General terms and conditions

Valid from 01.01.2020

Terms and Conditions of Sale and Delivery of On Time Systems GmbH

Our deliveries and other services to companies, legal entities under public law and to public special funds are made exclusively under the following conditions.

I. Contract / writing

1. The supply contract as well as any amendments, ancillary agreements, declarations of its termination and other agreements, notices and declarations must be in text form and shall only become effective upon our written confirmation.

2. With the receipt of our confirmation or acceptance of the ordered goods or services, the customer acknowledges our terms and conditions. Deviating conditions of the customer are not accepted, neither by our acceptance of the order nor by any other implied act part of the contract.

II. Prices / surcharges

1. Prices and rebates are valid on the day of the delivery or service, plus legally owed sales tax.

2. For orders that do not reach the minimum amounts as enumerated in our respective valid price list, or the minimum order value, we can charge a processing fee.

III. Terms of delivery / delay / call orders / partial shipments

1. Delivery periods are calculated from date of order confirmation, but not before final agreement on the issues to be clarified with the customer prior to manufacturing.

2. Unforeseen and unavoidable events in the production and other obstacles such as force majeure, industrial disputes or other errors in the On Time Systems facility or at the premises of our suppliers, as well as delayed deliveries from our suppliers entitle us to change the delivery time by the extend of the duration of the hindrance. We will inform the customer of the beginning and end of such circumstances as soon as possible.

3. If we are in default resulting in any financial losses for the customer, the customer may claim compensation. This amounts to 0.5% for each full week of the delay, limited to no more than 5% of the value of the part of the total delivery which cannot be used timely or not according to the contract as a result of the delay. Further claims due to delay are governed exclusively by VII sections 2 and 3. The customer may only withdraw in the context of legal provisions from the contract insofar as the delay of the delivery is within our responsibility.

4. In case that it has been agreed upon that a certain delivery quantity is to be delivered at a fixed date (“closing period”), and if the customer has the right to determine the delivery date, the customer agrees to request said delivery latest twelve weeks before the required delivery date. Following the expiry of the final delivery date (“closing period”), we are entitled to deliver the unretrieved goods and invoice to the customer.

5. Partial deliveries are permitted, if they are not an unreasonable burden for the customer.

IV. Packaging / shipping / passing of risk

1. Goods are shipped EXW (Incoterms in their respective current version) from the place named by us, the selection of the packaging material and the type of packaging is up to us.

2. Pallets, containers and other reusable packaging shall remain our property and are to be returned immediately free of charge to us to our place of delivery by the customer. One-way packaging is calculated at cost price, returns won’t be accepted.

3. The customer pays express freight costs and postage costs for small consignments.

V. Payments

1. Payments are immediately payable to one of our bank accounts without deduction.

2. The customer is in default immediately upon exceeding the agreed payment due date, except if the delay of payment results from circumstances for which the customer is not responsible.

3. The retention of payments because of counterclaims or offsetting against counter claims is not allowed, unless the counterclaims are undisputed, legally decided, or ready for a legal decision.

4. We are entitled make all of our claims due immediately if circumstances become known which indicate a deterioration in the financial situation or the financial assets of the customer.

VI. Reservation of proprietary rights

1. We reserve title to all goods delivered by us until all our claims arising from the business relationship with the customer have been settled (“Vorbehaltsware“). In case of current invoice, the reserved property is also considered security for the receivable amount on the balance.

2. If, through assembly, the goods (“Vorbehaltsware“) become part of a new item which belongs to the customer, it shall be agreed that the customer transfers co-ownership of the new item to us and retains it free of charge for us.
The size of our share of ownership is determined by the ratio of the value of the reserved goods (“Vorbehaltsware“) to the value of the new item.

3. The customer shall assign all claims to us arising from the resale of the reserved goods (“Vorbehaltsware“) against his buyers. If the customer resold the goods together with other goods not belonging to us, the customer assigns the part of the claim to us arising from the resale corresponding to the invoiced amount of the goods (“Vorbehaltsware“). Resold goods (“Vorbehaltsware“) that only pro rata belong to us, the part of the claim assigned to us from the resale is calculated according to the size of our share of ownership.

