

General terms and conditions

of braun teleCom GmbH for use in business transactions with contractors

1. PREAMBLE

1.1 In addition to other legal requirements, the general terms of supply for products and services in the electrical industry („Green terms of delivery“ – GL) for use in business transactions with contractors and the amended clause: Extended reservation of ownership of ZVEI in the respectively valid version, the following general terms and conditions of braun teleCom GmbH for use in business transactions with contractors are part of the contract signed between braun teleCom GmbH (referred to as „Supplier“ below) and the contractor (referred to as „Purchaser“ below).

1.2 Contracts between the supplier and the purchaser are effective, if the purchaser is a registered trader or contractor within the meaning of § 14 of the BGB, a legal entity under private or public law or specialised agencies under public law. The same holds good for the applicability of these general terms and conditions.

1.3 The purchaser is obliged to inform the supplier, if he cannot state with certainty that the products supplied by the supplier will be delivered to consumers within the meaning of § 13 of the BGB. This also applies to cases where the products are combined, mixed or processed.

1.4 The general terms and conditions of braun teleCom GmbH for use in business transactions with contractors hold good in the relevant version which is applicable at the time of placing the order. They are also applicable to all future legal relationships between the supplier and the purchaser even if their inclusion is not specifically agreed again.

1.5 The supplier reserves the right to rescind the contract if the purchaser objects to these General Terms and Conditions. In this case, the purchaser cannot make any claims against the supplier.

1.6 By placing the order, the purchaser acknowledges the inclusion of these general terms and conditions in the respective legal transaction as well as takes note of the provisions included in it.

1.6.1 The general terms and conditions of braun teleCom GmbH for use in business transactions with contractors, the „Green terms of delivery“ and the additional clause on extended reservation of ownership of ZVEI, will be made available to the purchaser in the respectively valid version via the homepage www.brauntelecom.de. The purchaser can download them free of cost or print them out.

1.7 Differing agreements and especially general terms of business, supply or purchase of the purchaser shall not be applicable to the supplier, unless their applicability has been specifically agreed in writing.

2. DESCRIPTION OF SERVICE

2.1 The goods shall be supplied in standard versions and quality, subject to manufacturer-related design changes.

2.2 All the information relating to the object of supply, like e.g. dimensions, weights, tolerances, capacities and other technical data, as well as all the illustrations of the same for e.g. through figures and drawings, are carefully determined but only approximately, unless the applicability for the contractually intended purpose based on objective standards (e.g. DIN, ISO, EN etc.), requires exact compliance or they are not specifically mentioned as „mandatory“. Regardless of the exceptions mentioned above, these are not guaranteed quality features but only descriptions or delivery characteristics based on the average values.

2.3 The supplier is not responsible for the suitability of the supplied goods for a purpose intended by the purchaser, which cannot be achieved or cannot be achieved safely according to the accepted technical standards, with the supplied goods. The supplier shall indicate any doubts about the suitability of the supplied goods to the purchaser, if the purchaser had specifically communicated the intended purpose and the supplied goods are obviously not suitable for this purpose.

2.4 Commonly accepted deviations, especially the deviations in terms of quantities and quality tolerances, as well as deviations arising due to changes in legal specifications or simply based on technical improvements, are reserved.

2.5 Rights for making small modifications in the supply, as well as replacing equivalent components are reserved, provided they are reasonable for the purchaser and the usability for commonly accepted purpose or any contractually stipulated purpose is not adversely affected.

2.6 Public statements of the manufacturer, his subsidiaries or other third parties, e.g. through the presentation of product features in public, exclude descriptions of the item to be supplied that amend or change this service description.

2.7 Only the contents of the acceptance letter is important for the scope of supply.

3. CONCLUSION OF THE AGREEMENT

3.1 Presenting the products in catalogues, other product descriptions as well as in the online shop of the supplier, does not represent a binding offer of the supplier to sign a contract. They only represent an offer made by the supplier to the purchaser, to submit a binding offer to sign a contract with the supplier by placing an order from his end.

3.2 All other offer correspondence from the supplier, even in case of individual delivery, are subject to change and are non-binding, especially with regards to finish, availability, price and delivery times, unless they are specifically marked as „binding“ or include a specific acceptance date. Offer correspondence which are not specifically marked as „binding“ or do not include any specific acceptance date, simply represent an offer made by the supplier to the purchaser, to submit a binding offer to sign a contract with the supplier by placing an order from his end.

