

General Terms and Conditions of Sale and Services of eta plus electronic gmbh

I. Application

1. Our services and deliveries will be effected exclusively in accordance with our General Terms and Conditions of Sale and Services set forth herein below. We do not recognize any conditions of the contracting partner conflicting with or deviating from these General Terms and Conditions of Sale and Services; the application of such conditions is hereby expressly rejected. Our General Terms and Conditions of Sale and Services shall apply even if, notwithstanding our knowledge of conflicting or deviating conditions of the contracting partner, we execute delivery or render the service without reservation.
2. The following General Terms and Conditions of Sale and Services apply only with respect to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB) and to legal persons governed by public law and special funds governed by public law.

II. Concluding the contract, written form

1. The written statements given by both parties are authoritative with respect to the content of contracts entered into with us. If a contract is entered into without any such written statements given by the parties, our written order confirmation alone shall be authoritative.
2. Deviating, ancillary or supplementary agreements are only binding following our written confirmation in each individual case.
3. An order placed by the customer shall be deemed to be a binding offer to conclude a contract. Unless the customer's order provides for anything to the contrary, we have the right to accept this offer to conclude a contract within a period of 2 weeks of receipt thereof by us.

III. Quotation documents and business secrets

1. The documentation belonging to our quotation such as illustrations, drawings, details of weights and measurements are only approximations unless they are expressly indicated as binding.
2. We reserve the unrestricted rights of exploitation under property and copyright law with respect to the cost estimates, drawings and other documentation; they may be made available to third parties only with our prior consent. We are under obligation to only allow third parties to access plans marked as confidential by the customer if the customer gives its consent.

IV. Scope of delivery - Packaging

1. The scope of delivery and of the other services to be rendered by us shall be determined solely in accordance with our written order confirmation – unless a special written agreement has been reached. Additional parts delivered as a precautionary measure and any parts left over are our property.
2. If the order is amended in retrospect, we shall charge for the additional services rendered.
3. We take back packaging in accordance with the requirements of the EU packaging regulations and recycle it properly.

V. Prices and payments

1. Prices are ex works prices as defined in the latest version of the Incoterms unless otherwise indicated in our order confirmation; they do not include assembly, packaging, freight, transfer, insurance, customs or Value Added Tax which tax is always to be paid in the statutory amount prevailing on the invoice date in addition to our prices.
2. Payments are to be effected to us in full on the due date with no deduction for charges, e.g. bank charges, in accordance with the terms of payment agreed in writing.
3. The customer only has a right of off-set or retention insofar as its counterclaims are undisputed or recognized by final and binding judgment. In the event of defects in the goods delivered, the customer's counter-rights shall remain unaffected, in particular pursuant to Section IX. of these Terms and Conditions
4. If the customer is in default in payment, we have the right to charge interest on the amount of our claim for payment throughout the period of default at the statutory rate for default interest applying at such time. We reserve the right to assert a claim for further damage caused by default.

VI. Delivery period

1. The delivery period is set forth in the agreements reached by the contracting parties. Delivery periods indicated by the customer are only binding on us if we have explicitly confirmed them in writing. The precondition for our compliance with delivery periods is punctual and due compliance by the customer with its obligations, including any collaboration duties such as punctual receipt of all of the documentation, official permits and clearances to be supplied by the customer. If these preconditions are not met on time, the delivery period shall be extended accordingly. This shall not apply if we are responsible for the delay.
2. If non-compliance with the delivery period is due to force majeure or to other events outside our sphere of influence, e.g. labor disputes, the delivery period shall be reasonably extended. We shall not be deemed accountable for the aforementioned circumstances even if they occur during the course of default which already existed. We shall advise the customer without delay of the commencement and end of such impediments.

VII. Passing of risk and acceptance

1. Unless otherwise agreed in writing, a sale by dispatch is contracted between the customer and us. In this case risk passes to the customer when the goods are handed over to the freight forwarder or to any other person or institution designated to ship the goods even if part shipments are effected or if we have assumed responsibility for other services, for instance for shipment costs or delivery and installation. We shall insure the shipment against customary transport risks at the customer's request and expense.
2. If shipment is delayed due to circumstances for which the customer is accountable, risk shall pass to the customer on the date of our notification of readiness for shipment. We are obliged, however, to take out the insurance requested by the customer at the request and expense of the customer.

