

General Terms and Conditions (Sale and Delivery)

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§ 1 General Provisions, Scope

(1) These General Terms and Conditions (hereinafter: "GTC") apply to all business relationships of Zillner Electronics GmbH, Kelttenring 15, 82041 Oberhaching, Germany (hereinafter: "we" or "Seller"; further information about our company can be found in our legal notice at <https://zillner.com/impressum.html>) with you as our customer (hereinafter: "you" or "Buyer").

(2) These GTC apply in particular to all contracts for the sale and/or delivery of movable goods ("Goods"). The GTC apply irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers (§§ 433, 650 BGB).

(3) These GTC apply only to entrepreneurs within the meaning of § 14 BGB, legal entities under public law or special funds under public law within the meaning of § 310(1) BGB. These GTC do not apply to consumers within the meaning of § 13 BGB.

(4) Unless otherwise agreed, these GTC, in the version valid at the time of the Buyer's order or, in any event, in the version most recently communicated to the Buyer in text form, shall also apply as a framework agreement to similar future contracts without our having to refer to them again in each individual case.

(5) References to the applicability of statutory provisions are for clarification only. Statutory provisions therefore apply even without such clarification unless they are directly amended or expressly excluded in these GTC.

§ 2 Exclusive Applicability, Deviating Terms, Priority of Individual Agreements

(1) These GTC apply exclusively.

(2) Deviating, conflicting or supplementary terms and conditions of the Buyer shall become part of the contract only if and to the extent that we have expressly consented to their application. This requirement for consent applies in all cases, including, for example, where the Buyer refers to its terms and conditions in connection with an order and we do not expressly object to them.

(3) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and information contained in our order confirmation shall take precedence over these GTC.

(4) In case of doubt, trade terms shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version applicable at the time the contract is concluded.

§ 3 Formation of the Contract

(1) Our quotations are subject to change and non-binding. This does not apply if they are expressly designated as binding or contain a specific acceptance period.

(2) The Buyer's order for the Goods constitutes a binding contractual offer within the meaning of § 145 BGB (hereinafter: "Offer").

(3) Unless otherwise indicated in the order, we are entitled to accept the Buyer's Offer within fourteen (14) days of its receipt by us.

(4) We declare acceptance either in writing (e.g. by means of an order confirmation) or by delivering the Goods to the Buyer.

(5) A contract is concluded exclusively by our written order confirmation or by delivery of the Goods.

(6) Mere inquiries by the Buyer, including inquiries intended to secure or reserve certain Goods, do not constitute an order but merely an invitation to us to submit a quotation.

(7) It is not possible to conclude a contract via our website.

§ 4 Delivery Period and Delay in Delivery

(1) Delivery and performance periods and dates stated by us are always approximate only, unless a fixed period or fixed date has been expressly promised or agreed.

(2) Delivery is made ex warehouse, which is also the place of performance for the delivery.

(3) Our deliveries are generally made EXW (Ex Works) Oberhaching in accordance with Incoterms, unless the respective delivery agreement expressly provides for different delivery terms.

(4) We are entitled to make partial deliveries unless this is unreasonable for the Buyer or the Buyer has expressly rejected partial deliveries.

(5) Stated delivery dates are based on information provided by our manufacturers or upstream suppliers and are subject to their timely and proper supply to us. Changes to delivery dates by manufacturers or upstream suppliers, as well as delays resulting from force majeure, shall not give rise to liability on the part of the Seller insofar as we are not responsible for them.

(6) The occurrence of any delay in delivery on our part shall be determined in accordance with the statutory provisions. In all cases, however, a reminder from the Buyer is required.

(7) The Buyer's rights under § 12 of these GTC and our statutory rights, in particular in the event that the obligation to perform is excluded (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

§ 5 Transfer of Risk

(1) If acceptance has been agreed, such acceptance shall be decisive for the transfer of risk. In all other respects, the statutory provisions governing contracts for work and services shall apply accordingly to an agreed acceptance.

(2) Handover or acceptance shall be deemed to have occurred if the Buyer is in default of acceptance.