3.3 Ordering of products, using pre-printed order form, using the Order Service number or some other form of written order (by post, fax or email) by the purchaser, represents a binding offer of the purchaser to sign a contract with the supplier for the products listed or mentioned in the order.

3.4 By sending the online order form in the online shop of the supplier by clicking the „Send Order“ button, the purchaser submits a binding offer to sign a contract with the supplier for the products in the „shopping basket“.

3.5 Depending on the ordering option selected, the supplier confirms the receipt of the order to the purchaser by post, by fax or by sending a confirmation email. The order confirmation still does not represent the acceptance of the purchaser's offer by the supplier. It is only used for informing the purchaser that the order has been received by the supplier.

3.6 The purchaser's offer is accepted by shipping the goods or by sending a separate written letter of acceptance.

4. PRICES

4.1 All the prices are ex-works basis, excluding packaging and shipping costs, statutory VAT and are subject to change. Unless otherwise agreed, the list price of the supplier plus the statutory VAT that is applicable on the date of shipment, shall be used.

4.2 The supplier reserves the right to pass on increases in the manufacturing costs to the purchaser which are caused by increases in wages and material prices.

4.3 If the purchaser is a foreign company, the statutory VAT should be calculated and paid by the purchaser while collecting the goods. The VAT charges are refunded to the purchaser once he submits the corresponding customs documents.

5. DELIVERY DATES

5.1 The delivery dates indicated by the supplier are approximate dates, unless they are specifically marked as „binding“. The supplier should try to meet the approximate delivery dates indicated by him.

5.2 If the non-binding delivery date is exceeded by 7 working days, the purchaser can request the supplier in writing to deliver the goods within a reasonable time (notional grace period).

5.3 After this notional grace period, the purchaser can send the supplier a reminder notice.

5.4 The start of the delivery date as defined under section 5.1. requires the timely and proper fulfilment of the purchaser's obligations, especially the timely receipt of all the documents to be submitted by the purchaser, the required permissions and approvals, schedules as well as the compliance with the agreed payment terms. The defence of lack of performance of the contract is reserved.

5.5 The delivery date as well as the notional grace period is considered as met if the shipment has left the factory or warehouse within the deadline.

5.6 If the delivery dates cannot be met due to force majeure, like e.g. mobilisation, war (declared or undeclared), riots, acts of terrorism, natural disasters, or similar events for which the supplier is not responsible, like e.g. strikes, lockouts, improper or delayed delivery by the manufacturer / sub-contractors of the supplier, virus or any other third-party attacks on the IT system of the supplier, hindrances due provisions of national or international foreign trade laws, then the delivery dates shall be extended for the duration for which the events mentioned above or their effects last.

6. SHIPPING

6.1 The goods will be shipped after packing them carefully in customary packaging.

6.2 For orders where the net value of the goods exceeds € 1,000.00 for complete delivery, the goods will be packed and shipped within Germany free of charge. An exception is the shipment of bulky goods, as stated in 6.4.

6.3 For orders where the net value of the goods is less than € 1,000.00, the actual costs of packing and shipping will be charged. An exception is the shipment of bulky goods, as stated in 6.4.

6.4 Regardless of the order value and unless otherwise agreed individually, bulky goods will be charged at the actual packaging and shipping costs.

6.5 The supplier is authorised to provide the service in reasonable parts, provided a partial delivery is not unreasonable for the purchaser based on objective standards.

6.6 The choice of a suitable and reasonable means of transport and the shipping method, especially the choice of the transport company, is left to the supplier in case of the so-called „standard shipments“. Transport companies, freight forwarders or persons nominated for shipping are not the agents of the supplier.

6.7 If the purchaser wants to use a particular shipping method which is different from the „standard“ method and this involves additional costs, these have to be borne by the purchaser. If requested by the purchaser, the supplier can insure the goods against breakage, transport and fire damage. These costs shall be borne by the purchaser.

7. ACCEPTING THE SHIPMENT

7.1 The purchaser should not refuse to accept the shipment stating minor defects.

7.2 The purchaser has to accept order-related custom-made products.

8. RISK TRANSFER

8.1 The risk of accidental loss or accidental deterioration of the shipment is transferred to the purchaser as soon as the goods are collected by the purchaser or the shipment is brought for dispatch. That is, the risk is transferred to the purchaser once the shipment is handed over to the forwarding company, the freight carrier or the person nominated for dispatching the goods, at the latest when the goods leave the factory or warehouse.

8.2 If the shipment is delayed for reasons that cannot be attributed to the supplier, the risk is transferred to the purchaser as soon as the supplier informs the purchaser that the goods are ready to be shipped. The same applies in case the purchaser delays the acceptance.

