

Translation of the General Terms and Conditions of Axel Semrau GmbH & Co. KG

This is a translation of our German General Terms and Conditions. The wording of this translation is not binding. In any case only the German version shall apply.

1. General

Our general Terms and conditions shall apply to all subsequent transactions as sale, work or service etc. without any need of express reference thereto or agreement thereon at the conclusion of such transaction. Any dissenting terms and conditions of the Buyer shall not apply.

2. Offers and Orders

- 2.1 Our offers shall not be binding, if we do not have agreed otherwise. An order of the Buyer binds him for five weeks. Orders placed by the Buyer shall not be regarded as accepted until these have been confirmed by us in writing or we started to deliver the goods or services.
- 2.2 If the Buyer orders goods for private purposes electronically, we will without hesitation confirm the receipt of the order. This receipt is not a binding acceptance of the order. The confirmation of the receipt can be connected with the acceptance of the order.
- 2.3 We only contract under the condition that we will be delivered by our seller fully correct and in the right time. This does not apply, if we are responsible, that the goods are not delivered, especially if we have contacted with our seller about the ordered goods. We do not take the risk that the goods cannot be delivered by our seller. If our seller cannot deliver, the Buyer will be informed without hesitation. Any payment will be paid back immediately.
- 2.4 If a person buys goods for private purposes electronically, the text of the contract will be stored. We will send the text of the contract and these terms and conditions to the Buyer by email, if required.
- 2.5 We can change model, construction or equipment, as far as the goods are not changed in a degree, the Buyer cannot accept. We will not change goods, but we cannot avoid, that the producers do so.

3. Prices

- 3.1 The contracted prices shall apply. These are binding for us. Shall the goods be delivered more than four months after signature of a contract, the prices of the time of delivery do apply.
- 3.2 The minimum amount of orders is 40.-€. If the Buyer orders less than 40.-€ we will charge additional 8.-€ for cost of handling.
- 3.3 Prices apply for goods without package from our main storage.
- 3.4 Our prices shall exclude any statutory VAT which shall be payable at the date of delivery.
- 3.5 Our actually valid pricelists apply for additional costs of transport, hotel, expenses etc. Times of travel of our employees are working time and will be invoiced according to our pricelists.

4. Shipment and Delivery

- 4.1 Unless otherwise expressly agreed in writing, any indicated time of delivery or unloading shall be non-binding. If the goods are not delivered to us by our seller,
- 4.2 If any agreed time of delivery or unloading shall be exceeded, we can deliver other goods to the customer, which are borrowed to him without costs for the Buyer from the agreed time of delivery. If not, we will charge our costs according to our actual pricelists for leasing.

- If it is not acceptable for the Buyer to wait any longer, the Buyer must especially give us a reasonable cure period of minimum six weeks. If we or the persons we use to fulfill the obligations fail to meet that deadline also, then the Buyer shall have the right to rescind the agreement but shall have no right to seek compensation for breach of contract or delay unless in cases of willful misconduct or gross negligence on our part in fulfilling the contract or negotiating the contract.
- 4.3 Any inability to supply as a result of force majeure or other unforeseen incidents outside our responsibility including without limitation activation for war, war,, riot, catastrophes etc. shall for the duration and in accordance with their impact relieve us from the obligation to comply with any agreed time for delivery and unloading. This does also apply, if the goods are not delivered to us by the seller in a reasonable time and we can prove that we have contracted about these goods with the seller. In all these cases the Buyer is not allowed to withdraw from the agreement, if he is responsible for the reasons.
- 4.4 We can deliver the contractual goods partially if this is not unacceptable for the Buyer.
- 4.5 Does the Buyer another way of service or another version of the goods before we started to deliver and do we agree, all agreed times of delivery or unloading are interrupted. These terms start again.
- 4.6 If the Buyer is in delay with the receipt of the goods, we shall have the right to rescind the agreement and seek compensation for breach of contract or delay, if we have before specified a reasonable cure period. Despite of this we shall have the right to sell the goods otherwise and deliver to the Buyer in a new acceptable term. Our compensation is 30 % of the agreed price. The Buyer may prove that our damage or loss is less than 30 % or we do not have any damage or loss. We are free to choose between the abovementioned 30% or the real damage and loss.
- 4.7 The goods shall be transported uninsured and in any event at the risk of the Buyer. In all cases of delivery the risk of damage or loss of goods is with the Buyer, as soon we delivered the goods to the transporter. If the buyer chooses a later time of delivery, the Buyer will be in delay with the receipt of the goods from the moment of receipt our written notice that we are ready to deliver. We shall have the right to invoice the agreed price then immediately. Additionally we have the right to charge cost of storage with minimum 1% of the agreed price per month, beginning two weeks after the Buyer received our written notice that we are ready to deliver. In this event of delay of delivery, the risk of loss or damage of the goods is with the Buyer from the time of receipt our written notice that we are ready to deliver. This also applies when the Buyer is in delay of acceptance of the goods. We are free to choose the way of transport.

