

General Terms and Conditions of Trade (GTC)

of
Water-i.d. GmbH
Daimlerstraße 20, D-76344 Eggenstein-Leopoldshafen
Germany

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§1 Coverage

1. Contracts will be concluded explicitly on the basis of these Terms and Conditions (furthermore mentioned as T&C).
2. For contracts with commercial customers these T&C will be the sole basis of all future performances and deliveries, even if the incorporation will not be explicitly agreed upon.
3. Any conditions of the customer which diverge here from shall not apply.
4. Consumers as defined by these T&C are natural individuals with who contracts can be concluded, these persons do not necessarily have to carry out a self-employed or commercial professional occupation. Entrepreneurs as defined by these T&C are natural or legal individuals or corporations of individuals with legal competency with whom we start business relations and who act in their practice of a self-employed or commercial professional occupation. Customers are defined by these T&C as consumers and commercial customers according to §1 No. 4 of these T&C.

§ 2 Realization of contracts

1. A contract is reached through a written confirmation of the order by us or when the first fulfillment of business is concluded and therefore both parties and their legal successors will be binding.
2. Our offers as well as the information regarding stock and delivery times with respect to the sale of products are subject to alteration.
3. If a customer's order reaches us by electronic means we will immediately confirm the order in writing. The proof of delivery is not automatically an acceptance of this order. The wording of the contract will be stored and it will be sent if requested by the customer by email along with these T&C.
4. Collateral agreements, alterations and amendments require an approval in writing from our side in order to come into effect. The same applies to the waiver of written agreements.

§ 3 Estimates

1. If the customer requests a binding price indication - a written estimate needs to be issued. This comprises the amount of work, all the materials needed to complete the work - these have to be listed individually and have to bear the respective price indication. After the handing in this estimate is a binding agreement for us up to four weeks.
2. Estimates are only liable for costs upon agreement.
3. Preliminary work like: the writing of a detailed estimates, project planning documents, drawings, models, samples, etc. which are requested by the customer are also only liable for costs upon agreement.
4. If an order which is based on an estimate is issued, eventual costs for the estimate and costs of eventual preliminary work will be balanced against the invoice.

§ 4 Prices

1. The prices for our works and deliveries are mentioned in the offer.
2. The prices mentioned in the offer are binding for a period of 3 months (unless explicitly stated otherwise in the offer) after entering the agreement. If the delivery or the work should be carried out 3 months after entering the agreement, the prices for materials, salaries, or the transport costs will be increased with mutual consultation these prices can be adjusted within a reasonable scope. In the event that the delivery or work is delayed due to circumstances for which we are not responsible, the before written sentence is valid also.
3. Subsequent work which is requested by the customer and which is not mentioned in the agreement will be charged for additionally. The same is valid for unforeseen work. The customer will be informed immediately about additional costs.
4. Should difficulties arise through the execution of our work for which we are not responsible, the costs which result hereof entitle us to charge additionally.

§ 5 Payment conditions, balancing and conveyance

1. Payment for products and deliveries except services and factory works is due within 14 days after receipt of the

goods. After this deadline the customer is in default. In the case of service and factory work the invoice amount is due for payment according to special payment conditions. After the expiry of this time limit the customer is in default.

2. We grant a 2% discount if the payment is made in cash within 10 days. The discount is calculated by the amount of invoice plus the V.A.T. valid at this time. As far as the acceptance of cheques is concerned it is only in lieu of payment but not a fulfilment of payment. In cases like this we are not responsible for the punctual presentation or protest. The costs of the discounting and drawing go to the debit of the customer, he has to refund these costs immediately upon request.
3. In the event of payment default the customer shall pay interest on our claims of 5% above the basic interest rate, commercial customers shall pay 8% interest above the basic interest rate. We reserve the right to put forward a higher claim for damages of default caused by commercial customers. The customer is obliged to compensate us for any damages resulting from his default. This also applies to costs resulting from legal actions / legal execution.
4. The customer has the right to balance if the counter-claim has been assessed by law or has been ascertained through us.
5. The customer can only practice a lien if the counter-claim is based on the same contractual relationship.
6. Partial work can be charged separately if this demand can be met by the customer.
7. The conveyance of claims towards us is excluded.

