

Hans Brockstedt GmbH

General Terms and Conditions of Business

I. GENERAL

1. By accepting an offer, a confirmation of order, at the latest by placing an order or accepting the Supplier's delivery, the Orderer acknowledge that these Terms and Conditions of Business are applicable to all business relations with the Supplier. These Terms and Conditions of Business, once agreed upon, shall also be applicable to future contracts.
2. These Terms and Conditions of sale shall be applicable to all our deliveries and performances unless otherwise agreed in writing by the contracting parties.
3. We will not accept terms and conditions otherwise provided unless we have explicitly confirmed them in writing. By no means shall a mere failure to raise an objection considered to be an acknowledgement of terms and conditions other than those set down herein.

II. OFFERS / ORDERS

1. Our offers shall be without engagement. Any oral collateral agreements and commitments shall require our written confirmation. Offers shall retain a price validity of 6 weeks.
2. Confirmations of order will be subject to the technical feasibility of the order. If any factors relevant to cost or delivery date are ascertained in the course of verification of contract, they shall be harmonized with the Orderer and set down in a confirmation of order.
3. Orders shall be considered as accepted when they have been received / confirmed in written form. For the scope of delivery, too, the written confirmation of order shall prevail.
4. Particular agreements shall be made when framework contracts involve deliveries on request. The delivery of individual lots shall be requested in accordance with our service system.

III. PRICES / PAYMENT

1. Unless otherwise agreed, our bid prices shall be quoted net, delivery ex works, VAT zero-rated, excluding freight charges, and excluding rush charge.
2. Cost of packing, freight charges, and postage shall be indicated separately in our invoices. We will not accept returned packing – unless otherwise agreed. The Orderer shall be charged separately for any cost of special testing they have ordered.
3. Our invoices shall be payable: less 2% discount for payment within 14 days, or 30 days net.
4. Payment by check will only be considered as having been effected after cashing of the check. The cost of discount charges and collection fees shall be borne by the Orderer. If the timed fixed for payment is not adhered to, we shall, as from the due date and without particularly notifying the Orderer of such default, charge a penal interest amounting to 5% above the relevant base lending rate of the Central Bank of Germany "Deutsche Bundesbank".
5. The Orderer may not set their claim off against our claim for payment on them or may not enforce a lien unless the Orderer's counterclaims are either undisputed or have been recognized by declaratory judgment.

IV. RIGHT OF REPRODUCTION

1. We reserve the right of reproduction for layouts we produced ourselves. We will be not able to verify whether layouts or artwork delivered to us infringe any existing copyright, trademark, or utility model deposited in court. In this respect, any liability shall be excluded.

V. CORRECTION COPIES / RELEASE OF PATTERNS

1. Any expert opinion and release of correction copies, drawings, and patterns of artwork shall exonerate us from any liability for faults that have not been complained of.
2. We shall not be liable for incorrect, contradictory, unclear, and incomplete information given by the Orderer; any consequences such as delay in delivery and additional expenses shall be borne by the Orderer.
3. In case of missing information – in particular, when Rush Charge Orders are concerned – we shall manufacture according to standard as per our technical data sheet.

VI. TOOLS

1. Cost of tools, devices, adapters for electrical testing, and artwork devices required for order execution shall only be charged proportionally. Such tools, devices, adapters, and artwork devices shall remain our property.

VII. DELIVERY / PASSING OF RISK

1. Excess deliveries or short deliveries are customary in this line of business and shall not entitle the Orderer to complain or to refuse to take delivery. The Orderer shall be bound to pay excess deliveries (no rush charge will be made) or to accept short deliveries, respectively. As a rule and unless otherwise agreed, excess deliveries or short deliveries will be quoted to reach up to 10% of the quantity ordered, minimum the volume of one delivery panel. Partial deliveries shall be permissible.
2. The indicated dates of delivery shall not be fixed dates. We shall make every effort to meet the confirmed deadlines. However, in case of delay in delivery we shall charge only the rush charge for the actual delivery time. If special testing has been agreed in writing, the delivery time will be extended by the period needed for such testing. Deliveries can only be effected within the specified delivery time when all records and information to be supplied by the Orderer are received in due time.
3. If the manufacture or delivery of goods ordered becomes impossible or considerably more difficult due to circumstances for which we are not responsible and which may have been caused in our works or at our suppliers' – e.g. due to force majeure, operational or manufacturing breakdown, strike, fire, our suppliers' failure to deliver goods in due time or in proper condition etc. – then we will be released from the obligation to deliver for the duration of such impediment and its consequences. In this case, claims for damages shall be excluded.

