

ERICHSEN GmbH & Co. KG

General Conditions of Sale and Supply

(Valid as of March 2015)

1. Range of application

- 1.1 All Contracts/Contract quotations and agreements to supply and for service from ERICHSEN GmbH & Co. KG are based on these General Conditions of Sale and Supply. The conditions are also applicable to all future business relationships and contracts without this being pointed out in individual cases.
- 1.2 Deviations, alterations and amendments require our specific written confirmation.
- 1.3 General conditions of business of the customer are not accepted. Point 1.2 above has to be applied.

2. Content of Contract

- 2.1 Order confirmations and changes and amendments to these require written confirmation. Order confirmations transmitted by data transfer and electronic data processing printout are valid without signature.
- 2.2 In all cases verbal statements require confirmation as previously described. This applies also to statements made by or agents and / or service personnel.
- 2.3 The order confirmation is binding in respect of content and scope of our supply and service.
- 2.4 Our catalogues and other sales literature, lists and drawings are produced carefully. However, should these contain technical data, weights, dimensions or prices which are, in spite of this, clearly in error we claim the right for subsequent correction.
- 2.5 When placing an order on our online Webshop, you are making a binding offer to enter into a contract with us. We can accept this offer by sending you an order confirmation via e-mail or by delivering the ordered goods. You will first receive a confirmation of the receipt of your order (the confirmation of receipt) which is sent to your specified e-mail address. A purchase contract is only concluded, however, when our order confirmation is e-mailed to you or when the ordered goods are delivered.
- 2.6 There are five steps required for ordering from our online shop. First, select your desired product and add it your shopping cart. Second, specify your billing and shipping addresses in the corresponding form. In the third step, you will need to accept our Terms and Conditions before you can confirm your binding order in the fourth step. Your order will then be e-mailed to ERICHSEN with a copy sent to your e-mail address. This concludes the order process. Afterwards, you will receive an order confirmation and an invoice from us. Please check through the data that you have specified in your order before confirming your order.
- 2.7 We will save the contractual text of your order. You can print it out before you send it to us: simply click on "Print" at the last ordering step. We also will send an order confirmation, an order acceptance along with all your order data and a hyperlink for our Terms and Conditions to the e-mail address that you have specified.
- 2.8 All prices shown in our Webshop are net prices; they do not include VAT. Please note that VAT will be added and additional shipping costs may be incurred.

3. Prices and Conditions of Payment

- 3.1 Unless a special agreement is made to the contrary, prices are valid ex works excluding packing and insurance and plus the legal turnover tax at the applicable legal level.
- 3.2 Invoices are normally payable within 30 calendar days (from the date of the invoice, net without reduction).
- 3.3 A payment has been made as soon as we are able to dispose of the amount in a non retractable form.
- 3.4 In the event of an individually agreed cash discount this will be based on the precondition that the customer is not in arrears with his remaining payments and that our account is credited with the invoice value within the agreed cash payment discount date limit.
- 3.5 Bills of exchange are not accepted for completion of payment. Clearance expenses for cheque payments must be carried by the customer.
- 3.6 If the customer does not pay by the specified payment date, i.e. within 30 days of the date of the invoice, he will be classified as in arrears even if no statement has been issued.
- 3.7 Beyond this, the customer is classified as in arrears at the latest on the 31st day after receipt of the goods or services.
- 3.8 If the customer is in arrears we are entitled to demand the legal late payment interest (8% above basic interest rates in accordance with 'BGB'). The customer does not have the right to counter claim that we have suffered only a lesser or no interest damages. Our right to apply further claims for damages, for example resulting from higher current account credit interest rates is not diminished by this clause.
- 3.9 Irrespective of payment agreements made in individual cases, claims for payment

due to us are payable immediately if the customer's circumstances change which would make it inappropriate to stay with the agreed terms of payment. This arises if there are symptoms indicating a significant deterioration in the means for payment available to the customer and especially in the event of payment cheque or bill of exchange failures or late payments showing that our right for payment is endangered by reduced payment ability on the part of the customer. Beyond this we are entitled to proceed step by step or to be provided with further securities. In addition we are entitled to specify a suitable time limit by which the customer has to make payment in a step by step procedure or to provide us with security. If the time limit is passed without payment being completed we can withdraw from the contract.