§ 6 Default of Acceptance, Compensation

If the Buyer is in default of acceptance, fails to perform an act of cooperation or if our delivery is delayed for other reasons for which the Buyer is responsible, we are entitled to claim compensation for the resulting loss, including additional expenses (e.g. storage costs). For this purpose, we charge lump-sum compensation amounting to one percent (1%) of the agreed purchase price per calendar week, commencing upon expiry of the delivery period or - in the absence of a delivery period - upon notification that the Goods are ready for dispatch. Evidence of a higher loss and our statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum shall be credited against any further monetary claims. The Buyer is entitled to prove that we have suffered no loss at all or only a substantially lower loss than the above lump sum.

§ 7 Prices and Terms of Payment

(1) Unless otherwise agreed in an individual case, our prices current at the time the contract is concluded shall apply, ex warehouse, plus the applicable statutory value added tax.

(2) In the case of a sale involving shipment, the Buyer shall bear the transport costs from the warehouse and the costs of any transport insurance requested by the Buyer. Unless we invoice the transport costs actually incurred in the individual case, the following flat-rate transport charges (excluding transport insurance) shall be deemed agreed:

(a) Freight consignment notes within Germany: EUR 18.87

(b) Freight consignment notes outside Germany but within the European Union: EUR 48.21

(c) Freight consignment notes outside the European Union: EUR 280.45

Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.

(3) The purchase price is due and payable within fourteen (14) days from invoicing and delivery or acceptance of the Goods. However, including within an ongoing business relationship, we are entitled at any time to make a delivery in whole or in part only against advance payment. We shall declare any such reservation no later than in the order confirmation.

(4) Upon expiry of the above payment period, the Buyer shall be in default. During the period of default, interest shall accrue on the purchase price at the statutory default interest rate applicable from time to time. We reserve the right to claim further loss caused by the default. With respect to merchants, our claim to commercial interest from the due date (§ 353 HGB) shall remain unaffected.

(5) If, after conclusion of the contract, it becomes apparent (e.g. through an application to open insolvency proceedings) that our claim to the purchase price is jeopardized by the Buyer's insufficient ability to perform, we are entitled under the statutory provisions to refuse performance and - where applicable after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of non-fungible goods (custom-made items), we may declare withdrawal immediately; the statutory provisions regarding cases in which setting a deadline is dispensable shall remain unaffected.

§ 8 Retention of Title

(1) Until all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims) have been paid in full, we retain title to the Goods sold.

(2) Before the secured claims have been paid in full, Goods subject to retention of title may neither be pledged to third parties nor transferred by way of security. The Buyer shall notify us immediately in writing if an application to open insolvency proceedings is filed or if third parties take action against Goods belonging to us (e.g. attachments).

(3) In the event of conduct by the Buyer in breach of contract, in particular non-payment of the due purchase price, we are entitled, in accordance with the statutory provisions, to withdraw from the contract and/or demand surrender of the Goods on the basis of our retention of title. A demand for surrender does not at the same time constitute a declaration of withdrawal; rather, we are entitled merely to demand surrender of the Goods and reserve the right to withdraw. If the Buyer does not pay the due purchase price, we may exercise these rights only if we have previously set the Buyer a reasonable deadline for payment which has expired without success, or if setting such a deadline is dispensable under the statutory provisions.

(4) Until revoked in accordance with letter (d) below, the Buyer is authorized to resell and/or process the Goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.

(a) Any processing or transformation by the Buyer of Goods delivered by us subject to retention of title shall be carried out for us as manufacturer. If our Goods are processed together with other goods not belonging to us, we shall acquire co-ownership of the newly created item in the ratio of the invoice value of our Goods to the invoice values of the other goods processed. In all other respects, the same shall apply to the item created by processing or transformation as to the Goods delivered subject to retention of title.

(b) If Goods delivered by us subject to retention of title are combined, mixed or blended with other goods not belonging to us, we shall acquire co-ownership of the resulting unified item in the ratio of the invoice value of our Goods to the invoice values of the other goods combined, mixed or blended. If one of the other goods is to be regarded as the principal item, it shall be deemed agreed that the Buyer transfers to us a proportionate co-ownership interest in the unified item. In all other respects, the same shall apply to the item created by combination, mixing or blending as to the Goods delivered subject to retention of title.

