

General Terms And Conditions Of Sale, Delivery, and Payment

I General Provisions

1. The following General Terms And Conditions Of Sale, Delivery, and Payment shall govern the rights and obligations of both parties.
2. This shall apply to any contracts concluded now or in future even if our General Terms and Conditions conflict with the ordering party's order form.

The ordering party's deviating general terms and conditions shall only be considered binding for us if they were expressly acknowledged by us in writing concerning the specific transaction concerned. This shall also apply to commercial usage and trade customs. If the ordering party's deviating general terms and conditions have not been acknowledged in writing, they shall not become an integral part of the contract even if we have failed to expressly object.

3. Collateral agreements, changes or amendments of the following general terms and conditions of sale, delivery and payment in writing, by phone or telegraph shall only be effective if they were confirmed by us in writing.

II Quotations and Conclusion

1. Our offers shall be subject to change without notice. Agreements or contracts shall only become effective upon written confirmation by us.

The illustrations in our brochures shall be non-binding.

2. Our shipments and performance shall be effected subject to the prices and conditions stated in the written order confirmation and based on the price list applicable upon conclusion of the contract. The written acknowledgement of the order shall prevail in case of doubt.
3. Unless otherwise agreed upon in an isolated case, the prices shall be ex manufacturer's plant without cash discount or any other discounts plus value-added tax.

III Delivery and Delay in Delivery

1. Deliveries shall be effected ex works exclusive of packing. An extra charge of **EUR15.00** per order shall be charged for petty orders the order value of which is below **EUR100.00 net**.
2. We always endeavour to observe terms of delivery. The dates and terms stated by us shall, however, be non-binding unless a deviating arrangement was expressly made.

If explicitly binding terms of delivery have been agreed with the ordering party in an isolated case, they shall refer to the time of departure of the goods ex works. In any case, the terms of delivery shall not commence before the ordering party has satisfied its co-operation duties such as provision of the documents to be provided by the ordering party, for example, and also not before any down payments which have been agreed were effected.

3. If any acts of God and other causes beyond our control for which we are not responsible such as traffic jams and operating disorders, strikes, lock-outs, delays in delivery by our suppliers, insufficient availability of raw materials, merchandise or energy, any action by government authorities as well as import and export restrictions have occurred, we shall be entitled to correspondingly extend the term or postpone the date of delivery or if the aforementioned events pose a serious potential threat to the ability to perform the contract or make it questionable whether the contract can be performed in part or in whole, we shall be entitled to repudiate the contract without the ordering party being entitled to damages. Should receipt of the goods/services be completely unacceptable to the customer due to the delay caused by one of the above-mentioned scenarios customer may withdraw from contract by immediate written statement addressed to Dynamic Systems GmbH.
4. We are entitled to effect partial shipments to an acceptable extent and to issue invoices accordingly.
5. If the goods were sold within the framework of a call order, the goods must be called within twelve months. Any quantities not yet called after this period has expired shall be delivered and invoiced automatically.
6. As far as our customers' orders are concerned, we reserve the right to effect deliveries of 10 % (in words: ten percent) in excess or below the respectively ordered quantity.
As far as special orders (made-to-order) and printed merchandise are concerned, we reserve the right to effect deliveries of 20% (in words: twenty percent) in excess or below the respectively ordered quantity.
7. Materials provided on reels may sporadically contain splices unless otherwise agreed upon.

IV Terms of Payment

1. Unless explicitly agreed upon otherwise our terms of payment are 14 (fourteen) days net without any deductions.

Any cash discounts agreed shall only be granted subject to any potentially existing current account balance having been paid and subject to any receivables from previous deliveries to the ordering party having been satisfied.

2. If the ordering party fails to effect payment by the due date, we are entitled to charge 8 % interest above the applicable basic rate of interest by the ECB from the due date. This shall not affect our right to assert additional claims for damages. In this case, we are also entitled to request advance payment of further deliveries.

No interest shall be payable on advance payments or instalments.

