

# General terms and conditions

Issuer: TeleAlarm SA

Applicable in business dealings with entrepreneurs, legal entities under public law and public law special funds. Date 02/2016

## 1. General

- 1.1 The following terms and conditions apply exclusively for our deliveries. Terms and conditions that are contrary to or deviating from our terms and conditions shall not apply, unless we have expressly agreed to their validity. The following terms shall also apply if we carry out the delivery to the purchaser, without reservation, in knowledge of terms and conditions of the customer contrary to or deviating from our terms and conditions.
- 1.2 Verbal agreements before or at the conclusion of the contract require our written confirmation to be effective.
- 1.3 If the purchaser does not accept our offer within a period of two weeks after receipt, we are entitled to revoke it.
- 1.4 Cost estimates are non-binding and subject to a charge, unless it has been expressly agreed otherwise.
- 1.5 These terms apply also for all future deliveries to the purchaser until the entry into force of our new terms of delivery.

## 2. Prices

- 2.1 Prices are calculated on the basis of the list prices valid at the time of delivery plus value added tax. A calculation of value added tax shall only be omitted in cases where the requirements for a tax exemption of export deliveries are met.
- 2.2 If no special agreement is made, the prices are DDP shipping point of the supplying plant (Incoterms © 2010) excluding packaging.
- 2.3 We reserve the right to change our prices accordingly if after conclusion of the contract cost reductions or cost increases occur, in particular due to wage changes, e.g. as a result of collective agreements, or changes in material prices. We will substantiate these to the purchaser upon request.
- 2.4 Spare part deliveries and returns of repaired goods, insofar as these are not included in the warranty for defects, shall take place against payment of a reasonable postage and packing fee in addition to the remuneration of the service provided by us.

## 3. Delivery; delivery periods; default

- 3.1 The beginning of and the compliance with agreed delivery periods require the fulfillment of the duty of co-operation, in particular the timely receipt of all orders, documents, permits, inspections and approvals to be provided by the purchaser and the compliance with the agreed terms of payment by the purchaser. If these conditions are not properly fulfilled in good time, the delivery periods will be extended appropriately; this does not apply if the supplier is solely responsible for the delay.
- 3.2 If the non-compliance with the delivery periods is due to force majeure and other disruptions for which we are not responsible, e.g. war, terrorist attacks, import and export restrictions, including those affecting the suppliers, the agreed periods of delivery will be extended for the duration

of the disruption. The same applies to industrial actions affecting us or our suppliers.

- 3.3 If we are in default with our delivery, the purchaser at our request must declare within a reasonable period of time whether they insist on delivery

or shall assert their other statutory rights.

- 3.4 The purchaser may only withdraw from the contract in the case of delay in delivery within the context of statutory provisions if we are responsible for the delay.
- 3.5 Paragraph 9 shall apply for claims by the purchaser for compensation of damages due to delayed delivery.
- 3.6 If the purchaser is in default of acceptance or if they culpably violate other duties of co-operation, we are entitled to require compensation of the damages incurred by us in this respect including other additional expenses amounting to 0.5% of the price of the objects for delivery, however not exceeding a total of 5% of the price of the objects for delivery. The proof of higher or lower additional expenses shall remain unaffected for the contracting parties. Any further claims due to delay in acceptance shall remain unaffected.
- 3.7 Partial deliveries and corresponding billing are permissible unless they are unreasonable for the purchaser.

## 4. Transfer of risk

- 4.1 The delivery shall take place DDP shipping point of the supplying plant (Incoterms© 2010), unless expressly agreed otherwise.
- 4.2 At the request and expense of the purchaser, deliveries will be insured by us against the usual transport risks.

## 5. Complaints and notices of defects

- 5.1 Visible defects shall be notified immediately in writing, at the latest within 15 days after receipt of the goods by the purchaser. Carton stickers, content labels, and the check slips enclosed with the shipment are to be sent back with the complaint. Objections to other defects are to be raised immediately in writing by the purchaser upon discovery.
- 5.2 The receipt of the complaint by us is decisive.
- 5.3 If defects are notified in error, we are entitled to require that the purchaser compensates us for the expenses thereby incurred, unless the purchaser proves that they are not culpable with regard to the unjustified complaint.
- 5.4 In the event of late submission of the notice of the defect, claims shall be excluded.

## 6. Receipt

The purchaser may not refuse receipt of deliveries due to minor defects.

