

General Terms and Conditions

of Weber Entec GmbH & Co. KG
for Supplies and Services to Business Customers
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Scope: These General Terms and Conditions apply exclusively to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB), legal entities under public law and special funds under public law. They do not apply to contracts with consumers.

I. General Provisions

1. The type and scope of supplies and services (hereinafter collectively referred to as “Supplies”) shall be governed by the mutual declarations made in writing or text form, in particular the quotation, order confirmation and any technical specifications. General terms and conditions of the Customer shall apply only insofar as the Supplier has expressly agreed to their application in text form.
2. The Supplier reserves all proprietary rights, copyrights and other intellectual property rights in cost estimates, drawings, calculations, technical documents, software documentation and other documents. Such documents may only be made accessible to third parties with the Supplier’s prior consent. Documents of the Customer may be made accessible to third parties to whom the Supplier lawfully subcontracts Supplies.
3. Unless otherwise agreed, the Customer shall be granted a non-exclusive, non-transferable right to use standard software for its intended purpose, with the agreed performance characteristics and on the agreed equipment. A backup copy may be made insofar as permitted by law or required to safeguard the contractually agreed use.

II. Prices and Terms of Payment

1. Unless otherwise agreed, prices are ex works (EXW pursuant to Incoterms® 2020), excluding packaging, transport, insurance, customs duties, levies and statutory value-added tax.
2. If the Supplier has undertaken installation, assembly, commissioning or service work, the Customer shall, in addition to the agreed remuneration, bear the necessary ancillary costs, in particular travel, accommodation, transport and subsistence expenses, unless otherwise agreed.
3. Invoices shall be due for payment without deduction within the period agreed in the quotation or order confirmation. In the absence of an express agreement, the payment period shall be 14 calendar days from the invoice date and receipt of the invoice.
4. The Customer may set off claims only against counterclaims that are undisputed, finally adjudicated or ready for decision. Rights of retention may only be exercised on the basis of counterclaims arising from the same contractual relationship.
5. In the event of late payment, the statutory default interest and the Supplier’s other statutory rights shall apply. Following reasonable notice, the Supplier may make further Supplies conditional upon advance payment or the provision of security if, after conclusion of the contract, justified doubts arise regarding the Customer’s ability to pay.

III. Retention of Title

1. The goods supplied shall remain the property of the Supplier until all current claims of the Supplier arising from the business relationship have been fully satisfied (goods subject to retention of title). If the realizable value of the securities exceeds the secured claims by more than 10%, the Supplier shall, at the Customer’s request, release securities of its choice.
2. While retention of title remains in effect, pledging or transfer by way of security is prohibited. Resale is permitted only in the ordinary course of business. The Customer hereby assigns to the Supplier, in advance, its claims arising from the resale of the goods subject to retention of title up to the invoice value of such goods; the Supplier accepts the assignment. The Customer shall remain authorized to collect such claims until this authorization is revoked.
3. In the event of attachment, seizure or other intervention by third parties, the Customer shall inform the Supplier without undue delay and provide the documents required to pursue the Supplier’s rights.

4. In the event of a breach of contract by the Customer, in particular default in payment, the Supplier may, after expiry of a reasonable period set for performance without result and in accordance with statutory provisions, withdraw from the contract and demand surrender of the goods subject to retention of title.

IV. Delivery Periods; Delay; Force Majeure

1. Delivery periods are conditional upon the Customer providing all required documents, approvals, permits, information and agreed payments in due time. Delays attributable to the Customer shall extend agreed periods by a reasonable amount.
2. Events of force majeure or other events beyond the Supplier's control, including in particular natural disasters, war, terrorism, epidemics/pandemics, governmental measures, lawful industrial disputes, substantial operational disruptions, cyberattacks despite appropriate protective measures, and supply shortages at upstream suppliers for which the Supplier is not responsible, shall extend the performance periods by the duration of the disruption plus a reasonable restart period. The Supplier shall inform the Customer of the commencement and anticipated duration of the disruption insofar as reasonably possible.
3. If the Supplier is culpably in delay, the Customer may claim liquidated damages of 0.5% of the net price of the part of the Supply affected by the delay for each completed week of delay, up to an aggregate maximum of 5%. The Supplier shall remain entitled to prove that no loss or a substantially lower loss was incurred.
4. Any further claims for damages due to delay shall be governed by Article XI. Statutory rights of withdrawal shall remain unaffected.
5. If dispatch or acceptance is delayed at the Customer's request or for reasons attributable to the Customer for more than one month after notification that the goods are ready for dispatch or acceptance, the Supplier may charge reasonable storage costs. The Customer shall remain entitled to prove that no costs or substantially lower costs were incurred.

