

General Terms and Conditions of Basler AG

§ 1 Scope and Priority

1. The following Terms and Conditions shall apply to all supplies and all installation, repair and advisory work and other services of Basler AG, Ahrensburg (hereinafter referred to as "Basler"). Any follow-up business shall be governed by these Terms and Conditions as amended from time to time even if not expressly referred to in the individual case.
2. No conditions of purchase or other general terms and conditions of Customer shall apply unless Basler so expressly confirms in writing.

§ 2 Execution and Amendment of Contracts

1. Basler's offers shall be subject to acknowledgement of order in every respect. No order will be binding upon Basler unless and until so acknowledged by Basler.
2. Any amendments to a contract must be in writing. In particular, no employee or agent of Basler shall be entitled to enter into any verbal collateral agreements or to make any verbal promises or agreements regarding the amendment of a contract. Such verbal collateral agreements or verbal promises or agreements shall have no binding effect on Basler unless and until Basler's acknowledgement of order has so been amended in writing.

§ 3 Payments

1. Unless otherwise agreed, any claims under invoices of Basler shall be payable in their net amounts (without discount) 14 days upon receipt.
2. Basler, irrespective of any terms and conditions of Customer to the contrary, may set off payments first against earlier debts of Customer. If costs and interest have arisen, Basler may set off payments first against costs, then against interest, and finally against the main performance.
3. In case of default, Basler will charge statutory default interest at a rate of 8 % p.a. (in case of a non-trader: 5 % p.a.) above the base interest rate (according to §247 German Civil Code). Basler reserves the right to assert further claims, in particular any excess damage caused by delay.
4. Basler may accelerate maturity of the remaining debt as a whole (I) if Customer fails to comply with contractual payment commitments, (ii) if Customer suspends payments, or (iii) if Basler gets aware of any other circumstances that call Customer's credit standing into question.
5. No set-off against claims of Basler shall be allowed unless a counter-claim is uncontested, has been established by a declaratory judgement or recognised by Basler. No right of retention may be exercised unless the counter-claim is uncontested or has been established by declaratory judgement. In non-merchant dealings, however, a right of retention may also be exercised if the counter-claim is based on the deal transacted.
6. Basler shall not be obliged to accept bills of exchange or checks. When allowing Customer to provide a bill of exchange or a check, acceptance shall be subject to discounting and reimbursement of all expenses incurred by Basler. Also, Basler shall not be obliged to present a bill of exchange or check in due time or to protest a bill of exchange.

§ 4 Liability

If the product cannot be used by the customer in conformity with the contract as a result of omitted or defective performance of suggestions and advice provided before or after the execution of the contract or by breach of other contractual auxiliary obligations for which Basler is at fault – in particular, instructions for operation and servicing of the product - then the regulations of §15 and § 4.2 shall apply accordingly, excluding all additional claims of the customer.

1. Basler shall only be liable for damage which results and does not occur to the product itself – regardless of the legal reason therefore –
 - with wrongful intent,
 - with gross negligence of the organs or management employees,
 - with culpable injury to life, limb and health,
 - with defects which were maliciously non-disclosed or which were guaranteed not to exist,
 - with defects to the product insofar as liability exists pursuant to the German Product Liability Act for damage to persons and property of privately used objects.
2. With negligent breach of essential contractual obligations, Basler shall be liable also with gross negligence of non-management employees and with simple negligence in the latter case limited to damage which is reasonably foreseeable and typical for the type of contract.
3. Further claims are precluded.

§ 5 Statute of Limitations

All claims of customers – regardless of the legal reason – shall be time-barred in 12 months. Statutory time periods shall be applicable for intentional and malicious conduct as well as with claims pursuant to the German Product Liability Act.

§ 6 Data Privacy

Customer is advised pursuant to Section 33 of the Federal Data Protection Act (*Bundesdatenschutzgesetz*) that Basler will store its data. Such data will be processed in accordance with the Federal Data Protection Act.

§ 7 Applicable Law and Venue

1. All legal relations with Customer shall be governed exclusively by German law, however, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
2. In dealings with persons from among those covered by Section 14 BGB, Basler's place of business shall be exclusive venue for any legal action or other legal proceeding against us, based on any legal ground whatsoever, as well as non-exclusive venue for any legal action or other legal proceeding by Basler against Customer.