(c) The Buyer hereby assigns to us by way of security all claims against third parties arising from the resale of the Goods or the resulting product, either in full or in the amount of our co-ownership share, if any, pursuant to the preceding paragraph. We accept the assignment. The Buyer's obligations set out in paragraph 2 shall also apply with regard to the assigned claims.

(d) The Buyer remains authorized, alongside us, to collect the claim. We undertake not to collect the claim as long as the Buyer meets its payment obligations towards us, there is no impairment of its ability to perform and we do not enforce the retention of title by exercising a right pursuant to paragraph 3 above. If this is the case, however, we may demand that the Buyer disclose to us the assigned claims and the respective debtors, provide all information necessary for collection, hand over the relevant documents and notify the debtors (third parties) of the assignment. In addition, in such case we are entitled to revoke the Buyer's authorization to further resell and process the Goods subject to retention of title.

(e) If the realizable value of the securities exceeds our claims by more than ten percent (10%), we shall, at the Buyer's request, release securities of our choice.

§ 9 Warranty

(1) The Buyer's claims for defects are subject to the Buyer having complied with its statutory duties of inspection and notification (§§ 377, 381 HGB). In its notification, the Buyer shall, insofar as reasonably possible, document the defect for us and describe it as precisely and in as much detail as possible. In the case of Goods intended for installation or other further processing, an inspection must in all cases be carried out immediately before processing. If a defect becomes apparent upon delivery, during inspection or at any later time, we must be notified thereof immediately in writing. In all cases, obvious defects must be notified in writing within forty-eight (48) hours of delivery and defects not detectable during inspection within the same period after discovery. In the case of a sale involving shipment, the Buyer must also notify the carrier immediately of any visible transport damage and have it documented accordingly. Transport damage that is not visible must likewise be reported to the carrier immediately after discovery. At our request, the Buyer shall provide us with appropriate evidence of the damage notification. If the Buyer fails to carry out the proper inspection and/or give proper notice of defects, our liability for the defect not notified, not notified in due time or not properly notified shall be excluded in accordance with the statutory provisions. In the case of Goods intended for installation, attachment or fitting, this shall also apply if, as a result of a breach of one of these obligations, the defect only becomes apparent after the corresponding processing; in this case, in particular, the Buyer shall have no claims for reimbursement of the corresponding costs ("removal and installation costs").

(2) The statutory provisions shall apply to the Buyer's rights in the event of defects in quality or title (including incorrect or short delivery or defective instructions), unless otherwise provided below. In all cases, the special statutory provisions on reimbursement of expenses in the event of final delivery of newly manufactured Goods to a consumer (supplier recourse pursuant to §§ 478, 445a, 445b or §§ 445c, 327(5), 327u BGB) shall remain unaffected, unless an equivalent arrangement has been agreed, e.g. under a quality assurance agreement.

(3) The basis of our liability for defects is the agreed quality and intended use of the Goods as specified in our order confirmation, as well as compliance with the statutory objective requirements for product quality (§ 434(3) BGB). General information in catalogues, technical documentation, manufacturer information or on our website shall not constitute an agreement as to quality unless expressly confirmed in our order confirmation.

(4) Claims for defects shall not exist insofar as the defect is attributable to conduct of the Buyer or a third party, in particular improper handling, use, storage, assembly or commissioning of the Goods, or use contrary to product descriptions, technical specifications, operating, assembly, maintenance or other manufacturer instructions, or outside the application or operating conditions specified by the manufacturer.

(5) In the case of Goods with digital elements or other digital content, we owe provision and, where applicable, updating of the digital content only insofar as this expressly results from an agreement as to quality within the meaning of paragraph 3 above. In this respect, we assume no liability for public statements made by the manufacturer or other third parties.

(6) As a general rule, we shall not be liable for defects of which the Buyer is aware at the time the contract is concluded or of which the Buyer is unaware due to gross negligence (§ 442 BGB).

(7) If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (repair) or by delivering a defect-free item (replacement delivery). If the type of subsequent performance selected by us is unreasonable for the Buyer in the individual case, the Buyer may reject it. Our right to refuse subsequent performance subject to the statutory requirements shall remain unaffected.

