

General Terms and Conditions of Delivery ("GTCD") for Products and Services of Paul Vahle GmbH & Co. KG to be used in business transactions with entrepreneurs

The following terms and conditions of delivery are based on the non-binding condition recommendation of ZVEI - Zentralverband Elektrotechnik und Elektronikindustrie e.V.

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Article I: General / Area of Application / Responsibility for Specifications / Confidentiality

1. For the legal relationships between Paul Vahle GmbH & Co. KG (hereinafter called "supplier") and the client (hereinafter called "purchaser") in connection with deliveries and/or services of the suppliers (hereinafter called "deliveries") exclusively these terms shall apply (hereinafter also called "GTCD") insofar as the purchaser as entrepreneurial contractual partner (§ 14 German Civil Code, BGB) is a legal entity of public law or is governed by public law. These GTCD shall also apply for subsequent quotations and contracts, even if they have not separately been agreed on or referred to. General Terms and Conditions of the purchaser shall only apply insofar as the supplier expressly consented to them in writing. The scope of deliveries and services as well as their execution are subject to mutually consistent declarations in writing. Condition to the contrary shall not apply even if the supplier silently accepts the services of the contractual partner or if he starts to process an order without any further contradiction which refers to contractual terms of the purchaser.
2. With regard to cost estimates, drawings and other documents (hereinafter called: documents, the supplier reserves the exploitation rights concerning his property rights and copyrights. The documents must be treated as confidential and may only be disclosed to third parties after obtaining the prior consent of the supplier. Upon request, they have to be returned to the supplier when no order is placed. Sentences 1 and 2 accordingly shall apply to documents of the purchaser. They may, however, be disclosed to such third parties who the supplier permissibly has transferred deliveries or the rendering of services to as sub-suppliers or sub-contractors.
3. The purchaser shall have the non-exclusive right to use standard software and firmware with the agreed performance features in unaltered form and on the units agreed upon. Without an express consent in writing, the purchase only may produce on backup copy of the standard software.
4. Partial deliveries are permissible unless they are unacceptable for the purchaser and result in an unreasonable complication of his operational processes.
5. The term "Claims for Damages" in these GTCD shall also include claims for compensation for unnecessary expenditure.
6. Insofar as the purchaser sets specifications for the supplier and nothing else has been agreed upon, the supplier shall not be obliged to check these specification for correctness and suitability - particularly for the known or suspected intended purpose. If the supplier gives advise or recommendations without receiving any money for this service based on the contract, he shall not be liable therefore except in case of intent.
7. Supplier and purchaser agree to maintain strict secrecy concerning knowledge and information of technical and non-technical nature gained from the other contractual party in the scope of preparing and executing the respective contract and particularly with regard to the know-how of the other party and to treat such information as confidentially as they deal with and protect their own sensible information. Without the consent of the other party, such information, data and know-how must not be disclosed or made available to any third party.

Article II: Prices, Payment Terms and Set-off

1. Prices are to be understood ex works excluding packing plus the applicable statutory sales tax.
2. When the supplier accepted the installation and assembly and nothing else has been agreed upon, the purchaser apart from the agreed remuneration shall bear all ancillary cost such as travel and transport expenses as well as daily allowances.

3. Payments shall have to be made free payment point of the supplier.
4. Should there be any unforeseen and considerable increases in prices concerning the calculation for essential delivery and service parts of the supplier after conclusion of the contract provided that the supply or service time lies more than 6 months after contract conclusion, the parties shall be obliged to start negotiations concerning an appropriate adjustment of the prices agreed between them and to reach an agreement which is in the interest of both parties.
5. A set-off by the purchaser shall only be possible with accounts receivable that are undisputed or legally valid.