§ 8 Severability

In the event that any provision hereof should be ineffective, this shall not affect the validity of the remainder hereof. An ineffective provision shall be deemed replaced by a provision capable of putting into effect the economic aim of such ineffective provision.

A. Delivery

§ 9 Scope of Services

Customer will acquire from Basler all systems or components specified in an acknowledgement of order and, if covered by the scope of delivery, also the related operating software and documentation.

§ 10 Quality and Prices

1. Basler shall be entitled to deviate from the technical data and specifications identified in an acknowledgement of order or, if made for technical reasons, to work in components other than those agreed. In such a case, Basler shall as a rule obtain Customer's prior consent to work in such deviation. Such consent may not be withheld by Customer unless for legitimate interests. No consent will be required for deviations related to individual components or for deviations resulting in minor deviations from data specified in functional specifications or for changes made to adjust a component to the general state of the art.
2. Responsibility for compliance with any legal, official and professional association requirements to be observed when using our products lies solely with Customer.
3. In dealings with persons from among those covered by Section 14 BGB, prices quoted by Basler will be net prices. Prices shall be ex works, exclusive of ancillary costs such as freight, customs duties and packing, plus VAT as applicable on the date of delivery. Any prices confirmed shall only apply if delivery is taken of the quantity so confirmed.
4. If more than four months pass between the conclusion of a contract and the date of delivery scheduled for the overall consignment or parts thereof with the price of a product ordered rising by more than 5 % after conclusion of contract especially due to price increases of suppliers, then Basler shall be entitled to reasonably increase (i.e. in accordance with such rise in our cost price) the prices of those parts of the entire consignment for which delivery is scheduled for a date after that four-month period. If a price increase so claimed by Basler adds up to more than 5 % of the price of the overall consignment, Customer shall have the right to withdraw from the contract within a period of two weeks following receipt of Basler's notice in respect of such change in prices.

§ 11 Shipment and Passing of Risk

1. Unless otherwise agreed in writing, deliveries will be made ex works. Packaging and shipping, at our option, will be at Customer's expense.
2. The risk of loss and the risk of a change for the worse shall pass to Customer when the goods are handed over to a forwarding agent, carrier or any other person transporting the goods, including staff of Basler. This shall also apply if delivery is free domicile. In the case of free-domicile deliveries, however, Basler shall assume liability, restricted to the gross amount of the invoiced value of the relevant goods, for any direct damage in transit if caused by own transporting staff of Basler.
3. If shipment is delayed due to circumstances beyond Basler's control, the risk of loss and the risk of a change for the worse shall pass to Customer on notification of readiness for shipment.
4. Even if responsibility for a carriage does not lie with Basler, any damage occurred in transit shall be notified by Customer without delay, at the latest, however, within one week after receipt of the goods.

