

GENERAL TERMS AND CONDITIONS OF BUSINESS
Status: 11.10.2011

Art. 1 General – Scope

1. Our Terms and Conditions of Business shall apply exclusively. We do not acknowledge contrary, deviating or supplementary terms and conditions of business, unless we have expressly agreed to their application in writing.
2. These General Terms and Conditions of Business shall apply exclusively to entrepreneurs (within the meaning of Section 14 BGB – German Civil Code). An entrepreneur is defined as a natural person or legal entity, or a partnership with legal capacity, acting in execution of its commercial or self-employed occupational activity when concluding a legal transaction.

Art. 2 Contract conclusion

1. Our offers are without obligation.
2. Your purchase order is deemed a binding offer. At our option, this offer will be accepted within two weeks of receipt by sending an order confirmation or by unconditional rendering of the performances.

Art. 3 Scope of performance; Prerequisites for use

1. The order confirmation alone shall be authoritative regarding the scope and execution of the delivery and performance.
2. elexxion reserves the right to make technical and optical changes resulting from statutory requirements, improvement of our products or inability to deliver on the part of our upstream suppliers.
3. The operator of a Class IV laser is aware that he/she must furnish proof of professional competence as a Laser Safety Officer to the employer's liability insurance association.

Art. 4 Prices

1. Unless otherwise indicated in the order confirmation, our Price List shall apply, plus packaging.
2. Our prices are indicated in Euros and, unless otherwise stipulated, in each case subject to addition of the statutory value-added tax/customs duties applicable on the date of delivery.

Art. 5 Terms of payment

1. Unless otherwise indicated in the order confirmation, the purchase price shall be due for payment within 10 days of receipt of the goods, without deductions. After expiry of this period, we shall be entitled to

demand default interest at a rate 8% above the basic interest rate. If we can prove greater damage due to default, we shall be entitled to claim said damage. However, the customer shall be entitled to prove to us that we suffered no damage, or far less damage, as a result of the default in payment. The costs of payment transactions are to be borne by you. Different terms of payment can be agreed upon separately; they shall only be valid if made in writing.

2. The deduction of a cash discount shall require a separate, written agreement.
3. Payments shall be made at the corporate domicile of election, without deduction of expenses, taxes and charges of any kind whatsoever. In the event of default in payment, we reserve not only the statutory claims, but also the right to immediately stop any planned deliveries.
4. If you are in default regarding payment according to Para. 5.1, we shall be entitled to demand statutory default interest, as well as collection costs.
5. In the event of default in payment, or filing of an application for commencement of insolvency proceedings regarding your assets, we shall be entitled, notwithstanding further rights, to declare all outstanding claims to be due immediately and to claim all rights arising from the reservation of title according to Art. 7.
6. Under the prerequisites indicated in Para. 5.5, we shall be entitled to demand advance payments or to make delivery subject to cash payments upon receipt of the shipment.
7. Our outstanding claims can only be offset against counterclaims that have been acknowledged by us in writing or determined by final judicial decision.
8. In the event of election financing, the purchaser shall give election an irrevocable direct-debit authorisation regarding the instalments indicated in the contract. Should delays in payment nevertheless occur, or even reversing entries on the part of the executing bank, the booking costs and fees incurred shall be borne by the purchaser.

Art. 6 Extension of delivery periods; Delay in delivery, part delivery

1. The order confirmation alone shall be authoritative regarding the delivery period, insofar as no other delivery date was agreed upon.
2. In the event of unforeseeable, extraordinary or other circumstances for which we are not responsible, e.g. business disruptions due to force majeure or inability of our supplier to deliver, in case of labour disputes, particularly strikes and lockouts, i.e. generally in the event of circumstances beyond our control, the delivery period shall be extended by the duration of these occurrences. This shall also apply if the circumstances occur at suppliers.
3. In the event that the prevention of performance within the meaning of Para. 2 lasts for longer than two months, both parties shall be entitled

to withdraw from the overdue delivery. In the event of our failure to comply with the delivery date for reasons other than those indicated in Para. 2, only you shall be entitled to withdraw from the contract in relation to the overdue delivery.

