Leuze

General terms of sale and delivery (as of 11/2024)

Leuze electronic Deutschland GmbH + Co. KG

1. Application area, power of representation, distribution restrictions

1.1 Our deliveries and services are subject exclusively to the following terms of sales and delivery. Any terms applied by the ordering party are excluded from applicability even if we do not explicitly object to such terms and carry out the delivery. Variations and additions by the ordering party become effective only with the explicit written confirmation of our managing directors or authorized representatives. These apply only for the business transaction for which they were agreed upon.

1.2 Our traveling salespeople and representatives are not authorized to give guarantees regarding quality or durability, or any other guarantees on our behalf if they deviate from these terms and conditions. Such potential agreements require our written confirmation to become effective.

1.3 The following conditions also apply to all future business with the ordering party.

1.4 Our products require technical explanation and are intended for specialized shops and not for use by private end users. The installation must be carried out by qualified technical personnel. If the party ordering our products nevertheless resells them to a private end user, the party is obliged to carry out the installation with trained technical personnel or to ensure that it is carried out accordingly, and to provide respective product labeling and accompanying documentation, as our product labeling and accompanying documentation only meets the requirements of wholesalers.

2. Conclusion of the contract, documents, right to make alterations

2.1 Specifications that are made as part of the order processing before placement of the order, in particular concerning performance, consumption or other specific data, are only binding if we confirm this in writing as part of the order confirmation or afterwards. Specifications contained in brochures and adverts do not constitute a quality guarantee.

2.2 Our offers are subject to change. The contract takes effect only upon our written confirmation of order or, if a confirmation of order is not issued, with delivery, which may occur within 14 days after receiving the order.

2.3 We reserve the property rights and copyrights of cost estimates, drawings and other documents; these must not be made available to third parties.

2.4 We explicitly reserve the right to make design changes after a contract becomes effective if these are not detrimental to the ordering party. We are not obliged to apply such changes also to products already delivered.

3. Prices, terms of payment

3.1 Delivery prices are net prices and, unless otherwise agreed upon, ex-works prices. They exclude packaging. In case of international delivery, the ordering party bears any applicable customs duties.

3.2 Sales tax is invoiced separately at the rate effective on the day of delivery.

3.3 The minimum order value is EUR 150.00 net. This minimum order value is based on the pure net order value before any costs for freight and packaging etc. We charge a processing fee of EUR 30.00 for orders below the minimum order value.

3.4 If there are unforeseeable increases in prices for materials, cost of labor or transport, taxes or levies between the conclusion of the contract and the delivery or performance of a service, we reserve the right to adjust the prices according to these factors, unless delivery is to occur within 4 months of concluding the contract.

3.5 If the intended date of delivery is delayed by more than 3 months for reasons beyond our control, we reserve to right to change the price in line with the cost development of labor and material between the confirmation of order and actual delivery date.

3.5 The invoicing takes place upon dispatch. If goods ready for dispatch cannot be shipped for reasons in the ordering party's sphere of risk, the invoice is nevertheless issued and becomes due for payment.

3.6 Within the framework of an agreed-upon goods credit, our invoices are due for payment without deduction no later than 30 days after receipt of the invoice. Discounts are permitted only upon explicit agreement. Even in this case, such discounts are only permitted if the ordering party has already settled or simultaneously settles all outstanding invoice sums.

3.7 If invoices are not paid within 30 days of receipt of the invoice, and no later than 40 days after delivery, the ordering party is in default of payment and we can charge the statutory default interest of 8 percentage points above the currently valid base interest rate as well as make claims for any further-reaching damages caused by delay, if applicable.

3.8 We only accept bills of exchange upon special agreement. Bills of exchange or checks are always accepted as conditional payment only. Expenses associated with bills of exchange and discount charges are always borne by the ordering party.

3.9 The ordering party can only offset payment against undisputed or legally determined claims; the same applies to any retention of funds under § 273 BGB (German Civil Code) concerning claims which are not based on the same contractual relationship.

3.10 If we are not legally obliged to take back a product or bear transport costs, the regulations for taking back products as well as the corresponding prices result from the respectively applicable price list.

4. Packaging, labeling

4.1 We take back packaging free from residual waste and contamination, and sorted by type of packaging material, at the factory.

4.2 If the ordering party attaches additional labels to our product or combines it with other products, the ordering party is obliged to indemnify us against all claims by public authorities arising from any resulting violation of European regulations on labeling.

5. Partial deliveries, deadlines, delay

5.1 Partial deliveries and partial performances are permitted if they can be deemed to be acceptable to the ordering party.

5.2 The deadlines and dates we have specified are non-binding unless otherwise explicitly agreed upon in writing. The deadline or date is regarded as having been met if the shipment has been made available for pick-up at our factory, if it has been dispatched for shipping, if its readiness for shipment has been communicated to the ordering party, or if it has been collected by the agreed-upon deadline or date. We are only obliged to perform and deliver if the ordering party has settled all agreed-upon payments. If payments, in particular agreed-upon deposits or duties to cooperate of the ordering party are delayed or not fulfilled on time, all delivery deadlines are extended accordingly.

