

SANYO Component Europe GmbH
General terms and conditions of business.
Conditions for delivery and payment.

1. Scope of application of these terms and conditions

- 1.1 These terms and conditions constitute the sole basis for any offer of supply of goods or delivery of such goods. We shall not accept any conditions of purchase imposed by the purchaser or any other variant agreements without our prior written confirmation of each item.
- 1.2 All counterclaims or referrals to the purchaser's conditions of purchase are hereby expressly excluded.
- 1.3 For the purposes of these terms and conditions, consumers are defined as a natural person with whom a business relationship has been entered into, but not one who can be considered as pursuing commercial or independent professional activities.
- 1.4 For the purposes of these terms and conditions, corporate clients are defined as natural or legal persons or legally authorized unincorporated corporate clients with whom a business relationship has been entered into, who can be considered to be pursuing commercial or independent professional activities.
- 1.5 For the purposes of these terms and conditions, the definition 'purchaser' includes corporate clients and consumers.

2. Offer and conclusion of contract

- 2.1 We reserve the right to withdraw offers at any time prior to acceptance by the purchaser.
- 2.2 Purchase orders shall only be binding if we have either confirmed them in writing (confirmation of order) or delivered the goods. The purchaser shall be bound to orders for two weeks following the receipt by us.

3. Scope of delivery

- 3.1 The amount and content of each delivery will be as specified in our confirmation of order, or in our offer if there is no confirmation of order.
- 3.2 We have the right to make technical alterations to the object of delivery if this does not affect its technical function.
- 3.3 Reasonable part deliveries are permitted and may also be invoiced separately.

4. Prices and conditions of payment

- 4.1 Prices quoted in an offer do not include shipping costs and are net of value added tax (VAT). Deliveries to countries outside the European Union (EU) will be invoiced without VAT. Deliveries to EU countries (except Germany) will only be invoiced without VAT if the purchaser's VAT registration number is quoted in the order.

Additional costs for packing, shipping, insurance, customs duty etc. will be invoiced separately.

- 4.2 The purchaser shall pay the purchase price within 10 days following the receipt of the invoice. The purchaser comes into default if he does not pay within this period due to reasons within his responsibility.

Interest at base rate plus five percent (5%) will be charged in cases of late payment.

Interest at base rate plus eight percent (8%) will be charged in cases of late payment where the contractual agreement does not include a consumer.

This does not affect our right to prove and claim for a higher damage due to the default.

- 4.3 We reserve the right to apply payments to the purchaser's oldest debt, unless the purchaser instructs us to apply the payment to another debt. If costs and interest have already been incurred because of the default, we reserve the right to apply payments first to the costs, then to the interest, and lastly to the primary obligation.

- 4.4 The purchaser is not entitled to charge for any claims against us, except when the claim to be charged is not in dispute, is recognized or legally binding.

The purchaser may only exercise a right to withhold payment if his counterclaim is based on the same contractual relationship.

Where there is an ongoing business relationship, every individual order is deemed to constitute a separate contractual relationship.

5. Delivery period, default, and impossibility of performance

- 5.1 Any delivery periods or delivery dates mentioned in offers or confirmations of orders are only binding upon us if they have been agreed expressly in writing to be binding. We will only be in default if the delay is due to our actions, the provision of service is overdue, and the purchaser has imposed an appropriate extension of the delivery period (of at least 14 days) in writing which we have failed to meet.

- 5.2 In cases where the fulfilment of our service obligations depends on the purchaser's collaboration, especially as regards the provision of information, the supply of documents and materials or other services, the purchaser is responsible for the timely fulfilment of such collaborative duties.

The purchaser shall be held to be the party responsible for any delay arising from failure to fulfil such collaborative duties, or failure to fulfil them within the period specified.

If there is a delay due to the purchaser's failure to perform these collaborative duties punctually, the delivery period will be extended by the period of delay.

- 5.3 Delivery periods shall be extended for an appropriate period in cases of problems due to circumstances beyond our control such as strikes, lockouts, technical problems, etc. We reserve the right to withdraw from the contract without compensation if the delay due to such events should last longer than six weeks, the re-establishment of the ability to perform is not foreseeable and we have informed the purchaser of this condition without undue delay. Any payments made by the purchaser shall be refunded without undue delay.

- 5.4 The conditions of the period for delivery are met when the object of delivery has left our factory premises before expiry of the same, or we have performed the agreed services by this time, or we have prepared the object of delivery for shipping and informed the purchaser that it is ready to be shipped.

