

General terms and conditions of delivery and payment of modular automation GmbH

modular automation GmbH, Darmstadt - Germany, August 2024

I. Definition, scope

1. The following terms and conditions of business apply exclusively; contradicting terms and conditions or purchaser terms and conditions that differ from these terms and conditions are not accepted by modular automation GmbH unless their applicability is specifically approved in writing. The following terms and conditions also apply if modular automation GmbH delivers without reservation to the purchaser while having knowledge of contradicting terms and conditions or purchaser terms and conditions that differ from these terms and conditions.
2. Agreements or side agreements that differ from these terms and conditions are only effective if they are confirmed in writing by modular automation GmbH.

II. Quotations - quotation documentation, order confirmation

1. If the purchase order is deemed an offer as per § 145 German Civil Code (BGB), modular automation GmbH has 4 weeks to accept it.
2. We reserve the title and copyright to figures, drawings, calculations and other documents. This statement also applies to those written documents that are marked as "confidential". Prior to distributing them to third parties, the purchaser requires our express written approval.

3. A supply contract only comes into existence on our written order conformation, at the latest with our delivery. Electronic transmission satisfies the requirement for provision in writing. If modular automation GmbH can demonstrate by means of a transmission report that it has sent a statement by fax or electronically, it is assumed that the purchaser has received the statement.

III. Prices - terms and conditions of payment

1. All prices stated by modular automation GmbH are ex works or ex delivery warehouse plus the value added tax legally applicable at the time the invoice is issued, excluding packaging; packaging will be billed separately.

2. Price changes are permissible if there are more than four months between the conclusion of the contract and the agreed delivery date. If wages, material costs or market cost prices then increase up until completion of the delivery, we are entitled to increase the price corresponding to the cost increases. The purchaser is only entitled to withdraw if the price increase exceeds, not just insignificantly, the increase in the general cost of living between purchase order and delivery.

If the purchaser is a merchant, a legal entity of public law or a corporate body under public law body, price changes as per the clause stated above are permitted if, between the conclusion of the contract and the agreed delivery deadline, there are more than six weeks.

3. Unless otherwise agreed, payments are due on delivery, at the latest on receipt of the invoice. Subject to withdrawal of credit approval, invoices are payable without any deduction within fourteen days of the date of invoice. Nevertheless, modular automation GmbH is entitled at any time, without stating reasons, to make a delivery dependent on a concurrent payment.

4. For all means of payment, the day on which modular automation GmbH or third parties with a claim on modular automation GmbH can dispose of the amount applies as the day of payment receipt.

5. The purchaser is only entitled to set-off rights if his counterclaims have been legally established, are undisputed, or have been recognised by modular automation GmbH. In addition, the purchaser is authorised to exercise his right of retention to the extent that his counterclaim is based on the same contractual relationship.

6. Along with the statutory framework, the purchaser can be placed in default by a reminder after the due date has expired. If the payment date is determined in a calendar basis, the purchaser will also be in default without a reminder. In the event of delayed payment by the purchaser, modular automation GmbH is also entitled to withhold all deliveries or services. In the event of delayed payment modular automation GmbH will charge the statutory rate of interest.

