

Terms of supply and payment

S+P Samson GmbH (S+P), 86438 Kissing

A General

1. The following terms of supply and payment shall constitute a component of the contract. They shall apply only in respect of companies as defined by § 14 BGB (German Civil Code).
2. Any different terms of purchase of the ordering party shall only be binding for S+P if they have been confirmed in writing by S+P. This shall apply even if S+P makes a delivery to the ordering party without reservation in the knowledge of the existence of different terms of purchase. Verbal agreements shall only be binding on either side if they are confirmed in writing.

B Offer and formation of contract

1. Our offers shall be subject to change and non-binding. The contract shall be formed only by our written confirmation of order.
2. Changes, additions or mutually agreed cancellation of the contract, including the terms of supply and payment, shall require a separate written agreement.
3. Illustrations, drawings, and data relating to weights and measures for the object of delivery shall be non-binding unless anything different is expressly agreed in writing. Cost estimates for repair and renovation works shall likewise be non-binding.
4. Drawings, organisation suggestions, cost estimates and other preparations and offer documents shall remain the property of S+P. All documents must be treated in confidence and they may be made accessible to third parties only with the express consent of S+P. In this case the customer must ensure that the third party also provides the same undertaking of confidential handling. If the order does not come into existence, all documents must be returned to S+P on demand.
5. If after formation of contract S+P becomes aware of circumstances that appear to indicate that the solvency of the customer is in danger, S+P may refuse further implementation of the contract.

C Prices, packing

1. All prices are stated ex works or delivering plant before the legally applicable VAT at the amount applicable at the time of delivery.
2. The customer shall pay the costs of packing which shall be charged at cost.

D Period of delivery, delivery

1. The period of delivery shall be non-binding unless the delivery date has been expressly referred to as binding in the confirmation of order.
2. The period of delivery shall be in any case dependent on punctual and correct fulfilment of the customer's obligations. If the customer does not provide in good time the documents required for delivery / service, the agreed periods for delivery and service shall be extended correspondingly.
3. S+P shall be entitled to make partial deliveries and send partial consignments.
4. If a binding deadline is exceeded, the customer may withdraw from the contract only after expiry of a reasonable additional period, which must be at least four weeks, and after a written, serious and final rejection of further implementation of the contract (warning of refusal) insofar as the goods have not been notified as ready for despatch upon expiry of the period.
5. If S+P is unable to deliver due to a late delivery by upstream suppliers, measures taken by authorities or other cases of *force majeure*, the customer cannot derive any rights from this. If such events continue for more than two weeks beyond the additional period to be set in accordance with 4.4., the customer may demand a statement from S+P as to whether there is a withdrawal from the contract or whether there will be a delivery within a reasonable period.

E Transfer of risk

The customer shall carry the risk, even in the case of prepaid freight delivery, from the time when S+P or an appointed party delivers the goods to a carrier or forwarding agent or has loaded the goods onto their own vehicles for the purpose of transportation to the recipient.

F Limitation of liability

1. S+P shall be liable in accordance with the provisions of law if S+P breaches a contractual duty (cardinal duty) in a culpable way. In this case the compensation shall, however, be limited to the foreseeable and typical loss.
2. S+P and their staff shall be liable – in terms of statutory provisions and contractually – in the case of damage to life, body or health for every negligent breach of duty, including negligent breach of duty by a representative or various agent. For other loss or damage S+P and their staff shall be liable only in the case of a deliberate or grossly negligent breach of duty committed by them or in the case of such breach of duty by representatives or precarious agents.
3. A regulation excluding § 341 III BGB (German Civil Code) shall be ineffective.

G Guarantee

1. Delivered goods shall be accepted by the ordering party even if they have defects, provided such defects are insignificant. Consignments must be checked prior to transfer for any damage or theft. Visible transport damage and incorrect quantities must be reported immediately to the transport company and expressly stated on the confirmation of receipt. S+P is to be given the opportunity to re-examine the goods in due time.
2. Guarantees for consumable materials (printer ribbons, toner, transparencies etc.) and hardware (printers, scanners etc.) shall be forwarded by us to our customers within the framework of the manufacturer's or upstream supplier's guarantee.
3. Guarantees within the framework of services rendered by us or by third parties engaged by us shall be restricted to the value invoiced by us for

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such services or otherwise to the value covered by our damage liability insurance.

