



September 2018

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1. Scope

1.1 The Terms and Conditions listed below apply only for merchants where the contract is part of their trade business, for legal entities of public law or for fund's assets under public law.

1.2 All deliveries and Services of SYE will be made under these General Terms and Conditions. Deviating Terms and Conditions of Customer shall apply only if SYE has expressly confirmed them in writing.

1.3 Any information provided in Websites, leaflets, advertisement and offers without Obligation constitute an invitation to Customer to submit a binding order. Acceptance of the order will be made by written confirmation or delivery or execution of the Services.

1.4 SYE retains all rights, in particular rights of ownership and copy rights as well as rights of exploitation, reproduction and distribution in descriptions, plans, drawings, and other documents and material supplied to Customer. Whether and to what extent Customer acquires rights of ownership or utilisation or publication depends upon the contractual agreements made between the parties.

1.5 Orders to be executed according to documents supplied by Customer requires the release of these documents by SYE.

1.6 If a contract has been concluded Customer is obliged to accept and pay for the ordered deliveries and Services as provided by law.

2. Prices, Payment, Allocation

2.1 The agreed price is decisive. Prices quoted for consumers are net, if appropriate inclusive of legal value added tax. Cost of packaging, transport and insurance and all other additional expenses are not included.

2.2 If Services or goods are to be executed or delivered within a period of more than four months after the contract has been concluded SYE shall be entitled to adjust the price in accordance with any increase in costs sustained during that period. In case SYE and Customer have defined the prices in relation with certain price factors like prices for raw materials any change of these price factors may entitle SYE to adjust the prices even before the four months period has passed.

2.3 Unless other agreements have been made payments are due net within 10 days of invoice date with a discount of 2 % or otherwise net within 30 days. SYE is entitled to demand down payments or payment in advance from Customers with whom we did not have previous business relationships, for deliveries abroad, to Customers whose business seat is abroad or in case any other doubt arises as to punctual payment after delivery. The payment shall be deemed effected when SYE can dispose of the amount. In case of payment by cheque payment shall be deemed effected when the cheque upon presentation within a reasonable period has been honoured and the amount has been credited to SYE.

2.4 In case Customer delays payment SYE is entitled to Charge on payments due from consumers delay interest at a rate of 8 % above the base interest rate. We reserve the right to Claim higher damages and in particular a higher interest rate on other legal grounds.

2.5 In case the financial Situation of Customer deteriorates significantly at the time of delivery or execution of Services SYE shall be entitled to refuse the further implementation of the contract until Customer has effected the consideration or supplies a guaranty for it. In case Customer delays payment all receivables from Customer shall be due immediately no matter whether they have been invoiced already.

2.6 Payments made by Customer shall always be allocated according to Art. 366, para. 2, Art. 367 BGB to due receivables unless Customer makes other stipulations. Customer shall be entitled to offset only if Customer's counterclaims are undisputed or have been established as final by a court decision.

3. Terms and Deadlines

3.1 Delivery by SYE shall be deemed on time when the goods are handed over at our seat of business or warehouse to the person who is responsible for their transport.

3.2 The beginning of agreed periods of supply or completion or the keeping of agreed deadlines requires that all necessary technical details have been clarified. This applies in particular for the Customer's duty of cooperation. In case SYE does not comply with agreed deadlines Customer is obliged to grant a reasonable prolongation period for fulfilling the contract. For becoming effective any prolongation must be agreed in writing.

3.3 In cases of Force Majeure or any other circumstances which cannot be controlled by SYE we shall be released from liability for nonfulfillment of agreed deadlines. If the obstruction continues for more than 6 months without interruption each of the parties shall be entitled to withdraw from the contract by written declaration. In this case the other party shall not be entitled to claim compensation for incurred expenses or damage or future related expenses or damage.

3.4 Any later wishes for amendments or complementation expressed by Customer shall lead to a reasonable prolongation of agreed terms and deadlines. Deliveries will be prepared and notices of ready deliveries as well as organisation of other agreed measures for fulfilment of contract shall be executed in general on working days during the usual business hours.

3.5 SYE is entitled to make partial deliveries or render partial services. Deliveries prior to the agreed delivery date shall be permitted unless the parties have reached an express agreement to the contrary.

3.6 In case Customer is in default of acceptance or culpably violates other obligations of cooperation SYE shall be entitled to claim compensation of the damage caused inclusive of any additional expenses. SYE reserves itself the right to make further claims. The risk of accidental loss or deterioration of the delivery passes to Customer upon the time when Customer has failed to accept delivery.

