

General delivery and payment conditions

1 General – Scope of application

- 1.1 The following general delivery and payment conditions of the Supplier apply to all deliveries and services. No other terms and conditions of the purchaser will be recognised, unless we have expressly agreed to their validity in writing.
- 1.2 Our general delivery and payment conditions only apply for companies, legal persons under public law and public law entities with public funds.
- 1.3 Electronic data processing is used to conduct business relationships and to process business transactions. The customer agrees that the Supplier will gather and process the data required for this purpose and use it to conduct business relationships and process business transactions.

2 Quotation

- 2.1 The Supplier's quotation is non-binding. The order is only considered to have been accepted when it has been confirmed in writing by the Supplier. Any additions, amendments or ancillary agreements, whether communicated by wire transfer, by phone or verbally, must be confirmed in writing by the Supplier in order to be valid.
- 2.2 Documents relating to the quotation, such as illustrations, drawings and weight specifications, are only approximate unless they have been specifically identified as binding. The same applies to performance and consumption specifications. The Supplier retains ownership and copyright over cost estimates, drafts, drawings, calculations and other documentation; these must not be copied or made accessible to third parties.
- 2.3 We reserve the right to make design and construction modifications.

3 Prices and payment

- 3.1 Unless otherwise agreed, the prices are for delivery to the customer's location, provided that this is in Germany. For deliveries up to the net invoice value of EUR 250 within Germany, there will be an additional charge for packaging and carriage. For deliveries from Germany to an address abroad, the customer will bear the costs of shipping and transport insurance. Surcharges for express deliveries etc. of any kind are borne by the recipient. Our prices are net, i.e. the current statutory level of VAT is charged in addition.
- 3.2 Changes to the rate of sales tax shall entitle us to adjust our prices in accordance with the change made to sales tax.
- 3.3 Payments to representatives without written collection authorisation are not permitted.
- 3.4 The customer's outstanding payments cannot be offset against other claims, unless they are undisputed or legally valid.
- 3.5 Where contracts have an agreed delivery period of more than four months from the conclusion of the contract, the Supplier reserves the right to increase prices in line with increases in wage costs or material prices. If the increase is more than 5% of the agreed price, the customer is entitled to cancel the contract.

4 Default

- 4.1 If the customer does not meet their payment obligations, ceases their payments or does not honour a bill of exchange or cheque, or if the Supplier becomes aware of a significant deterioration in the customer's financial circumstances that jeopardises their ability to pay the Supplier, the entire remaining debt shall become due, even if bills of exchange with a later maturity date are pending. If the entire remaining debt is not paid immediately, the customer shall lose their right to use the supplied goods. The Supplier is entitled to either reclaim the supplied goods without renouncing their claim until full payment has been made, or to withdraw from the contract. If the supplied goods are removed, all costs are to be borne by the customer. Following the cancellation of the contract, the customer shall compensate the Supplier for the use of the supplied goods, any reduction in value, even that for which it is not responsible, as well as any profits lost by the Supplier.
- 4.2 If the goods have not been accepted and a grace period has lapsed and the customer is still in default, the Supplier can withdraw from the contract without issuing a refusal of service warning and claim compensation of 15% of the order value. The customer is always at liberty to prove that minimal or no damages have been incurred by the Supplier. The Supplier also reserves the right to claim for higher damages.

5. Delivery date

- 5.1 The delivery period starts when our order confirmation is received by the customer, but not before the documents, authorisations and approvals to be procured by the customer have been provided and not before any agreed prepayment has been made.
- 5.2 The delivery period is considered to have been met if the supplied goods have left the factory or the notice that they are ready for dispatch has been issued before the end of the period.
- 5.3 The delivery period will be appropriately extended in the event of operational disruptions due to workplace disputes, particularly strikes or lockouts, and in the event of any unforeseen obstacles that are outside the Supplier's control, such as other types of operational disruptions, rejected parts, delays in the delivery of essential raw and construction materials, and anything else that hinders the completion or delivery of the goods to be supplied. The same applies if these circumstances arise at any of the Supplier's subcontractors. The above does not apply if these circumstances only arise when the Supplier is already in default.
- 5.4 Compensation for not meeting a binding, agreed deadline is limited to standard, foreseeable damages and shall only arise if we are responsible for the deadline not being met. In the event of ordinary negligence, claims for compensation of damages caused by delay are limited to 5% of the agreed order price.
- 5.5 In order for the delivery period to be complied with, the customer must also fulfil their contractual obligations.
- 5.6 In the event of any shipment delays or if any storage is required that is requested by the customer or is required for other reasons for which the customer is responsible, any costs incurred or appropriate costs will be charged.

