

General Terms and Conditions (GTC) of Noordtec GmbH&Co.KG, D-26655 Westerstede, HRA205364, District Court Oldenburg

General

The following General Terms and Conditions apply exclusively to the business relationship between the customer (hereinafter: "Customer") and Noordtec GmbH&Co KG (hereinafter: "Contractor"). Deviating terms and conditions of the Customer are hereby contradicted - these do not become part of the contract even if the order is accepted. The Contractor's terms and conditions shall be deemed accepted in particular upon ordering an offer from the Contractor.

The Customer's terms and conditions shall only be accepted if and to the extent that they have been previously confirmed in writing by the Contractor.

The validity of these General Terms and Conditions of Noordtec GmbH & Co KG is also agreed for all future contracts. Contracts between the parties Customer and Contractor as well as any amendments or supplements thereto must be in writing. This also applies to oral agreements. A waiver of the requirement for a written form is excluded.

Deliveries

The execution of the order is based on the planning documents and documents made available to the Contractor.

These planning documents and documents are binding insofar as the Customer does not expressly object to them in writing within four weeks after receipt.

The delivery time results from the agreements of the contracting parties and is always non-binding, unless they have been expressly guaranteed in writing. Periods shall not commence until all commercial and technical details have been clarified between the contracting parties or all necessary approvals and/or releases have been obtained.

Unless otherwise agreed, deliveries shall be made at the Customer's risk, ex works the Contractor.

The delivery period shall be deemed to have been met if the delivery item has left the Contractor's works or readiness for dispatch has been notified by the end of the period. Insofar as an acceptance has to be made, the acceptance date (except in the case of justified refusal of acceptance) shall be decisive, alternatively the notification of readiness for acceptance.

The Contractor is entitled to partial deliveries and services to a reasonable extent for the Customer.

Events of force majeure and other circumstances beyond the Contractor's control which make the timely execution of accepted orders impossible shall release the Contractor from the assumed performance obligations and execution dates for the duration of their existence (this includes e.g. operational disruptions, strikes, difficulties in procuring materials, lack of means of transport, official intervention, etc.).

The delivery period shall be extended appropriately for one of the reasons given. The Contractor shall inform the Customer of the beginning and end of such circumstances as soon as possible. During this period, the Customer shall not be entitled to set the Contractor any grace periods with the aim of claiming damages or rescinding the contract after their unsuccessful expiry. If the Contractor is responsible for the impediment to performance, their delivery obligation and the Customer's right to set a grace period shall remain unaffected.

If delivery and installation is delayed at the Customer's request or for reasons for which the Customer is responsible, the risk shall pass to the Customer during the period of the delay. The corresponding costs for waiting time, provision, provision of the material and additional travel costs of the Contractor shall be borne by the Customer.

Standstills due to external fault and short-term schedule changes during assembly, testing, commissioning shall be at the Customer's expense.

Acceptance

The Customer is obliged to accept the system or service. It is to be carried out immediately on the acceptance date, alternatively after notification of readiness for acceptance by the Contractor.

Acceptance cannot be refused due to insignificant defects. Acceptance is deemed to be the time of transfer of risk to the Customer.

If acceptance is delayed due to circumstances for which the Customer is responsible, the risk shall pass to the Customer on the day of notification of readiness for acceptance.

The system and the service shall be deemed to have been accepted unless the Customer has submitted a notice of major defects which entitle them to refuse acceptance in writing within four weeks after notification of readiness for acceptance or notification of completion.

Payment terms

Invoices are due within 30 days or within 14 days with a 2% discount. The date of the invoice is decisive for the payment period.

Unless otherwise defined, 40% of the order amount shall be due upon the Customer's written order and Contractor's confirmation of the order, 50% upon completion and 10% upon acceptance of the service. Any other agreements differing from these agreements must be submitted in writing.

The Customer shall have the right to withhold payments or offset payments with counterclaims only to the extent to which such counterclaims are undisputed and have been established as final and absolute.

The Customer's duty to cooperate

Customer and Contractor must cooperate as "equal partners" in the successful execution of the contract and fulfil their obligations during the execution phase.

Accordingly, duties of cooperation, information and negotiation are among the Special Obligations to Cooperate.⁴⁷ The duties to give notice of defects are part of the duty to provide information and are not considered separately below.⁴⁸

The duties to cooperate and provide information are intended to ensure constant communication between the contracting parties and thus create the conditions for the exchange of information, the clarification of problems, the closing of contractual gaps and the settlement of disagreements.⁵⁵ These objectives apply despite the fact that these obligations to cooperate "are always based on the unilateral fulfilment of a duty of the parties".

Retention of title

The Contractor shall retain title to the delivery item (reserved goods) until all of the Contractor's claims against the Customer have been fulfilled.

In the event of a breach of contract by the Customer - in particular in the event of default in payment - the Contractor shall be entitled to take back the reserved goods after having set a reasonable deadline for the fulfilment of the payment obligation. In this case, the Customer is obliged to surrender the goods.

Enforcement of the retention of title and pledging of the delivery object by the Contractor are not regarded as a rescission from the contract.

The Customer must treat the reserved goods with care. The Customer must insure the goods at their own expense against theft, breakage, fire, water and other damage at replacement value.

The Customer may use the goods and sell them to third parties in the ordinary course of their business as long as they are not in default of payment. However, the Customer may not pledge or assign rights to the goods. The Contractor's claims for payment against the Customer's purchasers arising from a resale of the reserved goods as well as those of the Customer in respect of the reserved goods which arise against its customers or third parties for any other legal reason (in particular, claims arising from unauthorised activity and claims for insurance benefits), including all current account balance claims, the Customer hereby assigns to the Contractor in full by way of security. The Contractor accepts this assignment.