IV. Retention of title

1. modular automation GmbH retains the title to the items delivered until receipt of all payments from the business relationship with the purchaser.
2. If the purchaser acts contrary to the contract, in particular in the event of delayed payment, modular automation GmbH is entitled to take back the goods after a reminder and the purchaser has the obligation to release the goods.
3. The assertion of the right of retention of title as well as the seizure of the items delivered by modular automation GmbH is not considered withdrawal from the contract, provided the provisions of consumer credit law do not apply or this is explicitly stated in writing by modular automation GmbH.
4. The purchaser is entitled to resell the items delivered in the proper course of business; however, he now already assigns to modular automation GmbH all claims for the amount of the purchase price (including value added tax) agreed between modular automation GmbH and the purchaser that the purchaser accrues from the resale, and that independent of whether the items delivered are resold without or after further processing. The purchaser is authorised to collect these claims after their assignment. The authority of modular automation GmbH to collect the claims remains unaltered by this clause; however modular automation GmbH undertakes the obligation not to collect the claims as long as the purchaser complies with his payment obligations and is not in default. If, however, this is not the case, modular automation GmbH can demand that the purchaser makes known the assigned claims and the debtors, provides all information necessary for collection, hands over the related documentation and informs the debtors (third parties) of the assignment.
5. The processing or transformation of the goods by the purchaser is always undertaken for modular automation GmbH. If the items delivered are processed with other items that do not belong to modular automation GmbH, modular automation GmbH acquires joint ownership of the new item for the value of the items delivered in relation to the other items processed at the time of processing.
6. If the items delivered are inseparably mixed with other items that do not belong to modular automation GmbH, modular automation GmbH acquires joint ownership of the new item for the value of the items delivered in relation to the other items mixed. The purchaser will retain the joint ownership for modular automation GmbH.
7. The purchaser is not allowed to pledge or assign the items delivered as security. In the event of pledges and seizure or other dispositions by third parties, the purchaser must notify modular automation GmbH without delay and make available all information and documentation necessary to safeguard its rights. Enforcement officers and third parties are to be informed of the title held by modular automation GmbH.
8. modular automation GmbH undertakes the obligation to release, on request from the purchaser, the securities to which it is entitled provided their value exceeds the claims that are still to be secured and that have not yet been settled by more than 20 %. modular automation GmbH is entitled to select the securities to release.

V. Deliveries, delivery time

1. Compliance with the agreed delivery and service dates requires that all technical and commercial questions are clarified and payments or other obligations on the part of the purchaser are available or met in good time. If this does not occur, the deadline will be extended accordingly.
2. modular automation GmbH will deliver contract goods to the purchaser within its delivery capability.
3. Partial deliveries are allowed, provided there are no disadvantages for usage as a consequence.
4. If the purchaser delays delivery, the goods will be stored in a suitable location at the purchaser's risk and expense.
5. The delivery deadline will be extended by force majeure, strike, circumstances beyond our control and unfavourable weather conditions by the duration of the impediment.
6. If acceptance by the purchaser is delayed or the purchaser infringes other obligations to co-operate, modular automation GmbH is entitled to give priority to other orders from third parties and extend the delivery time accordingly. Without prejudice to other claims, modular automation GmbH is entitled to make claims for damages incurred as a consequence, including any additional expenses.

VI. Delivery delay

1. If modular automation GmbH is late with the delivery, the purchaser is entitled to payment of a proportional claim for damages. This amount is defined as 0.5 % of the purchase price for each full week of delay, however a maximum of 5 %.
2. If modular automation GmbH is late with a partial delivery, this proportional claim for damages is calculated on the basis of the purchase price of the parts yet to be delivered.
3. The purchaser loses the entitlement to payment of a proportional claim for damages if the claim is not asserted within six months from the point in time at which the delivery should have been made.
4. The assertion of a claim for damages caused by the delay beyond the proportional claim for damages is excluded, unless modular automation GmbH caused the delay through wilful intent or gross negligence, or the damages due to the delay are the consequence of a significant infringement of the contract.

VII. Shipment - transfer of risk

1. Provided not otherwise stated in the order confirmation, delivery "ex works" or ex delivery warehouse is agreed. Shipment is made at the risk and expense of the purchaser. This clause also applies to returns.

2. As far as we have the obligation under German packaging regulations to take back the packaging used for transport and/or sale, the purchaser bears the costs for the return transport and reasonable costs for recycling or, as far as possible and considered appropriate by modular automation GmbH, the reasonable costs incurred for renewed usage of the packaging. The purchaser undertakes the obligation in relation to modular automation GmbH and with the award of the order accepts to send for appropriate recycling as per German packaging regulations the packaging not returned.

