

1 General Provisions and Conclusion of Contract

1.1

These General Terms and Conditions of Sale and Delivery apply to all contractual relationships between Endrich and companies, legal entities under public law and special funds under public law.

1.2

These General Terms and Conditions of Sale and Delivery shall apply exclusively. The customer's general terms and conditions, in particular purchasing conditions, are hereby expressly rejected. This shall also apply if Endrich executes the order in the knowledge of terms and conditions which conflict with or deviate from these General Terms and Conditions of Sale and Delivery.

1.3

Offers made by Endrich are subject to confirmation. A contract is only concluded when Endrich confirms the customer's order.

2. Rights of Use

2.1

If descriptions, drawings and other documents ("Documents") are sent to the customer, Endrich reserves its rights of exploitation under ownership and copyright law without restriction. The Documents may only be made available to third parties with Endrich's prior consent and, if a binding contract is not concluded, must be returned to Endrich without delay upon Endrich's request.

2.2

If Endrich delivers goods on which software, in particular control software, is implemented, the customer shall be granted a non-exclusive right, unlimited in time, to run the programs on the products. The customer is not entitled to edit, change, or redesign the programs.

3 Prices and Terms of Payment

3.1

The prices are ex works excluding packaging plus the applicable value added tax.

3.2

Payments shall be made free Endrich's paying agent. Payments shall be made without deduction within a period of 14 days from the date of invoice.

3.3

The customer may only set off claims which are undisputed or have been finally adjudicated.

3.4

If, after the conclusion of the contract with the customer, the costs of procuring materials, in particular the world market prices for electronic components, increase, Endrich shall be entitled to adjust its prices.

3.5

If framework supply agreements covering a longer period have been concluded between Endrich and the customer, the above provision shall apply mutatis mutandis.

4. Retention of Title

4.1

Endrich retains title to goods delivered by it until all claims arising from the business relationship with the customer have been paid in full (goods subject to retention of title).

4.2

During the existence of the reservation of title the customer is not entitled to pledge the goods delivered or to assign them by way of security. If third parties seize the goods subject to retention of title, the customer shall inform Endrich thereof without delay and provide Endrich with the information and documents necessary for an intervention.

4.3

The customer is entitled to sell the reserved goods in the ordinary course of business. For this purpose, the customer hereby assigns to Endrich by way of security all its future claims arising from the resale of the goods subject to retention of title to its customers. The customer shall remain entitled to collect these assigned claims until revoked. Endrich may revoke this collection authorisation if the customer is in default of payment for more than 30 calendar days if insolvency proceedings have been applied for or instituted with respect to the customer's assets or if there are other indications of imminent insolvency of the customer. In the event of revocation of the collection authorisation the customer shall provide Endrich with all necessary information and documents to enable Endrich to assert the assigned claims.

4.4

If the customer includes claims from the resale of the goods subject to retention of title in a current account existing with his customers, he hereby assigns to Endrich a positive balance in the amount corresponding to the total amount of the claims from the resale of the goods subject to retention of title included in the current account.

4.5

The customer is entitled to process or transform the goods subject to retention of title or to mix or combine them with other items. Processing or transformation of the goods subject to retention of title shall always be carried out for Endrich. The newly created object shall be deemed to be goods subject to retention of title. If the goods subject to retention of title are combined or mixed with other items belonging to the customer, Endrich shall be entitled to co-ownership of the new item in the ratio of the invoice value of the goods subject to retention of title to the invoice value of the other items.

4.6

If the security interests to which Endrich is entitled exceed the amount of the secured claims by more than 15 %, Endrich shall, at the customer's request, release a corresponding part of the security interests at Endrich's option.

5. Delivery Times and Delay

5.1

Unless otherwise agreed, all delivery deadlines are approximate deadlines. Timely delivery to the customer presupposes that the necessary approvals and releases, in particular of plans, as well as compliance with the agreed terms of payment and other obligations by the customer are given. If this is not the case, agreed deadlines shall be extended by the period of the delay and a reasonable start-up phase.

5.2

If the customer fails to fulfil his obligations, Endrich may grant him a reasonable period of grace under the threat of termination of the contract and, after expiry of the period, terminate the contract in accordance with sections 643, 645 para. 1 sentence 2 of the German Civil Code (BGB).

5.3

Delivery periods and dates are only binding if Endrich confirms them at least in text form. Agreed delivery dates in long-running contracts, in particular framework supply contracts, shall only be binding once the delivery items have been bindingly ordered in accordance with the contractual agreements.

5.4

External events caused by elementary forces of nature or by the actions of third parties which are not foreseeable in human judgement shall release Endrich from its delivery obligation. This also applies in the event of industrial disputes and the imposition of embargoes.