The Customer may collect these assigned claims on their own account in their own name for the Contractor as long as the Contractor does not revoke this authorisation. The right of the Contractor to collect these claims independently is not affected; however, the Contractor shall not assert these claims itself and the direct debit authorisation is not withdrawn as long as the Customer meets their payment obligations.

If, however, the Customer is in breach of contract - in particular if they are in default with the payment of a claim for payment - the Contractor may demand that the Customer discloses the assigned claims and the respective debtors, informs the respective debtors of the assignment and hands over to the Contractor all documents and all information required by the Contractor to assert the claims.

The Customer may not assign such claims, however, in order to have them collected by way of factoring, unless the Customer obliges the factor irrevocably to effect the counterperformance directly to the Contractor for as long as the Contractor still has receivables against the Customer.

If the goods subject to retention of title are combined in such a way that the Customer's item is to be regarded as the main item, the contractual partners agree that the Customer assigns co-ownership of this item to the Contractor on a pro rata basis. The Contractor accepts this transfer.

Copyright

All documents provided by the Contractor such as drawings, technical descriptions, operating instructions, cost estimates, etc. shall be acknowledged by the Customer as the Contractor's trade secrets and remain the Contractor's property. They may not be copied, reproduced or otherwise made available to third parties in any form or made the subject of inquiries without written consent. Reproduction from the Contractor's documents is not permitted.

Warranty

In the event of a timely, justified notice of defects, which becomes apparent as a result of a circumstance prior to the transfer of risk, the Contractor shall, to the exclusion of other warranty claims, either remedy the defect or make subsequent deliveries free of charge at their discretion. If the rectification of defects or subsequent delivery fails, the Customer may demand a reduction of the remuneration or withdrawal from the contract. The Contractor may refuse subsequent performance if it is impossible or only possible with disproportionate effort.

After consultation with the Contractor, the Customer shall grant the Contractor the necessary time and opportunity to carry out all subsequent improvements and replacement deliveries deemed necessary by the Contractor to remedy the defect. Only in urgent cases of endangerment of operational safety or to prevent disproportionately large damages, whereby the Contractor must be informed immediately, does the Customer have the right to have the defect rectified itself or by a third party and to require the Contractor to reimburse the necessary expenses.

The Contractor shall bear - insofar as the complaint proves to be justified - the costs of the replacement part including dispatch as well as the reasonable costs of removal and installation; furthermore, if this can reasonably be demanded according to the situation of the individual case, the costs of any necessary provision of its personnel.

No defects are in particular conditions resulting from unsuitable or improper use, faulty assembly by the Customer or third parties, natural wear and tear, faulty or negligent handling, excessive strain, unsuitable operating materials, changes to buildings or use, improper use without prior approval by the Contractor. Changes or repair work by the Customer or third parties, external influences affecting the function of the system (extraordinary changes in environmental conditions e.g. temperature, humidity, chemical, electro-chemical or electrical influences).

In such cases, the Customer shall bear the costs for the repair including the costs for arrival and departure.

Liability

For damages which have not occurred to the delivery item itself, the Contractor shall only be liable - for whatever reasons - in cases of intent, gross negligence, culpable injury to life, body and health (personal injury), defects which they maliciously concealed or the absence of which they guaranteed, defects in the delivery item, insofar as liability for personal injury or material damage to privately-used items is provided under the Product Liability Act.

In the case of culpable breach of material duties under the contract the Contractor is also liable for gross negligence on the part of non-managerial staff and for slightly negligent behaviour, this last case being limited to losses which may reasonably be foreseen for this type of contract. All other claims are excluded.

Indirect or consequential damages will not be compensated. This also applies to damage resulting from data loss.

The Contractor's performance can considerably reduce the Customer's risk of damage. However, the service in no way replaces the conclusion of relevant insurance policies (against fire, water, electronic or hull damage, business interruption, etc.). The Contractor shall not be liable for damages resulting from the fact that the Customer has not taken out the aforementioned insurance policies.

The Contractor shall not be liable for loss of profit.

Limitation period

All claims of the Customer - on whatever legal grounds - shall become statute-barred one year after the date of acceptance of the system in accordance with Clause 3. For claims arising from intentional or malicious actions or for claims under the Product Liability Act, the statutory periods apply.

Software utilisation

If software is included in the scope of delivery, the Customer will be granted a non-exclusive right to use the software including its documentation. Said software would be provided for use as intended on the goods ordered. Use of the software on more than one system is prohibited. The Purchaser is only allowed to duplicate, revise, translate within a legally permissible context (§§ 69 a ff. German Copyright Act) or convert from the object code to the source code. The Purchaser undertakes not to remove manufacturer's marks - in particular copyright notices - nor to alter them without prior, explicit permission from the Supplier. All other rights to the software, its accompanying documentation and all copies remain property of the Contractor or the software provider. The granting of sublicences is not permitted.

Applicable law

The legal relations between the contracting parties shall be governed exclusively by the law of the Federal Republic of Germany.

The place of jurisdiction is Westerstede, Lower Saxony.

Amendments and supplements to this agreement must be in written form.

If any provision of this contract should be or become ineffective, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision which comes closest to the will of the contracting parties and the economic purpose of the contract.

In all other respects, the Contractor shall participate in dispute resolution proceedings in accordance with the Federal Association for Mediation.

Westerstede, 01/01/2018
Noordtec GmbH & Co. KG