§ 6 Delivery and work not adduced under the terms of the contract

1. Delivery and work deadlines are only binding if these are the content of a written offer or a written order confirmation issued by us. After expiry of the binding delivery and work deadline the customer has to grant us a written extension of 14 days. After the unsuccessful expiry of this extension the customer is entitled to withdraw from the contract. The mentioned deadlines bear a relationship with the time and place of delivery from our company headquarter or the commencement of the work.
2. Delivery and work deadlines automatically extend in the case of unforeseen events or an act of force majeure, like strikes, lock-outs, service breakdowns, precautions taken by the authorities, weather conditions etc. if these have a tremendous influence on our deliveries or work. Endure these obstacles for more than a month or does the endurance of these obstacles hinder the delivery or work lastingly then both parties are entitled to withdraw from the contract.
3. In the case of uncompleted orders and alterations demanded by the customer he cannot rely on a fixed completion deadline as far as these are still reasonable.
4. For the deliveries of special models, as well as variations from brochure material, catalogue specifications, samples or illustrations or otherwise stipulated features, we act with the proviso that with these alterations the delivered goods do not lose on operativeness and overall appearance and are therefore acceptable to the customer.

§ 7 Transfer of risk and transport

1. If the customer is a commercial customer the transfer of risk of possible destruction or of the possible deterioration of the delivery takes place at the handing over. If mail-ordered goods have to be dispatched the transfer of risk is passed over to the forwarding agent, hauler or any other person/authority responsible for the transport at the time of delivery.
2. If the customer is the consumer the transfer of risk of possible destruction or of the possible deterioration is passed over to the customer with delivery when mail-ordered goods are dispatched.
3. We insure the goods in the case of a mail order only upon customer's request and expense.
4. It is not relevant at the handover if the customer delays the acceptance.
5. Visible transport damages have to be reported immediately in writing to the dispatcher.
6. The goods will be sent at the customer's expense. Surcharges resulting from a specific means of transport should be paid by the party who demands these means of transport.

§ 8 Reservation of title

1. We reserve the right of ownership in the items to be delivered until payment in full of the purchase price including the charges for any additional services is made. Without our written consent the customer is not allowed to mortgage or to transfer the goods either in its original or in its altered condition.
2. Until the payment in full has been made the customer has to handle the goods carefully and in the event of repossession, damage or loss of the goods he has to inform us immediately.
3. The customer is obliged to inform us immediately in writing if impairment of the rights of reservation of title (e.g.: global cession or legal execution) is about to be carried out or already carried out.
4. In the event of a repossession carried out by a third party, the customer is obliged to refund the costs of the legal procedures in this matter. If requested, a reasonable advance has to be paid. Bailiffs or third parties have to be informed about the state of ownership.
5. Actions taken by the customer which are contrary to the terms of the agreement result in the re-acceptance after hortatory proceedings and the setting of a time-limit and the customer is obliged to return the goods.
6. The customer is entitled to sell the goods in normal business affairs; future payments to the customer resulting from

- the re-sale of the goods have to be transferred to us immediately until the amount arising from sale of the reserved.
7. We are obliged to re-transfer the secured and ceded payment as long as the customer has satisfied his payment obligations duly. Surmounts the amount of the payment 20% in our favor we are obliged to re-transfer/release the secured payments if the customer requests this.
 8. Secured payments can revocable be collected by the customer; he is obliged to manage the received payments in trust and to pay those off in our favor.
 9. Furthermore, it shall be allowed to the customer to use these reserved goods only in the context of ordinary business affairs. Any processing of the reserved goods shall be in our name. If our property is installed in goods of third parties we shall become co-owners of the newly created product in relation to the value of the reserved goods. The customer safeguards this joint-property in trust in our name.

§ 9 Rescission rights of the company Water-i.d.®

The following reasons allow us to retire from the contract:

1. If the customer is not creditworthy which was not known before signing the contract. Credit unworthiness can be stated in the event of cheque- or bill protest, the suspension of payment by the customer or a fruitless legal execution of the customer. It is not necessary that these are relations between us and the customer.
2. If it comes to light that the customer made incorrect declarations in respect of his trustworthiness and these declarations are from substantial importance.
3. If the reserved goods are sold by other means than within the context of ordinary business affairs, especially by means of mortgage or transfer of title the only exception of this rule is that we have declared our consent to sell the goods, in writing.
4. If the customer is in default with a due payment.
5. Furthermore, we are entitled to withdraw from the contract if the customer has not demanded the delivery of the purchased goods until the expiry of the deadline of supply. Further claims shall herewith not be affected.

