

Terms and Conditions of Sale, Delivery and Payment of Grundig Business Systems GmbH

1. Offer and Acceptance

- (1) Our offers shall always be non-binding. All orders shall be subject to acceptance; acceptance shall take place by written confirmation from us or by shipping the goods ordered.
- (2) Only the present Terms and Conditions of Sale, Delivery and Payment shall apply for all transactions with our customers. This shall also apply for future business transactions with customers in which applicability of these Terms and Conditions of Sale, Delivery and Payment is not expressly pointed out. Standard form general terms and conditions of the customer shall not apply. Any agreements deviating from or supplementing these Terms and Conditions of Sale, Delivery and Payment shall only take effect if and when confirmed by us in writing.
- (3) We reserve the right to make technical and/or design changes to the goods to improve them also after the order has been confirmed, to the extent this is reasonably acceptable for the customer.
- (4) If after conclusion of the contract a change occurs on the part of the customer which impairs its creditworthiness or borrowing powers, or if we learn of any impairment of its creditworthiness or borrowing powers that occurred already before conclusion of the contract, we shall, at our option, be entitled to demand either provision of security or concurrent performance. In any case we can make further deliveries conditional on the prior payment of outstanding claims. We are also entitled to rescind the contract in whole or in part after setting a reasonable deadline.

2. Price

- (1) The prices valid at the date of conclusion of the contract shall apply. Unless indicated otherwise, the prices are in Euro plus value-added tax at the statutory rate, and the freight charges and customs duties are to be borne by the customer.
- (2) The price includes the costs for simple packaging. Special requests of the customer concerning packaging (firmly padded carton for delivery by railway) or type of delivery (express, fast goods traffic, railway container, post, etc.) shall be complied with as far as possible; any extra costs associated therewith shall be charged separately.
- (3) Prices for spare parts shall be ex works plus packaging.

3. Delivery periods, partial deliveries

- (1) Delivery dates shall only be binding if expressly agreed as binding. If non-compliance of a binding delivery date can be proven to be due to force majeure or any other event beyond our control, e. g. mobilisation, war, riot, strike, lawful lockout, the delivery period shall be reasonably extended. This shall apply *mutatis mutandis* in the event that a sub-supplier is affected by any of the events of force majeure described above. The customer shall be informed of the beginning and the end of such force majeure circumstances as soon as possible.
- (2) We shall have the right to perform partial deliveries, except if the customer is not interested in partial performance of the contract and has informed us so in writing by ten (10) days prior to the agreed delivery date.

4. Payments

Our invoices are due immediately and payable without any discount thirty (30) days after the invoice date. In the event of default of payment, interest at a rate of 8 percentage points above the applicable base rate of the German Bundesbank shall be charged; moreover, we shall have a right of retention with respect to our services - also under different orders of the customers - until payment has been made in full. We reserve the right to assert further claims. Only holders of a written power of attorney for collection issued by us shall be authorised to collect payments. Bills of exchange shall not be taken in payment except where subject to a special agreement in which case any fees and costs incurred shall be charged. Our payment claim becomes extinguished only when the cheques or bills of exchange submitted to us have been credited to our account. The customer shall be entitled to setoff against our claims only if its counterclaim against us is uncontested or a final enforceable judgement has been issued against us.

5. Reservation of title

- (1) We shall reserve title in all goods supplied by us until all of our present and future claims against the customer have been paid in full (Reserved Goods). Our claims shall not be extinguished by absorption into a current-account balance and recognition thereof. The customer may not dispose of the Reserved Goods unless in the ordinary course of business, either against payment in cash or, in the event of reservation of title or transfer to resellers, only subject to an extended reservation of title being agreed. The customer shall store the Reserved Goods under proper conditions and take out the necessary insurance cover. It is not permissible to pledge Reserved Goods or to transfer them for the purpose of security. Our customer shall notify us immediately if Reserved Goods are attached by third parties and point out our reservation of title to such third party. All costs incurred to us by averting interference of third parties with Reserved Goods, notably attempts of seizure, shall be borne by the customer to the extent they are not recoverable from third parties.
- (2) In the event that Reserved Goods are resold, they shall be invoiced separately from goods of other suppliers. Our customer already now hereby assigns to us any claims arising against the purchaser upon sale together with all ancillary rights (reservation of title, collateral, bills of exchange, etc.), in the full amount until our claims specified in para. 1 have been paid in full. If a formally arranged or impromptu open account relationship exists between the customer and its purchasers, the customer hereby assigns in addition its claims to termination of the open account relationship, determination of balances and the balance claims. In the event of payment by cheque or bill of exchange, title to these securities shall pass to us as soon as they are acquired by the customer; submission of such securities shall be substituted by the customer taking custody thereof on our behalf until further notice. If the customer presents the bill of exchange for discount, it shall assign the discounting proceeds to us in advance. If the customer disposes of the Reserved Goods together with goods from other suppliers and issues a total invoice for them, a partial amount of the total invoice amount corresponding to the Reserved Goods contained in such invoice shall be deemed assigned to us; the same applies for the ancillary rights (e. g. reservation of title, collateral, bills of exchange, etc.). If and to the extent that the claims assigned to us are not asserted by ourselves, the customer shall be entitled to collect the same on our behalf and realise the ancillary rights. The customer's collection authority and its entitlement to realise ancillary rights are revocable for good cause, notably in the event of material deterioration of its financial situation. They shall irrevocably extinguish if the customer discontinues its payments, judicial or extrajudicial insolvency proceedings are filed against it or the opening of such proceedings against it are rejected for lack of assets.
- (3) The customer may not enter into instalment credit agreements with financial institutions with respect to the Reserved Goods except with our prior written consent. The assignment of claims shall only be permissible if effected by way of non-recourse factoring and notified to us in advance in which case the factoring proceeds must exceed the value of our secured claim. Our claims shall fall due for payment immediately when the factoring proceeds are credited to the customer's account.
- (4) If the customer is in default with its payment obligations to us, if it discontinues its payments or judicial or extrajudicial insolvency proceedings are filed against its assets or the opening of such proceedings is rejected for lack of assets, the entire residual debt shall fall due immediately, also to the extent that bills of exchange with a later maturity date are in issue. In this event, the customer shall

provide us, at our request, with an inventory of all Reserved Goods still in its possession and a list of all claims assigned to us, stating the debtor's name and address and the amount of the claim.

