

General Conditions of Sale and Delivery of ZIEHL industrie-elektronik GmbH + Co KG

1. General Provisions

- (1) These General Conditions of Sale and Delivery shall apply to any and all purchase contracts and deliveries, provided or rendered by ZIEHL industrie-elektronik GmbH + Co KG, Daimlerstraße 13, 74523 Schwäbisch Hall (hereinafter, “ZIEHL”) vis-à-vis its clients (hereinafter, “Clients”). They also apply to such contracts concluded via the online store at <https://shop.ziehl.com/de/> (hereinafter: “Online Shop”). These General Conditions of Sale and Delivery shall also apply as a general agreement as amended to future contracts for the sale and/or delivery of movable items that are concluded with the same Client, without ZIEHL being obliged to make express reference to these General Conditions of Sale and Delivery in each individual case; in any such case, ZIEHL shall inform the Client promptly of any amendments to the Conditions of Sale.
- (2) These General Conditions of Sale and Delivery do not apply to contracts with consumers.
- (3) Any deviating provisions of the Clients do not apply, unless ZIEHL has consented to these in writing. This requirement to grant consent shall apply in any case, for instance also when ZIEHL, being aware of the General Terms and Conditions of the Client, carries out the delivery to the Client without reservations. Agreements concluded with the Client on a case-by-case basis (including subsidiary arrangements, supplements and amendments) in any case take precedence over these Conditions of Sale. For the contents of such agreements, a written contract or the written confirmation by ZIEHL shall be authoritative. Legally relevant declarations and notifications that have to be made by the Client vis-à-vis ZIEHL after the conclusion of the contract (e.g. setting of time limits, reminders, cancellation), must be made in writing to be legally valid.
- (4) Vicarious agents and representatives of ZIEHL are not entitled to make any oral subsidiary arrangements. If and to the extent that they nevertheless make oral subsidiary arrangements or warranties, which go beyond the scope of the written purchase contract, these always require written confirmation by ZIEHL to be legally valid.
- (5) Business relations between ZIEHL and the Client are subject to the laws of the Federal Republic of Germany. The application of international uniform law, in particular of the UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods) is excluded. The prerequisites for and the effects of retention of title in accordance with section 6 are subject to the law in force at the relevant location of the goods if, in accordance with the provisions of that law, the choice of law in favour of German law is inadmissible or invalid.
- (6) With regard to the place of performance and the place of jurisdiction for any and all deliveries and payments as well as for any disputes arising between the parties from the contracts concluded between them, the place of business of ZIEHL in Schwäbisch Hall shall be relevant. ZIEHL shall also be entitled to sue the Client at the Client's place of business.

2. Conclusion of Contracts

- (1) The Client may order via the Online Shop as well as enquire about specific items by e-mail or via the contact form provided on ZIEHL's website. Upon receipt of such an inquiry, ZIEHL shall submit a separate offer to the Client by e-mail or letter.

- (2) Any offer made by ZIEHL is always subject to change without notice and non-binding. The same applies if ZIEHL has provided the Client with catalogues, documentation (e.g. drawings, plans, calculations, and cost estimations), other product descriptions or documents – including in electronic form – to which ZIEHL retains title and copyrights. Price information provided in the Online Shop also does not constitute an offer in the legal sense.
- (3) The order of goods by the Client via the Online Shop or in any other way shall be deemed a binding contractual offer. ZIEHL shall be entitled to accept this contractual offer within 5 working days of its receipt by sending an order confirmation.
- (4) Acceptance may be declared either in writing (e.g. by confirmation of the order) or by delivery of the goods to the Client. The documents belonging to the offer, e.g. illustrations, drawings, indications of weight and measures are, unless otherwise expressly agreed upon, only approximately authoritative.
- (5) After confirmation of the order by ZIEHL, the Client is bound to the order and can only withdraw from the respective purchase contract in accordance with the statutory provisions.
- (6) Employees, or other sales intermediaries of ZIEHL are not entitled to make any commitments which deviate in terms of content, or to give any guarantees.