6 Transfer of risk

- 6.1 Risk is transferred to the customer when the goods are handed over and when the goods are unloaded onto the ground or the delivery ramp at the customer's premises. If the customer has specified a delivery location in Germany, then the risk is transferred to the customer when the goods arrive at this location.
If the delivery location is outside Germany, then the risk is transferred to the customer when the goods are handed over to the courier or carrier.
- 6.2 If the shipment is delayed due to circumstances for which the Supplier is not responsible, the risk is transferred to the customer from the day that the shipment is ready for dispatch and this has been communicated to the customer.

7 Installation and after-sales services

- 7.1 Installation and after-sales services are charged separately unless otherwise agreed. Costs include, in particular, the travel expenses, accommodation allowance and hours worked for installation personnel including any statutory surcharges for overtime and any hours worked overnight, on Sundays and on public holidays. If work is delayed for reasons for which the Supplier is not responsible, the customer will bear all costs for waiting time and any further travel that is required.
- 7.2 Flat rates agreed for installation and after-sales services do not include surcharges for overtime and any hours worked overnight, on Sundays and on public holidays if these have been stipulated by the customer or are required for reasons for which the customer is responsible. An additional charge can be made in this case.
- 7.3 Installation and commissioning work must be carried out by the Supplier with the required trial operation and then inspected immediately. If there are any delays in the installation or commissioning procedure for which the Supplier is not responsible, the risk is transferred to the customer at this point.

8 Liability for defects

- 8.1 The Supplier's liability is limited to its delivery or service and does not extend to the whole system.
- 8.2 For commercial sales with traders as per the HGB [Handelsgesetzbuch, German Commercial Code], section 377 HGB shall apply.
- 8.3 The limitation period for claims for defects is twelve months, unless a different limitation period is specified in section 438(1)(2) BGB or section 634a(1)(2) BGB.
- 8.4 Drawings, illustrations and specifications of weights and dimensions are only intended as a guide. They are not guaranteed characteristics unless otherwise expressly agreed in writing.
- 8.5 No liability is assumed for damages that arise for the following reasons:

- Incorrect operation of the system due to a failure to observe the operating instructions;
 - Incorrect installation or commissioning by the customer or a third party, or defects in the supply cables, provided that these were not installed by the Supplier;
 - Effects caused by parts of third-party origin that were not procured by the Supplier;
 - Damages caused by continued use despite the discovery of a defect.
- 8.6 In the event of a justifiable claim for defects, at its discretion the Supplier can either repair the defective item or provide a replacement to the customer in exchange for the rejected part.
 - 8.7 Replaced parts become the property of the Supplier.
 - 8.8 If the Supplier carries out any repairs, this does not constitute the acceptance of any obligation on their part to remedy the defect.
 - 8.9 If repairs are carried out when there is no legal obligation to do so, there will be no warranty unless this has been agreed in writing.
 - 8.10 Repairs or additional deliveries by the Supplier do not result in the customer's limitation period for warranty claims being either suspended or re-started.
 - 8.11 Unless expressly agreed in writing, the Supplier cannot guarantee that the equipment it delivers complies with foreign regulations.

9. Liability

- 9.1 Unless otherwise agreed below, our liability for damages – particularly in the event of a fault in contractual negotiations, other breaches of obligation or fraudulent claims for compensation of property damage in accordance with section 823 BGB and immediate or subsequent damage, including lost profits – is limited to the amount covered by our liability insurance. We can provide details of the amount covered by our liability insurance on request.
- 9.2 In the event of ordinary negligence in the infringement of essential contractual obligations, which must be fulfilled in order for it to be actually possible to execute the contract and which the contractual partner can normally trust will be fulfilled (known as material contractual obligations), our liability for further claims is limited to the foreseeable damage that may typically occur under this type of contract.
- 9.3 Other than this, we are not liable for any immediate or subsequent damage, and especially not for lost profits, except in the event of malicious intent or gross negligence.
- 9.4 Points 9.1 to 9.3 do not apply in the event of malicious intent and gross negligence by us, a legal representative or a vicarious agent.
- 9.5 Our liability in accordance with the provisions of the Produkthaftungsgesetz [German Product Liability Act] remains unaffected by the provisions stated in points 9.1 to 9.3 above. Furthermore, points 9.1 to 9.3 above do not apply in the event of culpable injury to life, limb or health or in the event of a breach of warranty by us, our legal representative or a vicarious agent.