- 3.10 All demands for payment are due immediately if the resources of the customer are the subject of an insolvency procedure, the customer is in administration or corresponding procedures in foreign countries.
- 3.11 Within the framework of the guarantee, payment can only be held back in respect of a justified complaint and only to an extent which is in a reasonable relationship to the fault that has been found. To hold back any further payment by the customer is not permissible.
- 3.12 The customer's right for counter claims is limited to undisputed or legally established counter claims.
- 3.13 Payment can be made by invoice or pre-payment after a credit check. We reserve the right to exclude certain types of payment.

4. Delivery periods/delays

- 4.1 Delivery periods are normally to be understood as approximate.
- 4.2 Fixed delivery dates or contracts involving fixed date transactions require our specific agreement within a format applicable on the Order Confirmation.
- 4.3 The delivery period normally starts with the despatch of our written Confirmation of Order and not before provision by the customer of the specifications, documentation and, in individual cases, required official confirmations or agreement and is based on the precondition that the customer complies with the Terms of Payment and other duties.
- 4.4 In the case of force majeure, (e.g. mobilisation, war, revolution) or similar occurrences, e.g. strikes, lock outs, etc. the delivery period is extended accordingly.
- 4.5 A similar appropriate extension to the delivery period also applies if out sourced items are not delivered to us on time.
- 4.6 If due to occurrences as listed under point 4.4 should make supply impossible our duty to supply or service is cancelled.
- 4.7 The delivery period has been maintained if by the end of the period the item to be delivered has left our works or we have advised readiness for despatch.
- 4.8 If a firmly promised delivery date is not maintained on our part, the customer's duty is to set in writing an appropriate late delivery date. If we do not deliver by the set late delivery date due to a fault on our side the customer is entitled to withdraw from the contract.
- 4.9 Compensation for possible late or delayed delivery damage is dealt with under point 8.
- 4.10 On demand from our side the customer must specify within a reasonable period of time if due to the delay in delivery, he wishes to withdraw from the Contract and/or demands compensation in place of the goods or services and/or still requires the goods or services delivered.
- 4.11 If the delivery, despatch or provision is to be delayed beyond the date specified in the Contract at the wish of the customer, we are entitled to interim payments at a rate of 0.5% of the invoice value for each started month up to a maximum of 5%, starting at the earliest 10 days after advice of readiness for despatch. The right to specify higher or lower storage costs is left open to the parties of the Contract.

5. Delivery/passing of risk

- 5.1 We are entitled to make partial deliveries within reasonable limits.
- 5.2 Deviations in respect of dimensions, weights and the magnitude of goods to be supplied are permissible within normal commercial product specific tolerances.
- 5.3 Despatch is arranged at the specific request of the customer as stated in the customer's order and at the customer's expense.
- 5.4 Risks of accidental or other damage pass to the customer with the despatch of the goods or on handover to the transport contractor. This applies even if the transport is taken care of by our personnel or agents.
- 5.5 Risk also passes to the customer as soon as Advice Note for readiness for despatch has been received, even if acceptance by the customer is delayed.

6. Condition of Ownership

- 6.1 Until all demands made by us on the customer in respect of the business relationship have been paid or fulfilled, all goods delivered remain our property.
- 6.2 Whilst such goods remain our property, the customer must store these goods appropriately away from similar or identical goods from other manufacturers for as long as they remain our property and must mark them as being of our supply.
- 6.3 The customer is entitled to dispose of the goods in normal business practice, build the goods into other plant or otherwise use the goods provided he does not make any agreement (especially not one forbidding further onward sale) with his customer in a manner which could in any way destroy or harmfully affect our rights.
- 6.4 With immediate effect the customer takes responsibility for all claims arising from onward disposals which may be made against our customer's customer or third parties. If a demand is made resulting from an onward disposal involving a current account credit between the customer and his customer the payment due, in accordance with the invoice value, is treated as transferred. The customer is, however, entitled to take up the amount that has, for safety reasons, been transferred provided this entitlement is not cancelled from our side. The entitlement can be cancelled if the customer does not or does no longer meet his contract obligations due to his fault. In addition, on recall of the withdrawal entitlement we may specify this withdrawal. The customer has to make the notification of cancellation and the documents needed for withdrawal immediately without delay.
- 6.5 If the customer pawns goods that are still our property to third parties, uses them as security or for factoring and / or sale lease back arrangements this will be in contravention of permissible disposal of goods in accordance with normal trade practice.
- 6.6 In the event of pawning, confiscation or similar involvements or actions of third parties and also damage or other effects harmful to the goods that are still our property the customer must inform us without delay. If the customer is entitled to make claims for damages against third parties that have caused damage or harm the entitlement to such compensation is transferred to us with immediate effect.
- 6.7 To the extent that all our protective rights exceed all protected claims by more than 20% we will, at the request of the customer, release an appropriate proportion of our protected rights at our choice.
- 6.8 If the customer does not meet his commitments, especially in respect of payment we are entitled to withdraw and to take back the goods held. The customer must release these goods. The taking back of such goods, i.e. the putting into force of the condition of ownership does not on its own represent withdrawal from the Contract. It is also not valid as a withdrawal declaration unless we specifically state that the action is to be understood as such.