V. Transfer of Risk

1. For Supplies without installation or assembly, risk shall pass to the Customer upon handover to the forwarding agent, carrier or other third party appointed to perform the shipment, but no later than when the goods leave the Supplier's works. At the Customer's request and expense, the Supply shall be insured against customary transport risks.
2. For Supplies including installation or assembly, risk shall pass to the Customer upon acceptance or, where a trial operation has been agreed, upon successful completion of such trial operation.
3. If dispatch, delivery, installation, commissioning, acceptance or trial operation is delayed for reasons attributable to the Customer, risk shall pass to the Customer upon commencement of the delay.

VI. Installation, Assembly and Commissioning

1. Unless otherwise agreed, the Customer shall provide, in due time and at its own expense, all conditions and facilities required for installation and commissioning, in particular suitable access routes and installation areas, energy, water, connections, lifting equipment, scaffolding, auxiliary personnel, protective equipment and suitable storage, working and sanitary facilities.
2. Before commencement of the work, the Customer shall, without being requested to do so, provide all necessary information concerning concealed utility lines, structural conditions, hazardous areas, safety regulations and other site-specific risks.
3. If the site has not been properly prepared and the Supplier is therefore unable to perform its work, or unable to perform it as scheduled, the Customer shall bear the reasonable additional costs thereby incurred, in particular waiting time, working time, additional travel to and from the site, transport, travel and accommodation.
4. If the Supplier requests acceptance after completion, the Customer shall carry it out without undue delay and no later than within two weeks. Acceptance may not be refused due to immaterial defects. The statutory requirements for deemed acceptance shall remain unaffected. Intended productive use shall constitute acceptance unless a trial operation has expressly been agreed.

VII. Inspection and Notice of Defects

1. If the Customer is a merchant within the meaning of German commercial law, the duties of inspection and notification pursuant to Section 377 of the German Commercial Code (HGB) shall apply. Apparent defects shall be notified without undue delay after delivery; hidden defects shall be notified without undue delay after discovery, in text form and with a comprehensible description.
2. The Customer may not refuse receipt of the Supply due to immaterial defects.

VIII. Defects; Limitation Period; Wear Parts

1. If the Supply has a material defect at the time risk passes, the Supplier shall, at its option and within a reasonable period, remedy the defect, provide a replacement or re-perform the service. The Customer shall provide the Supplier with the opportunity reasonably required for such subsequent performance.
2. The limitation period for claims for material defects asserted by business customers shall be 12 months from the statutory commencement of the limitation period. This shortening shall not apply in cases of intent, gross negligence, fraudulent concealment of a defect, assumption of a guarantee as to quality or durability, claims arising from injury to life, body or health, or cases in which mandatory law provides for longer limitation periods, in particular for buildings or items that have been used for a building in accordance with their customary manner of use and have caused the building to be defective. Mandatory statutory recourse claims within a supply chain shall remain unaffected.
3. Wear parts and components which, by virtue of their intended function, are subject to natural or operational wear are excluded from claims for defects insofar as the condition complained of results from normal wear and tear, customary deterioration or reaching the intended service life. This exclusion shall in particular not apply to demonstrable material, manufacturing or assembly defects that already existed at the time risk passed. Wear parts may include, in particular, seals, bearings, mechanical seals, tools, cutting and size-reduction elements, and components exposed to cavitation, insofar as such components in the specific scope of Supply are typically replaced due to wear.
4. Claims for defects shall furthermore not exist in the event of merely immaterial deviations from the agreed quality or merely immaterial impairment of usability, or in the event of damage occurring after transfer of risk as a result of unsuitable or improper use, incorrect installation by third parties, incorrect or negligent handling, excessive stress, unsuitable operating materials or process media, insufficient maintenance, defective construction work provided by the Customer, unsuitable environmental conditions or other external influences not agreed in the contract.
5. If the Customer or a third party carries out modifications or repair work without the Supplier's consent, claims for defects shall lapse only insofar as the defect or damage is attributable thereto or the analysis of the defect or subsequent performance is thereby made unreasonably difficult.
6. If subsequent performance fails or is unreasonable for the Customer, the Customer shall have the statutory rights to reduce the price or withdraw from the contract. Claims for damages shall be governed exclusively by Article XI.
7. The Supplier shall bear the expenses necessary for subsequent performance in accordance with statutory provisions. Additional costs resulting from the Supply subsequently being moved to a location other than the agreed place of destination shall be borne by the Customer insofar as such relocation does not correspond to the intended use.
8. Statutory recourse claims of the Customer, in particular pursuant to Sections 445a, 445b and 478 BGB, shall remain unaffected to the extent mandatorily prescribed by law. To the extent permitted by law, the Supplier shall not be liable for guarantees, goodwill commitments or other undertakings granted by the Customer to its own customer beyond the statutory rights for defects or those agreed with the Supplier.