8.3 The above-mentioned conditions also apply to freight-paid shipments and dispatches from a location that is different from the delivery location.

9. PAYMENT

9.1 Unless agreed otherwise in writing, payments should be made to the account of the supplier without any deductions or charges.

9.2 For orders where the net value of the goods is less than € 50.00, the goods will be dispatched only against advance payment or cash on delivery.

9.3 Unless otherwise agreed in writing, invoices become due for payment within 30 days of invoicing. The value date of the invoice amount received in the supplier's account mentioned on the invoice is important for the timeliness of the payment.

9.4 In case of cash payment, advance payment, cash on delivery or payment within 10 days of invoicing, the supplier shall give a cash discount to the purchaser as indicated on the front page of the invoice, unless otherwise agreed in writing.

9.4.1 Cash discounts shall not be given if the purchaser has defaulted on some other payment at this point in time, regardless of the branch.

9.5 The purchaser automatically becomes a defaulter (without the need for a reminder), if he does not pay the invoice amount within the period mentioned under section 9.3.

9.5.1 If the purchaser has defaulted on payment, then all the outstanding invoices of the supplier become due for payment by the purchaser immediately.

9.5.1.1 Previous agreed payment terms, including open payment terms, will become ineffective when payment is defaulted.

9.5.1.2 Any discounts as well as specially agreed reductions or rebates become ineffective if payments are defaulted. In this case, the purchaser has to pay the full invoice amount without any discount.

9.6 If insolvency or judicial composition proceedings are filed or opened against the assets of the purchaser or if the opening is rejected due to lack of assets, all the outstanding invoices of the supplier become due for payment by the purchaser immediately.

9.6.1 In this case, previously agreed payment terms, including open payment terms, become ineffective.

9.6.2 The same applies to any discounts as well as specially agreed reductions or rebates. In this case, the purchaser has to pay the full invoice amount without any discount.

9.6.3 In this case, the supplier is entitled to link the dispatch of any pending shipments from the previous payment to all the outstanding invoices.

9.7 The supplier can send the invoices to the purchaser by post, courier / freight forwarding, fax or email.

10. TITLE RETENTION

10.1 The goods (goods subject to retention of title) shall remain in the ownership of the supplier till all the claims arising from the business relationship made by the supplier against the purchaser are settled.

10.2 The purchaser is allowed to process or transform the goods subject to retention of title („processing“).

10.2.1 The processing takes place for the supplier. If the value of the goods subject to retention of title belonging to the supplier is less than the value of the goods that do not belong to the supplier and / or the processing, then the supplier acquires co-ownership of the new goods in the ratio of the value (gross invoice value) of the processed goods subject to retention of title to the value of the other processed goods and / or the processing, at the time of processing.

10.2.2 If the supplier does not acquire ownership of the new goods as mentioned before, then the supplier and purchaser agree that the purchaser shall grant the supplier

co-ownership of the new goods in a ratio of the value (gross invoice value) of the goods subject to retention of title belonging to the supplier to the value of the other processed goods at the time of processing.

10.2.3 The same applies in case the goods subject to retention of title are inseparably mixed or combined with goods that do not belong to the supplier.

10.2.4 If the supplier acquires ownership or co-ownership as defined under section 10, the purchaser shall keep the new goods safely for the supplier with the due diligence of a prudent businessman.

10.2.5 The new goods are considered as goods subject to retention of title.

10.3 In case the goods subject to retention of title or new goods (see above) are sold, then the purchaser shall transfer all his outstandings from the resale against his customer along with all the ancillary rights by way of security to the supplier, without any need for further explanations.

10.3.1 The transfer is applicable to any outstanding payments.

10.3.2 The transfer is applicable only for the amount equal to the price of the goods subject to retention of title invoiced by the supplier.

10.3.3 The part of the outstandings transferred to the supplier should be settled first.

10.4 If the purchaser combines the goods subject to retention of title or the new goods with land, he then transfers his outstandings as well which is due to him as compensation for the combination along with all the ancillary rights by way of security without any need for further explanations, to an amount equal to the price of the goods subject to retention of titles invoiced by the supplier.

10.5 Until it is cancelled, the purchaser is authorised to collect the outstandings transferred to the supplier as defined under section 10.

10.5.1 The purchaser shall immediately forward the payments received against the transferred outstandings, up to an amount equal to the secured outstanding, to the supplier.