§ 12 Delivery and Cancellation

1. Any delivery dates confirmed by Basler shall have no binding force unless so expressly identified.
2. Compliance with delivery deadlines and delivery dates requires on-time fulfilment of Customer's contractual duties. A delivery deadline shall begin to run upon receipt of all specifications relating to the execution of an order, of all documents and papers necessary to execute such order, any other information to be provided by Customer, and of any prepayment that may have been agreed upon between the Parties. If the goods ordered leave our premises or the distributing warehouse at the agreed time or if Customer has been notified to the effect that the goods are ready for dispatch, then a delivery deadline or delivery date shall also be deemed observed if such goods, without fault on the part of Basler, cannot be dispatched in good time. This shall apply accordingly in respect of delivery dates.
3. If Basler is in delay in delivery, Customer shall allow Basler an adequate period of grace. Such period of grace must be no less than 14 days .
4. Customer may withdraw from a contract upon expiration of an adequate period of grace that may have been allowed to Basler in respect of a case of delay in delivery, provided, however, that Customer when allowing such period of grace has indicated that performance might be rejected. Customer may not withdraw from a contract if the goods were dispatched or ready for dispatch on expiration of a deadline, provided that Customer has been notified accordingly.
5. In case of unforeseeable events beyond Basler's control, e.g., war, risk of war, riots, a third party using force against individuals or things, government interference including currency and trade policy measures (e.g. economic sanctions), industrial conflicts at Basler or Basler's suppliers or forwarders, interruptions of scheduled traffic routes, fire, raw material shortages (e.g. if relating to semiconductors or other electronic components), power shortages or any other operational impediments at Basler or Basler's suppliers as beyond Basler's control, any agreed periods or dates of delivery shall be extended by the duration of the impediment. This shall also apply if Basler is already in delay in delivery or if an impediment had already been existing before conclusion of contract, however, without Basler being aware of that impediment. Basler shall notify Customer without delay of any impediment of the kind described above.
6. If a delay in delivery caused by an event pursuant to Section 5 above lasts more than two months, each Party shall be entitled to cancel the contract. Customer, however, may only withdraw from a contract if Basler fails to notify Customer on request within a period of one week as to whether Basler wishes to withdraw from such contract or to effect delivery within a reasonable delay. Irrespective of such delay, a corresponding right of rescission shall arise if the execution of a contract may no longer be reasonably expected from a party in the light of the delay so occurred.
7. If Basler accepts in writing to take goods back from Customer although Customer has got no legal or contractual right of rescission, then Basler shall be entitled to charge a lump-sum compensation in an amount equal to no less than 30 % of the gross amount of the invoiced value of such goods.
8. Basler shall be entitled to withdraw from any contract concluded if supplies are substantially impeded as compared to the conditions on conclusion of contract due to act of God, acts of war, or any other reason. Supplies shall be deemed substantially impeded especially if the ruling price of the goods to be procured rises by more than 25 % between the conclusion of a contract and a scheduled date of delivery.

This shall not apply in dealings with consumers. In such a case, Basler may not withdraw from the contract on the basis of a price increase unless it may not reasonably be expected to be bound by the contract.

Basler may request Customer at one-week notice as a minimum to secure any outstanding delivery by advance payment or bank guaranty (at Customer's option) and Basler may refuse performance for as long as no such security has been provided (I) if Customer delays payment of an invoice by more than two weeks, (ii) if a motion for the opening of insolvency proceedings against Customer's assets has been filed, (iii) if Customer has initiated a composition procedure for the settlement of debts or if Customer has ceased payments, or (iv) if Basler obtains knowledge of any other circumstances materially affecting Customer's credit standing thus impeding our claim for the counter-performance owed by Customer. Thereafter, Basler shall allow a reasonable period of

grace. After expiration of a reasonable subsequent deadline for performance fixed by Basler without success, Basler shall also be entitled to cancel this and other contracts or to demand damages instead of performance.

§ 13 Acceptance and Taking of Delivery

1. Customer agrees to reasonably accept part shipments.
2. Customer will be in default of acceptance even if delivery is only offered by Basler in writing. Section 294 BGB shall therefore be excluded. All other legal requirements as to default of acceptance shall remain unaffected.

