

General Terms and Conditions of Delivery for Customers of Zell Systemtechnik GmbH

§ 1 Validity

(1) All deliveries, services and offers of **Zell Systemtechnik GmbH**, 89584 Volkersheim (hereinafter referred to as the "Seller") shall be made exclusively on the basis of these General Terms and Conditions of Delivery. They shall form part of all contracts concluded by the Seller with its Contractual Parties (hereinafter also referred to as the "Customer") for the deliveries or services offered by it. They shall also apply to all future deliveries, services or offers to the Customer, even if they are not agreed separately again.

(2) Terms and conditions of the Customer or third parties shall not apply, even if the Seller does not specifically object to their validity in individual cases. Even if the Seller refers to a letter containing or referring to the terms and conditions of the Customer or a third party, this shall not constitute agreement with the validity of those terms and conditions.

§ 2 Offer and Conclusion of Contract

(1) All offers of the Seller shall be subject to change and non-binding, unless they are expressly marked as binding or contain a certain acceptance period. The Seller may accept orders or commissions within (14) days of receipt.

(2) A purchase contract concluded in writing, including these General Terms and Conditions of Delivery, shall be solely decisive for the legal relations between the Seller and the Customer. This fully reflects all agreements between the Contractual Parties regarding the subject matter of the contract. Verbal commitments made by the Seller prior to the conclusion of this contract shall be legally non-binding and oral agreements between the Contractual Parties shall be replaced by the written contract, unless otherwise expressly agreed between the Contractual Parties.

(3) Supplements and amendments to the agreements made, including these General Terms and Conditions of Delivery, must be made in writing in order to be effective. With the exception of managing directors or authorized signatories, employees of the Seller shall not be entitled to make oral agreements that deviate from the written agreement. To preserve the written form, transmission by telecommunications, in particular by fax or email, shall be sufficient.

(4) Information provided by the Seller regarding the subject matter of the delivery or service (e.g. weights, dimensions, utility values, load capacity, tolerances or technical data) as well as representations of the same (e.g. drawings and illustrations) shall only be approximate, unless the usability for the contractually intended purpose requires an exact agreement. They are not guaranteed characteristics, but descriptions or markings of the delivery or service. Deviations customary in the trade, and deviations which occur due to legal regulations or represent technical improvements, as well as the replacement of components with equivalent parts, shall be permitted insofar as they do not impair the usability for the contractually intended purpose.

(5) The Seller reserves the right to ownership or copyright of all offers and cost estimates submitted by it as well as drawings, illustrations, calculations, brochures, catalogs, models, tools or other documents and aids made available to the Customer. The Customer must not – without the Seller's explicit consent – make these objects accessible to third parties as such or in terms of content, disclose them, use them itself or by third parties, or duplicate them. At the Seller's request, the Customer shall return these items in full to the Seller and destroy any copies made if they are no longer required by the Seller in the proper course of business or if negotiations do not lead to the conclusion of a contract. This shall not apply to the storage of electronically provided data for the purpose of customary data backup.

§ 3 Prices and Payment

(1) The prices shall apply to the scope of services and delivery listed in the order confirmations. Additional or special services shall be charged separately. The prices are in EUR ex works plus packaging, the statutory value added tax, customs duties (in the case of export deliveries) as well as fees and other public charges.

(2) In order to enable the processing of small orders, the Seller shall charge a minimum quantity surcharge in the amount of the difference up to the minimum order value of 100.00 euros.

(3) Insofar as the agreed prices are based on the list prices of the Seller and delivery is not to take place until more than four months after the conclusion of the contract, the list prices of the Seller valid at the time of delivery shall apply (in each case minus an agreed percentage or fixed discount).

(4) Invoice amounts shall be paid within fourteen days without any deduction, unless otherwise agreed in writing. The date of payment shall be determined by the date of receipt by the Seller. Payment by check shall be excluded unless agreed separately in individual cases. If the Customer does not pay by the due date, the outstanding amounts are to be paid interest at 5% p.a. from the date of the due date; the assertion of higher interest and further damage in the event of delay shall remain unaffected.