10 Supplier's right to cancellation

- 10.1 In the event of unforeseen events as per point 5.3, insofar as they have an economic impact and considerably alter the content of the service or have a significant impact on the Supplier's business operations, and if it subsequently transpires that it is impossible for the contract to be carried out, either in full or to a significant extent, the

contract will be amended appropriately. Where this is not possible or not economically feasible, the Supplier is entitled to withdraw from the contract in full or in part. The Supplier must inform the customer as soon as they become aware of the circumstances that will result in the cancellation.

10.2 The customer is not entitled to claim compensation in the event of this type of cancellation.

11 Reservation of title

11.1 Supplied items remain the property of the Supplier until full payment has been received. We retain ownership of the supplied goods until fulfilment of all claims – including those arising in the future – that we have against the customer as a result of the business relationship.

11.2 The customer can sell on or process the supplied goods as part of normal business transactions unless they have already assigned the claim against their contractual partner to a third party in advance, or have agreed a non-assignment clause. As security for the fulfilment of our claims as per points 11.1 to 11.5, the customer assigns to us all claims, including those that arise in future, in the amount of the final invoice amount including VAT arising from a subsequent sale of our goods with all ancillary rights up to the value of our goods. We hereby accept the customer's notice of assignment.

11.3 If goods subject to reservation of title are installed as significant components on the customer's premises, the customer hereby assigns to the Supplier the claims arising from the sale of the premises or claims arising from property rights in the amount of the invoice value of the goods subject to reservation of title, including all ancillary rights.

11.4 If the goods subject to reservation of title are installed by the customer, or on their behalf as significant components on the premises of a third party, the customer hereby assigns to the Supplier all claims for payment against the third party or any party to whom it may apply, for the amount of the invoice value of the goods subject to reservation of title, including all ancillary rights.

11.5 If the goods subject to reservation of title are processed, linked or mixed with other goods by the customer, the Supplier has co-ownership of the new item proportionate to the invoice value of the goods subject to reservation of title in relation to the value of the other goods.

11.6 The Supplier's reservation of title is therefore conditional to the extent that when full payment of all its claims has been made, ownership of the goods subject to reservation of title immediately passes to the customer and the assigned claims are now theirs.

11.7 The Supplier is obliged to release the securities insofar as these securities exceed the value of the Supplier's claims to be secured by 10%.

11.8 The customer must neither pledge the supplied item nor use it as security. The customer shall notify the Supplier without delay in the event of seizure, confiscation or other orders by third parties. The customer shall bear the cost of interventions.

11.9 The Supplier is entitled to demand the return of goods subject to reservation of title if the customer does not meet their payment obligations. The enforcement of the reservation of title and seizure of the supplied goods by the Supplier do not constitute cancellation of the contract.

12 Place of fulfilment and jurisdiction

12.1 The place of fulfilment for all obligations arising from this contractual relationship is 91541 Rothenburg ob der Tauber, Germany.

12.2 Written notifications to the Supplier as stipulated in these delivery and payment conditions must be sent directly to the Supplier's registered office in 91541 Rothenburg ob der Tauber, Germany. Notifications sent to representatives are not valid.

12.3 If the customer is acting as a trader as per the HGB, a legal person under public law or a public law entity with public funds, then the place of jurisdiction is the location of the registered office of Neuberger Gebäudeautomation GmbH. However, the Supplier is also entitled to institute proceedings against this kind of customer at the customer's general place of jurisdiction.

13 Applicable law

13.1 German law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods and international private law.

14 Binding nature of the contract

14.1 The contract remains binding even if one or more of the provisions or clauses in the general delivery and payment conditions prove to be legally invalid. The omission created by the loss of the invalid provision shall be filled in all good faith and in accordance with the spirit of the contract.

Rothenburg ob der Tauber, July 2020

Neuberger Gebäudeautomation GmbH
Neuberger Gebäudeautomation AG