## 7. Material defects / defects of title

- 7.1 Claims based on material defects become time-barred in 12 months. The foregoing provision shall not apply if the law according to §§ 438 para. 1 no. 2 (buildings and items for buildings), 479 para. 1 (recourse) and § 634a (structural defects) of the Civil Code (BGB) prescribe longer periods of limitation.
- 7.2 The limitation period for defects begins
- a) in the case of vehicle and engine equipment products, at the time when the goods are put into use, i.e. for original equipment with the initial registration, in other cases upon installation, but no later than 6 months after delivery of the item (transfer of risk);
  - b) in all other cases upon delivery of the item (transfer of risk).
- 7.3 If there is a material defect within the limitation period, the cause of which was already present at the time of transfer of risk, we may remedy the defect or deliver a defect-free item as supplementary performance at our discretion.
- 7.4 The limitation period does not begin again with the supplementary performance.
- 7.5 If the subsequent performance fails, the purchaser - without prejudice to any claims for compensation of damages - may withdraw from the contract or reduce the remuneration in accordance with the statutory provisions.
- 7.6 Claims of the purchaser due to the expenses required for the purpose of supplementary performance, in particular transport, travel, work and material costs, shall be governed by the statutory provisions. They are however excluded insofar as the expenses are increased because the object of the delivery is subsequently to be brought to a place other than the place of business of the purchaser unless this complies with the intended use.
- 7.7 There shall be no supplementary performance claims in the case of insignificant deviations from the agreed characteristics or with only minor impairment of usability. Further rights remain hereby unaffected.
- 7.8 Material defects are not
- natural wear and tear;
  - characteristics of the goods or damages, occurring after the transfer of risk due to improper handling, storage or installation, non-observance of installation and handling regulations or excessive operational demands or use;
  - characteristics of the goods or damages arising due to force majeure, in particular external influences which are not provided for in the contract or resulting from the use of the goods outside the intended or ordinary use in accordance with the contract;
  - non-reproducible software errors.
- There shall be no claims for defects if the goods have been changed by third parties or by installation of parts of third-party origin, unless the defect does not have any causal connection with the change. We are not liable for the characteristics of the goods with regard to the construction or the choice of the material, if the customer has stipulated the construction or the material.
- 7.9 Statutory rights of recourse of the purchaser against us exist only to the extent that the purchaser did not make any agreements with their customer going beyond the statutory claims for defects, e.g. goodwill regulations.
- 7.10 Claims due to defects including recourse claims of the purchaser are excluded, insofar as the purchaser has had the defect remedied by a professional workshop/service centre not authorised by us.
- 7.11 Paragraphs 7.3, 7.6, 7.7 shall not apply if our product was demonstrably

sold to a consumer without processing or installation into another article by the purchaser or customer of the purchaser.

- 7.12 Our obligation to pay compensation for damages and reimbursement of futile expenses within the context of § 284 BGB due to material defects shall in all other respects be governed by paragraph 9. Claims of the purchaser beyond or different from those regulated in this paragraph 7 due to material defects shall be excluded.
- 7.13 The provisions of this paragraph 7 shall apply correspondingly for defects of title that are not based on the infringement of property rights of third parties.

## 8. Industrial property rights and copyrights

- 8.1 We are not liable for claims resulting from infringement of industrial property rights or copyrights of third parties (hereinafter: property rights) if the purchaser or a company in which they directly or indirectly hold the majority of the shares or voting rights own/owns/owned the copyrights.
- 8.2 We are not liable for claims arising from the infringement of property rights unless at least one property right from the family of property rights is published either by the European Patent Office or in one of the States of the Federal Republic of Germany, France, Great Britain, Austria or the United States.
- 8.3 The purchaser must inform us immediately of any (alleged) violations of property rights or related risks of which they become aware and - where possible - to cede the management of litigation (also out of court) to us at our request.
- 8.4 We are entitled at our discretion to obtain a utilisation right for the product infringing a property right or to modify it so that it no longer violates the property right, or to replace it with a similar product that no longer infringes the property right. If this is not possible for us under appropriate conditions or in an appropriate period, the purchaser shall be entitled to the statutory rights of withdrawal, if they have enabled us to carry out a modification. Under the specified conditions we are also entitled to a right of withdrawal. The regulation of paragraph 7.9 shall apply correspondingly. We reserve the right to take the measures which are available to us in accordance with this paragraph 8.4 sentence 1 also if the property right violation is not yet legally established or acknowledged by us.
- 8.5 Claims of the purchaser are excluded if they are responsible for the property right violation, or they do not support us to an appropriate extent with the defence of claims of third parties.
- 8.6 Claims of the purchaser are also excluded if the products are manufactured in accordance with the specification or the instructions of the purchaser or the (alleged) violation of the property right is derived from use in conjunction with another article not originating from us or the products are used in a way that we could not foresee.
- 8.7 Our obligation to pay compensation of damages for violation of property rights shall otherwise be governed by paragraph 9.
- 8.8 Paragraphs 7.1 and 7.2 shall apply correspondingly to the limitation of claims as a result of violation of property rights. Paragraphs 7.1 and 7.2 shall apply correspondingly to the limitation of claims as a result of violation of property rights.

