



Art. 1: Scope

These General Terms and Conditions are exclusively applicable. They are applicable to entrepreneurs (section 14 of the German Civil Code [*Bürgerliches Gesetzbuch*, BGB]), legal persons under public law, and special funds under public law. We do not acknowledge divergent general terms and conditions of our customer, other than where we have consented to their applicability in writing. Our General Terms and Conditions are also applicable where we make delivery without reservation despite our being aware of the customer's divergent general terms and conditions.

Art. 2: Offers, documentation

1. Our offers are non-binding and subject to change.
2. We retain rights of ownership and copyrights in and to images and drawings, calculations, and other data files and documents. Same may not be made accessible to third parties. This applies, in particular, to such data files and documents that have been designated as confidential. Prior to disclosure of same to third parties, the customer must obtain our express consent.
3. Documents such as samples, brochures, catalogues, images, drawings, and weight and size details are approximate only, unless they have been expressly declared as binding in writing.

Art. 3: Prices, payment terms, pre-notification for SEPA transactions, acceleration, right of termination, default, right of retention, set-off, counterclaim

1. Unless agreed otherwise, all prices are ex works Holzmaden (headquarters), do not include freight, insurance, customs duties, agreed installation, foreign taxes, etc., and are net of applicable value-added tax.
2. In the event that small quantities are ordered (normally for goods with a total value of less than €2,000), we agree with the customer on small-quantity surcharges. Other than where a surcharge is specified for a given amount, a small-quantity surcharge of €10 will be applied to orders of €100 or more.
3. If payment by means of the SEPA business-to-business direct debit scheme has been agreed to or is permissible, it is agreed that we are entitled to notify our customer as debtor of the collection date and the collection amount up to one day prior to the due date (abbreviation of the period for pre-notification).
4. Unless agreed otherwise, the price list in effect on the order date is applicable to orders.
5. If a non-SEPA standing debit order or direct debit has been agreed to, the debit is made within two days of invoicing. Payment instructions, cheques, and bills of exchange are accepted only subject to special agreement and subject always to collection. The costs for discounting and collection are for the account of the customer.
6. If the customer is in default in the making of at least two instalment payments under partial payment arrangements, we are entitled to accelerate the entire claim, including where cheques or bills of exchange were accepted. In such case, the documents are returned against immediate cash payment.
7. If the customer is in default in payment and we fail to receive payment upon expiry of a deadline that we set for the customer, we are entitled to terminate the contract and demand from the customer a lump-sum payment of 10% of the net invoice amount due as compensation of damages. The customer is expressly permitted to provide proof that no damage or reduction in value whatsoever was incurred or that same was lower than the lump-sum payment. If such proof is successful, the claim is limited to the proven damage or, if it is proven that no damage was incurred, is excluded. The amount of the lump-sum compensation of damages takes into account, in particular, the circumstance that the sold products involve products that are subject to rapid enhancement and a significant decline in price. For this reason, even brief delays normally result in high damages. In addition, contract failure results in very high administrative effort and expense since the contract goods normally have to be parcelled out and resold, such that the associated effort and expense is high in terms of documentation and allocation.
8. If, following conclusion of contract, the customer experiences a material deterioration or change in its financial situation that jeopardises our claim to counter-performance, or if such a situation existed with the customer at the time of contract conclusion but did not become known until a later date, we may refuse to perform until counter-performance has been rendered. This particularly applies in cases of fruitless compulsory enforcement proceedings, failure to honour cheques or bills of exchange, application by the customer for insolvency proceedings, application by the customer for relief from creditors, liquidation, and the like. In such cases, we may set a deadline for the customer to provide counter-performance or post security. If counter-performance is not provided or security is not posted, we are entitled to terminate.
9. Only claims that have been acknowledged or reduced to a legally enforceable judgment may be set off against our claims. Counterclaims are precluded. The customer is entitled to assert a right of retention only where its claim is based on the same contractual relationship.
10. If we have claims against the customer, irrespective of their legal basis, then we have a right of retention against that customer until payment in full of our claims by the customer.



Art. 4: Exemption from performance, delivery period, partial delivery, right of termination

1. Supplies and raw materials being available in a correct, timely manner remains reserved, unless we have given a guarantee that we will meet our obligation to perform.
2. The start of the delivery period specified by us is subject to timely receipt of all documentation and information to be supplied by the customer, as well as clarification of all order details, including all technical issues. Partial deliveries are permissible, provided that the customer can be reasonably expected to accept same.
3. We are not responsible for delays in delivery due to force majeure or other circumstances for which we are not at fault, including traffic disruptions, operational disruptions for which we are not responsible, strikes, lock-outs, lack of raw materials, and war, unless we have given a guarantee that we will meet our obligation to perform. If in such case we are unable to deliver within the agreed delivery period, the delivery period is reasonably extended. If in such case an impediment to delivery exists beyond the reasonably extended delivery period, we are entitled to terminate the contract.
4. If we are unable to comply with the agreed delivery period, the customer is obligated, at our request and by a reasonable deadline, to declare whether it continues to insist on delivery. If it fails to make such declaration, we are entitled to terminate or cancel the contract following expiry of a reasonable deadline.