Article III: Reservation of Title, Simple, Extended and Prolonged Reservation of Title / Processing Clause / Combination and Commingling Clause / Right to Information / Default in Payment / Partial Waiver Clause

1. All objects to be delivered (hereinafter referred to as "reserved goods) shall remain in the ownership of the supplier until all claims of the supplier against the purchaser from the business relationship or claims being directly connected with it have been satisfied. When the value of all security rights permanently exceeds the amount of all secured claims by more than 20%, the supplier - upon request of the purchaser - shall release an appropriate part of the security rights. The supplier shall be entitled to make the choice which security rights to release.
2. During the existence of the reservation of title, the purchaser shall not be entitled to pledge or to transfer by way of security the reserved goods and the resale shall only be permitted to such purchasers who are resellers and acquired the reserved goods for resale in ordinary course of business and only on condition that the reseller receives payment of his customer prior to the delivery or makes the reservation that the ownership will only pass to the customer after he has met all the payments obligations towards him. Should the reserved goods be delivered abroad, such security rights shall have to be agreed upon which are possible according to local laws and come as close as possible to the above described security rights.
3. Should the purchaser resell the reserved goods he shall already now assign his future claims from the resale towards his customers with all ancillary rights - including possible balance claims - to the supplier as a security without requiring any further particular declarations. Should the reserved goods be sold together with other objects without having agreed an individual price for the reserved goods, the purchaser shall assign that portion of the overall price shall assign, with priority over the remaining receivables, that portion of the total price to the supplier which equals the price of the reserved goods invoiced by the supplier. Upon request of the supplier, the purchaser shall tell him the names and addresses of those customers who the purchaser had delivered the reserved goods to and/or who possess them.
4.
 - a) The purchaser shall be entitled to process the reserved goods or to mix or connect them with other objects. Processing shall be carried out for the supplier. In doing so, the purchaser shall maintain the new item for the supplier with the diligence of a prudent businessman.
 - b) Supplier and purchaser already now agree that in case of a connection or mixture with other objects not belonging to the supplier or not delivered by him, the supplier in any case shall be entitled to a joint title at the new object amounting to that portion resulting from the ratio of the value of the connected or mixed reserved goods to the value of the remaining goods at time of being connected or mixed. The new object to this extent shall be considered as reserved goods the purchaser must not disposed of without the agreement of the supplier as long as the prerequisites for an expiry or an annulment of the reservation of title of the supplier exists.

- c) The regulation concerning the assignment of claim in No. 3 shall also apply to the new object.. The assignment, however, shall only apply to the amount corresponding to the value invoiced by the supplier for the processed, connected or mixed reserved goods.
 - d) When the purchaser connects the reserved goods with property or movable objects, without requiring any further special declarations he shall assign the claim he is entitled to as a remuneration for the connection with all ancillary rights by way of security in the amount of the ratio of the value of the connected reserved goods to the remaining connected goods at the time of being connected to the supplier.
5. Until further notice, the purchaser shall be entitled to collect surrendered claims from the resale. Where good cause exists to do so, in particular in the event of default in payment, stoppage of payment, the commencement of insolvency proceedings, bill protest or comparable grounds which suggest that the purchaser may be insolvent, the supplier shall be entitled to revoke the authority of the purchaser to collect claims. Moreover, the supplier shall be entitled, after prior announcement and under observation of a reasonable notice period, to disclose the assignment of title, to exploit the assigned claims, and to request disclosure of the assignment of title by the purchaser to his customer.
6. In the event of seizures or other action by third parties, the purchaser must notify the supplier immediately in writing. In the event of a substantiated legitimate interest, the purchaser shall provide the supplier with the information and hand out the documents required in order to claim his rights against the customer.
7. If the purchaser is in breach of his obligations, in particular in default of payment, the supplier shall be entitled to withdraw from the contract, if the purchaser has failed to cure the breach within the reasonable time period specified by the supplier; this shall be without prejudice to the legal provisions stipulating that no deadline needs to be fixed. The purchaser is obliged to surrender the products. If the reservation of title is withdrawn or enforced or if the reserved are seized under distress by the supplier, this shall not constitute a withdrawal from contract unless this is expressly declared by the supplier.