4. In the case of justified complaints the ordering party shall be entitled to subsequent fulfilment by replacement delivery or subsequent improvement depending on the choice of S+P. The expenses necessary for rectification of defects shall be paid by S+P only insofar as they are not increased on account of the goods being taken to a location other than the place of performance. If transport is necessary, the risk shall be carried by the customer.
5. If the subsequent fulfilment fails, the ordering party may, depending on their choice, either decrease the remuneration (reduction) or withdraw from the contract. The right of the ordering party to demand compensation or reimbursement of expenses shall remain unaffected by this.
6. The entitlement of the ordering party to compensation on account of defects in goods shall be limited in accordance with F.2. Entitlement to reimbursement of expenses shall be limited to foreseeable, typically incurred expenses. Insofar as there is no deliberate breach of duty, the compensation shall be limited to the loss or damage that is foreseeable and which typically occurs. Complaints about defects shall not release the customer from the duty to make payment.
7. Qualities of the goods shall only be guaranteed if they are referred to in writing as guaranteed. Prospectus information relating to the goods shall not give rise to an agreement on qualities as defined by § 434 I BGB (German Civil Code).
8. The limitation period for rights relating to defects shall be 12 months. It shall commence at the time of transfer of risk to the ordering party; § 479 BGB (German Civil Code) shall remain unaffected. However, the statutory period of limitation in the case of damage to life, body or health, in the case of a grossly negligent breach of duty and in the case of breach of cardinal duties shall remain unaffected.
9. All guarantee claims shall be excluded for goods that have been altered or handled in a manner contrary to the technical guidelines of the manufacturer or S+P or handled or used in any other improper way by the customer or a third party after the sale.
10. Insofar as S+P sells used machines, equipment or systems, the guarantee shall be excluded irrespective of whether or not defects or malfunctions in the goods are recognisable.

H Relationship with software services

1. As a matter of principle, provision of hardware and services relating to it shall be independent of software services even if software of upstream suppliers is provided by S+P.
2. Guarantee claims in connection with software provided by the upstream suppliers via S+P shall not entitle the customer to assert objections regarding the processing and implementation of contracts relating to hardware services.

I Payments

1. Invoices shall be payable immediately upon receipt. Discounts and other deductions must not be made.
2. Bills of exchange shall only be permissible if they have been expressly authorised by S+P upon order completion and provided they are received by S+P within the agreed payment period. Bills of exchange and cheques shall only count as payment when they are honoured. Bill charges and discount charges shall be payable by the ordering party and must be paid in cash immediately after notification.
3. S+P shall be entitled to use payments initially to offset the oldest debts due from the ordering party despite any regulations of the ordering party to the contrary. If costs and interest have already been incurred, S+P shall be entitled to use the payment initially against the costs, then against interest and finally against primary debts.

J Delay

1. S+P shall be entitled to charge penalty interest amounting to the rate of interest charged by one of their commercial banks for outstanding overdrafts on current accounts plus the legally applicable VAT.
2. The right to assert further claims for losses shall remain unaffected.
3. If the customer does not comply with their payment obligations, in particular if a bill is protested, a cheque is unpaid or S+P becomes aware of circumstances that call into question the customer's credit-standing, S+P shall be entitled to demand advance payment or provision of security. No. 2.6 shall remain unaffected by this.

K Counter-claim, assignment

1. The customer shall only be entitled to offset or retain payment, even if complaints about defects or counter-claims are asserted, if the counter-claims have become *res judicata* or are ready for a decision or undisputed.
2. The customer shall not be entitled to assign to third parties claims from the business relationship with S+P.