VIII. Property rights

The purchaser undertakes the obligation to inform modular automation GmbH without delay of third-party property right claims in relation to the products delivered and to cede the legal defence to modular automation GmbH at its own expense. modular automation GmbH is entitled, as a result of third-party property right claims, to make any necessary changes at its own expense also to goods already delivered and paid for.

IX. Warranty / claims for damages / liability

1. Obvious defects must be notified and objections raised to modular automation GmbH without delay. As far as there is a defect that is the fault of modular automation GmbH, improvement or a replacement delivery will be made at the discretion of modular automation GmbH. In the event of improvement, modular automation GmbH has the obligation to bear all expenses necessary for the rectification of the defect, in particular transport costs, travel, labour and material costs, provided these costs are not increased by the relocation of the item purchased to a place other than the place of fulfilment.
2. If the rectification or replacement delivery fails, the purchaser is entitled to demand a reduction in the corresponding remuneration for this order or rescission. If the purchased item lacks a warranted characteristic, modular automation GmbH is liable in accordance with the statutory provisions.
3. For defects that are not the fault of modular automation GmbH, claims under the warranty are excluded, unless an assured characteristic is lacking.
4. The warranty period is six months, calculated from the transfer of risk. The period is subject to the statute of limitations and also applies to claims for consequential damages.
5. modular automation GmbH is liable according to statutory provisions, as far as the purchaser asserts claims for damages due to wilful intent or gross negligence, including wilful intent and gross negligence on the part of representatives or vicarious agents of modular automation GmbH. As far as modular automation GmbH has acted with gross negligence, the liability to pay damages will be limited to foreseeable, typically occurring damages.

6. modular automation GmbH is liable according to statutory provisions as far as modular automation GmbH culpably infringes a significant contractual obligation; in this case however the liability to pay damages is limited to foreseeable, typically occurring damages.
7. In addition modular automation GmbH is liable according to statutory provisions for initial subjective impossibility.
8. Furthermore modular automation GmbH is liable according to the provisions of the German law on product liability (Produkthaftungsgesetz).
9. Otherwise liability for damages is excluded, irrespective of the legal basis, apart from damages for delays defined elsewhere. As such modular automation GmbH is not liable in particular for damages that are not due to the item delivered.

X. Acceptance

1. As far as acceptance is undertaken, the purchaser makes available at his own expense the necessary energy, transported goods and all other materials in an adequate quantity as far as these are necessary or useful for the acceptance.
2. If modular automation GmbH requests acceptance and this acceptance does not take place for reasons that are the fault of the purchaser, acceptance is considered complete at the point in time at which modular automation GmbH becomes aware of these reasons.
3. The purchaser can refuse acceptance if significant defects are found. If an installation or a product can be used by the purchaser with limitations, acceptance is conditional.
4. If there are insignificant defects, the service is to be accepted unconditionally. A defect is insignificant if it rectifies itself in a short time or the defect can be rectified by the purchaser without appreciable expense.
5. If acceptance is delayed by the purchaser, acceptance is assumed notionally from this point in time.

XI. Place of fulfilment, court of jurisdiction, applicable law, miscellaneous

1. As far as not otherwise expressly agreed, the registered office of modular automation GmbH is the place of fulfilment.
2. If the purchaser is a merchant, a legal entity of public law or a corporate body under public law body, the court of jurisdiction is the court responsible for registered office of modular automation GmbH. modular automation GmbH is entitled, however, to bring a legal action against the purchaser in his general court of jurisdiction. The same applies if the purchaser does not have a general court of

jurisdiction in Germany, has relocated his domicile or place of usual residence from Germany after conclusion of the contract or his domicile or place of usual residence is not known at the time of the action.

3. German law applies exclusively. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

4. Should a provision of these terms and conditions or part of a provision be or become ineffective, the remaining provisions or the remaining part of the provision remain effective.

As of: August 2024, Darmstadt, Germany.