Article IV: Delivery Deadlines; Delay

1. The observance of agreed deadlines for deliveries presupposes the prompt receipt of all documents to be delivered by the purchaser, required authorizations and releases, in particular of plans and samples, as well as the observance of the agreed terms and conditions of payment and other obligations by the purchaser. If these prerequisites are not met in time, the terms and deadlines shall be extended appropriately, on condition that the supplier is not culpably responsible for the delay.
2. Should the non-compliance with deadlines be due to:
- a) force majeure, e.g. mobilisation, war, acts of terror, riot, or similar incidents (e.g. strike, lockout),
 - b) virus and other attacks of third parties on the IT system of the supplier, insofar as these occurred despite complying with protective measures based on due diligence,
 - c) obstacles by German or other applicable national, EU or international regulations of foreign trade legislation, or because of other circumstances not to be answered for by the supplier , or
 - d) an untimely or incorrect delivery of the supplier when the supplier can prove that he selected his own supplier properly and placed the respective subcontract properly, in particular in a timely manner, the deadlines shall be extended appropriately.

3. In case of delayed deliveries the purchaser may claim damages for every full week of delay at 0.5% and a total of no more than 5% of the price of the part of the delivery that could not be used as intended because of the delay, provided the buyer provides evidence of damages suffered.
4. Both claims for damages by the purchaser due to a delay in delivery and claims for damages in lieu of performance that go beyond the limits specified under No. 3 shall be excluded in all cases of delayed delivery, including when a deadline for delivery has been set for the supplier and has expired. This shall not apply in the case of intention, gross negligence or due to bodily injury, damage to health or in the case of loss of life where there is mandatory liability. In the case of gross negligence, any compensation for losses of the supplier shall be limited to the foreseeable, typically occurring losses. The purchaser can only withdraw from the contract within the limit of legal regulations, if the supplier is responsible for the delay. Shifting the burden of proof to the disadvantage of the purchaser shall not be connected with the regulations above.
5. The purchaser shall be obliged to meet the request of the supplier to state within an appropriate period of time whether he will refrain from the contract because of the delay or whether he will insist on the delivery.
6. Should on request of the purchaser the dispatch or delivery be postponed for more than one month after the cargo-ready notification, the supplier shall be entitled to invoice the purchaser a storage fee for each month started amounting to 0.5 % of the price of the goods, however, not more than a total of 5 % Both contracting parties shall be at liberty to present evidence for higher or lower storage costs.

Article V: Passing of Risk

1. Even in case of a freight-free delivery, the risk shall pass to the purchaser as follows:
 - a) if the scope of supply does not include installation or mounting services: upon dispatch or collection of the items. Upon request and at the expense of the purchaser, the supply shall be insured against the common transport risks by the supplier;
 - b) in the case of consignments involving installation and mounting, on the day of acceptance in the own facilities or, if accordingly agreed upon, after successful trial run.
2. If the dispatch, delivery, beginning, execution of the installation or mounting, the acceptance in the own facilities or the trial run for reasons attributable to the purchaser or his customer, or if the purchaser is in default of acceptance, the risk shall pass to the purchaser at the time when it would have passed to him had the event causing the delay not happened or had the purchaser not fallen into delay of acceptance.

Article VI: Installation and Mounting

Unless otherwise agreed upon in writing, the following provisions shall apply to installation and mounting.