IX. Industrial Property Rights, Copyright and Defects in Title

1. Unless otherwise agreed, the Supplier shall only be obliged to provide the Supply free from third-party intellectual property rights in the country of the agreed place of delivery.
2. In the event of justified third-party claims arising from an infringement of intellectual property rights for which the Supplier is responsible, the Supplier shall, at its option, obtain a right of use, modify the Supply so that the intellectual property right is no longer infringed, or replace the Supply. If this is not possible on reasonable terms, the Customer shall be entitled to the statutory rights of price reduction or withdrawal. Claims for damages shall be governed by Article XI.

3. The obligations under No. 2 are conditional upon the Customer informing the Supplier without undue delay in text form of any claims asserted, making no acknowledgements without the Supplier's consent, and allowing the Supplier reasonable control over the defense and settlement negotiations.
4. Claims shall be excluded insofar as the infringement is caused by specifications of the Customer, an application not agreed upon, use that was not foreseeable by the Supplier, or subsequent modification of the Supply by the Customer or third parties.
5. In the event of other defects in title, the provisions of Article VIII shall apply accordingly.

X. Impossibility and Adjustment of Contract

1. Insofar as performance is impossible, withdrawal and damages shall be governed by the statutory provisions and the limitations of liability set out in Article XI.
2. If events within the meaning of Article IV No. 2 substantially alter the economic significance or content of the Supply or have a substantial impact on the Supplier's operations, the parties shall reasonably adjust the contract in accordance with the principle of good faith. If such adjustment is economically unreasonable, the Supplier may, in accordance with statutory provisions, withdraw from the unperformed part of the contract.

XI. Liability and Damages

1. The Supplier shall be liable without limitation in cases of intent and gross negligence, culpable injury to life, body or health, under the German Product Liability Act (Produkthaftungsgesetz), and in other cases of mandatory statutory liability.
2. In the event of a slightly negligent breach of material contractual obligations (cardinal obligations), the Supplier shall be liable only for the loss typical for the contract and foreseeable at the time the contract was concluded. Material contractual obligations are obligations whose performance is essential for the proper execution of the contract and on compliance with which the Customer may regularly rely.
3. In all other respects, liability for slight negligence is excluded.
4. To the extent the Supplier's liability is excluded or limited, this shall also apply for the benefit of its corporate bodies, legal representatives, employees and vicarious agents.
5. The foregoing limitations of liability shall not apply insofar as the Supplier has fraudulently concealed a defect or has assumed a guarantee.

XII. Export Control and Compliance

1. The Customer undertakes to comply with all applicable foreign trade, export control, sanctions and embargo regulations. Supplies may not be exported, transferred or used, directly or indirectly, in violation of applicable prohibitions or licensing requirements.
2. Insofar as performance of the contract is prohibited by mandatory export-control or sanctions regulations, or required authorizations are not granted, the Supplier shall be released from its obligation to perform for the duration of the impediment; further statutory rights shall remain unaffected.

XIII. Place of Jurisdiction and Applicable Law

1. If the Customer is a merchant, a legal entity under public law or a special fund under public law, the Supplier's registered office shall be the exclusive place of jurisdiction for all disputes arising out of or in connection with the contractual relationship. The Supplier shall, however, also be entitled to bring proceedings against the Customer at the Customer's general place of jurisdiction.
2. The laws of the Federal Republic of Germany shall apply exclusively, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) and conflict-of-law rules to the extent their exclusion is permissible.

XIV. Final Provisions

1. Amendments and supplements to the contract, including these General Terms and Conditions, shall require at least text form unless a stricter form is prescribed by law. Individual agreements shall take precedence.

2. Should any provision be or become wholly or partially invalid or unenforceable, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by the applicable statutory provisions.