5. Payment

- 5.1 Payments are only accepted, if they are paid to us or to persons, which have the right to receive payments for us by written notice. Invoices are payable according to the written date in the invoice or if not, within fourteen days from the date of invoice. Our purchase price claims are net cash amounts and payable free of any deduction upon receipt of the invoice unless other payment shall have been agreed. Payments shall be done at the place in which we receive it. We shall accept promissory notes and cheques only upon specific arrangement and only in lieu of payment. Any fees for discount bills or promissory notes shall be at the expense of the Buyer and immediately payable. Payments are only accepted in the currency agreed in the contract.
- 5.2 Spare parts and repairs will we delivered /served only after payment before.
- 5.3 Against any declarations of the Buyer we shall decide on our own, which claim shall be paid by the actual payment.
- 5.4 Partial deliveries and later delivered additional goods are always invoiced separately. For this these General terms and Conditions apply too.

- 5.5 In the event of the Buyer's delay with payments, we shall have the right to recover delay interest in a proven amount but in any event an amount equaling 10.5 % above the base rate of the European Central Bank. The Interest is payable at once.

6. Retention of Title

- 6.1 We hold the following securities until all our claims, arising from any reason now or in future are fulfilled, including all account balance and claims from refinancing reverse promissory notes. We will give the securities back partially or in the whole, if the secured amount is more than 20 % higher than our claims:

We shall retain full title of the goods that have been delivered until the Buyer has discharged all claims arising from the specific contract. The Buyer shall have the right to dispose of the goods delivered by us within the ordinary course of business. He does not have the right to security assignment or pledge of the goods under retention of title.

The Buyer can sell the goods if he makes sure that his customer accepts our retention of title. If the Buyer does not, with this contract he assigns all of the claim arising from the resale to us. This does also apply in case the Buyer has a balanced account with his customer. We accept the assignment.

- 6.2 We have the right to be informed about the names of the Buyer's customers and the assigned claims. We have the right to inform the customers about the assignment.
- 6.3 In case of the Buyer's delay with payments or do third parties take possession of the secured goods or the Buyer loses his creditworthiness, we shall have the right to enter the business rooms of the Buyer to take our goods away. With this contract the Buyer allows our employees to enter his business rooms anytime to secure and take away our goods. The legal executor (bailiff) is entitled to hand out the goods to us after the seizure is ceased.

7. Delay, Impossibility, Rescission

- 7.1 In case of our delay with delivery of goods by willful misconduct or gross negligence we will pay all loss or damage to the Buyer. In case of negligence the Buyer has no claims.
- 7.2 If we are not delivered by our seller both parties can terminate the contract.
- 7.3 We can rescind the contract for the following reasons:
- 7.3.1 If against former information before signature of the contract the Buyer is not creditworthy. Missing creditworthiness is fulfilled in case of non- payment on cheques, given by the Buyer, the Buyer generally stops payments or in case of a failed effort of execution.
- 7.3.2 If it is proved that the Buyer had given wrong information about his creditworthiness and these information were of relevance for us to contract with the Buyer.
- 7.3.3 If the Buyer sells our goods under Retention of title in another way than ordinary course of business, especially by security transfer or pledge.
- 7.3.4 We can also rescind the contract if important circumstances which are relevant for the contract changed without our opportunity to influence them, so that the fulfillment of the contract becomes impossible to us or the fulfillment becomes more difficult for us in an unacceptable degree, for example our seller does not deliver to us or we can be delivered only under worse circumstances.
- 7.3.5 We can also rescind the contract, if the Buyer infringes his obligations severely, especially obligations concerning the goods under retention of title.
- 7.3.6 In addition to the abovementioned the Buyer and we have the right to rescind the contract according to the laws.

