

General Terms and Conditions of Delivery of Ingenieurbüro CAT, M. Zipperer GmbH

1 Scope

These General Terms and Conditions of Delivery shall apply to all deliveries and services – including future ones – (hereafter referred to collectively as "deliveries") of Ingenieurbüro CAT, M. Zipperer GmbH, Etzenbach 16, 79219 Staufen im Breisgau (Managing Director Markus Zipperer, Amtsgericht (local court) Freiburg HRB St108).

The General Terms and Conditions of Delivery shall apply both in relation to consumers as well as business customers in accordance with section 14 of the German Civil Code (BGB), legal entities under public law and special funds under public law. In accordance with section 13 BGB, consumers are natural persons who place the order for a purpose which cannot predominantly be attributed to their commercial or independent professional activity.

The customer's terms and conditions shall not apply, including in particular in those cases in which we do not object to the applicability of such terms and conditions.

2 Formation of a contract

Our offers and quotes are without obligation. We also do not give a binding offer to sell certain products by presenting and advertising products in catalogues, on our website or in other advertising materials.

A contract is only formed once we accept your order through a declaration of acceptance or by delivering the items ordered. The statutory regulations apply in terms of the time for which you remain committed to your order (section 147 sub-section 2 BGB).

You may order products by telephone, by fax, by e-mail, via an online shop - available via our website if applicable - or in writing by post. If you have ordered by e-mail or via an online shop - available via our website if applicable - then we shall confirm receipt of your order via e-mail without delay. A confirmation of this type does not yet represent a binding acceptance of your order.

3 Right to cancel

If you have placed the order as a consumer (see section 1 sub-section 2), then you have a right to cancel in accordance with the statutory requirements.

The statutory provisions and the regulations apply to the right to cancel as detailed in the following

Cancellation instruction:

Right to cancel

You have the right to cancel this contract within fourteen days without providing a reason.

The cancellation period is fourteen days from the date upon which you or a third party appointed by you who is not the carrier took possession of the last of the goods or the last partial shipment or the last unit.

In order to exercise your right to cancel you must notify us at

Ingenieurbüro CAT, M. Zipperer GmbH
Wettelbrunner Str. 6
79282 Ballrechten-Dottingen
Germany
Telephone: +49-7634-50 56 811
Fax: +49-7634-50 56 801
E-Mail: info@cat-ing.de

by way of an explicit declaration of your decision to cancel this contract (e.g. via letter sent by post or via fax or e-mail). You may use the enclosed sample cancellation form for this, although this is not mandatory.

Sending the notification exercising the right to cancel before the cancellation period expires is sufficient for the purposes of meeting the deadline for cancellation.

Consequences of cancellation

If you cancel this contract we shall be required to reimburse you for all payments which we have received from you, including delivery costs (with the exception of additional costs incurred as a result of you selecting a different delivery type from the standard more cost-effective delivery offered by us) without delay and no later than within fourteen days from the date upon which the notification to cancel this contract has been received by us. We shall use the same payment method for this reimbursement which you used for the original transaction unless expressly agreed otherwise with you; no charges will be made to you under any circumstances on account of this reimbursement. We may refuse to reimburse the payments until the goods have been returned to us or until you have provided evidence that you have returned the goods, depending on which event takes place first.

You must return or surrender the goods to us at

Ingenieurbüro CAT, M. Zipperer GmbH
Wettelbrunner Str. 6
79282 Ballrechten-Dottingen
Germany

without delay and in any case no later than within fourteen days from the date upon which you notify us of the cancellation of this contract. This deadline shall be deemed to have been met provided that you send the goods before the period of fourteen days expires.

You shall be responsible for paying the direct costs for returning the goods.

You will only be required to account for any loss in the value of the goods if this loss in value is attributable to unnecessary handling of the goods for the purposes of reviewing their condition, features and functionality

– End of the cancellation instruction –

4 Contractual content

Illustrations or designs or statements related to colour, weight, dimensions or similar characteristics provided or made by us are only approximate values unless they have been designated as binding. Our product and service descriptions are not guarantees for legal purposes. Only guarantees which are provided in writing and are expressly designated as such shall be binding on us.

Unless the contract is with consumers (see section 1 sub-section 2), we may change the agreed delivery or service or deviate from it, including after the formation of a contract, if the change is customary for the trade or is negligible and does not affect the properties and conditions as guaranteed by us.

5 Prices, postage and shipment costs, offsetting

Unless stated otherwise, all prices stated on our website, in catalogues or in other advertising materials are gross prices inclusive of statutory turnover tax and subject to applicable postage and shipment costs.

If partial deliveries are made (section 6 sub-section 2) then you shall only incur postage and shipment costs for the first delivery, and not for further partial deliveries. If partial deliveries are made at your request then we shall charge postage and shipment costs for each partial delivery.