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3. Part shipments are admissible if the customer can be reasonably expected to accept them

VIII. Reservation of title

1. All of the products delivered by us shall remain our property pending payment of all our claims stemming from the business relationship with the customer.
2. Pending transfer of title, the customer is obliged to treat the goods delivered with care.
3. In case of default in payment by the customer, we shall be entitled to demand the return of the goods supplied with reserved title following the expiry of a last reasonable deadline for payment set, without setting any further deadline; the applicable statutory provisions under which the setting of a deadline is not required shall remain unaffected. If the goods delivered are recovered or if reserved title is asserted due to default in payment, this shall constitute the rescission of the contract unless we expressly agree otherwise. Similarly we may demand that the goods delivered be returned if the customer treats our property improperly or otherwise acts in breach of contract. In this case our demand for the return of the goods does not constitute the rescission of the contract.
4. If the goods delivered are recovered pursuant to subsection 3 above, any payments for such goods already made by the customer will only be repaid in the amount of the current market value of such goods less our damage, the decrease in value, compensation for use in the time during which the goods delivered were used by the customer, recovery costs, e.g. transport costs, and our lost profits.
5. Prior to full payment of the secured claims, the goods subject to reservation of title may neither be pledged to a third party nor may they be assigned by way of security. The buyer must notify us without delay in writing if, and if so the extent to which, any attachments of the goods belonging to us are made by third parties.
6. The customer is entitled to on-sell the products subject to reservation of title during the normal course of business given due compliance with all the safety precautions and accident prevention regulations to be adhered to in each specific instance. The customer shall, however, assign to us now already by way of security, all of the claims to which it will be entitled from its customers or third parties from such sale in the amount of the final invoice value of our claim (including Value Added Tax), irrespective of whether the goods delivered are on-sold with or without any further processing. The customer shall remain entitled to collect this claim even after the assignment thereof. Our authority to collect the claim ourselves shall remain unaffected hereby. We undertake, however, not to collect the claim if and as long as the customer complies with its payment obligations, is not in default in payment and, in particular, no petition for the initiation of insolvency proceedings has been filed and payments have not been suspended. If this is the case, however, we may demand that the customer notify us of the claims assigned to us and of the respective debtors, provide all of the details required to collect the claim, deliver to us all of the respective documentation and notify the debtors of the assignment.
7. Any re-working or processing of the goods with reserved title shall be effected on our behalf within the meaning of Section 950 of the German Civil Code (BGB), without establishing any obligation for us. The processed goods are deemed to be goods with reserved title within the meaning of these Terms and Conditions; in this case the customer's expectant right to

the goods shall continue with regard to the reworked goods. If the goods with reserved title are processed together with or indivisibly mixed with other items not belonging to us, then we acquire joint ownership in the new thing in the same proportion as the proportion between the invoice value of the goods with reserved title and the invoice value of the other goods used at the time of the processing or mixing. The joint ownership rights thus created shall be deemed to constitute goods with reserved title within the meaning of these Terms and Conditions. If our goods are connected to or indivisibly mixed with other movables to form a new, uniform product and if this new product is to be regarded as the principal product, it is deemed agreed that the customer assigns to us proportionate joint ownership to the extent that the principal product belongs to the customer. In all other respects the same shall apply to a product created by processing, connection and mixing as applies to goods with reserved title.

8. At the customer's request we undertake to release security to which we are entitled to the extent that the realizable value of our security exceeds the claims to be secured by more than 10%. The selection of the security to be released in this respect is at our discretion.

IX. Warranty for defects in the goods delivered

1. In the case of a commercial transaction, the precondition for the assertion of claims by the customer on account of defects is that the customer complied with the duties owed by the customer in accordance with Section 377 and Section 381 (2) of the German Commercial Code (HGB) to examine the goods and give notification of any defect. Complaints on account of incomplete or defective goods delivered must be notified to us in writing immediately, but no later than 10 days after taking receipt of the goods, in case of concealed defects immediately after discovery thereof.
2. The limitation period for claims on account of defects is one year from the date of delivery of goods delivered by us.
3. If the goods delivered should have a defect which already existed at the time of passing of risk, we shall first effect supplementary performance, at our discretion either by supplying goods free of defects (delivery of replacement goods) or by repairing the goods. We must be given adequate time and opportunity to effect the supplementary performance. If we are refused this possibility, we are relieved of the obligation to effect supplementary performance to this extent and of any further claims on account of defects in the goods delivered to this extent.
4. Our right to refuse supplementary performance subject to the conditions of statute shall remain unaffected.
5. Claims by the customer with respect to expenses required for the purpose of supplementary performance, in particular transport, travel, labor and materials costs, are excluded insofar as such expenses are increased due to the fact that the goods delivered have been removed to a location different from the contractually agreed place of delivery.
6. Within the framework of the applicable statutory provisions, the customer has the right to rescind the contract or reduce the purchase price if we allow a reasonable deadline set by the customer for delivery of a replacement or a repair to expire to no avail or if the supplementary performance definitively fails or is impossible (failure of supplementary performance). The customer has no right of rescission in the event of a merely inconsiderable defect, however.

