

General Terms and Conditions

All business relations with our Clients are governed exclusively by the following Terms and Conditions, complemented by the General Conditions for the Supply of Products and Services of the Electrical Industry. These apply to all contracts that we enter into with our business partners, to all future deliveries, services or offers provided to the Clients, even if they are not separately agreed upon. Other conditions are only valid if they have been expressly acknowledged in writing by GÜNTHER GmbH Temperaturmesstechnik.

Offers

Our offers are subject to modifications and non-binding. They become binding upon receipt of an order confirmation.

Ordering

Orders shall be filed in written form. GÜNTHER GmbH Temperaturmesstechnik accepts no liability for transmission errors and errors resulting from unclear written orders. In the case of orders placed on behalf of a third party, the ordering party shall bear the sole liability for the accuracy of the order and the payment of the entire debt liability. The completion dates specified in the order are, unless expressly agreed in writing, non-binding.

Prices

Remuneration for our services is compliant with the prices valid at the time of contract conclusion. If there is a period of more than a week between our offer and the award of the contract, we reserve the right to make an appropriate correction in price before ordering because of interim material price and wage increases. Our prices are exclusive of VAT. If the client wishes to receive a model, sample or prototype before ordering and the performance order is not provided within 10 days of the receipt of the model, sample or prototype or if the model, sample or prototype is not returned in untouched condition, the Client will be issued an invoice at the cost-level price. Shipment and packing will be charged separately.

Completion and acceptance

If we are prevented from the completion or timely delivery as a result of business disruptions in our company or by our material suppliers, which may be of considerable influence for us, or through ill health etc., the period for completion shall be extended accordingly. If delivery becomes thus impossible, our delivery and performance period is not applicable under exclusion of damages. At the Client's request, the goods are shipped on his behalf and at his cost directly from the production site. The responsibility for the goods passes to the Client when the goods leave our premises area and are handed over to the shipment company, carrier or other third party contracted to carry out the shipment. We are not liable for any damages borne in transport. Any such damage is to be reported upon delivery to the carrier to claim compensation from the shipping company. The Client or recipient must inspect the goods immediately and report any defects in writing without any delay. Without delay shall mean within one week. If the Client does not conduct the proper investigation and / or notification of defects, our goods shall be deemed irrevocably accepted as delivered in the "as is" condition and functionality, our liability for the defects recorded at a later time is excluded, unless it were hidden defects.

Delivery

All delivery times, which we have not been expressly confirmed, are non-binding. Delivery is ex works at the cost and at the risk of the ordering party. We are entitled to partial deliveries if the partial delivery to the Client is included in framework conditions and is compliant with the purpose of the ordered products, the delivery of the remaining ordered goods is guaranteed and the Client incurs no major additional expenses or costs unless we agree to assume these costs. We reserve the right to require cash on delivery. The packaging is included in the invoice and is done at the own cost basis, a take-back obligation does not exist.

Terms of payment

Unless otherwise agreed in writing, the purchase price payment is due from the date of invoice and delivery. Offsetting against counterclaims is not possible, unless there is a valid title or the counterclaim is undisputed. Payments by check or bill of exchange shall only be accepted if the equivalent is not possible. Costs resulting from the payment by check or bill of exchange shall be borne by the exhibitor. With the expiry of the payment period, the Client is in overdue debt. Where the delay in payment exceeds 14 days, a penalty payment is charged in the amount of 5% of the whole amount due. Interest shall be charged and billed 14 days after the due date at a rate of 8 percentage points above the applicable base rate. We reserve the right to claim further damages. If the fulfilment of our claim for payment proves to be at risk, we are entitled to make outstanding deliveries only against advance payment and to demand guarantees or other security services in sufficient amounts in respect to all claims. Where such security is not provided, our claims become due immediately. Furthermore, we shall have the right to suspend all outstanding deliveries until such security or guarantee has been provided.

Reservation of proprietary rights

Until full payment of our claims, including any additional requirements, following from the particular contract, we reserve the right to keep the proprietary rights to all delivered and assembled goods under the contract. For all our business partners who are merchants, this reservation of proprietary rights shall remain in force until the payment of all outstanding claims following from the business relations. The Client shall be authorised to dispose at will of all goods subject to the reservation of proprietary rights to third parties under the principles of the ordinary and usual course of business. All claims arising from such sale transactions shall be immediately transferred to us. At our request, the Client shall inform his partners of this assignment in writing and provide us with the necessary information about its transactions with these partners.