3. Prices, VAT and Payment

- (1) Unless prices are agreed upon on an individual contract basis, the prices of ZIEHL in force and effect at the time of conclusion of the contract apply. Prices are subject to VAT at the respective statutory rate, if VAT has to be charged.
- (2) Forwarding costs, costs of transport and packaging as well as customs duties, taxes or other public taxes shall be borne by the Client. ZIEHL does not take back transport packaging and all other packaging; it becomes the property of the Client. ZIEHL shall charge a minimum quantity surcharge of EUR 15.00 for an order value of less than EUR 100.00.
- (3) Unless otherwise agreed, ZIEHL's invoices are due and payable net without deductions within 10 (ten) days of the date of the invoice. However, ZIEHL is entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. ZIEHL will declare a corresponding reservation at the latest with the order confirmation.
- (4) Payments shall be made in the currency agreed upon at the time of the order. In the case of transfers from abroad, the Client shall always bear the bank charges incurred. If ZIEHL exceptionally accepts bills of exchange and checks as means of payment, these shall only be accepted on account of performance.
- (5) Should the Client fail to pay on the due date/default in payment, ZIEHL is entitled to charge default interest in an amount of 9 percentage points over the base interest rate. Pursuant to sec. 288 para. 2 of the German Civil Code (BGB), the Client shall be obliged to reimburse ZIEHL for reminder charges in the amount of a lump sum of EUR 40.00; these shall be offset against any costs of legal action. ZIEHL reserves the right to claim further damage caused by default. With respect to merchants, ZIEHL's claim to the commercial due date interest rate (sec. 353 HGB) shall remain unaffected.
- (6) If, after conclusion of the contract, it becomes apparent that ZIEHL's claim to the purchase price is jeopardized by the Client's inability to perform, ZIEHL shall be entitled to refuse performance in accordance with the statutory provisions and, if necessary, to withdraw from the contract after setting a deadline.
- (7) ZIEHL shall always issue an invoice to the Client, which shall be handed over to the Client upon delivery of the goods or otherwise received in text form.

4. Period of Delivery and Delay in Delivery, Call-Off Orders

- (1) The period of delivery is individually agreed upon or specified by ZIEHL upon the acceptance of the order. If this is not the case, the delivery period is 1 week from the conclusion of the contract. Compliance with the period of delivery by ZIEHL in this connection requires the performance of the contractual obligations by the Client.
- (2) The periods of delivery indicated by ZIEHL, even if notified in writing, only constitute non-binding information. The expiry of certain periods of delivery does not relieve the Client from its obligation to define an appropriate grace period for the performance of the service and the declaration that it will refuse the performance after the expiry of the deadline. This does not apply, if and to the extent that ZIEHL has expressly and in writing designated a period of delivery or a deadline as a “binding delivery date”.
- (3) If ZIEHL is not able to comply with binding periods of delivery for reasons beyond its control (non-availability of performance), ZIEHL will inform the Client accordingly and at the same time inform it of the expected new period of delivery. If performance is also not possible during the new period of delivery, ZIEHL shall be entitled to withdraw from the contract in full or in part; any consideration by the Client will be reimbursed promptly by ZIEHL. The rights of cancellation and termination of the Client in accordance with section 7 of these Conditions of Sale shall remain unaffected.
- (4) ZIEHL shall be entitled to make reasonable partial deliveries.
- (5) The occurrence of delay in delivery by ZIEHL is determined in accordance with the statutory provisions. In any case, however, the Client is required to send a reminder. If ZIEHL is in default of delivery, the Client may demand lump-sum compensation for its damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each full calendar week of the delay, but in total not more than 5% of the delivery value of the goods delivered late. ZIEHL reserves the right to prove that the Client has incurred no damage at all or only significantly less damage than the aforementioned lump-sum.
- (6) By concluding call-off orders or blanket orders, the Client shall be obligated to purchase the total quantity underlying the call-off order or blanket order. If no specific call dates result from the call-off or blanket order, the entire quantity shall be called within 12 months. If call-off dates are not met by the Client, ZIEHL shall be entitled, after giving written notice and pointing out the consequences of the failure to call-off, at its discretion to invoice the full total quantity and to store the goods at the Client's expense until payment is made or to withdraw from the contract and claim damages.

