of the buyer's payment and other obligations to us, to liquidate them as best as possible through private sale or by means of an auction. The liquidation proceeds are set off against the buyer's obligations, after deduction of costs, and any excess is to be kept. The customer also assigns to us the claim to secure our claims against it that arise against a third party through the connection of the purchased item with real property.

§ 6 Liability for defects

1. The customer's claims for defects presuppose that, if it is an entrepreneur, it has properly met its obligations to inspect and object that it owes under section 377 HGB. Also the customer who is a consumer must promptly inspect the received goods for defects. The customer must provide written notice of obvious and, with proper inspection, discernible defects within 10 days of receipt of the goods. Defects that cannot be discovered by this deadline even with careful inspection must be promptly objected to after discovery. Otherwise, there is no liability for any defect.

2. If, prior to expiry of 10 days, the customer installs the parts delivered by us or processes them further, it is obligated to inspect the processed parts for discernible defects and to promptly notify us about such defects prior to installation or further processing.

3. If it fails to make such inspection or send the notice, the claims to cure or compensation of damages or other claims from the standpoint of warranty liability are precluded. Minor technical and avoidable deviations in quality, colour, width, weight, outfitting, or design may not be objected to. The same also applies to deviations customary in the trade, unless the seller has declared in writing that the delivery will match the model. If a defect in the purchased item actually exists and this was objected to in a timely, proper manner, the customer is entitled, at its discretion, to choose between a cure in the form of elimination of defects or the delivery of a new, defect-free item.

4. All product instructions authorized by Genius Technology GmbH should be noted and all instructions must be followed for the respective product. All instructions are enclosed and part of your product order. If the cure fails, the customer is entitled, at its discretion, to rescind the contract or reduce the purchase price. We are liable in accordance with statutory provisions insofar as the buyer asserts claims for compensation of damages that are based on wilful misconduct or gross negligence, including wilful misconduct or gross negligence on the part of our representatives or agents. Unless we can be charged with wilful breach of contract, liability for compensation of damages is limited to those that are foreseeable and typically incurred.

5. We are liable in accordance with statutory provisions insofar as we culpably breach a material contractual duty. In such case, however, liability for compensation of damages is limited to those that are foreseeable and typically incurred. In all other respects, liability for compensation of damages is precluded. To this extent, we are in particular not liable for damages that are not suffered by the purchased object itself. Unless provided otherwise above, liability is precluded.

§ 7 Prescription



If the buyer is an entrepreneur, legal person under public law, or special fund under public law, all warranty claims are precluded not later than six months after acceptance. In all other cases, the warranty period is one year. The prescription period remain unaffected in the event of delivery recourse pursuant to sections 478 and 479 BGB. It amounts to five years, starting on the date of delivery of the defective item.

§ 8 Transfer of risk and shipment

Risks passes to the buyer with conveyance of the goods to the shipper or freight forwarder, but not later than upon leaving the delivery plant or shipment warehouse. Under exclusion of all liability, we may choose the means of shipment and protection, as well as the shipment route. We are entitled at our own discretion to store at the buyer's expense goods that have been reported ready for shipment that cannot be shipped due to lack of availability or impossibility of shipment and to consider them as delivered, including the storage costs. If the customer so wishes, we will cover the delivery with transport insurance. The costs incurred as a result thereof are for the account of the customer.

§ 9 Trademark rights

The seller does not ensure that the products delivered outside of Germany do not violate (particularly the trademark) rights of third parties. This should be checked by the buyer in each case for the target country. For deliveries within Germany, the seller gives the assurance that he is not aware of any rights of a third party for using the items.

§ 10 Suspension of obligations – posting of security, payment after due date

If after conclusion of contract, circumstances are discernible to us that jeopardise our claim to counter-performance due to the buyer's lack of ability to perform, we are entitled, at our discretion, to demand the posting of security or, after fruitless expiry of a grace period of 12 days, to rescind the contract or assert compensation of damages. In addition, we are entitled to demand cash payment prior to delivery for outstanding deliveries under any ongoing contract with the contract partner under discontinuation of the payment terms. The same also applies to payment default by the buyer.

§ 11 Effectiveness of contracts and place of performance and place of jurisdiction

The effectiveness of individual parts of these business terms and conditions does not result in the ineffectiveness of the other parts. The place of jurisdiction for all disputes, whether indirectly or directly under contractual relationships, is the registered office of our business. The law of the Federal Republic of Germany is applicable. The applicability of the United Nations Convention on Contracts for the International Sale of Goods is precluded.