3.7 In case of delay SYE shall be liable as prescribed by law to the extent to which a delay of delivery has been caused by intentional or negligent breach of contract or violation of a material contractual obligation by SYE. However, liability in these cases shall be limited to the predictable, typically occurring damage in cases of slight



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negligence and the delay of delivery is due to the violation of a material contractual obligation.

4. Retention of Title, Withdrawal

4.1 SYE retains title to the delivered goods until complete payment has been made.

4.2 In case of breach of contract by Customer – in particular in case of default in payment - SYE shall be entitled to repossess the delivered goods if SYE withdraw from the contract.

After repossessing the goods SYE shall be entitled to utilise the goods. The income from the utilisation of the goods shall be offset against Customer's liabilities (minus reasonable costs for utilisation). SYE shall be entitled to withdraw the right of utilisation by Customer in particular for software.

4.3 Customer shall be entitled to resell the supplied goods in the course of ordinary business. However, Customer assigns to SYE all claims arising from the resale to Customer's Clients or third parties up to the final amount invoiced by SYE (inclusive of value added tax). Customer remains entitled to collect these payments also after they have been assigned. The right of SYE to collect these payments directly remains unaffected. However, SYE undertakes not to collect these payments provided Customer fulfils the obligation of payment from the collected payments and provided further that no application for opening settlement or insolvency proceedings has been filed or Customer has suspended payment. If any of the above is the case SYE shall be entitled to demand that Customer discloses the assigned receivables and their debtors, passes to SYE all Information which is required for collection as well as the related documents and that Customer notifies his clients of the assignment.

4.4 In case the title of SYE in the reserved goods lapses due to combination with other goods (e.g. installation) the parties herewith agree that Customer's (co-)ownership in the combined item shall pass to SYE on a pro rated basis according to the invoice value of the reserved goods and that Customer shall store the combined item free of charge.

4.5 SYE undertakes to release securities on request of Customer to the extent to which the value that can be realised exceeds the receivables to be secured by more than 10%.

5. Customer's Obligation to cooperate

5.1 In case the provision of any agreed services requires the cooperation of Customer the latter shall assure that SYE receives all necessary and purposeful information and data timely and in the necessary quality. Customer shall provide any necessary computer capacity, test data and data recording capacity timely and in sufficient amounts provided that SYE requests them on time.

5.2 In case Customer fulfils obligations to cooperate not, not completely or not on time Customer shall be liable for any disadvantages and additional cost as well as for any delays in execution.

6. Rights in case of defects

6.1 SYE produces its products according to the state of the art applicable upon conclusion of contract. Suitability for particular purposes, in particular in fields where special

safety-related issues apply (e.g. in aerospace or automotive industries) must be agreed in the contract.

6.2 In case Customer files a complaint in respect of defects of goods Customer shall be obliged to provide a detailed written description of the symptoms of the defects and to provide any defect devices or parts for remedial measures. The above does not affect the commercial obligation of Customer to investigate and complain according to Art. 377 HGB (Handelsgesetzbuch - German Commercial Code) with the consequences applying for omitted or delayed complaints.

6.3 In case of defects Customer is entitled to the claims against SYE as provided by law. Ordinary wear as it is typically connected with the use of the goods does not constitute a defect.

6.4 Customer is obliged to grant SYE the opportunity to take remedial measures by repair or new delivery within a reasonable period. The request for remedial measures must be made in writing. SYE is entitled to refuse the chosen type of remedial measure in case it would cause unreasonable costs for SYE and the other type of remedial measure is reasonably acceptable for Customer.

6.5 In case the remedial measure within a reasonable period has failed or turns out to be impossible Customer is entitled to withdraw from the contract or to reduce the purchasing price. The right to withdrawal shall be excluded if the default is immaterial.

6.6 Rights related to defects of goods delivered to consumers expire after 12 months. The limitation period for work performance is 12 months from acceptance. Customer is entitled to the full term provided by law for rights of recourse. The statutory period of limitation shall also apply if a defect in quality or title has been concealed with intention to deceive. Irrespective of the above the customer remains entitled to manufacturer warranties which grant the customers special rights - also rights which exceed the mentioned periods.

6.7 Any parts which have been replaced in the course of remedial measures become property of SYE and if requested Customer is obliged to return them postage not prepaid to SYE. Customer's rights in case of defects expire if Customer does not or not properly adhere to the recommendations by SYE or the manufacturer of the goods with respect to their operation, storage or maintenance, if Customer makes changes, exchanges parts or uses consumables which are not in keeping with the original specification.