10.5.2 The supplier is entitled to cancel the collection authorisation of the purchaser in case of legitimate interests, particularly in case of payment default, bankruptcy, opening of insolvency proceedings, bill protest or justified indication of excessive indebtedness or impending inability to pay of the purchaser.

10.5.3 In addition, after giving a prior warning, the supplier may disclose the assignment by way of security by providing a reasonable amount of time, use the transferred outstandings and ask the purchaser to disclose the assignment by way of security to his customers.

10.6 In case evidence is provided of a legitimate interest, the purchaser should provide the supplier with the information necessary to claim his rights vis-a-vis the purchaser's customers and also hand over the necessary documents.

10.7 During the reservation of ownership, the purchaser is not allowed to pledge or transfer by way of security.

10.7.1 In case of seizures, confiscation or other dispositions or intervention by third parties, the purchaser should immediately inform the supplier.

10.8 The goods subject to retention of title or new goods may only be resold to resellers as part of normal business transactions and only under the condition that the payment of the equivalent value of the goods subject to retention of title or the new goods, is made to the purchaser.

10.8.1 The purchaser should also agree with his customers that they will acquire the ownership only after this payment.

10.9 If the realisable value of the security interests due to the supplier exceeds the amount of all the secured claims by more than 10%, the supplier shall release a corresponding part of the security interest if requested by the purchaser.

10.9.1 It will be assumed that this requirement is met if the estimated value of the securities due to the supplier equals or exceeds 150% of the value of the secured claims.

10.9.2 While releasing, the supplier has the option to choose between the various security rights.

10.10 In case the purchaser violates his obligation, in particular default of payment, the supplier is entitled to ask for the goods subject to retention of title or the new goods to be handed over without setting a deadline and / or to withdraw from the contract after setting a deadline if required.

10.10.1 In such cases, the purchaser is obliged to hand over the goods subject to retention of title.

10.10.2 The request for handing over the goods subject to retention of title or new goods does not include an advice of cancellation of the supplier, unless this is expressly stated.

11. RETURNS

11.1 Goods that are ordered properly and delivered without any defects will basically not be taken back. The orders are executed exactly according to the specification with strict and repeated checks. Goods that are returned without obtaining the prior consent of the supplier will not be accepted.

11.2 If the supplier has agreed to accept the return of goods, the purchaser is given a credit note by deducting a processing fee amounting to 10% of the net value of the goods but not more than 500 €, for every complete delivery.

11.3 Unless otherwise agreed, returned goods are processed by the supplier only if a return slip is enclosed with the goods and the RMA (return material authorisation) as well as customer number is mentioned on it. The purchaser can obtain the return slip and RMA number from the supplier by requesting for it in writing or on the phone.

11.4 Issuing an RMA number or agreeing to take back the goods does not imply that the supplier accepts a material defect or any other complaint made by the purchaser.

11.5 The purchaser is responsible for accidental loss or deterioration of the shipment while returning the goods.

11.6 Once approved, the goods should be returned to braun teleCom GmbH, Merkurstr. 3c, 30419 Hannover (packing and shipping free of charge) and will be accepted by the supplier subject to an inspection.

12. OTHER INTELLECTUAL PROPERTY RIGHTS AND COPYRIGHTS OF THE SUPPLIER / OBLIGATION TO MAINTAIN CONFIDENTIALITY

12.1 The supplier reserves his intellectual property rights and copyright utilisation rights without restriction on all the cost estimates, drawings, samples, models, calculations or other documents and information, both tangible and intangible and even in electronic form.

12.1.1 They may be made available to third parties only after obtaining prior written consent from the supplier.

12.1.2 The documents under Section 12.1. handed out to the purchaser should be surrendered immediately to the supplier, if an agreement is not concluded.

12.1.3 The sections 12.1. to 12.1.2. shall not apply if the documents listed are freely available to everyone.

12.2 The purchaser is obliged to strict confidentiality.

12.2.1 Received documents may be disclosed to third parties only with prior written consent of the supplier.

12.2.2 The obligation to confidentiality shall continue to apply even after execution of this agreement. It expires only when and if the intellectual property of the supplier contained in the documents handed over becomes generally known and is / has been made available to everyone.

12.2.3 The purchaser shall obligate his vicarious agents accordingly to maintain confidentiality.

13. OBLIGATIONS TO COOPERATE OF THE PURCHASER

13.1 The purchaser shall create all conditions to allow proper execution of the agreement. He must ensure that any cooperation required on his part or that of his vicarious agents is provided in time and to the necessary extent. This includes, in particular, the timely and complete provision of all necessary documents, licences, approvals and plans. The cooperation required from the purchaser and his vicarious agents should have to be provided free-of-charge to the supplier.