Liability

In all cases where we are liable for damages due to contractual or statutory claims, we are only liable if we can be accused of intent or gross negligence. We are not liable in the event of simple negligence by our bodies, legal representatives, employees or other agents, unless the case concerns a breach of contractual obligations. Contract essentials include the obligation to make timely delivery of products free of material misstatement delivery, advisory, protection and care obligations that will allow the Client the contractual use of the delivered goods and the protection of life and limb of personnel of the Client or the protection of its property significant damage object. Despite the fact that we are liable for damages as a rule, this liability is limited to damages that we have anticipated in the contract as a possible consequence of a breach of contract or that should have been foreseen under the application of due diligence. Indirect or consequential damages that are the result of defects of the delivered goods are only eligible for compensation if such damages are typically to be expected under normal use of the delivered goods. We are not liable for any damage caused by force majeure. A warranty shall be given for materials and workmanship, not for life. The warranty covers depreciable parts, where the conditions of their use remain beyond our control.

Warranty

Each product, whether delivered or picked up by the Client, as well as each service performance must be inspected for defects immediately upon receipt. If a defect is identified during the examination or at a later time, we must be immediately informed of that fact in writing. Immediately shall mean within one week. Complaints filed later than within one week will not be accepted unless it were hidden defects. In the case of defective goods or installation, we are entitled to either repair or replace the products. Only in the case of failure of the repair or replacement may the Client request either a reduction in payment or cancellation of the contract. Reasonable time frame shall be set for the performance of repair works.

The warranty shall be excluded in the case where the repair is conducted by our business partner or a third party contracted by them if GÜNTHER GmbH Temperaturmesstechnik had not been delayed in repairs or replacement of goods or had not failed to perform the repair or replace the goods. GÜNTHER GmbH Temperaturmesstechnik reserves the right to inspect the defects on site, or otherwise the warranty claim shall become void. All warranty claims shall expire one year from the acceptance of goods. This also applies to hidden defects. Further claims of the Client, especially for compensation of handling costs, costs of installation and removal, as well as damages not relating to the object of the contract itself, are, as far as legally permissible, not valid. If the client has received a design, model or prototype and this issued under the contract, this design pattern or a prototype for the work shall be binding.

Withdrawal from the sale, exchange

Cancellation of an order, exchange of goods and return of goods are possible only upon our consent. In the case of order cancellation, the costs already incurred are to be reimbursed. In the case of exchange or return of goods 20% of the agreed purchase price will be charged as processing fee without proof of actual damage. Despite these liquidated damages, the Client retains the ability to prove that in a specific case no or significantly less damage has been suffered.

Copyrights

All designs, models or prototypes remain our property even after payment. GÜNTHER GmbH Temperaturmesstechnik remains the owner of the copyrights and intellectual property rights thereto. When executing instructions from the Client, the Client assures us that these instructions do not violate any intellectual property rights of others and that such rights are not violated by the provision. Our company is not obliged to carry out respective investigation in this regard.

Export controls – Origin of goods

In the course of contract performance, the supplier shall be obliged to observe the relevant statutory and regulatory provisions and requirements.

The Supplier shall in particular ensure that no embargo provisions of the UN Security Council, the European Commission or national legislators are violated or disregarded by delivery of the goods supplied. The supplier has sole responsibility for exporting the goods according to the rules from the country of despatch and in particular undertakes to obtain all necessary permits as well as to state in his written offer the country of origin of the materials delivered according to commercial law and the ECCN number, especially with respect to US Export Administration Regulations (EAR) or International Traffic in Arms Regulations (ITAR).

The delivered goods must meet the requirements pertaining to the place of origin referred to in the EU preferential agreements, unless the contrary is expressly stated in the order confirmation.

Data protection

We point out that personal data that is processed with respect to our relationship, or in connection with received personal data, whether made by the supplier itself or by third parties shall be processed in accordance with the provisions of the Federal Data Protection Act.

Protection clause

All contracts concluded by us shall be governed solely our General Terms and Conditions. Other conditions shall not become part of any contract, not even if we do not expressly exclude those conditions.

Final provisions

Place of performance and jurisdiction regarding our contractual relationships with merchants and legal persons of public law is Nuremberg. Any arrangements concerning modification of these General Terms and Conditions shall be valid only if they are confirmed in writing by GÜNTHER GmbH Temperaturmesstechnik. All contractual relations shall be governed by German law. If any part of these General Terms and Conditions be or become invalid, the remaining parts shall not be affected. In place of the ineffective parts the provisions of common law shall take precedence, which reflect the economic objective of the invalid parts the closest.

Status as of: 01.2013