Unless agreed otherwise, our claims for the purchase price shall become due for payment in accordance with the statutory provisions; however, our payment terms are two (2) weeks from invoice receipt, unless delivery has been made against advance payment or cash on delivery in accordance with sub-section 4.

We shall only supply items to customers with a place of residence or business abroad against advance payment. We also reserve the right only to deliver against advance payment or with cash on delivery for first orders, if there are justified indications of a risk of non-payment or in other justifiable individual cases. In the event of a payment via cash on delivery, the purchase price and the postage and shipment costs will be collected by the deliverer with an additional cash on delivery charge at the amount set by the postal service provider.

You shall not be entitled to offset amounts against our claims unless your counter-claims are undisputed or have been determined in law.

6 Delivery

Delivery and service periods or times stated in our order confirmation or agreed otherwise are approximate periods or times.

We shall be entitled to make partial deliveries provided that this is reasonable for you.

In the event that we are unable to deliver an item ordered on grounds for which we are not responsible as a result of an absent, delayed or defective delivery to us by one of our upstream suppliers or we cannot deliver this on time on these grounds, even though we have entered into a corresponding purchase agreement with the upstream supplier prior to formation of the contract, then we shall be entitled to be released from the delivery obligation. If you have placed the order as a consumer (section 1 sub-section 2), we shall be under an obligation in this case to notify you without delay of the item's unavailability and to reimburse you for any consideration that you may have provided without delay.

In the event that we are obstructed from making a timely delivery through no fault of our own as a result of force majeure or other unforeseeable circumstances, then the delivery periods shall be extended by the period for which the disruption persists, along with a reasonable start-up period once the disruption has come to an end. Sentence 1 shall apply accordingly if circumstances for the purposes stated arise with our upstream suppliers. If the obstruction is not merely temporary in duration, then we may be released from our performance obligation by way of a declaration.

7 Retention of title

In the case of orders by consumers (see section 1 sub-section 2) we reserve the title to the product delivered until the purchase price has been paid in full. If you have not placed the order as a consumer then the following provisions in sub-sections 2 to 7 shall apply.

We shall reserve the title to deliveries and services ("goods subject to retention of title") until fulfilment of all of our claims from the business connection with you (including e.g. ancillary claims, claims for compensation and costs for cheques and bills of exchange). The retention of title shall also remain in place if individual claims of ours are included in open accounts or the balance has been drawn. The retention of title relates both to the actual as well as the recognised balance.

The customer shall complete any processing or other work related to the delivery items for us as manufacturer in accordance with section 950 BGB in all cases. If the goods subject to retention of title are processed, combined or inseparably mixed or amalgamated with items which do not belong to us, then we shall acquire co-ownership in the new item at fractional amounts at the ratio of the value of the goods subject to retention of title to the customer's or third-party goods which are not our property. If the customer acquires sole title to the new unitary item arising from use of the goods subject to retention of title by operation of law in the cases stated in sentence 2, then the customer shall assign co-ownership to us in accordance with the proportion governed in sentence 2 as collateral for the claims stated in sub-section 2 and shall hold the item in safe custody for us free of charge. In all other respects the provisions on goods subject to retention of title shall apply to the new item arising as a result of processing, combination or mixing.

The customer may sell the goods subject to retention of title in the ordinary course of business. However, the customer may not pledge or assign the goods subject to retention of title as collateral without our written consent. The customer must notify us without delay in the event that the goods subject to retention of title are pledged by third parties.

Upon entering into a contract and no later than at the point in time that the delivered item is accepted, the customer assigns to us all claims against its purchaser from the resale of the goods subject to retention of title for the purposes of collateral. We authorise the customer to collect claims that have been assigned to us. However, we shall remain entitled to collect the claim despite this authorisation. We may revoke this collection authorisation if the customer is in default of payment, discontinues payments, or if an application is made to open insolvency proceedings in relation to the customer's assets. In the event of a revocation the customer will at our request provide all of the information required in order to assert the assigned claims, surrender all documentation serving as evidence of the claims and disclose the assignment. We shall also be entitled to disclose the assignment in this case.

We may reclaim the goods subject to retention of title in the event of default of payment on the part of the customer if we withdraw from the individual contract upon which the relevant delivery is based with the demand reclaiming the goods at the latest. In this case the customer will assign any existing claims against third parties for return of the goods subject to retention of title if applicable.

At the customer's request we will release collateral for which the realisable value of the collateral existing for us exceeds the claims to be collateralised by more than 10%.

8 Material defects and defects of title

If you have entered into the contract with us as a consumer (see section 1 sub-section 2) then you are entitled to all of the rights existing under the statutory provisions without restriction in the event of any material defects or defects of title, however, this is with the proviso that the restrictions and exclusions in section 9 apply to claims for damages or compensation for futile expenditure.