(8) We are entitled to make the subsequent performance owed conditional upon the Buyer paying the purchase price due. However, the Buyer is entitled to withhold a reasonable portion of the purchase price in proportion to the defect.

(9) The Buyer shall give us the time and opportunity required for the subsequent performance owed, in particular by making the Goods complained of available to us for inspection. In the event of a replacement delivery, the Buyer shall return the defective item to us at our request in accordance with the statutory provisions; however, the Buyer shall have no claim to return. Subsequent performance does not include removal, detachment or deinstallation of the defective item, nor installation, attachment or fitting of a defect-free item, if we were not originally obliged to perform such services; the Buyer's claims for reimbursement of corresponding costs ("removal and installation costs") shall remain unaffected.

(10) The expenses required for inspection and subsequent performance, in particular transport, travel, labour and material costs and, where applicable, removal and installation costs, shall be borne or reimbursed by us in accordance with the statutory provisions and these GTC if a defect actually exists. Otherwise, we may demand reimbursement from the Buyer of the costs arising from an unjustified request to remedy a defect if the Buyer knew or negligently failed to know that no defect actually existed.

(11) If a reasonable period to be set by the Buyer for subsequent performance has expired without success or is dispensable under the statutory provisions, the Buyer may withdraw from the purchase contract or reduce the purchase price in accordance with the statutory provisions. However, there shall be no right of withdrawal in the case of an insignificant defect.

(12) Claims by the Buyer for damages or reimbursement of wasted expenditure shall, including in the event of defects, exist only in accordance with § 12 and are otherwise excluded.

(13) We source the Goods distributed by us exclusively either directly from the respective manufacturers or through their authorized distribution channels. We supply original Goods only. At the Buyer's request, we shall provide evidence of the origin of the Goods within the scope of the available manufacturer and/or supplier documentation.

§ 10 Returns

(1) Delivered Goods may be returned only with the Seller's prior written consent.

(2) The following in particular are excluded from return:

- Special procurements
- Customer-specific manufactured products
- NCNR products (Non-Cancellable / Non-Returnable)
- Goods already used or damaged

(3) In the event of an approved return, the Seller may charge a reasonable restocking fee.

§ 11 Intellectual Property Rights

(1) Each contracting party shall immediately notify the other contracting party in writing if claims are asserted against it due to an infringement of industrial property rights or copyrights by the Goods.

(2) If the Goods infringe an industrial property right or copyright of a third party, the Seller shall, at its option and at its own expense, modify or replace the Goods so that no third-party rights are infringed while the Goods continue to fulfil the contractually agreed functions, or obtain for the Buyer a right of use by entering into a licence agreement with the third party. If the Seller does not succeed in doing so within a reasonable period, the Buyer is entitled to withdraw from the contract or reasonably reduce the purchase price. Any claims for damages by the Buyer shall be subject to the limitations set out in § 12 of these GTC.

§ 12 Other Liability

(1) Unless otherwise provided in these GTC, including the following provisions, we shall be liable for breaches of contractual and non-contractual obligations in accordance with the statutory provisions.

(2) We shall be liable for damages - irrespective of the legal basis - within the scope of fault-based liability in cases of intent and gross negligence. In the case of ordinary negligence, subject to statutory limitations of liability (e.g. diligence in one's own affairs; insignificant breach of duty), we shall be liable only

(a) for damage resulting from injury to life, body or health,

(b) for damage resulting from the breach of a material contractual obligation, i.e. an obligation whose performance is essential to the proper performance of the contract and on whose compliance the contracting party regularly relies and is entitled to rely (so-called "cardinal obligation"); in this case, however, our liability is limited to compensation for the foreseeable damage typically occurring.

(3) The limitations of liability resulting from paragraph 2 shall also apply vis-a-vis third parties and in the event of breaches of duty by persons (including for their benefit) whose fault we are responsible for under the statutory provisions. They shall not apply where a defect has been fraudulently concealed or a guarantee for the quality of the Goods has been assumed, or to claims by the Buyer under the German Product Liability Act.