13.2 The purchaser shall be liable for any delay or error in the performance of the contract, if this is based on the violation of his obligations to cooperate, and in particular, performance data submitted by him, incorrect or incomplete information or other circumstances he is held responsible for.

14. DEFECTS WARRANTY

14.1 The purchaser should not refuse to accept the shipment stating minor defects.

14.2 Warranty claims shall not include minor deviation from the agreed quality or insignificant impairment of usability.

14.3 Warranty claims are neither related to normal wear and tear nor to damage caused by the transfer of risk as a result of faulty or negligent handling, excess load, unsuitable equipment, defective construction work, unsuitable building ground, chemical, electrical engineering / technology or mechanical influences that deviate from the standard or contractually specified use.

14.3.1 This also applies to the case of performing improper modifications or repairs of the delivery item without the express written consent of the supplier.

14.4 The purchaser is not entitled to assert claims and rights because of defects, if he has not made the payments due and provided that the amount due – including any payments already made – is in reasonable proportion to the value of the delivery marked by defects.

14.5 In the case of presence of defects, the purchaser is not entitled to a right of retention, unless the delivery is obviously defective. In such a case, the purchaser is entitled to the right of retention only if the retained amount is in reasonable proportion to the defects and the anticipated costs of remedy, in particular, elimination of the defects. In other respects, section 21 of these General Terms and Conditions apply.

14.5.1 A right of retention of the purchaser shall be excluded if his warranty claims are barred.

14.6 The supplier is entitled in any case to choose between remedy and replacement.

14.6.1 The demand of the purchaser for remedy (claim) shall be made immediately and in writing subject to the application of § 377 HGB (German Commercial Code). Obvious defects must be reported within a period of 7 days after transfer of risk.

14.6.2 The supplier shall be granted a period of six weeks for the remedy.

14.6.3 If the delivery is to be rectified, then failure of the remedy is only given after the second unsuccessful attempt. If subsequent remedy fails, the purchaser shall be entitled to deduct a reasonable amount or withdraw from the contract at his discretion. The legal cases of the dispensability of the deadline shall remain unaffected.

14.6.4 The application of §§ 478, 479 BGB (German Commercial Code) – recourse claim of the contractor – remains unaffected. This applies only to cases where the purchaser has not made any agreement on the statutory warranty claims with his customers.

14.6.5 This does not affect the right of the purchaser, under sections 14.10. – 14.12.4. of these General Terms and Conditions, to claim for damages.

14.7 The expenses for purpose of remedy shall be borne by the purchaser, if they increase due to the fact that the delivery will be shipped to a location other than the purchaser's premises, provided that the shipping is in accordance with its intended use. The application of § 478 BGB (German Commercial Code) – recourse claim of the contractor – remains unaffected.

14.8 Notwithstanding further claims by the supplier, the purchaser shall reimburse the supplier the costs for testing and eliminating the defect, if required, in the case of unauthorised defects complaint.

14.9 If and when the supplier delivers a defect-free item for purpose of remedy, the purchaser is obliged to return the defective item.

14.10 The supplier or his representative / vicarious agents is liable in cases of intent or gross negligence and culpably caused death, physical injury or health impairment in accordance with statutory provisions.

14.10.1 However, the supplier's liability is limited to contractually typical, fore-seeable damage in cases of gross negligence, unless an exceptional case other than those mentioned in sections 14.10. or 14.10.2. exists.

14.10.2 In addition, the supplier is only liable under the Product Liability Act for culpable violation of essential contractual duties or if he has fraudulently concealed the defect or gave a guarantee for the quality of the delivered item.

14.10.3 However, the claim for damages arising from violation of essential contractual duties is limited to contractually typical, foreseeable damage, unless an exceptional case other than those mentioned in sections 14.10. or 14.10.2. exists.

14.10.4 The supplier's liability for default shall be determined according to the sections 14.11. – 14.11.6., while the contractor's liability for inability according to the section 14.12. – 14.12.4. of these General Terms and Conditions.

14.11 The supplier or his representative / vicarious agents is liable for default in performance in cases of intent or gross negligence and culpably caused death, physical injury or health impairment in accordance with statutory provisions.

14.11.1 The supplier's liability in cases of gross negligence is limited to contractually typical and foreseeable damage.

