

General terms and conditions - Sale ASKION GmbH

1. General

- 1.1. Without an explicitly renewed agreement, only the present terms of sales are decisive for all of our businesses, including future businesses. We do not recognize any conflicting or deviating terms and conditions of the purchaser, we herewith contradict the general terms and conditions of the purchaser. Our terms of sales also apply, if we fulfill our contractual obligations unreservedly, with full knowledge of conflicting or deviating conditions of the purchaser. A modification of the following terms requires our written consent or a written agreement to be effective.
- 1.2. The present terms are applicable according to contracts of work and mixed contracts and they shall only apply to traders according to § 310 subsection 1 BGB (German Civil Code).
- 1.3. We have the exclusive property right and copyright on our offer documents, pictures, drawings, calculations and other documents. In principle, it is not allowed to make the documents available to others, especially in cases of confidentiality notes.
- 1.4. The information brought to knowledge relating to orders shall not be deemed as confidential.
- 1.5. The place of performance of our services, as well as the payment obligation of the purchaser, is our registered office.
- 1.6. The customer is only entitled to assign claims, which are resulting from this agreement, with the prior written consent of ASKION GmbH.
- 1.7. The customer can only set-off against claims from ASKION GmbH with counterclaims that are recognized by us and determined to be undisputed or legally established.

2. Conclusion of contract

- 2.1. All agreements between us and the customer that relate to the contract and its explanations, have to be written down.
- 2.2. Our offers and the included drawings, pictures, weights, dimensions and other technical data are non-binding. We keep on prices stated in offers which are expressly indicated as binding for 8 weeks from the date of the offer.
- 2.3. Guarantees are only binding for ASKION GmbH, if and insofar as they are defined as such in the offer or in the order confirmation and if there are also the obligations for ASKION GmbH resulting from the guarantee stated in detail.
- 2.4. A contract is only effective upon our written order confirmation.

3. Terms of payment

- 3.1. The value added tax, which is not included in our offers and estimates, will be shown separately in the invoice on the date of invoice.
- 3.2. The purchase price is payable within 14 days of the date of the invoice without deduction. Applicable for compliance with the deadline is the receipt of payment by us. Any different terms require a special written agreement.
- 3.3. Contrary to the repayment terms, any payments made by the purchaser can be applied to older debts at first. We will inform the purchaser about the type of offsetting that has occurred immediately.
- 3.4. If we become aware of circumstances which question the credit-worthiness of the purchaser, in particular overdue payments not settled, we may immediately call due the total of the outstanding debt. In this event we shall also be entitled to perform outstanding services only against advanced payment or to request other securities.
- 3.5. The offsetting of counterclaims contested by us and/or not legally established counterclaims of the purchaser is not permitted. The purchaser is authorized to exercise the right of retention only in so far, as the undisputed and legally asserted counterclaim is based on the same contractual relationship.

4. Terms of Service

- 4.1. The delivery is made „FCA Gera“ according to the Incoterms 2020, unless it is specified otherwise in an individual agreement.
- 4.2. Delivery dates and delivery periods are not binding. The delivery time shall not commence until all technical details of the order are clarified, the documents and/or advanced payments have been received and the purchaser has fulfilled all his obligations.
- 4.3. We are entitled to make partial deliveries and provide partial performances at all times.
- 4.4. In the case of default of acceptance the customer has to bear the related costs, particularly storage costs. ASKION GmbH shall only get into default of delivery by means of a written reminder that cannot be given earlier than two weeks from expiry of the delivery time.

5. Warranty

- 5.1. The notification of material and/or legal defects must be made within 30 days in writing.
- 5.2. Deviating from § 439 BGB, ASKION GmbH is entitled at its choice to remove the defects or to provide replacement goods for products that contain of defects according to §§ 434 et seq. BGB.
- 5.3. The costs of the subsequent performance shall be borne by the purchaser, unless such costs are a disproportionate financial burden.
- 5.4. The assignment of warranty claims asserted by the direct purchaser against us shall not be admissible.
- 5.5. Warranty claims become statute-barred within 12 months upon delivery. The statutory periods apply to claims for compensation according to section 6.1 and 6.2.

- 5.6. If our operating and maintenance instruction are not followed, changes are made to the performances, parts are exchanged and materials are used which are not in line with the original specifications, shall result in the forfeiture of any warranty claims. This shall apply likewise if performances rendered by us are not used as stipulated in the contract, or are used together with third-party performances or if the deficiency in the performance results from construction documents furnished by the purchaser, or from other instructions given by him.
- 5.7. When selling software we guarantee its corresponding to our programme specifications provided that such software is installed in the respective systems according to our instructions and that it is used by the purchaser as stipulated in the contract in the combinations specified by.

