

Terms and Conditions of Sale, Delivery and Payment of Witt Sensoric GmbH, Berlin

1. Conclusion of contract

We shall deliver goods solely on the basis of the following conditions. The Buyer's purchasing conditions shall not place us under obligation, even if we have not expressly contradicted them. Our General Terms and Conditions of Sale, Delivery and Payment shall be deemed accepted at the latest upon receipt of the goods.

Our offers are subject to change without notice. Concluded contracts and agreements, in particular insofar as they amend these conditions, shall only be binding for us following our written approval. Oral or written orders shall be deemed accepted when the written confirmation of order is issued or the goods ordered are delivered.

Information on technical data, dimensions, quantities, colours and other properties in catalogues, data sheets, product descriptions and similar documents are subject to change in line with developments and improvements and do not therefore constitute a guarantee.

2. Prices and terms and conditions of payment

The prices are to be construed as ex works and without packaging but plus the respective, valid, statutory value added tax. Payments are to be effected ex paying agent of the Supplier. The Buyer may only set off using claims that are not disputed or are res judicata. All prices shall cease to be valid upon the publication of a new price list.

3. Reservation of title

The delivery items (reserved goods) shall remain the Supplier's property until all the Supplier's claims against the Buyer resulting from the business association have been settled. Insofar as the value of all security rights to which the Supplier is entitled exceed the amount of all secured claims by more than 20%, the Supplier shall, at the Buyer's request, release an appropriate part of the security rights.

During the period in which the reservation of title applies, the Buyer shall be prohibited from pledging or ownership transfer by way of security while resale shall only be permitted to retailers during the ordinary course of business and only on condition that the retailer receives payment from its customers or makes the reservation that ownership shall only pass to the customers when they have honoured their payment obligations.

The Buyer shall inform the Supplier without delay in the case of seizure, confiscation or other orders or intervention on the part of third parties. If the Buyer violates an obligation, in particular in the case of default in payment, the Supplier shall be entitled to withdraw, and take back goods, following the unsuccessful lapse of a reasonable period set for the Buyer. This shall not affect the statutory provisions on the superfluous nature of setting a time limit. The Buyer shall be under obligation to surrender.

The Supplier shall be entitled to withhold its services or to withdraw from the contract if it becomes aware of circumstances, under which there is a threat of the Buyer becoming insolvent, or if the Buyer is not willing or able to meet its payment obligations on the due date for other reasons.

4. Delivery

The delivery time is agreed merely as an approximate time. The delivery period shall commence on the day on which the confirmation of order is dispatched and shall be deemed met if the goods have left our warehouse by the end of the delivery period, or notification of the readiness for dispatch has been provided for such goods. The delivery period shall be extended accordingly – including during a period of default in delivery – in the event of unforeseeable obstructions, which the Supplier was unable to ward off irrespective of acceptable care taken in accordance with the circumstances of the case – and irrespective of whether such obstructions apply to us or our subcontractors – such as operational disruption, intervention by the authorities, industrial action, war, mobilization, unrest, delays in the delivery of key raw materials and building materials or force majeure.

Meeting the times for deliveries shall be conditional on the timely receipt of all documents, necessary licenses and releases to be provided by the Buyer, in particular plans, as well as adherence to the agreed terms of payment and other obligations incumbent upon the Buyer. The periods shall be extended accordingly if such conditions are not met in good time. This shall not apply if the Supplier is responsible for the delay. In the event that we default in delivery, the Buyer shall be entitled to set an appropriate additional period of time.

The Buyer shall be entitled to withdraw from the contract once this additional period of time has lapsed. Claims for damages due to non-performance or delayed performance are excluded. The Buyer may not reject partial deliveries. We reserve the right to provide one or more deliveries in respect of special versions.

5. Freight, shipping

In the absence of agreements to the contrary, goods shall be shipped carriage forward. The risk shall pass to the Buyer upon the hand-over of the goods to the carrier, at the latest however when the goods leave our warehouse. Goods for which notification of dispatch is provided on the agreed date must be called up without delay. Otherwise, or in the event of the impossibility of shipping, we shall be entitled at our own discretion to store the goods at the Buyer's cost and risk and charge the Buyer for these as delivered "ex works". The Buyer shall be obliged, upon any export, to observe the export control regulations applicable to the delivery items. In the event that the export provisions are breached, the Supplier shall be entitled to withdraw from the contract.

6. Warranty, liability, notification of defects

Irrespective of a shorter requirement to give notice of defects, notification of defects is to be given at the latest two weeks following receipt of the goods. Notification of defects that cannot be identified by way of careful checking within that period is to be provided without delay once they are identified, at the latest within the warranty period. The delivery shall be deemed authorized if notification of defects is not provided in good time. The warranty period is 24 months from delivery of the goods. Insofar as notification of defects is justified, we shall, at our discretion, provide replacements, subsequent improvement or reimburse the reduced value. Further warranty claims are excluded.

Claims for damages due to the impossibility of performance, delay, positive breach of an obligation, negligence in respect of entering into the contract and unlawful actions shall be excluded unless these are based on intent or gross negligence on our part or our executive personnel. The Buyer's claims for damages and compensation of expenses (hereinafter: claims for damages) are excluded, irrespective on whichever legal grounds, in particular due to a breach of obligations resulting from the contractual relationship and unlawful actions.

This shall not apply insofar as liability is mandatory, e.g. in accordance with the German Product Liability Act, in cases of intent, gross negligence, danger to life and limb or breaching key contractual obligations. However, claims for damages in respect of breaching key contractual obligations shall be limited to the foreseeable damage that is typical of contracts insofar as intent or gross negligence do not apply or liability applies due to danger to life and limb. The regulations above are not associated with changing the onus of proof to the detriment of the Buyer.

Insofar as the Buyer is entitled to claims for damages in accordance with this Article, such claims shall fall under the statute of limitations following the lapse of the limitation period that applies to claims in respect of defects. The statutory statute of limitations shall apply to claims for damages in accordance with the German Product Liability Act.

7. Place of jurisdiction and applicable law

Even if the Buyer is a merchant, the court with jurisdiction for the Supplier's registered office is deemed the sole place of jurisdiction in respect of all disputes resulting directly or indirectly from the contractual relationship. However, the Supplier is also entitled to bring an action at the court with jurisdiction for the Buyer's registered office. German substantial law is deemed applicable to the legal relations in conjunction with this contract by way of exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

8. Binding force of contract

The contract shall retain its binding force even in the event of the legal invalidity of individual provisions in other parts of the contract. This shall not apply if adhering to the contract would constitute reasonable hardship for one party.