3. Payments shall only discharge the ordering party from its obligations if payments were effected to our head office or to our employees endowed with a collecting power.
4. Any periods allowed for payment and lines of credit granted by us can be cancelled by us any time without a reason having to be stated therefor.
5. The ordering party shall only be entitled to offset payments due to us against its counter-claims if these counter-claims have been declared by a final and absolute judgement or are undisputed. The ordering party shall not be entitled to assert any rights of retention.
6. If the ordering party is in default or if we become aware of a material deterioration of the ordering party's financial situation, we shall be entitled to promptly suspend deliveries, to refuse fulfilment of governing contracts and to promptly request payment of any outstanding claims arising from the business relationship. Subject to the same conditions, we shall be entitled to request advance payment or the provision of security for any current transactions.

V Shipment

1. The ordering party shall bear the risk of transport for any shipments – including any return shipments which might be made – as well as the costs of transport. Risk shall pass to the ordering party starting with despatch of the goods (beginning of transfer of the goods to forwarder). This also holds true for partial shipments or in case Dynamic Systems GmbH provides other services such as transport and/or installation.
2. Transport insurance shall only be taken out at the ordering party's request and expense.

VI Complaints and Notification of Defects

1. Any complaints regarding incomplete or incorrect shipments or notices of patent defects as well as other faults which might be obvious during immediate precise examination have to be reported promptly or within a maximum period of 6 (six) days after receipt of the goods in written form. The goods must be in the same condition as upon delivery. In particular, this means that the goods must not have been processed.
Notice of other defects must be given in writing promptly upon discovery.
2. If complaints or notices of defects are not submitted in time, warranty claims shall be excluded.

VII Warranty and Liability

1. a) At our discretion, warranty obligations shall either be satisfied by remedying the defect or by providing a substitute. The ordering party shall only be entitled to request a reduction of the invoice amount or rescission of the contract if we fail to remedy the defect or deliver a substitute or if our attempts at remedying the defect or delivering a substitute have not been successful.
The ordering party undertakes to send the goods to us at our request for the purpose of remedying the defect. The goods must be duly packed – if possible in the original box. We shall bear the costs incurred for sending the goods if the customer's complaint proves to be justified; otherwise, the costs shall be borne by the ordering party.
- b) Any claims for damages for the absence of warranted characteristics shall not be affected by the provisions of par. VII. 1. a). They shall be based on statutory provisions. What shall be excluded, however, are any consequential damages which are not included in the scope of warranty. Damages shall be payable based on the rules governing defective performance.
- c) Our warranty obligations shall not apply to goods which have been modified by a third party or by installing parts of third-party origin if the damage is originally caused by improper treatment related to this modification. Further, we shall not assume liability if our instructions as to treatment of the object of delivery have not been complied with.
- d) We shall not assume any warranty for goods which are no longer new and special items
- e) We retain title to any objects replaced by us

2. a) We shall be held liable in full for damages based on the violation of any contractual and non-contractual duties caused by the members of our executive bodies and executive staff either wilfully or with gross negligence. Liability for slight negligence shall be excluded unless essential parts of the contract are violated.

As far as non-executive staff is concerned, we shall only be held liable for intent and gross negligence on condition that contractual obligations which are of the essence were violated and this jeopardises the achievement of the purpose of the contract. In these cases, the ordering party's claims for damages shall be limited to reimbursement of the typically foreseeable loss.

- b) This shall not affect liability based on mandatory statutory obligations such as those based on the product liability act in particular.
- c) In case Dynamic Systems GmbH can be held liable for damage due to nature of the cause liability is limited to damage which we anticipated or could have anticipated applying adequate scrutiny as possible result of violation of the agreement when concluding the contract. Furthermore, indirect damage and consequential damage which might occur as a consequence to deficiencies in the object of supply are only compensable if such damage is typically foreseeable in connection with intended use of the object of supply.
- d) Liability of Dynamic Systems GmbH for financial loss as a consequence of damage to property and for damage to property itself resulting from ordinary negligence is limited to the amount of EUR5,000,000 per case of damage even if essential parts of the contract are being violated.