Claims of the purchaser beyond or different from those regulated in this paragraph 8 due to violation of property rights shall be excluded.

## 9. Damage compensation claims

- 9.1 We shall be liable for payment of compensation for damages and reimbursement of futile expenditures within the context of § 284 BGB (hereinafter "damage compensation") due to violation of contractual or extra-contractual obligations only
- (I) in case of wilful intent or gross negligence,
  - (II) in case of negligent or deliberate injury of life, body or health,
  - (III) due to the assumption of a quality or a durability guarantee,
  - (IV) in case of negligent or deliberate violation of substantial contract obligations,
  - (V) due to mandatory liability in accordance with product liability law or (VI) due to other mandatory liability.
- 9.2 Damage compensation for the violation of substantial contractual obligations is however limited to contract-typical, foreseeable damage unless due to wilful intent or gross negligence or injury of life, body or health or the assumption of a quality guarantee.
- 9.3 Further liability for damage compensation as designated in paragraph 9 is excluded regardless of the legal nature of the asserted claim. This applies in particular to claims for damages due to fault at contract conclusion, for other breaches of duty or tortious claims for compensation of material damage in accordance with § 823 BGB.
- 9.4 Insofar as our liability for damages is excluded, this also applies with regard to the personal liability for damages of our employees, representatives and vicarious agents.
- 9.5 The above rulings do not constitute any change of the burden of proof to the disadvantage of the purchaser.

## 10. Retention of title

- 10.1 We retain title to the delivered goods until the complete fulfilment of all claims due to us and still arising from the business relationship.
- 10.2 If maintenance and inspection work is required to the goods subject to our retention of title, the customer must perform this in good time at their own expense.
- 10.3 The purchaser is entitled to process or combine our products within the framework of its usual business operations. We shall acquire co-ownership of the products resulting from the processing or combining, as collateral for our claims referred to in paragraph 10.1, which the customer already assigns to us now. The purchaser shall keep the goods subject to our co-ownership free of charge as a secondary contractual obligation. The amount of our co-ownership share shall be determined according to the ratio of the values that our product (calculated according to the final invoice amount including VAT) and the object resulting from the processing or combining have at the time of processing or combining.
- 10.4 The purchaser is entitled to resell by way of a proper business transaction against cash payment or subject to retention of title. The purchaser shall already now assign to us in full all claims with ancillary rights due to them from the resale of our product, regardless of whether our product was processed or not. The assigned claims shall serve to secure our claims under paragraph 10.1. The purchaser is entitled to collect the assigned claims. We may revoke the rights of the purchaser according to this paragraph 10.4 if the purchaser does not duly fulfil their payment obligations to us, becomes in arrears, cancels their payment, or if the purchaser requests the opening of insolvency proceedings or comparable proceedings over their assets for debt settlement purposes. Also, we may revoke the rights of the purchaser in accordance with this paragraph 10.4

if a significant deterioration of the financial circumstances of the purchaser occurs or threatens to occur or the purchaser is in a state of insolvency or over-indebtedness.

- 10.5 At our request the purchaser must immediately inform us in writing, to whom they have sold the goods which are in our ownership or co-ownership and to which claims they are entitled from the resale, as well as to issue us at their own cost publicly certified documents of the assignment of receivables.
- 10.6 The purchaser is not entitled to other disposals of items for which we reserve retention of title or co-ownership or of claims assigned to us. The purchaser must immediately notify us of seizures or other legal impairments of objects or claims wholly or partially owned by us. The purchaser shall bear all costs that must be expended in order to remove third party access to our reserved or collateral property and for a recovery of the objects, insofar as they can not be collected from third parties.
- 10.7 If the total value of the collateral existing on our behalf exceeds our claims by more than 10%, we will release collateral in this respect at the request of the purchaser at our discretion.