(5) Offsetting against counterclaims of the Customer or withholding payments due to such claims is only permissible if the counterclaims are undisputed or legally established or result from the same order under which the delivery in question was made.

(6) The Seller shall be entitled to execute or provide outstanding deliveries or services only against advance payment or security if, after conclusion of the contract, it becomes aware of circumstances which are likely to significantly reduce the creditworthiness of the Customer and which jeopardize the payment of the Seller's outstanding receivables by the Customer from the respective contractual relationship (including from other individual orders for which the same general agreement applies).

§ 4 Delivery and Delivery Time

(1) Deliveries are made from FCA Rottenacker (Incoterms 2020).

(2) Deadlines and dates for deliveries and services promised by the Seller shall always be approximate, unless a fixed deadline or date has been expressly accepted or agreed upon. If dispatch has been agreed, delivery periods and delivery dates, unless expressly stated otherwise by us, shall refer to the time of handover to the freight forwarder, freight carrier or other third parties commissioned with the transport.

(3) Without prejudice to the Seller's rights arising from the Customer's default, the Seller may demand from the Customer an extension of delivery and performance periods or a postponement of delivery and performance dates by the period during which the Customer fails to fulfill its contractual obligations toward the Seller.

(4) The Seller shall not be liable for impossibility of delivery or for delivery delays, insofar as these have been caused by force majeure or other events that are not foreseeable at the time of the conclusion of the contract (e.g. operational disruptions of any kind, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, lack of labor, energy or raw materials, difficulties in obtaining necessary official permits, pandemics or epidemics, official measures or the absence of incorrect or untimely delivery by suppliers despite a congruent covering transaction concluded by the Seller) which the Seller is not responsible. If such events make the delivery or performance substantially more difficult or impossible for the Seller and the obstruction is not only temporary, the Seller shall be entitled to withdraw from the contract. In the event of impediments of temporary duration, the delivery or performance periods shall be extended or the delivery or performance dates shall be postponed by the period of impediment plus a reasonable start-up period. Insofar as the Customer cannot be expected to accept the delivery or service as a result of the delay, it can withdraw from the contract by means of an immediate written declaration to the Seller.

(5) The Seller shall only be entitled to make partial deliveries if

- the partial delivery can be used by the Customer within the scope of the contractual intended use,
- the delivery of the remaining ordered goods is ensured and

- the Customer does not incur any significant expense or additional costs (unless the Seller agrees to assume these costs).

(6) If the Seller is in default with a delivery or service or it becomes impossible to deliver or service, for whatever reason, the Seller's liability shall be limited to damages in accordance with § 8 of these General Terms and Conditions of Delivery.

§ 5 Place of Performance, Dispatch, Packaging, Transfer of Risk, Acceptance

(1) The place of performance for all obligations arising from the contractual relationship is 89616 Rottenacker, unless otherwise specified. If the Seller is also responsible for the installation, the place of performance shall be the place where the installation is to be carried out.

(2) The mode of shipment and packaging shall be subject to the Seller's reasonable discretion.

(3) If the goods have been agreed to be shipped and the Seller has not taken over transport or installation, the risk shall pass to the Customer at the latest upon the handing over of the delivery item (the beginning of the loading process is decisive) to the freight forwarder, freight carrier or other third parties designated to carry out the shipment. If dispatch or handover is delayed as a result of a circumstance the cause of which lies with the Customer, the risk shall pass to the Customer from the day on which the delivery item is ready for dispatch and the Seller has notified the Customer of this.

(4) Storage costs after the transfer of risk shall be borne by the Customer. In the case of storage by the Seller, the storage costs shall amount to (0.25) % of the invoice amount of the delivery items to be stored per expired week. We reserve the right to assert and prove further or lower storage costs.

(5) The shipment shall be insured by the Seller only at the express request of the Customer and at its expense against theft, breakage, transport, fire and water damage or other insurable risks.