7. Guarantee

- 7.1 The customer may not refuse to accept delivery because of insignificant complaints.
- 7.2 Complaint demands are not treated as valid in the event of insignificant deviations from agreed details when these do not have any significantly harmful effect on the fitness for purpose.
- 7.3 Complaint demands are not accepted in respect of wear and tear or damage that has occurred after the transfer of risk as a result of
 - faulty or careless storage, assembly, commissioning, operation or other treatment
 - excessive loading
 - external influences, for example weather or temperature, or physical, chemical or electrochemical treatment which, in accordance with the Contract, are not agreed preconditions and / or are the result of not observing the instructions in the operating manual.
 - incorrect or inappropriate modifications or repair work on the part of the customer or third parties.
- 7.4 The customer must check the delivered goods without delay for their correct condition and inform us in writing of any complaints within a time period of 10 days after receipt of the goods. In the case of hidden complaints the time period starts from the time of discovery.
- 7.5 In the event of properly founded complaints (these are faults or causes of faults existing at the time of transfer of risk) we are, at our choice, entitled either to repair to eliminate the complaint or replace.
- 7.6 If, for the purpose of meeting the complaint we supply fault free replacements the customer must hand the faulty goods back to us. This applies in a similar way to faulty components when such components have been replaced by fault free components within the framework of repair.

- 7.7 The customer is only entitled to withdraw from the Contract or to a reduction in the purchase price if
 - we are not able to eliminate the fault by repair or replacement
 - we refuse to repair or replace because of excessive costs
 - if we cause delay in repair or replacement is delayed, beyond a reasonable period of time
 - if repair or replacement results in faulty goods a second time.
- 7.8 Claims by the customer against us are only possible on a legal basis (for example the regulations for the sale of consumer goods). Therefore it is not possible to meet claims arising from agreements made by the customer in the framework of a guarantee or for reasons of goodwill with his customer that are beyond the legally defined reasons of complaint.
- 7.9 The legal rights in respect of non compliance with normal requirements to inspect and proper complaint procedure are unaffected.
- 7.10 For demands for compensation Point 8 below applies. Further or other claims outside the details given under Point 7 and Point 8 from the customer against us, our suppliers or personnel in respect of faulty products are not accepted.

8. Liability

- 8.1 Compensation claims from the customer regardless of their legal basis and particularly neglect of duties or inadmissible actions are excluded. This does not apply in the case of overriding liability
 - in accordance with the Product Liability Law
 - in the event of deliberate or gross carelessness
 - in the event of death, injury or damage to health
 - or resulting from non compliance of significant duties under the Contract.
- 8.2 Compensation for loss sustained as a result of a significant non compliance with the duties imposed by the Contract is limited to damage that could be foreseen based on typical application of the goods. This does not apply if claim falls within one of the following categories:
 - deliberate or gross carelessness
 - death, injury or damage to health.
- 8.3 If the customer receives claim for corrective action which he considers justified from one of his customers or his customer's customer, our customer will have established that the cause of the complaint was present at the time of the transfer of risk to his customer and that we therefore owe him correction or elimination of the cause of complaint on this basis. Under his duty to minimise damage the customer must, within reasonable time, make it possible to consider the complaint and make suggestions for an economically sensible correction or to deal with the correction. If the costs for the correction dealt with by the customer or the customer's customer would exceed 25% of our sales price the customer must give us the opportunity to correct the fault or deal with the problem. The customer must advise his customer of this arrangement. If the customer does not act in accordance with this condition we reserve the right to limit the compensation to an amount corresponding to the maximum cost that would have arisen if the stated procedure had been followed. Further liability arising from unreasonable action or under the guarantee remains unaffected.
- 8.4 If the customer does not set up an arrangement with his customer that will provide for a choice of correction or replacement resulting in unreasonable costs he will have contravened his duty to keep damage to a minimum. In such a case a corresponding increase in compensation is not possible.
- 8.5 Demands for compensation from the customer within the framework of corrective measures (in particular transport, travel, working and material costs) are not accepted if the costs incurred are increased as a result of the goods having been subsequently supplied to other addresses (deviating from the delivery address) unless the movement to another site is related to the normal usage of the product. This applies also if other parties are involved.