14.11.2 Outside of the cases mentioned in sections 14.11. and 14.11.1., the supplier's liability for default in compensation in addition to performance is limited to a total of 5% and for the damages instead of performance – including the compensation of wasted expenses – a total of 10% of the gross commodity value of the part of the delivery which cannot be used as intended due to the default.

14.11.3 Further claims by the purchaser are excluded, even after expiry of any deadline for performance to be met by the supplier.

14.11.4 This limitation of liability does not apply to culpable violation of essential contractual obligations.

14.11.5 However, the claim for damages arising from violation of essential contractual duties is limited to contractually typical, foreseeable damage, unless another case under section 15.11. exists.

14.11.6 The purchaser's right to rescind the contract under section 17.6. of these General Terms and Conditions remains unaffected.

14.12 The supplier or his representative / vicarious agents is liable for inability of delivery in cases of intent or gross negligence and culpably caused death, physical injury or health impairment in accordance with statutory provisions.

14.12.1 The supplier's liability is limited to contractually typical, foreseeable damage in cases of gross negligence, unless an exceptional case other than those mentioned in section 14.12. exists.

14.12.2 Outside of the cases mentioned in sections 14.12. and 14.12.1., the liability of the supplier because of inability to pay compensation and reimburse wasted expenses is limited to a total of 10% of the gross commodity value of the part of the delivery which cannot be used as intended due to the inability.

14.12.3 Further claims by the purchaser due to inability of delivery are excluded, even after expiry of any deadline for performance to be met by the supplier.

14.12.4 The purchaser's right to rescind the contract under section 17.5. f. of these General Terms and Conditions remains unaffected.

14.13 A change to the burden of proof to the disadvantage of the client is not linked with the foregoing provisions.

15. COPYRIGHTS / INTELLECTUAL PROPERTY RIGHTS / DEFECTS OF TITLE / LIABILITY

15.1 The purchaser is responsible for ensuring that intellectual property rights of third parties are not infringed with regard to all documents, drawings, items, etc. transferred to the supplier for the purposes of contract preparation and/or execution.

15.1.1. The supplier will inform the purchaser about the intellectual property rights of third parties known to him.

15.1.2 The purchaser agrees to indemnify the supplier against all claims by third parties, and compensate for damage incurred by him, as long as they apply to an injury as defined in section 15.1.

15.1.3 If service, production or delivery of a third party is prohibited to the supplier in the event of exercising an intellectual property right belonging to the third party, the supplier is entitled – without reviewing the legal situation – to stop the execution of the contract and claim compensation for his expenses.

15.1.4 The supplier agrees in the event of inconclusiveness of a contract, to surrender the documents, drawings, calculations and other items to the purchaser at his request. After a period of three months after the submission of offer, the supplier is also entitled to the destruction of these documents and items.

15.2. Unless otherwise agreed, the supplier is obligated to deliver only within the country of delivery location, exempted from industrial property rights and copyrights of third parties – hereinafter referred to as „IPR“.

15.2.1 In case a third party asserts justified claims against the purchaser for infringement of IPR through supplies that are contractually used and provided by the supplier, the supplier shall be liable to the purchaser within the deadlines specified in sections 18. – 18.7. according to sections 15.2.1.1 – 15.2.1.3.

15.2.1.1 It is at the discretion of the supplier to either exercise the right to use for this delivery, change the delivery such that the IPR of third parties will not be infringed or replace it. The cost incurred shall be borne by the supplier. If this is not reasonably possible for the supplier, the purchaser shall be entitled to the legal rights of rescission and reduce the price. The sections 14.5, 14.5.1, 14.6.2. and 14.6.4. apply accordingly.

15.2.1.2 The supplier's liability to pay damages is determined by sections 14. – 14.13. and 16. – 16.2 of these General Terms and Conditions.

15.2.1.3 The sections 15.2.2. and 15.2.3. oblige the supplier only if the purchaser notifies the supplier of the claims asserted by third parties without delay in writing, does not recognise infringement of IPR and the supplier further reserves the right to any counter-measures and settlement negotiations. If the purchaser ceases to use the delivery due to mitigation concerns or other important reasons, he is obliged to inform the third party that suspension of use is not associated with recognition of the infringement of IPR.

15.2.2 Claims by the purchaser are excluded if he is responsible for the infringement of IPR himself.

15.2.3 Claims by the purchaser shall also be excluded if the infringement of IPR is caused by specifications of the purchaser, use of the delivery item that is not foreseeable by the supplier or by the fact that the purchaser changes the delivery or uses it in conjunction with products not delivered by the supplier.