5. Passing of the Risk, Dispatch

- (1) The risk of accidental loss and accidental deterioration shall pass to the Client at the latest upon handover. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the Client upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment.
- (2) If delivery is delayed due to circumstances within the control of the Client, the risk passes to the Client from the date of readiness for dispatch; however, ZIEHL shall be obliged, at the request and cost of the Client, to effect the insurance required by the Client.
- (3) If the Client does not require a specific mode of dispatch, ZIEHL shall be entitled to choose the mode of dispatch and the dispatch route at its own discretion, without being obliged to choose the most inexpensive mode of dispatch.

6. Counterclaims, Retention of Title

- (1) The Client shall be entitled to exercise rights of set-off or rights of retention only to the extent that its counterclaim has become res judicata or is undisputed. In the event of defective delivery, any counterclaims of the Client shall remain unaffected, in particular its right to withhold a share of the purchase price that is commensurate with such a defect.
- (2) ZIEHL retains title to the goods until payment in full of the purchase price. The Client must not pledge the delivery item or transfer title to the item as security. In the event of seizure and attachment or any other orders or dispositions by third parties, it shall promptly inform ZIEHL accordingly.
- (3) In the event that the Client behaves in a way which is not in conformity with the contract, in particular in the case of non-payment of the purchase price that is due and payable, ZIEHL shall be entitled to revoke the contract in accordance with the statutory provisions and to demand the return of the goods on the basis of the retention of title and the revocation. If the Client does not pay the purchase price that is due and payable, ZIEHL may exercise these rights only if ZIEHL has previously granted the Client an appropriate deadline for payment which has not been complied with, or if the setting of such deadline is unnecessary in accordance with the statutory provisions.
- (4) The Client is entitled to sell on the goods that are subject to the reservation of title in the ordinary course of business, subject to the proviso that the claims resulting from such resale are transferred to ZIEHL as follows:
 - a) The Client with immediate effect assigns to ZIEHL any and all claims together with any and all ancillary rights up to the amount of the purchase price claim, which accrue to it vis-à-vis the purchaser or vis-à-vis third parties from such resale.
 - b) The Client shall be entitled to collect such receivable even after assignment. The right of ZIEHL to collect the receivables itself shall remain unaffected thereby; however, ZIEHL undertakes not to collect the receivables as long as the Client duly and properly performs its payment obligations.
 - c) ZIEHL may demand that the Client informs ZIEHL of the assigned receivables and of their debtor(s), provides any and all information required for the collection of the receivables, hands over the relevant documentation and informs the debtor of the assignment.
 - d) In any case, the above-mentioned collateral shall automatically lapse as soon as their value exceeds the receivables to be secured by more than 10 %.

7. Liability, Defects and Warranty

- (1) As regards the rights of the Client in the event of any material defects and defects of title (including incorrect and short delivery) the statutory provisions apply, unless otherwise provided for in the following. The special statutory provisions applying in the case of final delivery of the goods to a consumer shall remain unaffected (recourse against supplier in accordance with sec. 445a, 478 BGB) in any of these cases.
- (2) The liability of ZIEHL for defects is primarily based on the agreement relating to the condition of the goods. The product descriptions designated as such, which have been handed to the Client prior to the placement of its order or which have been included in the agreement in the same way as these Conditions of Sale, are regarded as the agreement relating to the condition of the goods.
- (3) The claims of the Client for defects require that it has complied with its statutory obligations to examine the goods and to make a complaint (sec. 377, 381 HGB). Should any defect be detected upon examination or at a later time, this fact has to be notified promptly in writing to ZIEHL. Such notification is deemed to have been made promptly, if it is made within 1 week, with the timely dispatch of the notification being sufficient to observe the time limit. Irrespective of this obligation to examine the goods and to make a complaint, the Client must notify obvious defects (including incorrect delivery and short deliveries) within 1 week after delivery in writing, with the timely dispatch of the notification also in this case being sufficient to observe the time limit. Should

the Client fail to perform a due and proper examination and/or fail to make a complaint, ZIEHL's liability for any defect that has not been notified is excluded.