VIII. Retention of Title

1. a) We shall retain title to any goods delivered by us until payment of all of our existing receivables from the ordering party or receivables from the ordering party arising from the business relationship in future.
- b) The ordering party shall be authorised to process the delivered goods or to combine them with other products within the framework of its ordinary course of business. We shall gain co-ownership rights in the objects created as a result of processing or combination with other objects as security for our receivables under par. VII. 1. a). Such co-ownership rights shall be transferred upon us by the ordering party as of today and the goods shall consequently be considered to be goods subject to reservation within the meaning of these conditions. The amount of our co-ownership share shall be based on the proportional value of our goods relative to the value of the object created by processing thereof or combination of our goods with other materials.
- c) The ordering party shall store the goods subject to reservation free of charge on our behalf and with the due diligence of a prudent businessman and undertakes to provide us with any information required by us for asserting our rights and to allow us to inspect the ordering party's documents to this end.

2. a) The ordering party's claims from resale of the goods subject to reservation shall be assigned to us including ancillary rights as of today. If third-party goods are resold together with the goods subject to reservation for a total price, the assignment shall only amount to the price of the goods delivered by us.

If the claim against a third-party debtor which was assigned becomes the subject of a current account agreement, the agreed assignment shall also refer to claims arising from current account.

The assigned claims shall secure any rights and claims pursuant to par. VIII. 2.

- b) The ordering party shall be entitled to collect the receivables for as long as the ordering party duly satisfies its payment obligations.

At our justified request, the ordering party shall disclose the names of the debtors of the assigned claims to us, provide us with any information and documents which might be required and inform the debtor of the assignment.

3. If it can be proven that the value of any security held by us sustainably exceeds our receivables by a percentage of 20 %, we undertake to release security of our choice at the ordering party's request.

4. a) The right of the ordering party to collect the receivables as well as the right to resell the goods subject to reservation within the framework of its ordinary course of business shall cease to exist if one of the cases mentioned in par. IV. 6. applies.

he buyer's right of possession shall expire subject to the same conditions. In these cases we are entitled to collect the goods subject to reservation and to keep them as security. The buyer can regain the right of possession by settlement of the amount in arrears

- b) For as long as the ordering party is in default, we shall also be entitled to rescind the contract. The collection of the goods subject to reservation shall only be considered a rescission of the contract if we have made an explicit declaration to this effect.

- c) If we have claims to damages for non-fulfilment, for example, under § 326 BGB [German Civil Code], we are entitled to sell any goods subject to reservation which we have collected privately or to have it sold at an auction. The proceeds shall be offset against the claims for damages. Any costs associated with taking back and selling the object of purchase shall be borne by the ordering party.

5. The ordering party shall not be entitled to pledge the object of delivery as collateral security or to transfer ownership by way of security. The ordering party shall promptly inform us of third-party seizure of the goods subject to reservation or the claims assigned to us in writing and to assist us with intervention in any possible way.

IX. Customs

If the delivery is effected customs unpaid at the ordering party's request, the ordering party shall be held liable by us for any subsequent claims made against us by the customs authorities.

X. Applicable Law, Place of Performance and Place of Jurisdiction

1. The registered office of the delivering or performing party shall be the place of performance.

The place of jurisdiction for any dispute arising from the business relationship, including legal action based on a dishonoured bill of exchange or bounced cheque, can be chosen by us at our discretion. We are, however, entitled to also sue the ordering party at its general place of jurisdiction.

2. All legal relationships shall be governed by the laws of the Federal Republic of Germany. The application of the Hague Conventions Relating to a Uniform Law on the International Sale of Goods, the United Nations Convention on Contracts for the International Sale of Goods and any other uniform laws on the sale of goods shall be excluded.

XI. Miscellaneous

1. The ordering party shall only be entitled to assign any rights and obligations arising from the contract to third parties subject to our written consent.

2. The ordering party is aware that any information on it required by us for handling the order shall be processed by automatic data processing systems in our company. We herewith undertake to only use information on the ordering party for this purpose.

3. If one of the provisions of these General Terms and Conditions were to be or become invalid, this shall not affect the validity of the remaining provisions and agreements.