§ 14 Reservation of Title

1. Title to any goods supplied shall remain with Basler until the full payment of the purchase price and of any other receivables of Basler to be paid by Customer. This reservation of title shall survive even if receivables of Basler are taken up in a current account with its balance being struck and accepted, for such reservation of title then to secure such balance.
2. If any goods Basler supplied under reservation of title are processed or treated by Customer, such processing or treatment shall be deemed to have been carried out on Basler's behalf as "producer" within the meaning of Section 950 BGB.
3. If any goods Basler supplied under reservation of title are combined, mixed or processed with goods that are subject to a third party's reservation of title, Basler shall acquire title to the new thing or the mixed material in accordance with the ratio between the value of its goods and the value of the other goods on being combined, mixed, or processed. No claims to the rise in value as caused by such combination, mixture or processing will be made by Basler.
4. Any goods Basler owns pursuant to Subsection 2 or co-owns pursuant to Subsection 3 shall secure Basler's receivables in the same way as any goods it originally supplied under reservation of title. If Customer is getting into delay in payment, Basler shall be entitled to revoke Customer's authority to combine, mix or process any goods Basler delivered under reservation of title.
5. a) Along with all ancillary rights, Customer already now assigns to Basler (i) any claim of Customer under any resale of goods Basler supplied under reservation of title and (ii) any claim of Customer under any resale of goods Basler owns pursuant to Subsection 2, in order to secure all claims Basler may have against Customer on such resale.
b) In the case of the resale of goods Basler co-owns pursuant to Subsection 3, only that part of a claim shall be deemed assigned which is equivalent to the value of Basler's portion of ownership to such goods.
c) Customer shall be entitled to assign receivables under the resale of goods by means of factoring transactions, provided, however, that such assignment is notified to Basler in advance and that the proceeds from such factoring transactions cover no less than the invoiced value of the goods Basler supplied under reservation of title, of the goods Basler owns pursuant to Subsection 2, or co-owns pursuant to Subsection 3, from the sale of which such receivables are being derived. Customer already now assigns to Basler any receivables and other claims against the factor under the sale of receivables assigned to Basler by way of security; these shall secure Basler's claims as well.
d) Basler hereby accepts the foregoing assignments.
e) If the value of any receivables assigned to Basler by way of security exceeds Basler's claims against Customer by more than 10 %, Basler shall be obliged to release any excess security if so requested by Customer.
f) Customer shall be entitled to collect on Basler's behalf any receivables so assigned. However, this authority of Customer shall cease to be effective if Customer delays any payment due to Basler. In that event Basler shall be authorized to inform the relevant customers of Customer on Customer's about that assignment. Customer shall be obliged to provide Basler with any data (especially the names of customers) as well as any documents and papers Basler may require to assert its claims against Customer's customers.
6. Customer may not resell any goods that are subject to reservation of title or owned by Basler pursuant to Section 2 or co-owned by Basler pursuant to Section 3 unless such resale is made in the ordinary course of business and on condition that the purchase price claim under such resale is transferred to Basler in accordance with Section 5. This authority shall cease to be effective if Customer delays any payment due to Basler. These shall be the sole dispositions of Customer with regard to goods supplied under reservation of title or goods Basler owns pursuant to Subsection 2, and Customer shall in particular not be entitled to pledge or transfer such goods by way of security.
7. Goods supplied under reservation of title as well as goods Basler owns pursuant to Subsection 2 or co-owns pursuant to Subsection 3 shall be adequately insured by Customer against fire, theft, water, and similar risks, and Customer shall on request submit suitable documents showing that such insurance cover does exist. Customer hereby assigns to Basler all or, as the case may be, a proportionate share of its claims for compensation against the relevant insurers or any other parties that may be liable to pay damages.
8. Any acts affecting goods supplied under reservation of title or goods Basler owns pursuant to Subsection 2 or co-owns pursuant to Subsection 3 shall be notified to Basler, and the same shall apply with regard to any rights and enforcement actions of third parties.
9. If Customer's authority to resell goods ceases to be effective, then Customer, if so requested, shall disclose its stock of goods that are subject to reservation of title, owned by Basler pursuant to Subsection 2 or co-owned by Basler pursuant to Subsection 3, and surrender any goods that are subject to reservation of title if requested to do so. To enforce its claim for surrender, Basler, upon notice and fixing a time period, may also enter Customer's premises to take away any goods that are subject to reservation of title. Further, as soon as Basler has withdrawn from a contract or as soon as the conditions for Basler demanding damages instead of performance have occurred, Basler, in order to satisfy its claims, may realise any of the goods so surrendered.
10. Any exercise of reservation of title, in particular the taking back, pledging, or realisation of the goods thereunder, shall not be deemed as rescission of contract unless Basler so expressly confirms in writing.