5.3 Delays in deliveries and performances due to acts of nature beyond control and due to unforeseeable events that make delivery considerably more complicated or impossible for us are not our responsibility, even if binding deadlines and dates have been agreed upon. Such delays entitle us to postpone the delivery or performance by the duration of the impediment plus an adequate start-up period. This also applies to unforeseeable events that impact the operation of an upstream supplier for which neither party is responsible.

5.4 All deliveries are subject to correct and on-time delivery by our upstream suppliers.

5.5 If we exceed deadlines or dates that are binding according to Section 5.2, the ordering party is only entitled to withdraw from the agreement concerning the respective delayed delivery or to claim compensation due to non-performance only once an appropriate grace period set by the ordering party with a threat of refusal has expired.

5.6 If a contractual penalty is agreed upon, a contractual penalty restriction must be declared upon acceptance.

5.7 Upon our request and by an appropriate deadline, the ordering party is obliged to declare whether it, due to the delivery delay, withdraws from the contract and/or demands compensation in lieu of performance or insists on delivery.

5.8 In case of delay, the ordering party may, in addition to the delivery, claim compensation for any damage that has been proven to have been caused by the delay. Unless we are responsible due to intent or gross negligence, this claim is limited to 0.5% of the delivery value of the respective delivery per week of delay, limited to a maximum of 5% of the delivery value of the delivery in question. The ordering party's right to withdraw from the contract after an appropriate grace period under Section 5.5 and/or to claim compensation based on non-performance as stipulated under Section 9 remains unaffected.

6. Transfer of risk, acceptance

6.1 For deliveries, risk is transferred to the ordering party as soon as the shipment is ready for pick-up at our factory, or has been handed over to the person carrying out the transport of the goods, or has left our warehouse for shipment. If the dispatch is delayed at the ordering party's request or for reasons falling within the ordering party's responsibility, the risk is transferred to the ordering party upon announcement that the goods are ready for dispatch.

6.2 For other performances of services, risk is transferred to the ordering party as soon as we inform it of completion. A formal acceptance only takes place only if this is agreed upon or we explicitly demand it.

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7. Software rights of use

For standard software, the ordering party has the non-exclusive right of use with the agreed-upon performance characteristics in unmodified form on the agreed-upon devices. Without explicit agreement, the ordering party may create two back-up copies which are to be labeled as such.

8. Complaints about defects and warranty

8.1 Unless otherwise arranged, the contractually agreed-upon quality arises exclusively from our product specification applicable at the time the contract is concluded. Unless otherwise arranged, we explicitly give no guarantee that the goods are suitable for a specific or the usual purpose.

8.2 It is the ordering party's responsibility to inspect the received goods for defects immediately after arrival. The ordering party must inform us in writing immediately about any defects detected during this inspection, but no later than three working days after the receipt of delivery, and about other defects no later than three working days after discovery. Otherwise, the delivery is deemed to have been approved. This does not apply to defects that have been deliberately concealed.

8.3 The ordering party must provide us with the opportunity to verify the complaint; damaged goods and their packaging in particular must be made available to us for inspection. If a risk to operational safety exists or there is a threat of disproportionate damage, the ordering party must contact us immediately in writing to inform us about possible self-performance by the ordering party.

8.4 If the ordering party demands supplementary performance due to a defect, we have the choice of whether to rectify the defect ourselves or supply replacement goods free of defects. Replaced goods must be returned to us. Any returned goods that may have been contaminated radioactively, microbiologically or otherwise must be labeled appropriately and decontaminated before being returned. If rectification or replacement is impossible or rejected, or does not occur or fails for other reasons within an appropriate deadline specified by the ordering party, the ordering party may choose to withdraw from the contract, reduce the purchase price, or claim compensation under Section 9.

8.5 Of the costs arising from rectification or replacement, we will bear the cost of the replacement part including the cost for shipment, provided the complaint proves to be justified and a legal obligation to do so exists. The ordering party bears any other costs arising on its side. This also applies to increased expenses that arise from the goods having subsequently been taken to a location different from the ordering party's site, unless the move corresponds to the goods' intended use. Necessary assembly and traveling expenses arising from unfounded complaints about defects must be paid by the ordering party, unless the nonexistence of a defect was not recognizable to the ordering party.

8.6 Warranty claims do not apply for damage to or defects of goods arising from incorrect operation, negligent maintenance, natural wear and tear, processing of parts that do not comply with the drawings or of bad parts whose the measurements exceed the specified tolerances, etc.

8.7 All warranty claims, except for any claims under Section 9, come under the statute of limitations 24 months after delivery.

9. Liability

9.1 We are liable for our own intent and gross negligence, as well as the intent and gross negligence of our legal representatives and vicarious agents. As long as we, our legal representatives and vicarious agents have not acted with intent, liability is limited to the foreseeable damage typical for the contract.