4. The customer is revocably authorized to collect the claims from the resale. Upon request, he has to disclose the cession to his customers and to give us all information and to hand over documents we need to exercise our rights.

5. If the goods (“Vorbehaltsware“) are being seized, or if our rights are being degraded in any other way by third parties, the customer has to inform us immediately.

6. As far as mandatory provisions of the law of the State do not include a reservation of rights within the meaning of this VI 1-5, but provide other rights for securing receivables invoices of the supplier, we reserve the right to use them. The customer is obliged to cooperate in measures which are available to us to protect our property or other rights to the goods.

VII. Violations

1. The statutory rights of the customer according to § 437 No. 1 BGB shall apply subject to the following provisions:

(a) As far as delivery items are completely or partly useless as a result of defects, we will rectify the defects free of charge according to our choice, which is to meet at its reasonable discretion, or provide free non-defective goods (together hereinafter called the “subsequent performance"). In addition, we bear the immediate costs of the removal and re-installation. This cost obligation for immediate removal and installation does not apply if incurred abroad. It also does not apply if there is no reasonable ratio between the cost, and the delivery price of the defective items. For all else, the customer bears the costs. We are not responsible for damage caused by natural wear and tear corresponding to the period of use.

(b) To carry out the subsequent rectification deemed necessary by us, the customer has to give us adequate time and opportunity. Only in urgent cases where operational safety is endangered or in order to prevent disproportionately large damage or if we are in default with the rectification, the customer has the right to make the rectification himself or to have it done by third parties, and to request the reimbursement of the necessary costs by us. In that case, we are to be informed immediately.

2. The further statutory rights of the customer apply subject to the following provisions:
We shall be liable only in the following cases:
(1) Intentional breach of duty
(2) Grossly negligent breach of duty by our legal representatives and agents
(3) Culpable violation of life, body and health
(4) Fraudulent concealment of defects on delivered goods
(5) Culpable violation of essential contractual obligations - gross negligence of non-managerial staff and slight negligence, but limited to the contract-typical, reasonably foreseeable damage.
(6) Liability according to the product liability law for personal injury or material damage to privately used objects.

3. Unless otherwise determined in III paragraph 3, VII sections 1 and 2, our liability is excluded.

4. Defects must be communicated to us immediately after their detection. The items that are deemed faulty are at our disposal to keep. We only refund the cost of returning the goods if the return is done upon our request.

5. The customer shall bear the burden of proof that the prerequisites for the claims asserted by him for breach of duty are met. This also applies to any fault on our part.
6. Warranty claims lapse 12 months after delivery of the ordered item, unless a longer limitation period is required by law.

7. §350 civil code applies for statutory right of withdrawal.

VIII. Warranty / procurement risk

The acquisition of guarantees or the procurement risk must expressly be agreed upon by us, be referred to as such and must be in writing to be effective. The customer and we agree that information in our catalogues, pamphlets, brochures, and other general information does not at any time constitute a guarantee or assumption of the risk of procurement.

IX. Use of software

As far as software is included in the scope of delivery, a non-exclusive, non-transferable right limited according to the provisions of the scope of delivery, the customer has the right to use the software including its documentation in connection with the designated delivery item. Use of the software in conjunction with more than a delivery item is prohibited. The granting of sublicenses is not permitted. The customer may only copy, revise, translate or convert the software from object code to source code to the extent by law permitted (§ 69 a et seq. UrhG). The customer agrees not to remove manufacturer's instructions - in particular copyright notices - or change them without our prior expressed written consent. All other rights to the software and the documentation including copies are reserved to us.

X. Secrecy

The customer and we will keep the information received from the other party confidential. This shall apply even after the termination of the contract. This obligation shall not apply to information that the receiving party upon receipt already owned without obligation of confidentiality or were known or received subsequently in an authorized manner without known obligation of confidentiality, or which -without breach of contract by one of the parties - are generally known. Each party retains ownership and any rights to the documents or media it provides. Reproduction and distribution of such documents or media are allowed only with the consent of the owning party.