## 11. Withdrawal

- 11.1 In case of behaviour of the purchaser contrary to the terms of the contract, in particular for default of payment, we are entitled to withdraw from the contract after a reasonable grace period, without prejudice to our other contractual and legal rights.
- 11.2 We shall be entitled without setting a grace period to withdraw from the contract if the purchaser cancels their payments or requests the opening of insolvency proceedings or comparable proceedings over their assets for the settlement of debts.
- 11.3 We are also entitled to withdraw from the contract without setting a grace period,
- (I), if a significant deterioration of the financial circumstances of the purchaser occurs or threatens to occur and thereby the fulfilment of a payment obligation towards us is at risk, or
  - (II) if the purchaser is in a state of insolvency or over-indebtedness.
- 11.4 The purchaser must grant us or our representatives immediate access to the goods that are subject to retention of title after declaration of withdrawal and surrender them. After appropriate timely announcement, we may otherwise exploit the articles subject to retention of title in order to satisfy our due claims against the purchaser.
- 11.5 Statutory rights and entitlements shall not be limited by the regulations contained in this paragraph 11.

## 12. Export control clause

- 12.1 The deliveries and performances (contractual fulfilment) shall be subject to the reservation that no obstacles oppose the fulfilment due to national or international export control regulations, in particular embargoes or other sanctions. The purchaser undertakes to supply all information and documents which are needed for export or shipment. Delays due to export examinations or licensing procedures shall invalidate deadlines and delivery times. If necessary permissions are not granted, or if the delivery and performance are not approvable, the contract regarding the parts concerned shall be deemed not concluded.
- 12.2 We are entitled to terminate the contract without a notice period if the termination is necessary for us for adherence to national or international legislation.

12.3 In the case of a termination in accordance with paragraph 12.2, the assertion of damages or the assertion of other rights by the purchaser due to the termination is excluded.

12.4 When passing on the goods supplied by us (hardware and/or software and/or technology as well as pertinent documents, regardless of the manner of provision) or the work and services furnished by us (including technical support of any kind) to third parties domestically and abroad, the purchaser shall comply with the respectively applicable regulations of national and international (re-)export control law.

### 13. Confidentiality

13.1 All business or technical information originating from us (including features which are derivable from any exchanged items or software, and any other knowledge or experience), as long and insofar as it is not demonstrably publicly known or specified by us for resale by the purchaser, shall not be disclosed to third parties, and may only be made available to such persons in the purchaser's company who must necessarily be consulted for its appropriation and who are also bound to maintain its confidentiality; it remains our exclusive property. Such information may not be reproduced or used commercially without our prior written consent. Upon our request, all information originating from us (if necessary including any copies or records made) and items provided on loan shall be immediately and fully returned to us or destroyed.

13.2 We reserve all rights to the information referred to in paragraph 13.1 (including intellectual property rights and the right to the registration of industrial property rights, such as patents, utility models, semiconductor protection, etc.).

### 14. Terms of payment

14.1 Unless otherwise agreed in writing, payment shall be made within 30 days of the invoice date without any deductions. We may however also make delivery dependent on payment, *pari passu* (e.g. by cash on delivery or bank debit) or advance payment.

14.2 We shall be entitled to set off payments against the oldest due receivables.

14.3 We are entitled to charge default interest in the amount of 8 percentage points above the base interest rate in case of exceedance of the payment deadline. The assertion of further damages is not excluded.

14.4 Payment by bills of exchange is only permissible after prior agreement with us. Bills of exchange and cheques will only be accepted by us by way of provisional performance and are only valid as payment after their redemption. The purchaser shall bear the costs for the redemption of the bill of exchange or cheque.

14.5 If the purchaser is in default of payment, we are entitled to demand immediate cash payment on all due and undisputed claims arising from the business relationship. This right will not be excluded by a deferral or the acceptance of bills of exchange or cheques.

14.6 The purchaser is only entitled to offset counterclaims to the extent that their counterclaims are undisputed, legally established or ready for adjudication after *lis pendens*.

14.7 The purchaser is only entitled to withhold payments or to offset against counterclaims to the extent that their counterclaims are undisputed or legally established.

### 15. General provisions

15.1 If any provision of these terms and conditions and further agreements be or become invalid, the validity of these terms and conditions shall otherwise not be affected. The contracting parties undertake to replace the invalid provision with a provision coming as close as possible to the invalid provision in terms of economic intention.

15.2 The court of jurisdiction is Leipzig (for district court disputes the District Court in 04275 Leipzig) or at our discretion the registered office of the business premises which execute the order, if the purchaser

- is a business person, or

- has no general domestic court of jurisdiction, or

- after conclusion of the contract has moved their domicile or usual place of residence abroad or their domicile or usual place of residence is not known at the time of filing of the lawsuit.

We are also entitled to invoke a court which is responsible for the registered office or a branch of the purchaser.

15.3 German law shall apply exclusively to all legal relationships between us and the customer, with the exclusion of the conflict of laws and the Convention of the United Nations on contracts for the international sale of goods (CISG).