1. The purchaser at his own expense shall accept as well as make continuously available during installation and mounting:
 - a) all excavation, construction and other ancillary works outside our industry, including the required skilled and unskilled workers, materials and tools,
 - b) the consumer goods and materials required for mounting and commissioning such as scaffolds, lifting gear and other devices, combustibles and lubricants,
 - c) energy and water at the place of use including connections, heating and illumination,

- d) at the place of installation for storage of machine parts, plants, materials, tools, etc.: sufficiently sized, suitable, dry and lockable rooms and for the fitters: appropriate working and common rooms including sanitary facilities adapted to the circumstances. Apart from that, the purchaser shall have to take suitable measures for the protection of the property of the suppliers and the fitters on site in coordination with the suppliers which at least meet those measures he would take for the protection of his own property.
 - e) protective clothing and guards which are required because of particular circumstances at the place of installation, as well as
 - f) proper securing or cordoning off of construction or installation site in order to avoid any intentional or unintentional infliction of harm by third parties (particularly agents/employees of the purchaser or his end customer).
2. Before starting the installation work, the purchase shall unsolicitedly make available the required information on the location of concealed power, gas, water lines or similar systems as well as the necessary structural data.
 3. Prior to the beginning of the installation or mounting, the provisions and items required for commencing the work shall be at the place of installation or mounting, and all preliminary work must have progressed so far, prior to the beginning of the setup, that the installation or mounting can be started according to agreement and be performed without interruption. Access routes and the place of installation or mounting have to be levelled and cleared.
 4. Should mounting, assembly or commissioning be delayed for reasons beyond the control of the supplier, the purchaser shall bear the costs for waiting time and additionally required travels of the supplier or the assembly staff in an adequate amount.
 5. The purchaser shall provide the supplier with weekly information on the duration of the working hours of the mounting staff and shall immediately confirm the completion of installation, mounting, or commissioning.

Article VII: Receipt / Acceptance

1. Should the Supplier request an inspection upon completion of the supply or service, the purchaser shall arrange for such an inspection within two weeks. The supplier shall inform the purchaser as early as possible about the presumable acceptance date. It shall be considered tantamount to acceptance, if the purchaser fails to fulfil his obligation within the test period agreed upon or if the supply has been commissioned after completion of an agreed test period. Should the acceptance test not take place for reasons that are not attributable to the supplier as long as his required staff is still on site, travel and other expenses accruing after a later acceptance shall be separately reimbursed by the purchaser.
2. The purchaser must not refuse the acceptance and receipt of supplies and services because of insignificant defects.

Article VIII: Liability for Material Defects / Limitation / Recourse Claims Pursuant to the Terms of the Consumer Goods Purchases

The supplier shall be liable for material defects as follows:

1. The assertion of warranty claims by the purchaser presuppose that he has correctly met his examination and complaint obligations pursuant to § 377 HGB (German commercial code). Complaints by the purchaser shall have to be made immediately in writing.