15.2.4 In all other respects, the provisions of sections 14. – 14.13. of these General Terms and Conditions apply accordingly to the defects.

15.2.5 Further claims by the purchaser due to a defect are excluded.

16. OTHER LIABILITY OF THE SUPPLIER

16.1 The provisions of the preceding sections 14. – 15.2.5. apply to all claims for damages, in particular for damages in addition to performance and compensation instead of performance, irrespective of their legal basis, particularly due to defects, breach of obligations under the obligation or from unlawful acts.

16.2 They also apply to the claim for compensation of wasted expenses.

17. RESCISSION

17.1 The supplier reserves the right to rescind the contract if the purchaser objects to these General Terms and Conditions. In this case, the purchaser cannot make any claims against the supplier.

17.2 If the supplier does not receive the delivery item in spite of prior conclusion of an appropriate „Purchase Agreement“, he is entitled to rescind the contract. The responsibility of the supplier for intent or gross negligence is not affected by the provisions of sections 14, 15, 16, 17 and 18 of these General Terms and Conditions. The supplier will inform the purchaser immediately of the delayed availability of the delivery item. If the supplier intends to cancel the contract, he will inform the purchaser immediately about this intention after acknowledging the consequences of the event. In the event of cancellation by the supplier, the same will compensate the purchaser the appropriate service in return without delay.

17.3 If insolvency or judicial composition proceedings is filed or initiated against the assets of the purchaser or rejected due to insufficient assets, or the assets are withdrawn in any other way, the supplier shall be entitled to fully or partially rescind the contract, without resulting in compensation claims against the supplier. This does not apply if the bankruptcy application is withdrawn within a period of 3 weeks.

17.4 In case of delays due to force majeure or similar events for which the supplier is not responsible (see section 5.6.), the supplier is entitled to fully or partially rescind the contract, without resulting in compensation against the supplier. If the supplier intends to cancel the contract, he will inform the purchaser immediately about this intention after acknowledging the consequences of the event.

17.4.1 If the delay due to force majeure or similar events for which the supplier is not responsible lasts for more than three months, the purchaser is entitled, after reasonable notice period, to withdraw from the unfulfilled portion of the contract, without resulting in compensation against the supplier, unless the delay is due to culpability of the purchaser.

17.4.2 At the request of the supplier, the purchaser shall declare within a reasonable period of time whether he intends to rescind the contract because of the delay in delivery for more than a period of three months or still insist on delivery.

17.5 If delivery becomes subsequently impossible due to reasons for which the supplier is not responsible, the purchaser is entitled to rescind the contract. In case of partial impossibility, the purchaser is entitled to rescind the contract only with regard to the part of the contractual service, whose performance has become impossible, unless the partial performance is reasonable to him.

17.5.1 If neither the supplier nor the purchaser is responsible for the impossibility, the contract shall be adjusted by mutual agreement, provided that it is economically feasible and actually implementable. Otherwise, both parties are entitled to rescind the contract in whole or in part, without resulting in compensation claims against the supplier.

17.5.2 If the purchaser is responsible for the impossibility, the supplier is entitled to rescind the contract in whole or in part. In this case the purchaser is obliged to compensate the supplier for any expenses, costs and other direct and indirect damage.

17.6 Furthermore, the purchaser shall be entitled to rescind the contract under the statutory provisions, if the supplier is responsible for the breach of duty. In this case, the purchaser must declare within a reasonable period of time after request by the supplier, if he wants to rescind the contract or still insist on delivery.

17.7 In the case of breach of duty by the purchaser, in particular delay in payment, the supplier shall be entitled, if necessary, after formal notice, to cancel the contract, without resulting in compensation claims against the supplier.

18. LIMITATION OF CLAIM

18.1 The limitation period for claims and rights due to defects in delivery – for whatever legal reason – is one year. However, this does not apply to the cases of §§ 438 para. 1 no.1, 438 para. 1 no. 2, 479 para. 1 BGB (German Commercial Code), where a limitation period of three years applies.

The limitation period for rights due to defects in delivery of one year shall apply in particular to deliveries of products of the manufacturers “ATX Networks Corp.” and “ARRIS International plc.”

18.2 The limitation periods under section 18.1. apply, regardless of the legal basis, to all compensation claims against the supplier associated with the defect.

18.3 The limitation periods under sections 18.1. and 18.2. apply to the following provisions:

18.3.1 The limitation periods do not apply, in general, to cases of wilful misconduct or fraudulent concealment of a defect or if the supplier has assumed a guarantee for the quality of the delivery item.