4. If delivery time is exceeded or delivery delayed, the Orderer shall not be entitled to cancel the contract or to refuse to take delivery unless a reasonable extension period granted to us beforehand, during which the manufacture could have been made up, has elapsed.
5. If a verifiable damage has arisen to the Orderer due to a delay through the Supplier's fault, the Orderer shall be entitled to claim compensation for loss occasioned by default to the exclusion of further claims. Such compensation shall amount to 5% for each completed week of default, however, it shall not exceed a maximum of 5% of the value of the particular part within the total scope of delivery, which part cannot be used in due time because of the delay.
6. As a rule, delivery shall be effected at Orderer's risk. Any risk shall pass to the Orderer as soon as goods, films, layouts, discs, magnetic tapes, sketches etc. leave our works.
7. Export considerations are the sole responsibility of the Orderer.

VIII. RESERVATION OF OWNERSHIP

1. Until receipt of the Orderer's complete payment – including any claims for damages we may have risen against the Orderer – of all outstanding liabilities resulting from all of our deliveries, we shall hold property of all goods delivered. Such goods may be resold or processed in regular trade.
2. If the goods are resold prior to the receipt of the Orderer's complete payment of all their outstanding obligations, the Orderer's claims resulting from such resale shall take the place of the goods by means of assignment of future claim. If connection, bonding, blending, or processing cause loss of ownership according to section 947 subsection 2 BGB (German Civil Code), Messrs. Brockstedt and the Orderer hereby agree that the Orderer's ownership of the coherent article of property will pass to us, taking into account the value of our delivery in proportion to that of the new article of property produced.
3. The Orderer must neither pledge the goods delivered nor transfer ownership by way of security. In case of seizure, confiscation, or other disposition by third parties, the Orderer shall notify us immediately.

IX. WARRANTY / NOTICE OF DEFECTS

1. We shall disclaim liability for damage caused by the Orderer or a third party due to alterations or repairs to the object we delivered.
2. The Orderer shall immediately, however, within 14 days after receipt of goods at the latest, notify us in writing of any defects detected. We shall reject complaints lodged due to irrelevant or minor defects in material, surface, or colour if they result from features characteristic to the manufacturing process, and if they are not detrimental to the use of goods delivered.
3. In case of rightful complaints that have been lodged in due time, we may at our discretion rework goods delivered, supply replacement, or credit to the Orderer an amount corresponding to the decrease in value of such goods. Any further claims the Orderer may lodge shall be excluded in any case. In particular, the Orderer have no right of cancellation of the sales contract, reduction of the purchase price agreed, or compensation for any damage/claim including loss of profit, which damage/claim can be directly attributed to the defects. As we cannot influence the processing or usage of goods we produced, liability for consequential damage shall be excluded.
4. We shall not admit claims lodged for goods obviously delivered in defective condition once such goods have been processed – even if only partially – or when we are no longer able to inspect the defect e.g. due to the fact that the Orderer's records have been returned.

X. GENERAL LIMITATION ON LIABILITY

1. Purchaser's claims for compensation of expenses arisen due to damage (hereinafter referred to as Claims for Damages), regardless of the relevant cause in law, in particular Claims for Damages resulting from tortious act and from violation of obligations concerning debt, shall be excluded. The aforesaid shall not be applicable to a liability created by mandatory law, e.g. by the Product Liability Act, or to a liability caused intentionally or by gross negligence leading to personal injury to life, body, or health, and to a liability caused by the violation of essential contractual obligations. However, a Claim for Damages caused by a violation of essential contractual obligations shall be limited to foreseeable damage typical of the contract and shall not exceed the amount of 5 times the unit price of the printed circuit board as far as gross negligence is not applicable or liability has been created by personal injury to life, body, or health. Any warranty claims shall be based on the fact that the Orderer have properly met their obligation according to section 377 HGB (German Commercial Code) regarding the duty to examine and the requirement to make a complaint in respect of a defect immediately on receipt of goods. This does not involve a modification to the burden of proof to the Purchaser's disadvantage.

XI. TERMINATION

1. We shall be entitled to withdraw from the contract in whole or in part or to claim damages for non-performance if the Orderer have failed to take delivery and/or to pay on due date, if they are verging on insolvency, or if insolvency proceedings have been instituted against their property.
2. In the case of termination, the Orderer may not make any Claim for Damages against us.

XII. PLACE OF PERFORMANCE AND JURISDICTION

1. The place of performance shall be Kiel (Germany).
2. Venue shall be the local court competent for Kiel (Amtsgericht/Landgericht) with respect to all controversies resulting from these Terms and Conditions of Business.
3. However, we shall also be entitled to institute legal proceedings before the domestic or foreign court of law competent for the Orderer.
4. German Law shall be applicable for contracts concluded with foreign contracting parties.
5. Should individual regulations of these general terms and conditions become ineffective, the invalidity of any such condition shall not affect any part of the remaining contract.