(4) Insofar as we are liable for ordinary negligence under the foregoing provisions, our liability is limited to the foreseeable damage typical for the contract at the time the contract is concluded. Liability for indirect damage, consequential damage, production losses, business interruptions and loss of profit shall exist only insofar as such damage is to be regarded as a typical and foreseeable consequence of the breach of duty. The foregoing limitations shall not apply to damage resulting from injury to life, body or health, in cases of intent or gross negligence, fraudulent concealment of a defect, assumption of a guarantee, or to claims under the German Product Liability Act.

§ 13 Limitation Period

(1) By way of derogation from § 438(1) no. 3 BGB, the general limitation period for claims arising from defects in quality or title shall be one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.

(2) The limitation period under paragraph 1 shall not apply to cases under § 438(1) no. 2 BGB. Other special statutory provisions on limitation periods shall also remain unaffected (in particular § 438(1) no. 1, § 438(3), §§ 444, 445b BGB).

(3) The above limitation periods under the law of sales shall also apply to contractual and non-contractual claims for damages by the Buyer that are based on a defect in the Goods, unless application of the regular statutory limitation period (§§ 195, 199 BGB) would result in a shorter limitation period in the individual case.

(4) Claims for damages by the Buyer pursuant to § 12(2) sentence 1 and sentence 2 letter (a), as well as under the German Product Liability Act, shall be subject exclusively to the statutory limitation periods.

§ 14 Set-off and Rights of Retention

The Buyer shall have rights of set-off or retention only insofar as its claim has been finally adjudicated or is undisputed. In the event of defects in the delivery, the Buyer's counter-rights, in particular pursuant to § 9(8) sentence 2 of these GTC, shall remain unaffected.

§ 15 Form Requirements

(1) Legally relevant declarations and notices by the Buyer relating to the contract (e.g. setting a deadline, notice of defects, withdrawal or reduction of the purchase price) shall be made in writing.

(2) Written form within the meaning of these GTC includes both written form and text form (e.g. letter, e-mail, fax).

(3) Statutory form requirements and further evidence, in particular in the event of doubts regarding the authority of the person making the declaration, shall remain unaffected.

§ 16 Contract Language

(1) The contract may be concluded exclusively in German or English unless the parties expressly agree otherwise.

(2) In the event of questions of interpretation and disputes, the German version of the GTC shall prevail exclusively.

§ 17 Export and Import Restrictions

The parties are aware that the Goods sold by the Seller may be subject to export and import restrictions. In particular, authorization requirements may apply, or the use of the Goods or related technologies abroad may be subject to restrictions. The Buyer undertakes to comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America, as well as all other relevant regulations.

§ 18 Advice

Recommendations or technical information are provided on a non-binding basis and to the best of our knowledge. They do not release the Buyer from the obligation to independently verify the suitability of the Goods for the intended purpose.

§ 19 Governing Law

These GTC and the contractual relationship between us and the Buyer shall be governed by the law of the Federal Republic of Germany, to the exclusion of international uniform law, in particular the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

§ 20 Place of Jurisdiction

(1) If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law within the meaning of § 310(1) BGB, the exclusive - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our place of business in Oberhaching, Germany.

(2) However, in all cases we are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a prevailing individual agreement, or at the Buyer's general place of jurisdiction.

§ 21 Severability Clause

The invalidity of individual provisions of these GTC shall not affect the validity of the remaining provisions ("preservation"). In place of the invalid provision, the valid provision that comes closest, legally and economically, to what the parties intended or, according to the meaning and purpose of the contract, would have intended if they had considered this point when concluding the contract or including the provision, shall be deemed agreed with retroactive effect; if the invalidity of a provision is based on a measure of performance or time (period or date) specified therein, the provision shall be deemed agreed with the legally permissible measure that comes closest to the original measure ("replacement fiction"). If the replacement fiction is not possible, the parties shall agree a provision in place of the invalid provision in accordance with the substantive requirements of the preceding sentence ("replacement obligation"). If the invalidity concerns a provision requiring notarization, the provision shall be agreed in notarized form. The foregoing provisions shall apply accordingly in the event of a contractual gap.

Data Protection Notice

Information and notices regarding data protection can be found on our website at <https://zillner.com/datenschutz.html>.