- (5) If the conditions pursuant to para. 4 are met, the customer shall, at our request, notify the debtors of the assignment of the claim to us. However, we shall be free to make such notification ourselves. In the events of para. 4, we shall be entitled to rescind the contract and take back the Reserved Goods as security for our claims.

6. Complaints, warranty claims

- (1) Any complaints due to incomplete or incorrect delivery must be asserted immediately after receipt of the goods. The customer shall inspect the goods for defects and notify obvious defects within ten (10) working days of receipt of the goods and hidden defects within ten (10) working days of being discovered. If the customer fails to notify defects, the goods shall be deemed accepted.
- (2) The limitation period for warranty claims of the customer is one (1) year. This shall not apply in case of malice, wilful intent, gross negligence and personal injury (i.e. injury of life, limb or health). Without prejudice to paras. 5 and 6, the customer's statutory claims of recourse shall remain unaffected if the goods are sold to a consumer.
- (3) If the goods are defective, we shall, at our option, either rectify such defect or supply a defect-free product for the purpose of subsequent performance [Nacherfüllung]. If our subsequent performance fails after two attempts, the customer shall be entitled, at its option, to either reduce the purchase price or to rescind the contract. Our subsequent performance shall be without recognition of a legal obligation. For repaired products the remainder of the original limitation period shall run from the return of the repaired product to the customer. For replaced products the limitation period shall start anew upon delivery of the replaced product to the customer.
- (4) Our obligation to rectify defects shall not apply if defects of the goods are due to improper or unauthorised interference with the goods (notably by opening or repairing the products) by the customer or third parties, or natural wear and tear or improper use of the products, or operating the products in combination with accessories or other goods or materials not recommended or approved by us.
- (5) The customer's claims to damage compensation in lieu of performance with respect to defects of the goods shall be limited pursuant to clause 7. Moreover, the amount of such claims shall be limited to the agreed net price of the defective goods unless the defect was caused by us through gross negligence or intent, resulted in personal injury, or we fraudulently concealed a defect or failed to comply with a guarantee as to condition [Beschaffenheitsgarantie] we had undertaken.
- (6) If the customer intends to resell the goods to consumers, the customer shall advertise them only in suitable form. In the event of incorrect advertising in relation to characteristics of the goods, any recourse claims of the customer against us shall be excluded.
- (7) In the event of resale of the goods to consumers, the customer shall notify us immediately of any warranty claims asserted. If the customer meets such warranty claims without having an obligation to do so and without having notified us in advance, any recourse claims of the customer in this respect shall be excluded.

7. Liability

- (1) We shall be liable for damage caused by slight negligence only if these are due to a material breach of obligations jeopardising the purpose of the contract or to a breach of obligations the fulfilment of which is a prerequisite for proper performance of the contract.
- (2) In cases of para. 1, liability shall be limited to the damage typically foreseeable for such type of contract. This shall also apply to damage caused by the gross negligence of our agents or employees other than officers or executives.
- (3) In the cases of para. 2, the limitation period for damage claims of the customer shall be two (2) years from the point in time the claim arose and the customer became aware thereof. Regardless of the customer's awareness, the limitation period shall be three (3) years from the damaging event. For claims based on defects clause 6 para. 2 shall apply.
- (4) With the exception of liability under the German Product Liability Act, for defects after having given a guarantee as to condition, for fraudulently concealed defects and for personal injury, the above limitations of liability shall apply to all claims for damages, irrespective of their legal basis.
- (5) The aforementioned liability restrictions shall also apply in the event of any claims for damages on the part of the customer against our employees or authorised agents.

8. Place of performance, transfer of risk, installation

- (1) Place of performance for delivery and payment is Bayreuth.
- (2) Transportation of the goods shall be at the customer's risk; this shall not apply for the return of goods in the context of subsequent performance.
- (3) We recommend that the goods be installed by trained specialist staff.

9. Confidentiality

The customer shall treat all information and documents received from us (e. g. offers, price lists, technical concepts, etc.) as confidential and not disclose them to others except with our prior written consent.

10. Governing law

The contractual relationships shall be governed by German law with the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

11. Severability

Should any provision(s) of these Terms and Conditions of Sale, Delivery and Payment - for whatever reason - be or become invalid, the validity of the remaining provisions shall not be affected thereby.

12. Place of jurisdiction

The exclusive place of jurisdiction for all disputes arising from and in connection with these Terms and Conditions of Sale, Delivery and Payment is Bayreuth. This shall also apply for complaints based on bills of exchange or cheques issued.

13. Decisive Version

This English translation of the Verkaufs-, Liefer- und Zahlungsbedingungen der Grundig Business Systems GmbH (Terms and Conditions of Sale, Delivery and Payment of Grundig Business Systems GmbH) is provided for convenience only. In case of conflict with the German version hereof the German version shall prevail.