9.2 We are also liable if we or our legal representatives or vicarious agents have culpably harmed life, body and health, or if a defect has been maliciously concealed or if a guarantee has been given. In the latter case, the extent of the liability is governed by the guarantee.

9.3 We are also liable in case of culpable breach by us, our legal representatives, or vicarious agents of such duties whose performance is an absolute prerequisite for the implementation of the contract, and the adherence to which the ordering party regularly expects and may expect. As long as we, our legal representatives and vicarious agents have not acted with intent, liability is limited to the foreseeable damage typical for the contract.

9.4 We are also liable in cases of mandatory legal liability, for example according to the Product Liability Act.

9.5 In all other cases, liability is excluded, regardless of the legal basis.

9.6 The ordering party will inform us and consult with us immediately and extensively if it intends to hold us liable under the regulations above. The ordering party must, in particular, provide us with the opportunity to investigate the case of damage.

10. Retention of title

10.1 The supplied contractual products remain our property until all outstanding claims resulting from the business relationship between us and the ordering party have been paid (goods subject to retention of title). The ordering party has the right to possess the goods subject to retention of title in its orderly business dealings. For open accounts, the goods subject to retention serve as collateral for the outstanding balance owed to us.

10.2 The ordering party is obliged the treat the goods subject to retention of title with care. In particular, the ordering party is obliged to insure these goods at its own expense adequately at replacement value against fire, water and theft.

10.3 Processing or modification by the contracting party of the goods subject to retention of title is always carried out on our behalf. If goods subject to retention of title are processed into new items by incorporating other objects which are not our property, we gain joint title of the new items in proportion to the value of the goods subject to retention of title compared to the other objects incorporated at the time of processing. Furthermore, the rules that apply to the item created by the processing are the same as those for the goods subject to retention supplied by us.

10.4 If the ordering party combines or mixes the goods subject to retention of title with other objects into a homogeneous item, and one of the other objects must be regarded as the main item, then we gain joint title to the resulting item in proportion to the value of the goods subject to retention of title compared to the other objects combined or mixed at the time of combination or mixing, which the ordering party now transfers to us. We accept this transfer of title. The customer administers the sole or joint ownership thus created on our behalf.

10.5 The ordering party now cedes to us as collateral the claims against third parties resulting from resale of the goods subject to retention of title, including all ancillary rights. This applies regardless of whether the goods subject to retention of title have been processed, combined, mixed or transformed. We accept the cession. The ordering party is obliged to retain title to the delivered items with respect to its client until the full purchase price has been paid. The ordering party is authorized to collect the purchase price claims for our account until revocation or suspension of the payment. The ordering party is not permitted to cede these claims – not even for the purpose of claims collection via factoring - unless the obligation of the factor is established at the same time to immediately affect counter-performance to us at the level of the portion of our claim as long as we have claims against the ordering party. We will revoke the authorization to collect only if the ordering party is in default of payment, the asset situation of the ordering party deteriorates or an application for insolvency proceedings is filed in respect to the ordering party's assets. If the authorization to collect is revoked, the ordering party must supply us with the information required for claims collection including the relevant delivery contracts with its clients, the invoices, and an overview of the payments of the ordering party's clients.

10.6 The contracting party is obliged to inform us immediately in writing about access by third parties to the goods subject to retention of title or the objects to which we have (joint) title, in particular including enforcement measures, and about access of third parties to our claims. The partner to the contract is also obliged to hand over any documents necessary for the enforcement of our rights. Insofar as the third party is not able to reimburse to us the legal expenses associated with but not limited to court action, in particular those of a lawsuit under § 771 ZPO (Code of Civil Procedure), the ordering party is liable for the losses we incur as a result.

10.7 If the ordering party violates the contract, in particular in case of a delay in payment, we are authorized to reclaim the goods subject to retention of title.

10.8 This does not affect our right to withdraw from the contract.

10.9 We are obliged to release, at the ordering party's request, the collateral we are entitled to, provided the realizable value of our collateral exceeds the claims to be secured by more than 10%; we retain the right to select the collateral to be released.

11. Applicable law, place of performance and jurisdiction, severability clause

11.1 The law of the Federal Republic of Germany applies exclusively, under exclusion of the Convention on the International Sale of Goods (CISG).

11.2 If the ordering party is a merchant, an entity under public law, or a special fund under public law, the place of performance for all liabilities and jurisdiction is the main office of our company in Owen, Federal Republic of Germany. For foreign ordering parties, it is agreed upon that the international jurisdiction shall rest with German courts. We also have the right to take legal action at the main office of the ordering party. The jurisdiction agreement also applies to legal proceedings concerning checks and bills of exchange.

11.3 Should any provisions of these terms of sale and delivery, or of any further agreement that may have been concluded, be invalid or become unenforceable, this does not affect the validity of the remainder of the contract. The contracting parties are obliged to replace the ineffective provisions by provisions as equivalent as possible in terms of their economic outcome. The aforesaid applies correspondingly in case of loopholes.