4. We shall be entitled to part delivery and part performance, insofar as you can reasonably be expected to accept it. In the event of part deliveries occasioned by us, we shall bear the packaging and shipping costs exceeding the normal level. If part delivery is occasioned by the customer, you have to pay the higher incidental expenses.

Art. 7 Reservation of title

1. All goods delivered shall remain our property until fulfilment of all claims, including incidental claims, compensation claims and payment of cheques and bills.
2. The reservation of title pursuant to Para. 7.1 secures all claims acquired by us in connection with the delivery, including those acquired subsequently.
3. The reservation of title pursuant to Para. 7.1 shall remain effective even if individual claims of ours have been included in a current account and the balance has been struck and acknowledged.
4. Pledging of the goods or of the assigned claim, or transfer of ownership by way of security, shall not be permissible. You must inform us of any pledging without delay, indicating the name of the pledgee.
5. For the duration of the reservation of title, you shall be obliged to take the measures necessary to protect our property, and to notify us without delay in the event of damage. Furthermore, you shall suitably and professionally repair any damage at your own expense.
6. You shall be entitled to sell the delivery item in the framework of the ordinary course of business. The purchase price claim resulting from this re-sale is herewith to be assigned to us in advance to the amount of the sum total of the invoice (including value-added tax). Subject to withdrawal, you shall be entitled and authorised to collect this claim yourself. You shall, however, be obliged to reserve title to the object of sale within the meaning of Art. 7 of these General Terms and Conditions of Business if your customer does not make full payment by the time of handover of the delivery item at the latest. You shall also be obliged to inform your customer that pledging of the reserved goods or of the assigned claim, or transfer of ownership by way of security, is not permissible, and to instruct the customer to inform us without delay in the event of pledging, indicating the name of the pledgee.
7. As long as you comply with your payment obligations, we shall not be entitled to collect the assigned claims. Your direct-debit authorisation shall expire in the event of default in payment on the part of your customer. In this case, or in the event of revocation pursuant to Para. 7.6, third sentence, we shall be entitled to notify the customers of the

assignment and collect the claims ourselves. You shall be obliged, at our first request, to provide an accurate list of the outstanding assigned claims, including the names and addresses of the customers, the amount of the individual claims, invoice dates, etc., and to give us all the information necessary for assertion of the assigned claims, and permit verification of this information.

8. The reservation of title shall also extend to the products resulting from the processing, commingling or combination of our goods at their full value, where these processes are performed on our behalf, such that we are deemed to be the manufacturer. If the title of third parties remains valid in the event of processing, commingling or combination with their goods, we shall acquire joint ownership at the ratio of the objective values of these goods.
9. If you have provided us with security under this contract, we shall be obliged to release it on your request, insofar as it is no longer needed to secure our claims from the current business relationship, particularly insofar as it exceeds the total of all secured claims by more than 20%.
10. Assertion of the reservation of title, and pledging of the delivery item by us, are not deemed to constitute withdrawal from the contract.

Art. 8 Transport, insurance and packaging; Passing of risk

1. We generally deliver ex works Radolfzell.
2. The products are carefully packed by us. The participating transport companies alone are liable for transport damage.
3. We are not obliged to take out insurance against damage of any kind whatsoever.
4. The price pursuant to Art. 4 includes the costs of the standard packaging required for transporting the goods without damage. We must be informed in good time of special requests regarding shipping and packaging. The resultant costs shall be borne by you. Returned, off-set packaging material may not be deducted from payments until received by us, and only in accordance with the credit note issued.
5. The risk shall pass to you as soon as the delivery/part delivery has been handed over to you or the person performing transport, or has left our production department or dispatch warehouse for shipping. This shall expressly also apply to part deliveries and in the event that we have taken on other performances, e.g., by way of exception, shipping, installation or the like.
6. If the delivery is ready for dispatch, and if dispatch or acceptance is delayed for reasons for which we are not responsible, the risk shall pass to you when you receive notification of readiness for dispatch.
7. At your request, the goods will be insured against theft, breakage, transport, fire and water damage, as well as against other insurable risks. The associated costs shall be borne by you.

