

## General Terms and Conditions of GMDS Germany GmbH

### § 1 General conditions, scope

1. The scope of the deliveries and/or services (hereinafter referred to as deliveries) is determined by the mutual written documentation. The General Terms and Conditions of the supplier apply exclusively. Conditions of the customer that deviate from these General Terms and Conditions are invalid.
2. These General Terms and Conditions also apply to all future business with the customer.

### § 2 Offer

All offers are without obligation, including reference to prices and delivery dates. The supplier reserves the right of ownership and copyright with regard to all cost estimates, drawings and other documents. The supplier's design drawings may not be made available to third parties without the express authorisation of the supplier.

### § 3 Design features

In the case of orders for which the design or composition features are determined by the customer, the latter will be responsible for ensuring that the design and/or composition does not violate the proprietary rights of any third party. The customer will exempt the supplier in the event of a claim.

### § 4 Technical changes

The supplier reserves the right to make technical changes.

### § 5 Guarantee, liability, compensation

1. If there is a defect attributable to the supplier, the buyer shall set the supplier a reasonable period of grace in order to rectify the defect. The supplier may, at its option the defect or deliver flawless goods or services.  
In the event that he repairs the defect, the supplier is obliged to carry all costs associated with such repair, particularly transport, route, labour and material costs, insofar as such are not increased by the fact that the object of the contract has been moved to a place other than the contractual place of performance.
2. If the third attempt of the supply to rectify the defect is abortive for reasons which are attributable to the supplier, the buyer shall be entitled to demand a reasonable reduction in the contractually agreed purchase price (price reduction in accordance with § 441 of the German Civil Code (BGB)). The buyer shall have no right to withdraw from the contract in accordance with § 323 of the German Civil Code.
3. Any other claims on the part of the customer, particularly with regard to compensation for lost profits or other damage to the customer's assets, are restricted to the amount of the delivery price.
4. The above restriction does not apply where damages are caused through intent or gross negligence.
5. The warranty period shall be twelve months from the transfer of the delivered goods or services. If a retail purchase of second-hand goods is involved, the warranty period shall be six months from the transfer of the delivered goods.

### § 6 Prices, payment conditions, payment default

1. If prices are not specified, then the supplier's list prices at the time of order placement will apply. These prices are subject to the valid statutory value added tax, as well as postage, freight, insurance, delivery charges, installation and initial operation charges, and in the case of repairs, also the cost of return site travel. Invoices will be issued in the valid German currency (EURO). Payment in each case will be due twenty calendar days after the date of the invoice.
2. For orders valued at over € 50.000,00 the sum of 30% of the order value will be due on order placement and on execution of each partial delivery.
3. The customer will be deemed to be in default without reminder if he does not pay on the due date. In the event of default in payment, the supplier is entitled to invoice interest in the amount of 5% above the basic rate of the European Central bank (§§ 288, 247 of the German Civil Code), unless the customer proves that less damage was incurred. The supplier reserves the right to apply higher default damages.

4. In the case of orders with an agreed delivery date in excess of four months, the supplier reserves the right to pass on price increases based on tariff agreements or increased material costs. If the increase is in excess of 5% of the agreed delivery price, then the customer is entitled to termination for cause.

#### **§ 7 Right to offset or withhold**

With regard to claims by the supplier, the customer may only offset counter claims that have been legally determined or are undisputed. The right to withhold may only be exercised in relation to the counter claims within the same contractual relationship.

#### **§ 8 Reservation of ownership**

1. The delivered objects (reserved goods) remain the property of the supplier until all claims in relation to the business relationship have been satisfied by the customer. If the total value of the security for all claims exceeds 20% of the amount owed to the supplier, the supplier will release an appropriate part of the security at the request of the customer.
2. Processing or conversion of the reserved goods will always be on behalf of the supplier. In the event of processing or combination, the supplier will acquire co-ownership in the new item in the ratio of the value of the supplier's goods to the other processed items at the time of processing.
3. The customer will store the (joint) property of the supplier without charge.
4. During the period of reserved ownership, the customer is not permitted to use the property for bailment or as security; and is only permitted to resell within the confines of normal business practices and only on condition that the reseller receives payment from his customer or applies the proviso that ownership is only transferred to the customer on full satisfaction of the payment obligation.
5. In the event of bailment, seizure or other third party interference or impoundment, the customer must notify the supplier immediately.
6. Any payment received through resale or other legal basis (insurance, unauthorised activity) in relation to the reserved goods is already transferred herewith to the supplier in full as a precautionary measure. The supplier revocably authorises the customer to receive the assigned amounts on the supplier's behalf. At the request of the supplier, the customer will declare the assignment and provide the necessary information and documentation.

#### **§ 9 Transfer of risk**

1. The risk, even in the case of inclusive delivery is transferred to the customer as follows:
  - a) for deliveries without assembly or installation, when the goods are released for delivery or are picked up. At the request and expense of the customer, shipments will be insured by the supplier to cover standard transport risks.
  - b) for deliveries with assembly or installation, on the day of operational transfer or, where agreed, subsequent to a successful test run.
2. In the event of a delay in the shipment, delivery, start, performance, assembly or installation, operational transfer or test run, for reasons that fall under the responsibility of the customer, or if the customer delays acceptance for any other reasons, then risk will be transferred immediately to the customer.

#### **§ 10 Liability limitation**

The customer's claims are limited a period of twelve months from the date of the violation for which liability applies.

#### **§ 11 Written form requirement**

Deviations, supplements or other ancillary agreements must be in writing.

#### **§ 12 Place of performance and jurisdiction, applicable law**

Place of performance and jurisdiction is the location of our company. However, we expressly reserve the right to sue at the company or home location of the supplier. This contract is subject to the law of the Federal Republic of Germany. Standard UN purchasing rights are excluded.

#### **§ 13 Precautionary clause**

If one provision of these general Terms and Conditions should be invalid, this will not affect the validity



of the remainder of the provisions.