- 5.5 Although we take every care in selecting our suppliers, and despite their own contractual obligations to us, they may be unable to supply us in time for us to meet our contractual obligations to our purchasers. In the event that we are able to prove any delay is due to our suppliers' inability to deliver in time, the period of delivery shall be extended by a period equal to the delay caused by the suppliers' failure to meet their obligations. If it is impossible for us to deliver an order because of our suppliers' failure to deliver, we reserve the right to withdraw from the contract. In this case we will inform the purchaser of the impossibility of performance and refund any payments made by the purchaser without undue delay.

6. Transfer of risks

- 6.1 Delivery is made ex works.

- 6.2 If goods are sent at the purchaser's request, and the purchaser is a corporate client, any risks of transfer and any risks of accidental loss or destruction are transferred to the purchaser at the moment the goods are consigned to the transport company, carrier, or person responsible for shipping or collecting the goods. This also applies when the place from which the goods are

shipped is not the place to which they were delivered under contract and / or when we bear the shipping costs and / or when we arrange shipping ourselves.

- 6.3 The same conditions of transfer apply when the purchaser is in default of acceptance.
- 6.4 If no other arrangements have been agreed, we are entitled, but not obliged, to insure the goods to be shipped against risks of all kind at the purchaser's expense. This does not affect the transfer of risks in any way, nor does the assumption of any transport costs arising.

7. Default of acceptance / Compensation

- 7.1 The purchaser is in default of acceptance from receipt of the notice of readiness for shipment of goods if the goods are ready for shipment but shipment is delayed for reasons that are the purchaser's responsibility.
- 7.2 The purchaser is in default of acceptance in respect of the services and supplies we provide if we offer these services and supplies at the due time of delivery or offer these services and supplies after this due time in writing and the purchaser refuses acceptance of these services and supplies and / or fails to confirm acceptance of the supplies and services within three days of receipt of an express written request to accept the supplies and services. The legal conditions governing default of acceptance apply in any case.
- 7.3 The purchaser in default of acceptance shall pay storage costs equal to 1% of the order price per month. This does not affect the purchaser's right to prove to us that storage costs are lower. Reimbursement for additional expenses, especially tender and transport costs remains unaffected.
- 7.4 In the event that we are entitled to claim damages instead of performance due to a purchaser's default of acceptance, we are entitled to claim for damages from the purchaser in an amount of 30% of the value of the order. This does not affect the purchaser's right to prove that damages are lower.
- 7.5 We remain entitled to press claims for greater damages than the rates quoted in paragraphs 7.3 and 7.4 above if the actual costs incurred by us are greater.

8. Reservation of ownership

- 8.1 If the purchaser is a consumer we reserve the right to retain ownership of the object of delivery until all payments relating to the contract of supply have been received.
- 8.2 If the purchaser is a corporate client, we retain the right of ownership of all objects we deliver until receipt of all payments arising from the business relationship with the purchaser. This also applies if the purchaser designates a payment to a particular delivery, since the property to which the right of ownership is retained serves as collateral for our balance claims.

If an item that is our property is mixed, admixed or connected with other items, the purchaser immediately cedes his or her ownership or co-ownership rights to the new item to us, and must take care of the item on our behalf with due commercial care. The purchaser may sell items that are our property only as part of regular business transactions, to the extent that the customer is not in default.

As soon as the purchase agreement between the purchaser and us has been concluded, the purchaser must cede the receivables due to him or her as the result of sale or other legal reason, and from his or her customers, along with all ancillary rights, by way of collateral, and to their full extent, in other words, not solely the proportional value of the relevant product delivery.

The purchaser shall remain entitled to press the claim as long as the purchaser is not in default to us.

This does not affect our right to press the claim on our own authority, however we undertake not to press the claim if the purchaser has the right to resell the object of delivery and has fulfilled his obligation to pay us.

- 8.3 We are entitled to withdraw from the contract - in accordance with statutory law - and request the return of the object of delivery if the purchaser is in breach of contract, especially by defaulting on payment and / or breaching the terms of paragraphs 8.4 and 8.5.

In cases where the purchaser is in breach of contract, especially in cases of default on payment, and the object of delivery has been resold to third parties, the purchaser has the obligation to inform us of all ceded claims and debtors, to furnish all the information and pass to us all the documents needed for recovery and to communicate the cession to his debtor. The purchaser must inform us immediately about a transfer of ownership of the object of delivery and of any change of address.