2. All those parts or services which present a material defect are to be repaired, to be newly delivered or newly rendered provided that the cause already existed at the time when the risk passed ("supplementary performance").
3. Claims for supplementary performance become time-barred in 12 months from the start of the statutory limitation period. The same shall apply to rescission and reduction. This shall not apply in as far as statute prescribes longer periods by virtue of §§ 438 (1) (2) (buildings and building materials), 479 (1) (claim under a right of recourse) and 634a (1) (2) (building defects) German Civil Code in the case of intent, fraudulent concealment of the defect or non-compliance with agreed characteristics. The statutory provisions on the suspension, interruption and recommencement of the running of time shall remain unaffected.
4. In case of reports of defects, purchaser's payments may be withheld to an extent which is in reasonable proportion to the occurred defects of quality. The purchaser may only withhold payments when after duly and immediate entry examination a sufficiently specified complaint is made the justification of which cannot be reasonably doubted. The right to withhold payment does not apply, when the purchaser's claims for defects are time-barred. If the report of defect was unjustified, the supplier shall be entitled to demand the reimbursement of expenses incurred for the investigation of the report and possibly performed repairs of the defect from the purchaser.
5. The Supplier shall be given the opportunity to repair or to replace the defective good within a reasonable period of time.
6. If the supplementary performance fails, the purchaser notwithstanding possible claims for damages may withdraw from the contract or reduce the compensation as per No. 10 of this Article VIII.
7. Claims of the purchaser based on defects shall not be valid in case of only irrelevant variance from the agreed condition, only insignificant impairment in serviceability, in case of normal wear and tear or defects that have occurred after passing the risk due to incorrect or negligent handling, excessive loads, unsuitable equipment, imperfect construction work, unsuitable building ground or that arise due to special external circumstances that are not preconditions in accordance with the contract, as well as in case of not reproducible software faults. If the purchaser or a third party has carried out improper modifications or repair work or has used parts for the replacement of wear and tear items which had not been delivered or released by the supplier, no reports of defects for these and the incurring consequences shall apply.
8. Claims asserted by the purchaser on account of the expenditure required for rectification, in particular the cost of transportation, travelling, labour, and material, shall be ruled out in as much as such expenditure increases as a result of the object of delivery having been subsequently transported to a place other than the purchaser's premises, unless such transportation complies with its intended use.
9. Rights of recourse of the purchaser against the supplier in accordance with § 478 of the BGB (German Civil Code) (recourse of the contractor) are valid only if the purchaser has not entered into specific agreements beyond the statutory defects liability with his client. Number 8 of this Article VIII is accordingly valid in addition for the extent of claim of recourse of the purchaser against the supplier.
10. Purchaser claims for damages based on a material defect shall be excluded. This shall not apply in cases of malicious non-disclosure of the defect, non-compliance with agreed characteristics, injury of life, body, or health, as well as in cases where the supplier intentionally or grossly negligently fails to fulfil his obligations or in case of a liability based on statutory regulations (e.g. according to product liability law). In case of gross negligence, the liability for damages shall be limited to the typically occurring damage. Shifting the burden of proof to the dis-

advantage of the purchaser shall not be connected with the regulations above. Further or other claims of the purchaser than those provided for by this Art. VIII because of a material shall be excluded.

Article IX: Industrial Property Rights and Copyrights; Defects of Title

1. Unless otherwise agreed upon, the supplier shall be obliged to perform the delivery only in the country of the place of delivery free from industrial property rights and copyrights of third parties (hereinafter: (property rights). If a third party makes justified claims against the purchaser due to the infringement of property rights by goods delivered by the supplier, the supplier shall only be liable towards the purchaser for a period defined in Art. VIII No. 3 as follows:
 - a) The supplier shall choose whether to acquire, at its own expense, the right to use the property right with respect to the Supplies concerned or whether to modify the Supplies such that they no longer infringe the IPR or replace them . If this is impossible for the supplier under reasonable conditions, the purchaser may exercise the statutory rights of cancellation or price reductions.
 - b) The supplier's obligation to pay damages shall be subject to Art. XII.
 - c) The aforementioned obligations of the supplier shall only exist insofar as the purchaser informs the supplier about the claims asserted by the third party immediately in writing, does not acknowledge an infringement and reserves the right to all defence measures and settlement negotiations for the supplier. If the purchaser suspends the use of the delivery for reasons of minimising damages or other important reasons, he undertakes to inform the third party that the suspension of use does not involve any acknowledgement of an infringement of a property right.
2. Claims of the purchaser are excluded insofar as he is responsible for the infringement of a property right.
3. Claims of the purchaser shall further be excluded insofar as the infringement of property right or copyright is caused through special stipulations of the purchaser, through an application which was not foreseeable by the supplier, or due to the fact that the delivery is changed by the purchaser or used together with products which were not delivered by the supplier.
4. In the event of property right infringements, the claims of the purchaser stipulated in No. 1 a shall apply in addition the provisions in Art. VIII No. 4, 5 and 9.
5. In the event of other defects of title, the provisions of Art. VIII shall apply accordingly.
6. Any further reaching or other claims of the purchaser provided for in this Art. IX against the supplier and his legal representatives and agent based on a defect in title are excluded.