Art. 9 Checking and acceptance of the delivery

1. You are obliged to check the delivery immediately upon receipt of the shipment. If a defect is found, it must be specifically reported to us in writing within 10 days of receipt. If the defect only becomes apparent at a later date, notification must be submitted in writing without delay as soon as the defect is discovered.
2. Failure to comply with the obligations according to Para. 9.1 can lead to loss of the warranty rights according to Art. 10.
3. The goods forming the subject of the complaint may not be processed, installed or used in any other way. Following our express, prior consent, they must be returned to us, carriage paid, in the original packaging or in equivalent, correct packaging.
4. Notifications of defects shall not relieve you of the obligation to pay promptly, and shall not entitle you to make deductions. The rights according to Art. 10 remain unaffected.

Art. 10 Warranty

1. We warrant that the products delivered by us are free of defects of quality.
2. The condition of a product shall only be deemed stipulated if it is expressly stipulated. If we, or the personnel commissioned by us, provide free technical consulting, information and advice regarding possibilities for applying and processing the products, this shall not constitute an agreement regarding the condition of the product.
3. If defects of quality occur, we shall be entitled, at our option, to remedy the defects or deliver a replacement. We shall be granted a period of 20 working days for remedying defects. We shall be entitled to undertake several attempts to remedy defects, insofar as you can reasonably be expected to accept this.
4. If a fault within the meaning of Para. 10.3 is not remedied within the set period, you shall be entitled to demand appropriate reduction of the purchase price (diminution) or cancellation of the contract (withdrawal). You shall, however, have no right of withdrawal in the event of an only minor breach of contract, particularly in the event of minor defects. If you demand withdrawal from the contract following the failure of subsequent performance, you shall not be entitled to additional compensation claims owing to the defect.
5. The warranty shall lapse prematurely if you or third parties perform improper alterations or repairs, or if, in the event of a defect occurring, you fail to immediately take all appropriate measures to minimise the damage and give us the opportunity to remedy the defect.
6. The warranty period is two years from the date of delivery. Extension of this period to three years entails extra costs and can be stipulated in writing in the contract.

7. Liability for further damage shall be excluded, unless compulsory statutory provisions to the contrary exist, such as provisions of the law on product liability.

Art. 11 Liability

1. Regardless of the nature of the breach of duty, including tort, compensation claims shall be ruled out, insofar as neither a wilful act nor gross negligence is involved.
2. In the event of a breach of material contractual duties (cardinal duties), we shall be liable for all negligence, but only up to the amount of the foreseeable, direct average damage typical for the contract.
3. The limitations of liability pursuant to Para. 11.1 and Para. 11.2 shall not apply to claims arising from the German Product Liability Act, or to damage resulting from injury to life, limb or health.
4. Insofar as our liability is excluded, this shall also apply to our white-collar staff, blue-collar workers, representatives and agents.
5. A more extensive warranty and liability than envisaged in Art. 10 and Art. 11 shall be ruled out, regardless of the legal nature of the claim asserted. This shall particularly apply to compensation claims arising from *culpa in contrahendo*, due to other breaches of duty or due to tortious claims for compensation for damages.

Art. 12 Data protection

Customer data are only stored to ensure that the annual reminder regarding the safety check can be issued.

Art. 13 Final provisions

1. The law of the Federal Republic of Germany shall apply.
2. The provisions of the United Nations Convention on the International Sale of Goods (CISG) shall not apply.
3. The sole legal venue for all disputes arising from this contract shall be our corporate domicile, Radolfzell.