18.3.2 The statutory periods of limitation shall continue to apply in the event of claims for damages due to injury to life, physical injury or health, due to grossly negligent or intentionally caused damage, as well as for claims under the product liability law.

18.3.3 The limitation periods apply also to the reimbursement of wasted expenses.

18.4 The limitation period begins for all claims with the delivery or collection.

18.5 Unless otherwise specified, the statutory regulations on the start of the limitation period, suspension of expiry, suspension and restart of periods remain affected.

18.6 The sections 18.1. – 18.5. shall apply accordingly to compensation claims that are not associated with a defect. The section 18.1. shall apply to the limitation period.

18.7 A change to the burden of proof to the disadvantage of the purchaser is not linked with the foregoing provisions.

19. ASSIGNMENT

The purchaser is entitled to assign his claims arising out of or in connection with the legal transaction wholly or partly to third parties only with the written consent of the supplier.

20. RIGHT OF OFFSETTING / RETENTION

The purchaser is entitled against the supplier only to offset with undisputed or legally established claims that arise from the actually existing legal relationship between him and the supplier. The same applies to the right of retention.

21. SPECIAL FEATURES OF DELIVERIES ABROAD / EXPORT OF GOODS

The above provisions apply to deliveries abroad or export of goods, unless otherwise specified below:

21.1 For deliveries abroad, the purchaser, unless agreed otherwise in writing, shall make payments without deducting an irrevocable letter of credit opened in favour of the supplier at one of the bank accounts of the supplier, denominated in Euro (€) and payable in the Federal Republic of Germany.

21.2 Otherwise, the rules of the Incoterms in force at the time of delivery apply to delivery abroad.

21.3 All costs associated with the cross-border delivery, in particular, customs, taxes, inspection fees, etc. shall be borne by the purchaser.

21.4 The transportation costs incurred from the overseas delivery depend on the order value.

21.5 The resale of goods to third countries is allowed only with prior written approval of the delivering plant.

21.6 All exports of delivered goods is allowed only with prior written approval of the supplier.

21.7 The purchaser is obliged to provide all information, documents, permits and approvals required for export, shipping or import in a timely manner.

21.8 The fulfilment of the contract is also subject to the proviso that no obstacles are faced due to German, U.S. and other applicable national, European or international rules of foreign trade and no embargoes or other sanctions.

22. APPLICABLE LAW

22.1 Only the law of the Federal Republic of Germany, excluding the UN Convention on the International Sale of Goods (CISG), applies to all disputes arising out of or in connection with the contract, its amendments, additions and additional agreements.

22.2 In addition to these General Terms and Conditions, the general delivery terms for products and services of the electrical industry („Green delivery terms“ – GL) for use in commercial transactions with contractors and the additional clause: extended reservation of ownership of the ZVEI in the respectively valid version.

22.3 In the case of disputes concerning the interpretation of these General Terms and Conditions, the German version shall prevail.

23. PLACE OF PERFORMANCE

Place of performance is the head office of the supplier, Merkurstr. 3 c, 30419 Hanover, Germany.

24. LEGAL VENUE

24.1 The jurisdiction of the competent court in Hanover (postcode 3015), Lower Saxony, Germany is agreed for disputes arising out of or in connection with the contract, its amendments, additions and additional agreements.

24.2 However, the supplier retains the right to sue the purchaser at his place of general jurisdiction.

25. WRITTEN FORM REQUIREMENT

25.1 Changes and additions to the contract must be made in writing.

25.2 Verbal agreements do not cause any legal consequences.

25.3 Silence of the purchaser shall be assumed as rejection.

25.4 Written amendments or additions apply only to each specific contract. They are effective only if they have a specific reference to the applicable contract.

25.5 The written form requirement is met if telecommunication means such as fax or email can be used.

25.6 A waiver of the written form must also be made in writing.

26. SEVERABILITY CLAUSE

26.1 Should any provision of these General Terms and Conditions has proven to be ineffective in whole or in part or become invalid due to statutory amendments following conclusion of the contract, the remaining provisions and the validity of the contract on the whole shall remain unaffected.

26.2 In place of the ineffective provisions, the statutory provision which resembles the meaning and purpose of the invalid provision as closely as possible shall come into effect.

26.3 If the contract proves to be incomplete as a whole, the provisions that correspond to the meaning and purpose of the contract and would have been agreed in the event of consideration shall be deemed agreed.

As on 1 April 2022