(6) Insofar as acceptance has to take place, the purchased item shall be deemed to have been accepted if

- the delivery and, if the Seller is also responsible for the installation, the installation is completed,
- the Seller has informed the Customer of this with reference to the acceptance fiction according to this § 5 (6) and has requested him to accept it,
- ten working days have elapsed since the delivery or installation or the Customer has started using the purchased item (e.g. the delivered system has been put into operation) and in this case ten working days have elapsed since delivery or installation and
- the Customer has failed to accept the goods within this period for any reason other than a defect notified to the Seller, which makes the use of the purchased item impossible or significantly impaired.

§ 6 Warranty, Material Defects

(1) The warranty period shall be one year from delivery or, if acceptance is required, from acceptance. This period shall not apply to claims for damages of the Customer arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by the Seller or its vicarious agents, which are respectively time-barred in accordance with the statutory regulations.

(2) The delivered items must be carefully examined immediately after delivery to the Customer or to the third party designated by it. They shall be deemed to have been approved by the buyer in respect of obvious defects or other defects that would have been apparent in an immediate, careful examination, if the Seller does not receive a written notification of defects within (seven) working days of delivery. With regard to other defects, the delivery items shall be deemed to have been approved by the buyer if the notification of defects is not received by the Seller within (seven) working days of the time at which the defect became apparent; if the defect was already evident at an earlier time in normal use, this

earlier time shall, however, be decisive for the start of the notification period. At the request of the Seller, a rejected delivery item must be returned to the Seller carriage paid. In the event of justified notification of defects, the Seller shall reimburse the costs of the most favorable shipping route; this shall not apply if the costs increase because the delivery item is located at a location other than the place of intended use.

(3) In the case of material defects of the delivered items, the Seller is obligated and entitled to rectify or replace the goods within a reasonable period of time. In the event of failure, i.e. the impossibility, unreasonableness, refusal or unreasonable delay of the rectification or replacement delivery, the Customer may withdraw from the contract or reduce the purchase price appropriately.

(4) If a defect is due to the fault of the Seller, the Customer may claim compensation under the conditions specified in § 8.

(5) In the event of defects in components from other manufacturers which the Seller cannot remedy for reasons under license law or actual law, the Seller shall at its discretion assert its warranty claims against the manufacturers and suppliers for the account of the Customer or assign them to the Customer. In the case of such defects, warranty claims against the Seller shall only exist under the other conditions and in accordance with these General Terms and Conditions of Delivery if the judicial enforcement of the aforementioned claims against the manufacturer and supplier has been unsuccessful or, for example, is unsuccessful due to insolvency. During the duration of the legal dispute, the limitation period of the relevant warranty claims of the Customer against the Seller shall be suspended.

(6) The warranty shall not apply if the Customer changes the delivery item without the consent of the Seller or has it changed by third parties and the removal of the defect is thereby made impossible or unreasonably difficult. In any case, the Customer shall bear the additional costs of remedying the defect arising from the change.

(7) A delivery of used items agreed with the Customer in individual cases shall be subject to the exclusion of any warranty for material defects.

§ 7 Industrial Property Rights

(1) The Seller shall be responsible pursuant to this § 7 for ensuring that the delivery item is free from industrial property rights or copyrights of third parties. Each Contracting Party shall immediately notify the other Contracting Party in writing if any claims are made against it for the violation of such rights.

(2) In the event that the delivery item infringes a commercial property right or copyright of a third party, the Seller shall, at its discretion and at its expense, modify or replace the delivery item in such a way that no rights of third parties are infringed any more, but the delivery item continues to fulfill the contractually agreed functions, or grant the Customer the right of use by concluding a license agreement with the third party. If the Seller fails to do so within a reasonable period of time, the Customer shall be entitled to withdraw from the contract or to reduce the purchase price accordingly. Any claims for damages by the Customer are subject to the restrictions of § 8 of these General Terms and Conditions of Delivery.

(3) In the event of infringements of rights caused by products of other manufacturers supplied by the Seller, the Seller shall, at its discretion, assert its claims against the manufacturers and suppliers for the account of the Customer or assign them to the Customer. In these cases, claims against the Seller shall only exist in accordance with this § 7 if the judicial enforcement of the aforementioned claims against the manufacturers and subcontractors has been unsuccessful or, for example, due to insolvency, is hopeless.