Art. 5: Transfer of risk, delivery

1. Unless provided otherwise in the order confirmation, it is agreed that delivery is to be made “ex works Holzmaden (headquarters)”. Shipment is in every case made at the customer’s risk, including for delivery from a place other than the place of performance and including in the case of freight-paid shipment and/or shipment using our personnel or vehicles.
2. If it is agreed that we are to handle delivery, the customer must in a timely manner provide expert personnel, as well as any necessary technical equipment (e.g. forklifts), so as to ensure smooth unloading. It must be ensured that the vehicle can directly reach the place of unloading and can be promptly unloaded. If these conditions are not met, additional costs incurred as a result of this will be charged separately.

Art. 6: Claims for defects

1. Delivered goods must be inspected by the customer promptly, but not later than within one week of delivery, provided same is feasible in the ordinary course of business. If a defect is apparent, same must be notified to us promptly, but not later than within one week of delivery. If the customer fails to provide such notification, the goods are deemed accepted, unless the defect is one that was not discernible upon inspection. If such a defect becomes apparent at a later date, the notification must be provided promptly following discovery, failing which the goods are deemed accepted, including with respect to such defect. Sections 377 and 381 of the German Commercial Code (*Handelsgesetzbuch*, HGB) remain unaffected. Even in the case of recourse by the entrepreneur under section 478 BGB, the customer is not relieved of its duty to inspect. If in such cases it fails to immediately notify the defect asserted by its customer, the goods are deemed accepted, including with respect to such defect.
2. Where defects are to be cured, we are obligated to bear only the expenses necessary to do so, including the costs of transport, travel, labour, and materials, to the extent that these do not increase as a result of the item having been brought to a place other than the customer’s headquarters or commercial establishment. This paragraph does not apply in the case of recourse under section 478 BGB.
3. The customer’s claims for defects, including claims for compensation of damages, are prescribed one year following delivery of the item. This does not apply in the case of recourse under section 478 BGB or in the cases described in section 438 (1) No. 2 BGB and in section 634a (1) No. 2 BGB. This also does not apply to claims for compensation of damages due to loss of life, bodily injury, or damage to health or based on a grossly negligent or wilful breach of duty by us or persons we use to perform an obligation (*Erfüllungsgehilfen*).

Art. 7: Arrangements concerning the assertion of claims for defects (service terms and conditions)

1. If claims for defects are asserted, the customer should observe the following procedure in order to enable quick and correct processing:
 - 1.1. Service cases are reported and processed exclusively online through the TelePart RMA tool at www.telepart.com.
 - 1.2. Claims for defects are generally excluded in the case of
 - products without serial numbers, unless the customer can demonstrate that the product was obtained from us without a serial number,
 - mechanical damage following hand-over to the customer,
 - damage caused by liquids following hand-over to the customer,
 - the use of non-approved accessories/software,



- unauthorised opening of the device, and
- the sending of locked devices, unless the customer can demonstrate that a defect existed notwithstanding these measures.

1.3. The customer should describe the defect in English or German.

2. We are entitled to demand that the customer submit invoices that were made out to end customers for the devices reported in connection with service processing, to the extent that this is necessary in order to assert claims against input suppliers.

3. If devices sent to us for elimination of defects prove to have no defects or if claims for defects are excluded, we are entitled to bill the customer a flat-rate service charge of EUR 25 per device. More extensive claims are unaffected. Where appropriate, the flat-rate service charge will be added to more extensive claims.

4. TelePart may at its discretion eliminate defects by repairing the device, arranging for replacement delivery, or issuing a credit.

5. Replacement delivery takes the form of a new device or, where more than three months have elapsed since the date of sale to the customer, a used device of equal value.

Art. 8: Liability for compensating damages and reimbursing expenses

1. The customer's claims for compensation of damages and reimbursement of expenses are excluded, regardless of the legal basis, including for breach of contractual obligations and tort.

2. The foregoing does not apply

a. if we fraudulently concealed a legal or material defect,

b. to the extent that we have given a guarantee as to the quality and features of our goods or that we will meet our obligation to perform and the guarantee case has arisen,

c. for possible claims under the German Product Liability Act (*Produkthaftungsgesetz*),

d. in cases of wilful misconduct, gross negligence, loss of life, bodily injury, or damage to health, as well as in cases of a breach of material contractual obligations. However, claims to compensation of damages for a breach of material contractual obligations are limited to damage that is foreseeable and typical for the type of contract, unless wilful misconduct or gross negligence is involved or liability is based on loss of life, bodily injury, or damage to health.

3. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, representatives, and persons used to perform an obligation.

4. A change in the burden of proof to the customer's detriment is not associated with the aforementioned arrangements.

Art. 9: Supplemental and derogating arrangements in the case of international contracts

1. If the customer has its place of business outside of the Federal Republic of Germany, the following arrangements apply in addition to Arts. 1-8 and 10:

a. We are not liable for whether the use of the delivered item as envisioned under the contract is permitted under the laws of the country of receipt. We are likewise not liable for any taxes assessed there.

b. We are not liable for impediments to delivery occasioned by governmental measures, including import or export restrictions.

2. If the customer has its place of business outside of the Federal Republic of Germany, and if the United Nations Convention on Contracts for the International Sale of Goods (CISG, the Vienna Convention), as amended, is applicable, the following arrangements apply:

a. Amendments or terminations of contract must be made in writing.

b. In place of Arts. 6 and 8, the following applies:

aa. We are liable to the customer for compensation of damages in accordance with statutory provisions only where a breach of contract is based on a wilful or grossly negligent breach of contract for which we, our representatives, or persons used to perform an obligation are responsible. We are also liable in accordance with statutory provisions where we breach a material contractual obligation. The foregoing limitation of liability does not apply to claims that may exist under sections 1 and 4 of the German Product Liability Act or to claims based on loss of life or bodily injury caused by the goods.

bb. If the delivered goods are not in conformity with the contract, the customer has the right to terminate the contract or demand replacement delivery only where claims against us for compensation of damages are excluded or it is unreasonable to expect the customer to dispose of the goods not in conformity with the contract and to assert a claim for the remaining damage. In such cases, we are first entitled to eliminate defects. If elimination of defects is unsuccessful and/or leads to an unreasonable delay, the customer is entitled at its discretion to terminate the contract or demand replacement delivery. The customer is also entitled to do so where elimination of defects causes an unreasonable inconvenience or where there is uncertainty as to reimbursement of any expenses that the customer may have.



cc. The customer's claims for defects are prescribed one year following delivery of the item.

Art. 10: Retention of title

1. We retain title to the delivered goods until receipt of all payments under the contract. Where we collect receivables through an agreed direct-debit procedure, we retain title to the goods until such time as the customer can no longer contest the collection of the receivable.
2. In the event of liens and other attachments by third parties, the customer must give us prompt written notice in order to safeguard our rights (e.g. court action under section 771 of the German Code of Civil Procedure [*Zivilprozessordnung*, ZPO]). Where the third party is incapable of reimbursing us for the court or out-of-court costs of a court action pursuant to section 771 ZPO, the customer is liable for the shortfall we incur.
3. Where we collect receivables through an agreed direct-debit procedure, the customer is not entitled to resell or use the delivered goods as long as it is still able to contest collection of the receivable. Otherwise, including in the case of a waiver by the customer of its right to contest our collection of the receivable through a direct-debit procedure, the customer is entitled to resell and to use the delivered goods in the ordinary course of business. However, it hereby assigns to us all claims it has against its customers or third parties from the resale in the amount of the value of the goods subject to retention of title, regardless of whether the delivered goods have been resold without or after processing. The value of the goods subject to retention of title is deemed to be the final invoice amount (including VAT) agreed to with us. If we have co-title to the resold goods subject to retention of title, the assignment of the claims extends to the amount corresponding to our share of co-title. We hereby accept the assignment. The customer is not entitled to dispose of the goods in any other way, including by pledging them or assigning them for the purposes of security.
4. The customer remains authorised to collect the claim from the resale, including after assignment, until we revoke such authorisation. Our power to collect the claim ourselves remains unaffected by this. However, we undertake to refrain from collecting the claim and revoking the customer's authorisation to do so as long as the customer meets its payment obligations from the proceeds collected, is not in payment default, does not make an application for the commencement of insolvency proceedings, and does not cease making payments. But if this is the case, we may demand that the customer disclose to us the assigned claims and the parties owing them, provide all information necessary to collect them, hand over the associated documentation, and notify the parties owing the claims about the assignment.
5. We undertake to release the collateral to which we are entitled at the customer's request, provided that the realisable value of our collateral exceeds the claims to be secured by more than 10% or the nominal value by more than 50%. We have discretion in selecting the collateral to be released.

Art. 11: Applicable law, place of performance, place of jurisdiction

1. The law of the Federal Republic of Germany applies to this contract.
2. The place of performance for all undertakings under this contract is 73271 Holzmaden.
3. For contracts with merchants, legal persons under public law, special funds under public law, and foreigners who do not have a domestic place of jurisdiction, the place of jurisdiction is 73271 Holzmaden. However, we reserve the right to bring suit at the customer's registered office.

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