§ 15 Warranty

In business transactions with business persons, Basler shall provide a warranty for defects of quality and legal imperfection of title of the product, excluding any further claims – subject to § 4 – as follows:

Defects of Quality

1. All such parts which are discovered to be defective as a consequence of circumstances existing prior to the transfer of risk shall be, at the choice of Basler, remedied (cure) or replaced by defect-free parts. The determination of such defect shall be notified to Basler in writing without undue delay. Replaced parts become the property of Basler.
2. After consultation with Basler, the customer shall provide the necessary time and opportunity for the undertaking of the improvements and replacement delivery deemed

to be necessary by Basler; otherwise, Basler shall be exempted from the consequences resulting herefrom. The customer shall only have the right to eliminate the defect itself or by a third party and to make a demand to Basler for reimbursement of the necessary costs in urgent cases of company safety or to avoid unreasonably extensive damage, whereby in such case Basler shall be notified immediately.

3. Basler shall bear the direct costs resulting from the remedy or replacement delivery, – insofar as the objection is deemed to be justified – the costs of the replacement item including shipping. In addition, it shall bear the costs of the disassembly and assembly as well as the costs of the provision of necessary fitters and helpers including travel costs, insofar as no disproportionate encumbrance to Basler results.
4. The customer shall have a right to cancel the contract within the framework of the statutory provisions if Basler – taking into account the statutory exceptions – allows a reasonable deadline set for it to remedy or make replacement delivery due to defect of quality to pass without success. Should only an immaterial defect exist, then the customer shall only have a right to reduction of the purchase price. The right to reduction of the purchase price shall otherwise be precluded. Further claims are determined pursuant to § 4.2 of these Terms.
5. No warranty shall be given, in particular, in the following cases:
Unsuitable or improper use, defective assembly or operation by the customer or third parties, normal wear and tear, defective or negligent treatment, improper servicing, unsuitable production equipment and facilities, defective building works, unsuitable building land, chemical, electro-chemical or electrical influences – insofar as such are not caused by Basler.
6. Should the customer or a third party improperly undertake remedies, Basler shall not be liable for any consequences resulting therefrom. The same shall apply for changes to the product without the prior approval of Basler.

Legal Imperfection of Title

7. Should the use of the product cause infringement of intellectual protected rights domestically, Basler shall, at its cost, basically obtain the continued use for the customer or otherwise modify the product in a manner reasonable for the customer so that the infringement of the protected rights no longer exists. Should this not be possible at commercially reasonable terms or within a reasonable time period, the customer shall be entitled to cancel the contract. Basler shall also be entitled to cancel the contract pursuant to the stated prerequisites. In addition, Basler shall indemnify the customer from claims of the respective owner of the protected rights which are non-disputed or determined with final res judicata effect.
8. Basler's obligations named in Section 7 shall be conclusive for the case of infringement of protected or copyright rights, subject to § 4.2.

These shall exist only if

- the customer notifies Basler without undue delay of protected or copyright law infringements claimed,
- the customer supports Basler to a reasonable extent with the defence of the claims made or Basler makes possible the performance of modification measures pursuant to Section 7,
- Basler is reserved the right to all defence measures including extra-judicial regulations,
- the legal imperfection of title is not caused by a directive of the customer and
- the infringement of the right was not caused by the fact that the customer unilaterally changed the product or used such in a manner not in conformity with the contract.

§ 16 Software Use

Insofar as software is included in the scope of a delivery, the customer shall be granted a non-exclusive right of use of the delivered software including its documentation. Software shall be transferred for use on the product related thereto. A use of the software on more than one system shall be prohibited.

The customer may only reproduce, process, translate or transfer from the object code into the source code to the extent allowed by law (§§ 69 a et seq. Copyright Law („Urhebergesetz“, „UrhG“). The customer agrees not to remove manufacturer details – in particular, copyright notations or to change such without Basler's prior approval.

B. Installation

§ 17 Scope of Services

Unless otherwise provided in an acknowledgment of order, Basler shall only be obliged under a contract regarding the sale of systems and components to install, and bring about operational readiness of, the goods supplied. Unless agreed otherwise, installation work and the procuring of operational readiness shall be at Customer's expense.