Article X: Reservation of Performance

1. Fulfilment of the contract is subject to the provision that fulfilment shall not be prevented by impediments on the grounds of national, EU- or international legal requirements concerning foreign trade law as well as embargoes or other sanctions.
2. The purchaser shall be obliged to delivery any information and documents required for export, shipment or import.

Article XI: Impossibility; Adaptation of Contracts

1. Insofar as the delivery is or becomes impossible, the purchaser shall be entitled to claim damages unless the impossibility can be attributed to the supplier. The claim for damages of the purchaser, however, is limited to 10% of the value of that part of the delivery which cannot be used as intended because of the impossibility. This limitation shall not apply in the case of mandatory liability based on intent, gross negligence or injury of life, body or health; this does not imply a change in the burden of proof to the detriment of the purchaser. The purchaser's right to refrain from the contract shall remain unaffected.
2. Insofar as occurrences in terms of Art. IV No. 2 a) to c) considerably change the economic importance or contents of the delivery or considerably influence the operation of the supplier, the contract shall be appropriately adapted in good faith. Where this is not economically reasonable, the supplier shall be entitled to refrain from the contract. The same shall apply when required export licences are not granted or cannot be used. If he intends to exercise this right of rescission, he shall notify the purchaser of its intention to do so as soon as it recognises the implications of the event, even if an earlier arrangement with the Purchaser provided for an extension of the delivery period.

Article XII: Other Claims for Damages, Limitations and Exclusions of Liability

1. Unless otherwise stipulated in these GTCD, claims for damages shall be excluded for whatever legal reason. This shall apply in particular to claims for damages arising from culpability at the time of contract conclusion, from other breaches of obligation and from tortious claims for compensation of material or property damage.
2. This shall not apply wherever liability is as follows:
 - a) according to the Product Liability Act or other mandatory legal standards,
 - b) in case of intent,
 - c) in case of gross negligence of owners, legal representatives or officers,
 - d) in case of malice,
 - e) in case of non-compliance with an assumed warranty,
 - f) because of culpable violation of life, body or health, or
 - g) because of culpable violation of material contractual obligations; in general, material contractual obligations are such obligations making an execution of this contract possible and the adherence of which the purchase may rely on and has relied on with objective consideration. The claim for damages for violation of material contractual obligations as well as grossly negligent non-material contractual obligations, however, shall be limited to typical contractual, foreseeable damage unless one of the above cases exists.
3. Liability for consequential damage, in particular loss of production and lost profit, shall be excluded in all cases except intent or mandatory legal liability.
4. The exclusion of claims for damages as per Section 1) of this Article XII shall also apply insofar as the purchaser instead of a claim for damages demands reimbursement of useless expenditure instead of performance.
5. Shifting the burden of proof to the disadvantage of the purchaser shall not be connected with the regulations above.
6. In as far as the liability of the supplier is excluded or limited, this shall also apply to the personal liability of the supplier's employees, staff, colleagues, representatives and vicarious agents.

7. The claim for damages shall in all cases - except intent or mandatory legal liability - be limited in such a manner that it must be proportionate to the order value and the normally existing insurance cover.

Article XIII: Jurisdiction and Applicable Law

1. Principal place of jurisdiction for any disputes arising directly or indirectly from the contractual relationship shall be the seat of the supplier. The supplier shall however also be entitled to sue at the seat of the purchaser.
2. This contract including its interpretation shall be subject to German law. Insofar as the prerequisites for its inclusion are met (i.e. in case of cross-border contracts), the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall prevail.

Article XIV: Binding Character of the Contract

The legal invalidity of one or more provisions of this contract shall in no way affect the validity of its remaining provisions. In such a case, the parties shall be obliged to replace the ineffective or unenforceable provision by such an effective or enforceable provision coming as close as possible to the legal and economic effects originally intended by the parties with the ineffective or unenforceable provision. This shall not apply, if continued adherence to the contract would constitute unreasonable hardship for one of the parties to the contract.