5.5

In the case of framework supply agreements Endrich shall keep the delivery items in stock for the average demand of two weeks. If there are delays in delivery by Endrich's suppliers, Endrich will inform the customer immediately. Endrich will attempt to make up for delayed deliveries from its upstream suppliers. If delays in delivery nevertheless occur, Endrich shall not be liable for them.

5.6

If the manufacturer discontinues production of the delivery item, Endrich will try to make possible a "last call" which allows the customer to obtain a larger quantity of the delivery item one last time. Endrich's delivery obligations with regard to the delivery item no longer in production shall end when the manufacturer ceases production.

6 Transfer of Risk

Unless otherwise agreed in writing, the risk of accidental loss of or damage to the delivery item shall pass to the customer when the delivery item is made available at Endrich's premises (Incoterms 2010, passing of risk Ex Works).

7. Material Defects

7.1

If subjective requirements for the delivery items and services have been agreed between Endrich and the customer, e.g., by specifications to be complied with, a material defect within the meaning of section 434 of the German Civil Code (BGB) shall only exist if the delivery items and services do not comply with these subjective requirements. Any deviating objective requirements within the meaning of § 434 para. 3 BGB are irrelevant in this respect.

7.2

Declarations of conformity, agreements as to quality or specifications made by Endrich do not constitute guarantees and do not create liability without fault. In particular, they do not release the customer from his obligation to check the goods for their suitability for the respective application before processing - also by carrying out appropriate analyses.

7.3

In the event of a defect in the goods delivered or services rendered by Endrich, Endrich shall be entitled at its own discretion to remedy the defect, to make a replacement delivery or to issue a credit note.

7.4

The customer shall inspect the delivery items for completeness and freedom from defects immediately upon receipt. Section 377 of the German Commercial Code (HGB) shall apply, provided that the customer notifies Endrich in text form of the defect found, giving as accurate a description as possible. Claims by the customer for its own expenses, in particular transport, travel, labour, and material costs, are excluded insofar as these expenses are increased by the fact that the customer has forwarded the delivery items.

7.5

Claims in accordance with § 478 BGB (German Civil Code) (recourse) shall only exist insofar as the customer has not made any agreements with its customers which go beyond the statutory claims for defects.

7.6

If the supplementary performance finally fails, the customer shall be entitled to reduce the remuneration or to claim damages or reimbursement of futile expenses in accordance with clause 9.

8. Defects of Title

8.1

If claims are asserted against the customer by third parties in connection with the goods delivered by Endrich on the grounds of infringement of industrial property rights, Endrich shall only be liable if the goods delivered were used in accordance with the contract. Endrich shall, at its option, either obtain a right of use for the delivery items concerned or modify the delivery items in such a way that the industrial property right is no longer infringed or replace the delivery item. If this is not possible for Endrich under reasonable conditions, the customer shall be entitled to the statutory rights of rescission or reduction.

8.2

The customer shall inform Endrich without undue delay if third parties assert proprietary rights and shall make declarations and take defensive measures only after consultation with Endrich.

8.3

Claims of the customer are excluded if the customer itself is responsible for the infringement of intellectual property rights.

8.4

Claims of the customer are also excluded if the infringement of the IPR is based on a specification made by the customer, is caused by an application not foreseeable by Endrich or is caused by the fact that the delivery has been modified by the customer.

8.5

Further or other claims of the customer against Endrich based on a defect in title are excluded.

9. Compensation for Damages

9.1

Endrich shall be liable without limitation in the event of intent, gross negligence and injury to body or health. In the event of ordinary negligence Endrich shall otherwise only be liable if Endrich has breached an obligation the observance of which is a prerequisite for the proper performance of the contract and on the observance of which the customer may regularly rely (cardinal obligation). In this case Endrich's liability is limited to the foreseeable damage typical for the contract.

9.2

The above limitation of liability shall not apply where, for example, liability is mandatory under the Product Liability Act or other statutory provisions, Endrich has given a guarantee or fraudulently concealed a defect.

9.3

In view of the discrepancy between the typical value of the delivery item and the damage that may occur, Endrich recommends that the risk of defects be covered by appropriate insurance taken out by the customer.

9.4

Claims for damages by the customer for loss of profit are excluded unless Endrich is guilty of intent or gross negligence and Endrich is not liable for breach of a fundamental contractual obligation.

10 Termination by the Customer

If the customer has the right to terminate the contract in the case of delivery items to be produced individually, Endrich is entitled to invoice for work performed and to demand a lump-sum payment of 25 % of the agreed remuneration for work not yet performed until the termination becomes effective. The customer reserves the right to prove that Endrich had no or lower expenses.

11 Jurisdiction and Applicable Law

11.1

The law of the Federal Republic of Germany shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

11.2

The exclusive place of jurisdiction shall be Endrich's registered office. However, Endrich shall also be entitled to bring an action at the customer's place of business.