- 8.4 The purchaser must inform us immediately in writing about seizure or other actions by third parties in respect of the object of delivery and to send us all the documents needed for us to intervene. The purchaser is liable for any damages arising if the third party is unable to refund our legal and other costs of a suit under section 771 of the German Code of Civil Procedure (ZPO).

- 8.5 The purchaser must adequately insure the object of delivery against theft, break-ins, fire and water damage until the final transfer of ownership. The purchaser must produce evidence of such insurance at our request. The purchaser must ensure that the object of delivery receives the correct care and maintenance. If maintenance and inspection work are necessary, the purchaser must arrange these at his own cost.

The purchaser is obligated to separately store the object of delivery that is subject to the retention of ownership so that, for instance, in the instance of an insolvency on the part of the purchaser, the item can be identified and requested to be extracted. The object of delivery must be warehoused and made identifiable in such a way that it can be made identifiable to third parties, particularly an insolvency administrator, without difficulty.

- 8.6 We undertake to release any securities due to us to the purchaser at his request, provided that their value does not exceed the amount already paid in settlement by more than 20%.

9. Notice of defect / Warranty

- 9.1 Our warranty for corporate clients covers the repair or replacement of defective goods in the first instance at our discretion.

Our warranty for consumers covers the repair or replacement of defective goods in the first instance at the consumer's discretion. We retain the right to decline to provide the kind of warranty requested by the consumer if such provision is only possible at disproportionate expense and the other kind of warranty has no significant disadvantage for the consumer. As a rule, warranty will be provided by supplying replacement goods.

- 9.2 In principle, if the warranty is defective, the purchaser may - in accordance with statutory law - request either that the price be lowered (reduction) or that the contract be cancelled (withdrawal). However, the purchaser has no right of withdrawal in cases where the breach of contract is trivial, such as minor defects.

- 9.3 Corporate clients must check that deliveries/services are complete and free of defects, and must advise us in writing of apparent defects within two weeks of the date of delivery; otherwise the claim for warranty will be excluded. The date of mailing the claim will be taken as the date of notification for this purpose. The corporate client bears the full burden of proof for all conditions of claim such as the defect and its existence at the time of transfer and acceptance, the time the defect was noted, and the timely notification of the complaint about the defect.

Consumers must advise us in writing of any apparent defects within two months of determining that the condition of the goods is contrary to contract. The date the claim is delivered to our premises will be taken as the date of notification for this purpose. If the consumer fails to advise us in this way, then the warranty claim is extinguished two months from the date the defect is noted. This does not apply if we act in bad faith. The consumer bears the burden of proof for the time that the defect was noted. The consumer bears the burden of proof of his decision to purchase the item if this decision was based on inaccurate statements made by the manufacturer. The consumer bears the burden of proof of defect of the item if it is in a used condition.

- 9.4 The purchaser forfeits any claim for damages due to the defect, if he chooses to exercise his option to withdraw from the contract on the grounds of material or legal defects following a failure to fulfil the warranty.

If the purchaser chooses to exercise his or her option to claim damages following a failure to fulfil the warranty, the goods shall remain in his or her possession if this may be reasonably expected. In this case, the damages will be limited to the difference between the purchase price and the actual value of the goods. This does not apply if we have infringed the terms of the contract in bad faith.

- 9.5 The period of warranty for corporate clients is one year from the date of delivery of the goods. The period of warranty for consumers is two years from delivery of the goods. The period of warranty for used goods is one year from delivery of the goods. This does not apply if the purchaser has not informed us within the due period (see paragraph 9.3).

- 9.6 The characteristics of the goods are exclusively described in our specifications, order confirmations and associated documents, but such description does not constitute a warranty under section 443 of the Civil Law Code (BGB).

In principle, it is agreed that the manufacturer's product description is the sole basis for describing the characteristics of goods supplied to corporate clients. The manufacturer's public statements, marketing or advertising do not constitute a contractual specification of the characteristics of the goods.

- 9.7 If the purchaser is a corporate client our only obligation in case of a defective set of instructions for assembly is to supply a correct set of instructions for assembly, and this applies only if the defective set of instructions for assembly impedes the correct assembly and no proper assembly has been effected.