L Reservation of ownership, enhanced and extended reservation of ownership

1. S+P reserves the ownership of all supplied goods until receipt of all payments from the supply contract. In the case of conduct of the ordering party in breach of contract, especially in the case of delayed payment, S+P shall be entitled to take back the goods. The taking back of goods by S+P shall not constitute a withdrawal from the contract unless S+P has declared this expressly in writing. Levy of execution in respect of the goods by S+P shall always constitute withdrawal from the contract. After taking back the goods S+P shall be entitled to realise their value; the proceeds from realisation (less appropriate realisation costs) shall be used to offset the liabilities of the ordering party.
2. The ordering party shall be required to handle the goods with care. In particular, the ordering party shall be required to insure them for the replacement value at their own cost against loss or damage caused by fire, water or theft. Insofar as maintenance and inspection works are required, the ordering party must carry them out in good time at their own cost.
3. In the case of levies of execution or other interventions by third parties, the ordering party must notify S+P in writing immediately so that S+P may bring an action pursuant to § 771 ZPO (Code of Civil Procedure). Insofar as the third

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party is not able to reimburse S+P for court costs and extra-judicial costs of an action pursuant to § 771 ZPO, the ordering party shall be liable for the loss.

4. The ordering party shall be entitled to re-sell the goods in the course of proper business procedure. However, the ordering party assigns already now to S+P all claims amounting to the final invoice amount (including VAT) of the claim of S+P which become due to the ordering party from their purchasers or third parties from the further sale, irrespective of whether the goods have been re-sold without or after processing. The ordering party shall remain entitled to effect collection of this claim even after the assignment. The right of S+P to collect the debt themselves shall remain unaffected by this. However, S+P undertakes to refrain from collecting the debt as long as the ordering party complies with their payment obligations from the collected proceeds, is not in delay with payment and in particular provided there is no application for opening of insolvency proceedings or stoppage of payments. However, if this is the case, S+P may demand that the ordering party must notify S+P of the assigned claims and their debtors, provide all information required for collection, hand over the associated documentation and notify the debtors (third parties) of the assignment.
5. The processing or restructuring of the goods by the ordering party shall always be done for S+P. If the goods are processed with other objects not belonging to us, S+P shall acquire co-ownership of the new objects at the ratio of the value of the goods (final invoice amount including VAT) to the other processed objects at the time of processing. Apart from this, in respect of the object brought about through processing the same shall apply as for goods supplied with reservation.
6. If the goods are mixed in an inseparable way with other objects not belonging to S+P, S+P shall acquire co-ownership of the new object at the ratio of the value of the goods (final invoice amount including VAT) to the other mixed objects at the time of mixing. If the mixing is done in such a way that the object of the ordering party is to be regarded as the main object, it shall be deemed agreed that the ordering party assigns co-ownership to S+P on a pro rata basis. The ordering party shall preserve for S+P the sole ownership or co-ownership that has arisen in this way.
7. For the purpose of securing the claims of S+P against the ordering party, the ordering party also assigns to S+P the claims against a third party that arise through the combination of the goods with an item of property.
8. S+P undertakes to release the security due to them on demand by the ordering party insofar as the realisable value of the security exceeds the claims to be secured by more than 20 %. The selection of the security to be released shall be a matter for S+P.

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M Data protection

S+P shall be entitled to store in files and, if necessary, to process by their computer data about the ordering party concerning or in connection with the business relationship, irrespective of whether such data originates from the ordering party or third parties.

N Applicable law, place of performance, place of jurisdiction, partial invalidity

1. German law shall apply for the terms of supply and payment and the whole legal relationship between S+P and the customer. The application of UN sales law shall be excluded.
2. The place of performance for all obligations from the business relationship between S+P and the customer shall be Kissing. This shall also apply for payment obligations and bills of exchange payable.
3. The place of jurisdiction shall be Munich. In the case of international disputes, the German courts shall have jurisdiction.
4. If one or more of the above provisions is or becomes ineffective, the effectiveness of the other provisions shall not be affected by this. The ineffective provision shall be replaced by a provision that achieves the intended purpose of the ineffective provision as far as possible.