8. Special Terms and Conditions for Maintenance and Repair

If our work concerns maintenance or repair, the following conditions apply:

- 8.1 Our works on maintenance or repair are service, not a work. The actual price list for services apply. Freight, material etc. will be charged additionally according to our price lists. Travelling times of our employees are service times and have to be fully paid
- 8.2 If the customer wants an estimation of cost, we will analyse the Hardware and then send an estimation of cost. The Buyer pays the cost of the analysis. The cost of the analysis is the time, the employees needed. The Buyer can set off the costs only, if we agreed before.
- 8.3 We have the right to do services which are not ordered by the Buyer, if the Buyer cannot be reached in a short time and these additional works are necessary to reach the purpose of the order and the total amount does not exceed of more than 20% in orders less than 250.-€ and not more than 15 % in orders more or equal to 250.-€.
- 8.4 Acceptance
Does the statement of work make it necessary to make an acceptance, the following applies:
If not otherwise agreed, the acceptance happens in our business rooms. We have the right to decide, whether we inform the Buyer by phone, email or by written notice, that the work is ready for acceptance in our rooms. The Buyer's delay of acceptance starts, if he does not fetch the hardware from our room and does the acceptance within a term of one week after receiving our information or the invoice. In times of delay, we have the right to claim for storage costs of 5.-€ per day and piece of hardware.

9. Acceptance

- 9.1. Acceptance Test
Immediately after the end of installation by us the Buyer will make the acceptance test and check the accordance with the technical specifications.
- 9.2 Declaration of Acceptance
If our work is in accordance with the technical specifications and other agreed changes and additions, the Buyer will without hesitation declare the acceptance by written notice.
- 9.3 Fiction of Acceptance
 - 9.3.1 If the Buyer does not declare the acceptance within six weeks after the end of the installation though he had not marked any relevant objections, the work is accepted.
 - 9.3.2 The acceptance is also declared, if the Buyer starts to use our work without former declaration of a relevant reduction of usability.
- 9.4 Removing defects
If defects appear in the acceptance test, they shall be fixed in the written acceptance protocol.
We will remove the defects in a reasonable time and afterwards present the hardware for a new acceptance. This new acceptance follows the abovementioned rules.

10. Warranty

- 10.1 Our warranty for defects is as follows.
 - 10.1.1 12 months for new produces goods; we don't accept warranty for used goods. Used goods have been used by third parties before. So we have had no influence on these goods and we could not watch their individual development. That's why we do not accept any warranty for these goods.
It is the Buyer's obligation to inform himself exactly about the state of the good.