§ 10 Warranty

1. The warranty timeframe for customers is 2 years from the receipt of the goods, for commercial customers it is 1 year from the receipt of the goods. (Charge number)
2. Is the customer the consumer he has the choice to demand a compensation delivery. But we also have the right to decline this form of post compensation if it results in excessively high costs or if there is already a latest product type in the market which provides a remedy for this deficiency.
3. In the event of an unsuccessful remedy of the deficiency or if we are not in a position to offer a faultless version of the product the customer has the right to withdraw from the contract or to demand an adequate reduction of the compensation.
4. The right of withdrawal from the contract is not applicable if there are only minor deficiencies in question.
5. If the customer makes use of his right of withdrawal, he has no right to claim compensation for this deficiency.
6. Is the customer a commercial customer our publicly voiced opinions, praises or advertisements form no contractual condition of the actual product; this also applies to variations from samples/parts.
7. Warranties in the applicability of the law are not given to the customer unless these warranties are put in writing.
8. We do not provide guarantee (indemnity) for damages and malfunctions which occurred due to inappropriate handling, and/or false operation, and/or noncompliance with our instruction manual/s, undertaken by distributors, retailer or customer.
9. The damage of the seal of the product forms an obligation to buy the product. 10. Is the customer a commercial customer, he has to check the quality and quantity of received goods immediately. Obvious deficiencies have to be put in writing within a period of 1 week from receipt of the goods otherwise the claim of acceptance of guarantee will be excluded. The time-limit shall here be the dispatch in due time.
11. Commercially available variations in quality, weight, equipment, surface, pattern and color cannot be accepted as a deficiency.
12. Changes in the style and composition of the used materials, in the arrangement and in the equipment of the products resulting from technical or other advancements which create improved or same qualities in the products will be reserved at any time and do not provide the grounds to put forward claims of warranty. This also applies to variations in the color (e.g. indicator measuring).
13. All electrodes in our portfolio that contain membranes are an exception to the statutory warranty period. These membranes are subject to natural wear and tear even when used properly and cannot be replaced. For these reasons, such electrodes are considered wearing parts and are therefore only covered by the warranty for a maximum of six months after delivery to the end user.
This is also stated in the operating instructions for the products concerned under the heading „Guarantee and warranty“ and the purchaser is expressly requested to take note of this in § 10 No. 13 of our General Terms and Conditions. Furthermore, by concluding a purchase contract, the buyer declares his full agreement with the aforementioned. If the buyer is a reseller, he must also expressly and clearly inform his customer of this exception before concluding a corresponding purchase contract.

§ 11 Liability

1. Our liability is restricted to cases of minor negligent violation of duty in the scope of average damage which is a foreseeable, typical and immediate one for the type of product either by us or by one of our legitimate representatives and workers. This is not valid for damages caused by delay.
2. The exclusion of liability applies if the customer is a commercial customer and if minor negligence of violation of duty is the case.
3. The above-mentioned liability restrictions shall not apply to provisions of the Product Liability Act made by the customer. Furthermore, the liability restrictions shall not apply to us or our legal representatives or workers who caused personal injury and health hazards or in the case of the loss of life of the customer.
4. Liability claims regarding the deficiency of a product have to be put forward by the customer within a time-limit of one year from delivery of the goods. This does not apply in the event of gross negligence, malicious intent or criminal intent.

§ 12 Final Provisions

1. German law shall apply exclusively.
2. If the customer is a merchant, a corporate body of public law or a body of legal public special assets we are entitled to sue the customer with respect and content to this contract. Forum shall be Karlsruhe (Baden Wuerttemberg; Germany).
3. If the customer intends to convey his rights originating from this contract he needs our written consent. If individual provisions of these AGB (T&C) should be or become invalid this shall not affect the validity of the other provisions. In such an event the parties involved are obliged to jointly establish effective substitute provisions which reflect as closely as possible the economic intent of the ineffective provision.