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7. The customer shall only be entitled to claims for damages or compensation for wasted expenditure as provided in Section X. of these Terms and Conditions; otherwise they are excluded.
8. No warranty is given for damage caused by circumstances which are within the customer's sphere of influence, in particular for the following reasons: unsuitable or unprofessional use of the goods delivered, faulty assembly or commissioning by the customer or third parties, except where we are responsible for this, natural wear and tear, faulty or negligent treatment of the goods delivered, unsuitable operating equipment and substitute materials, chemical, electro-chemical, electrical or other special external influences after the passing of risk which are not provided for under the terms of the contract.
9. Furthermore there is no entitlement to claims on account of defects if modifications or repair work have been undertaken by the customer or third parties without our written consent and where such modifications or repair work caused the defect, which shall be assumed.
10. If protective devices are included in the delivery, the customer undertakes to have examined, without delay, whether such protective devices comply with the requirements of the competent authority (e.g. trade supervisory office) and with the accident prevention regulations to be adhered to in that particular instance.

X. Overall liability

1. If, due to our fault, the customer cannot use the goods delivered in accordance with the contract due to omitted or defective information or advice or due to a violation of other ancillary contractual obligations, the provisions of Section IX. and of the two following subsections of this Section X. shall apply accordingly excluding any further claims by the customer.
2. We shall be liable for damage not caused to the goods delivered themselves, irrespective of the legal grounds, in case of fatal and physical injury and damage to health (personal injury). The same shall apply in case of other damage insofar as it is due to an intentional or grossly negligent violation of a duty by us or by a statutory representative or an agent employed in the performance of an obligation or by a vicarious agent. In addition, we shall be liable in case of the mandatory application of statutory liability regulations subject to the terms and scope of such regulations with respect to damage, in particular personal injury and damage to privately used property, in accordance with the terms of the German Product Liability Act. Further-reaching liability by us is excluded save as provided in subsection 3 below.
3. Insofar as we violate a material contractual obligation by slight negligence, and provided that there is no personal injury as defined in subsection 2 above, our duty to provide compensation is limited to damage which can be reasonably foreseen and is typical of the type of contract.

XI. Developments, industrial property rights

1. If we undertake special development work for a customer – whether separately or in the context of a supply contract – then unless otherwise agreed in writing, the customer does not acquire any industrial property rights in or to the items developed, even if the customer has a share of the development costs. We have the right to demand a proportion of the development costs for developments. If, despite all expense

which can be reasonably expected, our development work fails to achieve the desired result within the time period agreed, we have the right to rescind.

2. Requirements specifications, drawings, samples, drafts and similar documents prepared by us or third parties on our behalf remain our property in and to which we hold all copyright, industrial property and other protective rights, in particular the rights of use and exploitation.
3. Section III. of these Terms and Conditions shall remain unaffected.

XII. Our right of rescission

In case of unforeseen events within the meaning of Section VI. of these Terms and Conditions, insofar as they considerably change the economic significance or content of performance or have a considerable effect on our operations and in the event that performance becomes impossible in retrospect, the contract shall be appropriately adjusted. Insofar as this is not reasonable from an economic viewpoint, we shall have the right to rescind the contract in whole or in part. If we desire to exercise this right of rescission, we must inform the customer thereof without delay as soon as we realize the implications of the event even if it had been initially agreed with the customer that the delivery period be extended.

XIII. Place of performance, jurisdiction and venue

1. If the customer is a registered merchant as defined in the German Commercial Code (HGB), a legal person governed by public law or a special fund governed by public law, it is deemed agreed that the courts with jurisdiction at our principal place of business in Nürtingen shall have jurisdiction and venue in the event of any disputes arising from or in connection with our supplies and services and with a claim raised under any bank guaranties. In derogation herefrom we shall also be entitled to take legal action at the courts with jurisdiction at the principal place of business of the customer.
2. Our principal place of business shall be the place of performance for all obligations under the contractual relationship with us.

XIV. Applicable law

The contractual relationship and all legal relations between us and the customer shall be governed by and construed in accordance with the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

XV. Partial invalidity

If one of the provisions of this Agreement should prove to be ineffective, this shall not affect the effectiveness of the remaining provisions of the Agreement.

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