- 10.1.2 The term of warranty starts in the moment, the risk changes to the Buyer, for example by delivery to the Buyer.
- 10.1.3 Upon delivery the Buyer shall immediately conduct a quality check and give us a written notice of defect in case of apparent defects within two weeks deadline after receiving the goods. If he does not, notices of defects will not be accepted by us. For the abovementioned deadline the relevant time is the time of sending the notice of defect, not the time, we receive the notice. The Buyer has to prove facts, necessary for his claims, especially for the defect, time of appearance of the defect and the right term of sending the written notice of effect to us.
The Buyer has to give written notice of defect about not apparent defects as soon as they appear, without hesitation.
- 10.1.4 We only accept notices of defect in writing. Notices of effect to our employees, which work outside our business rooms or transporters or other third parties are not notices of effect according to the forms and terms of this contract.
- 10.1.5 If the Buyer wants to send the good back to us because of a defect, we must agree before. If the Buyer sends the goods without our prior consent, we don't have to accept these goods. The Buyer pays the cost of sending back.
- 10.1.6 If he arrange a delivery of a new good because o a notice of defect of the Buyer, the terms and conditions about the times of delivery of these terms and conditions apply. If the good shall be repaired, we have a reasonable time of minimum three weeks.
- 10.2 If there is a defect and we were informed about the effect by a notice of defect in writing, the Buyer has the following rights:
- 10.2.1 In case of defect in a first step we have the right to make a new effort to fulfill the contract. We have the right to decide, whether the defect shall be removed by a new delivery or repair. We will decide under our own discretion.
- 10.2.2 If one effort to fulfill the contract fails, we have the right for a second effort according to our decision, whether repair or a new good in a reasonable time. Does also the second effort fails, the Buyer has the right to decide whether he rescinds the contract or reduces the price.
- 10.3 We shall not be responsible for any compensation or Buyers expenses based on defects of goods unless in cases of willful conduct or gross negligence. The Buyer has to prove the reason and height of the compensation and frustrated expenses.
- 10.4 The Buyer has to prove the defect.
- 10.5 If we offer a non defect but used good as our first effort to remove the defect, the Buyer has the right to decide whether he wants a new good and pays fees for the usage of the defect good or he accepts the used good. If he accepts the used good, he does not have to pay fees for usage the defect one.
- 10.6 We do not warrant for goods under fair wear and tear as rubber. This does also apply for damages arising after change of the risk to the Buyer because of misuse or negligent treatment, unreasonable usage, wrongly used material and chemical, electro- chemical, electric or atmospheric influences.
- 10.7 If the Buyer receives a defect users manual for construction of the goods, we are only due to deliver a new one, if the defect of the manual makes it impossible to build up the good.
- 10.8 Claims for damage are timely limited to one year after delivery of the goods to the Buyer. This does not apply in case of our gross negligence and injury of body, health or life of the Buyer.
- 10.9 We don't warrant for defects caused by the fact that the Buyer has added non-agreed machines or let do services on the contractual goods by parties, not authorized by us or by the producer, or in case the Buyer changed or added other machines to the goods, though the Buyer proves that those changes and add-ons did not cause the defect.
If the Buyer reports a defect and we can't find the defect, the Buyer pays the cost of our investigation, if the Buyer acted within his commercial business.
- 10.10 In case of defects we will repair the good according to our choice in our business rooms or at the base of the Buyer. If the Buyer acted within his commercial business,

the Buyer has to pay our expenses for travel and package. If the goods can be repaired in our rooms, the Buyer has to send the defect goods to us on his own expenses in the original package.

Can the defect only be repaired at the Buyer's base, we only accept the expenses for travel to the place, in which the good should be used in the moment of signing the contract. If not otherwise agreed and also the circumstances do not make necessary, we are only due to repair at the base of the Buyer. The Buyer pays expenses arising from the fact that he transported the good to another than the agreed place or his base.

- 10.11 Do third parties arise claims against the Buyer because of infringement of German law because of goods, delivered or licensed under this agreement, we will pay all fixed costs by court and compensation, on the understanding that we are informed without hesitation and by written notice and that we get all relevant information, the Buyer gives any necessary support and we are free to decide whether we accept or deny the claim. This does only apply if we acted by fault.

Will be finally sentenced by a court that a further use of the goods infringes German rights of a third party or we see the danger of an appeal to the court by a third party because of infringement of its rights, we can on our own expenses and our decision either get the right to use the contractual goods in future for the Buyer, to deliver another good or change the delivered good so that there is no infringement anymore. Instead we also have the right to pay back the contractual price of the good minus an amount for the use of the good. The base is a 36- months- time of use, so for each month 1/36 of the price is to pay for use.

- 10.12 We are only responsible for damages, which are caused by at least gross negligence of us or our representatives by law or people we had used to fulfill the contract.

This does not apply in cases of damage of life, body or health by us or our representatives by law or people we had used to fulfill the contract.

If we accepted a guarantee for a special characteristic for a fixed time, the abovementioned clauses concerning the duty of inspection and objection and the number of efforts to fulfill the contract do not apply.

- 10.13 Guarantees of third parties

Guarantees are obligations, accepted by the produce of the goods. They are no obligation for us. The Buyer is due to realize his claims according to the guarantee himself in his own expenses. The Buyer especially pays the cost of transport to the producer and back, construction and deconstruction and eventually the cost of a substitute.

11. Liability in other cases

- 11.1 Beside the clauses of warranty and other special clauses in this contract we are due as follows:

Our liability and the liability of our representatives by law or people we had used to fulfill the contract is unlimited, also in cases of negligence in case of violation of life, body or health of people.

Beside this we are liable only as follows

In every case of fault we have a reasonable time to fulfill our duties not less than three weeks. The Buyer can only rescind or claim for compensation, when this term ends without removal of the infringement.