6. Liability

- 6.1. We only accept liability for damages not caused to the delivery item itself in case of a violation of contractual and extra-contractual obligations in case of intent or gross negligence, in the event of culpable injury to life, limb and health, in cases of liability for fraudulent intent and/or any warranties agreed upon.
- 6.2. In case of breach of essential contractual duties we shall be liable also for slight negligence, which is limited to the damage typical for the contract and which is reasonably foreseeable.
- 6.3. Any and all claims in accordance with the German product liability law shall remain unaffected.
- 6.4. The liability for a loss of data is limited to the recovery expense, which would have typically arisen in case of purchaser's data protection in regular intervals and in accordance with risk. If the purchaser breaches his obligations expressed in point 9.4, we are not liable for any resulting damages.
- 6.5. Further claims for compensation by the purchaser are excluded.

7. Reservation of ownership

- 7.1. All delivered goods shall remain our property (reservation of proprietary rights) until settlement of all – including future and conditional – claims, as well as balance debts on current accounts. The purchaser is entitled to process (within the meaning of § 950 BGB) and sell the reservation commodity of title in proper trading as long as the purchaser is not in default. Pledging and transfer of securities are not permitted.
- 7.2. The purchaser insures the goods against the usual risks.
- 7.3. Processing is carried out for us as manufacturer but without any obligations on our part. We co-own the new item in a ratio of the calculated price of the reservation commodity to the new item. The purchaser shall store for us at no charge.
- 7.4. All corresponding claims regarding the reservation commodity, including all balance debts on current accounts, shall already be assigned fully by way of security by the purchaser to us. The purchaser shall be entitled to collect such claims in his own name for our account, provided that we have not withdrawn the collection authorisation due to a purchaser's delay in payment.
- 7.5. In the event of access of third parties to the reservation commodity, in particular pledges, the purchaser will inform of our ownership and will inform us immediately. Such third party shall be liable for any costs incurred by us in this regard.

8. Industrial property rights and copyrights

In the event that, due to the purchaser's use of the performance, third parties should assert claims against the purchaser for infringement of industrial property rights or copyrights, the purchaser shall give us a written notice immediately. For such cases, we reserve us all defense measures and extrajudicial measures for legal defense. The purchaser shall give us any support required for this purpose.

9. Software rights

- 9.1. The customer receives an unlimited, non-transferable and nonexclusive right of use for internal operation of the service for the software, its modifications, supplements, extensions and corresponding documentation, belonging to the delivery or delivered at a later point in time. We remain sole holder of the copyrights.
- 9.2. Simultaneous storage or use of the software supplied by us on more than one hardware is not permitted. The purchaser may not change, copy or otherwise multiply these software. The production of a security copy marked as such shall be admissible.
- 9.3. The interface information that is required for establishing interoperability (§ 69e UrhG (German Copyright Act)) may be requested from us on payment of an appropriate fee.
- 9.4. The purchaser undertakes to prevent unauthorized access of his staff and other third parties to the supplied software and the corresponding documentation by introducing suitable precautions, particularly storage of the original data carriers and backup copy in a secure place.

10. Export

- 10.1. Our performance under the contract is subject to the condition that an export license is granted and that there are no obstacles to the performance of the contract due to national or international foreign trade regulations, as well as no embargoes and/or other sanctions.
- 10.2. The buyer agrees to provide the necessary information and documents required to comply with relevant (re-)export control regulations and to conduct export control checks by authorities.
- 10.3. The buyer must comply with the applicable regulations of national and international (re-)export control laws when transferring our deliveries or services to third parties. In any case, when transferring deliveries to third parties, the (re-)export control regulations of the Federal Republic of Germany, the European Union, and the United States of America must be observed.
- 10.4. The buyer shall indemnify us from any damages arising from the culpable violation of the above obligations.

11. Applicable law and jurisdiction

- 11.1. All legal relationships between us and the purchaser shall be governed exclusively by the German law under exclusion of the UN Sales Convention.
- 11.2. Our registered office shall be the exclusive place of jurisdiction for all disputes arising either directly or indirectly from the legal relationship between us.

12. Partial invalidity

Should individual provisions of the General Terms and Conditions become entirely or partly invalid, the remaining provisions shall remain valid.