XI. Privacy

Your privacy is our special concern. We will process your data only on basis of legal provisions (DSGVO, TKG 2003). This privacy policy is used to provide information about the type, scope and purpose of the collection and processing of your data. We, On Time Systems GmbH, are in the data protection sense the data processing operator. If you have any questions about the collection, processing or use of your personal data, please contact us in writing:
On Time Systems GmbH, Steinbreede 6, 33649 Bielefeld, Germany, email: info@ontimesystems.de

Collection and processing of your data
In the context of your order, your newsletter subscriptions or your visit to our website we will process certain personal data. The nature, the scope and the purpose of this data processing are described below.

Order
In the context of your order we will process your specified data: first name, last name, company name, email address, street, postcode, city, country, phone number, fax number.
The data provided by you are processed only for processing your order and the performance of the contract between you and us. Data processing is carried out on the legal basis of the art 6 1 lit b DS-GMO ABS. After completion of the contract and full payment of the purchase price, your data are archived and deleted after expiration of tax and commercial storage periods or deadlines in accordance with the product liability law, if you have not consented to the further use of your information. The data stored with us are deleted in the case of cancellation of the order process without contract.
Your personal data are only passed on to third parties or otherwise disclosed to, if this is necessary for the purpose of the contract or settlement or you have previously consented. In the scope of the order processing, for example, the service provider used here by us (E.g. shipper, logistics, payment service provider) will receive the necessary data to process the purchase order. In the case of a statutory provision, a governmental order or an official investigation, we are however obliged by law to provide the relevant details to the authority.

Visit the website / use of cookies
During your visit to our website, we collect personal data to the extent technically necessary (name of the accessed file, date and time of the call, amount of data, message about successful retrieval, browser type and version, the operating system of the user, referrer URL and the requesting provider).

This data cannot be mapped by us to certain people and also are not merged with data from other data sources.
We point out that if you visit our web site cookies will be used. Cookies are small files or other types of information storage which will be transmitted to and stored for later retrieval by our web servers or web servers of third parties to the web browser of the user. The cookies used when you visit our website are only intended to simplify the visit process. The cookies used by us are deleted from your hard drive after the browser is closed (session cookies). The collection of this data takes place on the basis of § 96 3 TKG ABS.

Data security
All your data is encrypted using the SSL procedure (at least 128 bits) over the Internet. We secure our website and other systems through technical and organizational measures against loss, destruction, access, modification or distribution of your data by unauthorized persons.

Your rights as a data subject
You have the right to receive information about your personal data, as well as the right of rectification or erasure or constraint processing. As well, you can object to the processing and have the right to transfer your personal data in a structured, machine-readable form. For all these rights, please contact the contact data of the person responsible.

Your right to complain
In addition you have the right to submit a complaint to a supervisory board.
For Germany, this is:
The Federal Commissioner for data protection and freedom of information
Address: Husarenstraße 30, D-53117 Bonn
Phone: + 49 228 997799-0 / fax: + 49 228 997799-550
E-Mail: poststelle@bfdi.bund.de Internet: http://www.datenschutz.bund.de

XII. Miscellaneous

1. The place of performance for deliveries is the place from which we supply. Place of performance for payment is Bielefeld.
2. Place of jurisdiction is Bielefeld. We can also file before court at the customer's place of business.
3. The contractual relationship is governed by the law of the Federal Republic of Germany. The applicability of the uniform UN purchasing law (CISG) is expressly excluded.
4. Complete or partial failure or delay of claim of any right from this supply contract means no waiver of this or any other right.
5. Should any provision be or become invalid, this will not affect the validity of the other provisions.
6. Liability for consequential damages and consequential deficiency damages, including loss of profit or other financial losses for the client, is excluded.
7. We point out that we store personal information in accordance with the statutory regulations and process them in connection with business transactions.

On Time Systems GmbH