- 11.2 Compensation will only be paid in cases of gross negligence or willful misuse. Compensation is always limited to the contractual price.
- 11.3 The Buyer cannot rescind, if the reasons, which give him the right to rescind are solely or in the majority caused by him. This does also apply if the Buyer was in delay with the acceptance.
- 11.4 The Buyer can claim for compensation only in cases of negligent or willful breach of contract, Compensation instead of the specific performance (§ 280 III, 282 BGB) and compensation for delay (§280 II, 286 BGB) is limited to the negative interest;

- compensation for non- performance or performance in another but the contractual way (§282) is limited to the contractual price. We are not responsible for compensation instead of the performance, if the performance as or became impossible for us.
- 11.5 Our liability for fraud and the liability according to the law for product- liability remains unlimited.
 - 11.6 Risk to be delivered
 - 11.7 We do not accept the liability, to be delivered by our sellers concerning ordered but not immediately deliverable goods. We don't give any guarantee, unless especially agreed by written notice.
The abovementioned limitations do not apply for foreseeable damages because of reasonable duties from the contract. We are only liable as far as the damage could be expected. We are not liable for unforeseeable excessive risks.
 - 11.8 The abovementioned limitations do not apply in cases of violation of life, body or health of people by us, our representatives by law or people we use to fulfill the contract.

12. Set- off, lien

Buyer can only set – off with claims, which both parties consider as true or which are finally sentenced by a court. In case of a qualified objection of effect, the Buyer can lien in a reasonable and acceptable relation between price and defect. If the Buyer acted for his commercial business, he can provide lien only, if we agree.

13. Cession

The right of the Buyer cannot be assigned with our prior written consent.

14. If we sell software, the following shall apply additionally

- 14.1 All rights, as copyright, patents etc. are reserved to us or to our deliverer. If not otherwise agreed the Buyer has a non transferrable, non exclusive right.
- 14.2 If we deliver a third party's software, the license agreement of the third party applies. The Buyer is due to inform himself about these licenses and comply.
- 14.3 The abovementioned rights do also apply for originals, films, presentation – CDs and other materials.
- 14.4 The Buyer has to fix the copyright signs and all other signs for third party's rights on full or partial copies in the same way as they are fixed in the original version of the software.
- 14.5 We can promote in the contractual goods in a reasonable manner.
- 14.6 The Buyer agrees to be announced as a reference.

15. Secrecy

- 15.1 The Buyer has to consider all information about the Software and the software material as a secret. He has to do all effort, to prevent any information or use by third parties. This applies to the employees of the Buyer too, if they come in touch with the software and the software material. His also applies for deliverers of the Buyer. The Buyer agrees, not to use the information for his own purposes, especially not make copyright, patents etc. pending.
- 15.2 The obligation of secrecy ends, when the buyer proves, that he had had those information before receipt by us or the information had become known to the public without any cause or fault by the Buyer before receipt by us. The secrecy also ends if the information is in accordance to information the Buyer had received anytime by an authorized third party in a lawful way.

- The confidentiality according to these provisions shall survive the expiry of this agreement, except the abovementioned exceptions.
- 15.3 The parties have to destroy all material received from the other party after expiry of this agreement, because these materials are still secret. They have to acknowledge this to the other party by written notice.
- 15.4 **Penalty**
The Buyer promises to pay a penalty in every case of breach of his duty of confidentiality of 50.000.-€. In case of several breaches he cannot say that because of the continuation of the breaches, the several breaches would only be one breach with one penalty.

16. Final Provisions

- 16.1 The invalidity of any provision or blanks of these General Terms and Conditions shall not affect the validity of the other provisions. The parties are due to replace an invalid by a valid provision that shall be suitable to implement the economic purpose of the deleted provision to the greatest extent possible. This also applies to non unplanned blanks that must be filled.
- 16.2 Different or additional provisions are only valid if agreed by written notice as an appendix to this contract, in which the replaced provisions of the contract are especially mentioned. The parties can waive the written form by written form only.
- 16.3 The place of performance of deliveries shall be our base.
- 16.4 For our benefit the courts of our base shall have the jurisdiction over all disputes arising from this agreement and its validity. If the Buyer acts for his commercial business, legal person of public law or a special property of public law or the Buyer has his base in a foreign country it is our decision whether the court of our base or the court of the Buyer's base shall have the jurisdiction.
- 16.5 The laws of Germany shall apply. International purchase laws shall not apply. This shall in particular refer to the UN Convention (CISG) on the International Sale of Goods.

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