If you have not entered into the contract as a consumer then we shall be liable for material defects and defects of title in accordance with the statutory provisions unless otherwise stated below:

We shall not be liable for defects of title which result from the fact that we have used technical designs, drafts or other statements which the customer has provided to us.

We shall only be liable for use of the products which is free from defects of title outside of Germany if such use has been agreed or was to be expected in accordance with the circumstances upon entering into the contract. In the event of corresponding liability for freedom from defects of title outside of Germany, we shall only vouch for the fact that the use is not contrary to any laws existing abroad at the time of entering into the contract which we either knew at this time or did not know as a result of gross negligence.

We shall remedy material defects and defects of title under warranty by way of supplementary performance, either through rectifying the defects or by providing a flawless new delivery at our discretion.

In the event that the supplementary performance fails the customer may demand a reduction in the price paid or may at its discretion withdraw from the contract in the case of significant defects. The customer may only claim compensation for defects under the statutory provisions and only to the extent that liability is assumed in accordance with section 9. Any other claims for defects are excluded.

Claims for defects shall expire at the end of twelve months after the transfer of risk, unless we have maliciously concealed the defect or have caused it as a result of wilful intent or gross negligence or are liable on account of a guarantee or on account of injury to life, limb or health based on the defect.

Any seller guarantees provided by us for certain items, or manufacturer guarantees given by the manufacturers of certain items, arise in addition to the claims for material defects or defects of title in accordance with sub-section 1 and sub-section 2, with the details on the scope of such guarantees arising from the terms and conditions of the guarantee enclosed with the items as applicable.

9 Liability

We shall be liable in relation to you in all cases of contractual and non-contractual liability for damages or compensation for futile expenditure where we act with wilful intent or gross negligence in accordance with the statutory provisions.

In all other cases, then unless stated otherwise in sub-section 3, we shall be liable only for the breach of a contractual obligation the fulfilment of which enables proper implementation of the contract in the first place and which you as customer may normally expect will be complied with (cardinal obligation), limited to compensation for foreseeable and typical loss or damage. Our liability shall be excluded in all other cases, subject to the regulation in sub-section 3.

Our liability for damage or loss as a result of injury to life, limb or health, for assumed seller guarantees and in accordance with the German Product Liability Act remain unaffected by the aforementioned limitations and exclusions of liability.

The aforementioned limitations and exclusions of liability shall also be applicable to the benefit of our legal representatives, employees and vicarious agents.

The aforementioned liability regulations shall also apply in the event that you are entitled to a claim for damages or compensation for futile expenditure in accordance with the statutory provisions on account of material defects or defects of title in the products delivered.

If you have not entered into the contract as a consumer (section 1 sub-section 2) then in accordance with sub-section 2 of this section 9 the claims for damages against us shall expire at the end of twelve months from the start of the statutory limitation period.

10 Appointment of vicarious agents

We shall be entitled to appoint or exchange vicarious agents without the customer's prior consent.

We shall be liable for culpability on the part of vicarious agents as well as for our own culpability within the framework of the exclusions and limitations of liability as governed in these Terms and Conditions of Delivery.

11 Place of fulfilment, applicable law and place of jurisdiction

The place of fulfilment for all deliveries and services is our registered place of business.

The law of the Federal Republic of Germany is applicable to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. If you have placed the order as a consumer (see section 1 sub-section 2) and do not have your normal place of residence in Germany at the time of placing the order, then application of the mandatory legal regulations of the country of your normal place of residence remains unaffected by the choice of law in sentence 1.

If you are a registered trader, legal entity under public law or a special fund under public law then jurisdiction remains exclusively with the local courts responsible for our registered place of business; however, we may also bring proceedings before another court with local jurisdiction. The applicable statutory provisions apply in all other respects to local and international jurisdiction.

In case of any discrepancies between the German and the English version of these General Terms and Conditions of Delivery, the German version will prevail.

Version dated: 01.01.2015

Sample cancellation form

(Should you wish to cancel the agreement please fill in this form and return it to us.)

Ingenieurbüro CAT, M. Zipperer GmbH
Wettelbrunner Str. 6
79282 Ballrechten-Dottingen
Germany
Fax: +49-7634-50 56 801
E-Mail: info@cat-ing.de

I/we (*) hereby cancel the contract entered into by me/us (*) for the purchase of the following goods (*)/provision of the following service (*)

Ordered on (*)/received on (*) _____
Name of the consumer(s) _____
Address of the consumer(s) _____

Consumer signature (only for hard-copy notifications)

Date _____

(*) Please delete the inapplicable part as appropriate

Note on statutory exceptions from the right to cancel:

In accordance with the statutory provisions you do not have a right to cancel contracts inter alia for the supply of goods which are not ready-made and for which an individual selection or determination by the consumer is crucial in order for the goods to be produced or which are clearly customised for the consumer's personal needs, and contracts for the supply of audio or video recordings or computer software in sealed packaging if the seal has been removed following delivery