§ 8 Liability for Damages Due to Culpability

(1) The liability of the Seller for damages, regardless of the legal reason, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, violation of obligations in contract negotiations and tort, is limited in accordance with this § 8, insofar as it is a fault in each case.

(2) The Seller shall not be liable in the event of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents, insofar as it is not a violation of essential contractual obligations. The obligation to deliver and install the delivery item in good time, its freedom from defects in title and such material defects that affect its functionality or suitability for use more than only insignificantly, as well as consulting, protection and care obligations that are intended to enable the Customer to use the delivery item in accordance with the contract or to protect the life or limb of the Customer's personnel or the protection of the Customer's property from significant damage shall be essential to the contract.

(3) Insofar as the Seller is liable for damages in accordance with § 8 (2), this liability shall be limited to damages which the Seller has foreseen at the time of conclusion of the contract as a possible consequence of a breach of contract or which it should have foreseen if due diligence was applied. Indirect damage and consequential damage resulting from defects in the delivery item shall also only be liable for compensation insofar as such damage is typically to be expected when the delivery item is used in accordance with its intended purpose. The above provisions of this section 3 shall not apply in the case of intentional or grossly negligent conduct by members of the executive bodies or senior employees of the Seller.

(4) In the event of liability for simple negligence, the Seller's obligation to compensate for property damage and subsequent financial losses shall be limited to an amount of EUR 200,000.00 (in words: two hundred thousand euros) per claim, even if it is a violation of essential contractual obligations.

(5) The above exclusions and limitations of liability shall apply to the same extent in favor of the organs, legal representatives, employees and other vicarious agents of the Seller.

(6) Insofar as the Seller provides technical information or acts as an advisor and such information or advice does not belong to the contractually agreed scope of services owed by it, this shall be done free of charge and to the exclusion of any liability.

(7) The limitations of this § 8 shall not apply to the liability of the Seller due to intentional behavior, for guaranteed characteristics, due to injury to life, body or health or according to the Product Liability Act.

§ 9 Retention of Title

(1) Until all payments have been received in full, the goods shall remain the property of the Seller. In the event of a breach of contract by the buyer, including default in payment, the Seller shall be entitled to take back the goods.

(2) The buyer must treat the goods with care, adequately insure them and, if necessary, maintain them.

(3) Insofar as the purchase price has not been paid in full, the buyer must immediately notify the Seller in writing if the goods are encumbered with the rights of third parties or are subject to serious intervention by third parties.

(4) The buyer shall be entitled to resell the goods subject to retention of title for the ordinary course of business. In this case, however, it shall already assign all claims arising from such a resale, regardless of whether this takes place before or after any processing of the goods delivered under retention of title, to the Seller. Notwithstanding this authority to collect the claim itself, the buyer shall remain entitled to collect the claim even after the assignment. In this context, the Seller undertakes not to collect the claim as long as and insofar as the buyer fulfills its payment obligations, no application for the opening of insolvency or similar proceedings has been filed and no suspension of payments has been made.

(5) Insofar as the above-mentioned securities exceed the claim to be secured by more than 10%, the Seller is obliged to release the security upon the buyer's request after the latter has selected it.

§ 10 Final Provisions

(1) If the Customer is a merchant, a legal person under public law or a special fund under public law, or if it has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for all disputes arising from the business relationship between the Seller and the Customer shall be 89616 Rottenacker or the registered office of the Customer, at the Seller's discretion. However, 89616 Rottenacker shall be the exclusive place of jurisdiction for actions against the Seller in these cases. Mandatory statutory provisions on exclusive jurisdictions shall remain unaffected by this regulation.

(2) The relations between the Seller and the Customer shall be exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of the 4/11/1980 (CISG) shall not apply.

(3) Insofar as the contract or these General Terms and Conditions of Delivery contain loopholes, those legally effective provisions shall be deemed to have been agreed to fill these loopholes which the Contractual Parties would have agreed on in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery if they had known of the loophole in the regulation.