- (4) In the event of justified notification of defects given within the specified deadline, ZIEHL will remedy the defects by means of subsequent performance in accordance with sec. 439 BGB by subsequent delivery or removal of defects. ZIEHL is not obliged to make subsequent performance if any actions have been taken or changes made to the goods without the consent of ZIEHL, unless the Client proves that the defect has not been caused by such actions and changes. In the event that subsequent performance is refused, fails or is unreasonable for the Client, the Client shall be entitled to rescind the purchase contract or to reduce the purchase price. No right of rescission applies in the case of an insignificant defect. Claims of the Client for damages or reimbursement of expenses incurred to no avail exist only in accordance with the provisions of sec. 8 and are excluded in all other respects.
- (5) In the event of fraudulent concealment of a defect or of assumption of a warranty for the characteristics of the object of purchase at the time the risk has passed in accordance with sec. 444 BGB (declaration by ZIEHL to the effect that the object of the purchase has certain characteristics at the time at which the risk passes and that ZIEHL intends to assume liability, regardless of negligence or fault, for any and all consequences of the absence) the rights of the Client are exclusively determined by the statutory provisions.
- (6) If defects are found, written notifications of defects must be submitted immediately upon receipt of goods. Failure to do so shall result in the goods being deemed to have been accepted at the latest five working days from receipt of delivery. In the event of a notification of defects being justified, the defect shall be rectified once the reported goods have been returned. We shall furthermore rectify potential defects, including those only uncovered at a later date, within two years from delivery, regardless of operating hours. To do so, we may choose to repair the goods or deliver replacements. This warranty includes materials and contract work carried out on the goods but excludes transport costs. All further claims, particularly claims for damages, shall be excluded. We shall not assume any liability for damages caused by improper use. The buyer is responsible for using our products in a proper and professional manner. The warranty period stated in blanket orders also starts upon delivery of the goods, but ends no later than three years from issuing the blanket order. We give six months guarantee on parts replaced during repairs or devices modified upon the customer's request. In the event of the goods being sold on, the buyer shall undertake not to enter into any agreements with its customers which exceed the warranty claims agreed in this document.

8. Exclusion of Liability

- (1) Over and above the liability for material defects and defects of title, ZIEHL shall be liable without limitation, if the damage has been caused intentionally or by gross negligence. ZIEHL shall also be liable for negligent violation of material contractual obligations (obligations whose violation jeopardizes the attainment of the purpose of the contract) as well as for the violation of essential obligations ("Kardinalpflichten") (obligations, whose performance will enable the due and proper performance of the contract in the first place and on whose performance the Client as a rule relies), in each case, however, only for the foreseeable damage that is typical for this type of contract. ZIEHL shall not be liable for the negligent violation of obligations other than those mentioned above.
- (2) The limitations of liability specified in the preceding paragraphs do not apply in the case of death, bodily injury or damage to health, any deficiency occurring after the assumption of warranty for the characteristics of the product and in the case of defects that have been fraudulently concealed. Liability in accordance with the German Product Liability Act ("Produkthaftungsgesetz") shall remain unaffected.
- (3) If the liability of ZIEHL is excluded or limited, this shall also apply to the personal liability of the employees, representatives and vicarious agents of ZIEHL.

- (4) Any and all claims for damages asserted vis-à-vis ZIEHL, irrespective of their legal ground, shall be barred by the statute of limitations at the latest one year after delivery of the goods to the Client, in the event of liability in tort from the time of becoming aware of or grossly negligent ignorance of the circumstances giving rise to the claim and of the person liable for damages. The regulations of this paragraph do not apply and, in that event, the statutory provisions shall apply, in the case of liability for intent and in the cases mentioned in para. 2. Any shorter statutory periods of limitation take precedence.
- (5) If the ultimate buyer of the goods is a consumer, the statutory provisions apply to the period of limitation of any right of recourse of the Client vis-à-vis ZIEHL.

9. Intellectual Property Rights

- (1) ZIEHL reserves the intellectual property rights and copyrights to any and all products, packaging, images and other documents provided by it. The Client may utilize any such documents only with ZIEHL's prior express written consent, without any independent rights to any such advertising materials accruing to it.
- (2) The Client undertakes that it will not violate any intellectual property rights of third parties (patents, licenses, trademarks, etc.) when selling on the goods purchased from ZIEHL.

10. Data Privacy

For the purpose of handling orders, enquiries and offers which are submitted by the Clients or third parties mandated by them on their behalf, ZIEHL shall be entitled to store the data electronically and process such data further. ZIEHL shall also be entitled to pass on data to third parties, in particular to credit institutions and contract parties, which are needed for the processing of orders. The provisions of the German Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG) and the General Data Protection Regulation (GDPR) are complied with.