- 9.8 The purchaser has in particular no claim under warranty if:

a) defects are caused by incorrect handling or excessive use by the purchaser or the party to whom he has resold the goods;

b) the object of delivery has been manufactured according to the purchaser's specifications, in particular to drawings supplied by the purchaser, and the defect in the object of delivery can be traced to these specifications or drawings;

c) the purchaser is a corporate client and we are not advised in writing of obvious defects within the period set out in paragraph 9.3 or, in case of hidden defects, without undue delay after the discovery, but in either case no later than the expiry of the warranty period set out in paragraph 9.5.

d) the defect results from any attempt to repair, carry out maintenance, or perform technical alterations on the goods by the purchaser or third parties, or from the exposure of the goods to environmental conditions that do not meet the manufacturer's requirements for installation;

e) the defect results from the fact that the goods have not been maintained in accordance with conditions and have not been used correctly by the purchaser, the wrong type or voltage of electricity supply has been used, or the goods have been connected to an unsuitable electrical supply;

f) the purchaser is a corporate client and the defect is either an insignificant variation of the contractual characteristics or has an insignificant effect on the usefulness of the goods;

g) the defect is due to fire, lightning, explosion, an increase in voltage on the electricity supply network, or moisture;

h) the serial number, model identification or similar identification marks have been removed or rendered illegible;

Claims for warranty must be made in writing with an exact description of the defect which is the subject of the claim

- 9.9 We do not issue legally binding guarantees to the purchaser. This does not take manufacturer's guarantees into account

- 9.10 The purchaser is liable for all costs we incur in carrying out repairs under warranty if it is proved that his claim has been made on the basis of a non-existent defect, or one that is not covered by our warranty. If the purchaser is a consumer this does not apply if the consumer acted with only slight negligence.

10. Limitations of liability

- 10.1 We shall not be liable for slightly negligent acts or omissions. This exclusion shall, however, not apply with regard to damages resulting from breaches of material contractual duties. Material contractual duties are duties the satisfaction of which is essential to the proper performance of the contract or a breach of which puts the achievement of the purpose of the contract at stake.

If we are liable for a breach of a material contractual duty which has not been caused by an intentional or grossly negligent act or omission our liability shall be limited to the damages we could typically foresee based on our information at the time of the conclusion of the contract.

The exclusions and limitations of liability above shall also apply to contract breaches of our legal representatives or agents and assistants.

- 10.2 Towards corporate clients our liability is limited to the damages foreseeable at the time the contract is concluded in cases of gross negligence. Liability for gross negligence towards corporate clients is excluded if the damages are based on a breach of duty in relation to an inessential contractual duty by one of our agents or assistants.

We do not accept any liability for loss of profits, damages consequent on defect, and production losses, nor any capital damages arising, for example in connection with a breakdown in a security installation, or data loss.

- 10.3 The exclusions and limitations of liability in paragraphs 10.1 and 10.2 above do not apply to the purchaser's claims arising from the German Product Liability Act (*Produkthaftungsgesetz*). Furthermore, these exclusions and limitations of liability do not apply in cases we are responsible for death, physical injury or damages to health, as well as for intentional acts and omissions or in case of agreed obligations to assume liability irrespective of any fault (guarantee).
- 10.4 The period in which the purchaser has a right to damages expires one year after delivery of the goods. This does not apply when we can be accused of bad faith.
- 10.5 Our liability to pay compensation for material damages we have caused is limited in all cases to the cover provided by our industrial and product liability insurance policies. We are willing to inform the purchaser of the amount of cover in each case. If, in the purchaser's opinion, the cover is insufficient, it may be increased as required at the purchaser's expense.

11. Jurisdiction and place of fulfilment

- 11.1 The laws of the Federal Republic of Germany shall apply to this contract and the legal relationship between the parties. The unified UN Law of Purchase (CISG) shall not apply.
- 11.2 The INCOTERMS® 2010 shall apply to this contract and the legal relationship between the parties.
- 11.3 The registered address of our company is the exclusive place of jurisdiction in the event of any dispute arising from this contract if the purchaser is a merchant, legal person under civil law, or a separate asset under public law. This applies if the purchaser has no general registered address in Germany, or if his or her dwelling place or regular place of abode is unknown at the time the suit is entered.

12. Final conditions

- 12.1 All commitments, subsidiary agreements, alterations and additions to these terms and conditions must be made in writing. This also applies to alterations to the requirement to make such alterations, etc in writing.
- 12.2 If individual conditions (including these terms and conditions) of the contract with the purchaser are or become invalid, this does not affect the validity of the remaining conditions. The provision or regulation that is wholly or partially invalid should be replaced with a provision or regulation that has the closest possible economic effect as the one it replaces.