6.8 In case it is found that SYE provides services related to defects which were claimed by Customer although no respective rights prevailed Customer is obliged to remunerate SYE for the related expenses if Customer is responsible for the unjustified use of the services.

6.9 Liability for claims for damages related to defects is regulated in number 7 of these terms and conditions.

7. Liability for defects. Liability for merchandise, other liability

7.1 SYE is liable for claims for defects and other cases of breach of duty as required by law if Customer claims compensation for damages which were caused by intent or gross neglect of SYE or its vicarious agents. In cases of damage caused by slight neglect and in cases of violation of material contractual duties the liability of SYE shall be



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limited to the typically foreseeable damage. The statutory liability for damage to persons and the compulsory liability according to the law on product liability remain unaffected.

7.2 SYE shall be liable for compensation in cases of claims on grounds of defects of products which it acquires from third parties (merchandise) and which it passes on the Customer without having made changes only in case SYE has caused a breach of duty intentionally or by neglect. This does not alter the burden of proof.

7.3 Customer is responsible for data backup. SYE is not liable for loss of data caused by improper data backup.

8. Software utilisation rights, third party industrial property rights

8.1 All rights in Software delivered to Customer or produced for Customer - in particular copy right – remain reserved for SYE or the authors respectively. This applies also if the software was produced by input or cooperation of Customer. In relation to the software Customer shall only be entitled to the non-exclusive rights of utilisation mentioned in numbers 8.4 and 8.5.

8.2 In case SYE uses Software provided by Customer all copy rights and other rights shall remain reserved for Customer. SYE will use this software for the contractually agreed purposes only. In case SYE requires the source code of this Software for making changes or executing remedial measures Customer shall provide the source code for SYE free of charge.

8.3 Prohibited is in particular any copying of software which is not expressly permitted or permitted by law, any passing on of software which is not expressly permitted or permitted by law and the development of similar software using the software provided by Customer as a model. Otherwise the licence conditions of the software producers apply for the utilisation rights.

8.4 Customer will get a simple licence for the software to the extent of the purpose on which the contract is based. The licence is limited to the software products mentioned in the contract. Customer is entitled to produce the backup copies which are necessary for data backup. A backup copy on a mobile data carrier must be marked as such and the carrier must be marked with the copyright notice of the original data carrier.

8.5 Customer shall be entitled to carry out any amendments, extensions and modifications of the software only if and to the extent to which this is expressly permitted by copyright law or the special agreements made with him.

8.6 Any utilisation of the software beyond the limits stipulated in these terms and conditions or the licences granted by the producers requires the written consent of the authorised parties. In case the software is utilised without this consent SYE or respectively the producers of the software reserve themselves the right to claim compensation or the fees for the extended utilisation as shown in the current price list.

8.7 In case any third party raises claims which oppose the utilisation granted for Customer in a contract Customer shall immediately notify SYE of these claims in writing. Customer shall not recognise these claims by third parties without SYE's consent. SYE is obliged to defend itself at its own expense against such claims and release Customer from all costs and damages related to the defence.

9. Data protection, secrecy

9.1 SYE notifies Customer that the data recorded in connection with the conclusion of contract will be collected, processed and used by SYE for fulfilling its contractual obligations vis-à-vis Customer under adherence to the stipulations of the Bundesdatenschutzgesetz (BDSG - Federal Data Protection Act). For purposes of verifying the financial health these data may also be transmitted according to Art. 11 BDSG to carefully chosen partners of SYE.

9.2 The parties to the contract undertake to treat as business secrets all commercial and technical details which they get to know while implementing the contract as long as the other party has not made them publicly available.

10. Jurisdiction, place of Performance, applicable law

10.1 The place of jurisdiction for all legal disputes shall be the competent court at the place of business of SYE. However, SYE is entitled to sue Customer also at his general place of jurisdiction.

10.2 Place of Performance for deliveries and payments shall be the place of business of SYE.

10.3 Applicable law is the law of the Federal Republic of Germany. The UN Sales Convention of 11 April 1980 is excluded.

Environmental declaration

For SYE humankind and environment are ranking first. Therefore we undertake to produce our products with minimum utilisation of resources and we detect systematically potentials for energy preservation in production and transport. We study carefully ecological alternatives when choosing sources of energy and raw material and we pursue a policy of consistently avoiding waste and recycling products.

These General Terms and Conditions of Business apply for the following locations / departments:

SYE Europe GmbH
Hankamp 12
32609 Hüllhorst