9. Use of Software

- 9.1. If the scope of delivery includes software the customer will neither have exclusive rights to the use of the software nor the associate documentation. The software is supplied for use with the specific delivered product. The use of the software on more than one system is not allowed.
- 9.2. The customer may only duplicate, edit, translate and convert from the object code to the source code within the limits permissible under paragraph 69 of the copyright law. The customer must not remove, modify details of the originator of the software or in

- respect of copyright text that are attached to the software without prior specific agreement from the supplier.
- 9.3 All other rights in respect of the software and the documentation including copying remain with us or our software suppliers. It is not permissible to issue sub-licences. The customer may use the software only in the country of delivery of the Contract. In the event of claims against us due to contravention by third parties, the customer will be responsible and has to compensate us for all damages resulting from such claims. These damages include also the costs for legal advice and representation.
- 9.4 The customer may only use the software in the country to which it was delivered. Contravention leading to claims of damages against us will be the responsibility of the customer who must compensate us for all charges and costs arising from such claims from third parties. These costs include costs for legal advice and representation that may arise in this context.

10. Time Limitation

- 10.1 To the extent to which consumer products legislation cannot be applied, and in the absence of special legislation applicable to goods in question, a guarantee period of 1 year applies. The 1 year limit applies for all claims from the customer, irrespective of the legal nature of the claim.
- 10.2 Point 10.1 does not apply where a longer period is laid down by law, namely in case of liability
- for deliberately or intentionally caused faults
 - for faulty building
 - for death, injury or damage to health
 - under Product Liability Law.

11. Law and Place of Litigation

- 11.1 For all legal affairs relating to this Contract the relevant German law applies with the exclusion of the agreement of the United Nations for Contracts for the international sale of goods.
- 11.2 The only place of litigation in respect of disagreements resulting directly or indirectly from the Contract relationship is the Court of Law at the location of our company.

12. Other points

- 12.1. The transfer of claims that the customer may have on use to other parties is not permitted.
- 12.2. We are entitled to process all data concerning the customer in accordance with the BDSG (Bundes Datenschutz Gesetz = German Data Protection Act) law, as far as we receive the data within the framework or in the context of the business relationship, either from the customer or third parties.
- 12.3. We reserve our unlimited right in respect of property and copyright law in relation to quotations, drawings and other documentation (referred to as documentation in the following). The documentation may only be made available by third parties after obtaining our prior agreement. If the order is not placed with us the documentation must be returned to us without delay on demand.
- 12.4. If any of the points in this document of business conditions or in the framework of other agreements made become ineffective or not applicable this will not affect the applicability or effectiveness of the remaining points or agreements.

13. Privacy policy

- 13.1 During the development, conclusion, execution and termination of a purchase contract, we collect, store and process data in accordance with statutory requirements.
- 13.2 When you visit our website, the IP address of your PC, date, time, browser type, operating system of your PC, and the pages you visit will be logged by us. Inferences drawn from this personal data, however, are not possible and not intended.
- 13.3 The personal data that you share with us (e.g. by ordering or e-mailing, such as your name and contact details) will only be used for our correspondence with you and for the purpose that you intended when you provided the data. We may transfer this data only to the shipping company that is handling your delivery, insofar as is necessary for the delivery of your goods. In order to process payments, we may share your payment data with the authorized banking institution.
- 13.4 We assure you that we will not disclose your personal data to third parties unless we

are legally obligated or you have granted explicit prior consent. We shall comply with the provisions of the German Data Protection Act whenever we use third-party services for process assistance.

- 13.5 Personal data communicated to us on our website are only saved until the purpose is fulfilled for which they were entrusted to us. With the observance of commercial and tax law retention periods, the duration for storing certain data may be up to ten years.
- 13.6 In the event that you no longer wish to have your personal data stored, or if this personal data is no longer correct, we will arrange to delete, correct or block your data in compliance with the relevant statutory provisions. On request, you may receive information, free of charge, about all your personal data that we have stored. For any questions about the collection, processing, correction, deletion or blocking of your personal data, please contact:

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- 13.7 We assume no responsibility for the accuracy, safety or completeness of the content found on any of the websites that are linked to or referred to from our website. Since we have no influence over third-party compliance with data protection regulations, you should consider separately the privacy statements provided by others.

The German original of this translation has precedence. This translation is issued only as an indicative translation.