§ 18 Cooperation by Customer

Customer agrees to cooperate in the development, the provision of technical samples and any other systems, the preparation and performance of installation work as well as to render any other technical assistance in accordance with technical specifications to be set up if the need arises or with any other agreements. Customer agrees to observe Basler's operating instructions when operating the equipment. In particular, Customer agrees to cooperate as follows:

- the provision of the space required to place and install the equipment; operational readiness of any facilities required for servicing; in particular, the provision of power supply and, if the need arises, of any compressed air required for operation and any coolant required for cooling;
- the provision of any staff required (Customer staff and third party staff);
- the securing of the place of installation to safeguard individuals working at the place of installation against harmful effects;
- the illumination of the place of work exclusively by way of low-temperature luminaries; the setting up of band conveyors, other continuous conveyors and means of transport required for inspecting work pieces, in a position conveying the work pieces to be inspected to the right position of the camera installed;
- the conclusion of all insurance contracts required to secure the equipment from the date it is delivered to Customer, including, without limitation, the conclusion of insurance contracts against fire, water damage and theft, at the indexed new value; moreover, the conclusion of any necessary insurance contract which in the case of a disruption in the future operation of the equipment will cover the risks of loss of output or interruption of Customer's business, as customarily available for such risks. Customer, at its own expense, shall carry such insurance until the full payment of the purchase price and at least for as long as Customer may have any warranty claims against Basler;
- servicing must be possible without any impediment or delay;
- means of transport shall be provided upon prior coordination.

§ 19 Delivery and Functional Testing

1. On occurrence of operational readiness, Customer shall so confirm in an acceptance certificate to be signed by it. Where a test run has been agreed, its successful outcome shall be recorded in the acceptance certificate.
2. If substantial complaints are made upon acceptance, Basler shall rectify the defects within a reasonable period of grace of no less than six weeks. That period of grace shall commence upon Customer notifying the defect to Basler. The period of grace shall be adequately renewed if Basler can prove that the defect cannot be remedied within that period of grace.

§ 20 Warranty

1. With regard to defects arising after acceptance and within the warranty period, Customer may only request Basler to rectify such defects. Basler shall then reasonably decide whether to remove and replace any defective part or to repair the same. Any removed part shall pass into the ownership of Basler.
2. No warranty will be accepted by Basler in respect of a defect unless reflected by a failure occurring within the warranty period, provided that such failure neutralises or substantially affects the agreed use of the system, with such failure being caused by Basler producing and installing the system. A defect will not have occurred by Basler producing or installing a system if the defect is caused by directions of Customer or by Customer failing to cooperate or duly cooperate in accordance with § 16 hereof, or by preparatory work of third party.
3. Any defect attributable to Customer's sphere (e.g., circumstances at the place of installation, disruptions in power supply, wrong handling) will be incumbent solely on Customer.
4. In addition, the warranty provisions laid down in § 15 shall apply.

C. Repair Work

§ 21 Scope of Services

Beyond its warranty duty, Basler shall carry out repair work against payment and subject to acceptance of order. If on-site repair is impossible, then transport to and from Basler's premises of the thing to be repaired shall be at Customer's risk and expense.

§ 22 Cost Estimate

On Customer's request, Basler shall provide a written cost estimate, however, without warranty as to the accurateness of such cost estimate. Any prices stated in a cost estimate shall be plus VAT as applicable from time to time. Basler shall notify Customer immediately if it expects that a cost estimate will be exceeded by more than 15 %.

§ 23 Cooperation, Acceptance, Functional Testing, Warranty

With regard to Customer's co-operational duties, acceptance, functional testing, and warranty, the provisions in B. shall apply analogously.

§ 24 Spares

To the extent possible, Basler shall provide, at Customer's expense, any spares required for system servicing.

D. Advisory Services

§ 25 Scope of Services

Services will be provided in accordance with the dates of performance stated in the acknowledgment of order. By way of exception, a contract for the performance of work and services will not have been established unless the services are to bring about a particular result as specified in the acknowledgement of order. In that event the provisions in B. shall apply analogously.

§ 26 Operational Training

To the extent that training or guidance for a system is required by operating staff due to particular technical conditions, such training or guidance shall be provided by Basler on the basis of a separate agreement.

§ 27 Documentation

Title to any documents handed out to Customer in training or instruction sessions or in engineering projects shall remain with Basler. No such documents or any extracts therefrom may be copied or disclosed to a third party without Basler's prior consent. The documentations are supplied in principle in English language. The general German laws on copyright shall apply.

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