

1. Except as otherwise acknowledged by us in writing, the following printed General Terms and Conditions of Business (GTC) shall alone apply to all quotes, orders and assignments. Differing terms of the buyer shall apply only insofar as expressly consented to in writing.
2. Our quotes are subject to change. An agreement only comes into existence if an order is confirmed by us in writing or is executed.
3. The scope of performance by Electrade GmbH shall be shown only from the written order confirmation. Amendments and oral side agreements shall be valid only when confirmed in writing.
4. Indications given with regard to delivery times and delivery dates are only approximate unless expressly designated as binding in writing.
Electrade GmbH may make partial deliveries if its own suppliers and manufacturers are verifiably late in delivering. If an agreed delivery time is not adhered to through Electrade GmbH's fault and if the latter has not acted intentionally or with gross negligence, the ordering party, after a reasonable grace period has expired, may seek compensation for the delay or rescind the agreement, with other claims being excluded. The compensation for the delay shall amount to a 0.5% for each full week of delay, but up to an overall maximum of 5% of the price for each portion of the delivery on which Electrade GmbH has fallen behind. Rescission is excluded if the ordering party itself delays in accepting. The ordering party retains the right to prove greater damages.
Beyond this, damages claims by the ordering party due to a delay in delivery, as well as damages claims in lieu of delivery, are excluded in all cases of delay in delivery. This does not apply insofar as mandatory liability attaches in cases of willful misconduct, gross negligence, or due to an injury to life, limb or health; this is not associated with any change in the burden of proof to the ordering party's detriment. Under statutory provisions, the ordering party may only rescind the agreement if Electrade GmbH is responsible for the delay in delivery.
5. Events of *force majeure* justify the party making the delivery in postponing it for the length of time the impediment lasts or a reasonable response time, or in rescinding all or part of the as yet unperformed portion of the agreement. Strikes, lockouts or unforeseeable, unavoidable circumstances, e.g., business interruptions, which make timely delivery impossible despite reasonable efforts are equivalent to *force majeure*; it is up to Electrade GmbH to prove this.
This shall likewise apply if the aforesaid impediments occur during a delay or at a subcontractor. The ordering party may demand that Electrade GmbH clarify within 2 weeks whether it wishes to rescind or to deliver within a reasonable grace period. If it fails to provide clarification, the ordering party may rescind the unperformed portion of the agreement. Electrade GmbH shall inform the ordering party without undue delay if an event of *force majeure* (as described above) takes place.
6. Shipment and payment are for the ordering party's account and at its risk; costs incurred are to be charged to the buyer. If the goods are to be picked up by the ordering party itself, the risk of loss passes to the ordering party upon tender of delivery.
7. Electrade GmbH's prices are applicable *ex Gräufeling*, plus value added tax.

If during the term of an agreement the currency parity of the product's original currency changes by more than +/- 5%, the originally agreed price shall cease to be valid and a new price adjusted to the altered currency parity shall be negotiated.

Payments are to be made within 30 days of the invoice date. If no payment has been made by that date, Electrade GmbH may demand interest for the period following such date in

the amount of 8 percent above the relevant base rate under § 1 of the German Discount Rate Transition Act (*Diskontsatz-Überleitungsgesetz*) (DÜG). The right to claim additional damages in the event of delay is reserved.

When partial deliveries are made, Electrade GmbH may seek the corresponding partial payments.

8. The ordering party may not offset counterclaims or exercise withholding rights unless Electrade GmbH has not performed, or has not performed properly.
9. The items delivered (reserved-title goods) shall remain the property of Electrade GmbH until the satisfaction of all of its claims against the ordering party. Insofar as the value of all security interests held by Electrade GmbH is more than 20% higher than the amount of all secured claims, at the ordering party's request Electrade GmbH shall release a corresponding portion of the security interests.
While the reservation of title is in existence, the ordering party is not permitted to make a pledge or a transfer by way of security, and resale is permitted only to re-sellers in the ordinary course of business, conditional on the re-seller's receiving payment from its customer or its specifying the reservation that title shall pass to the customer only when the latter performs its payment obligations.
The ordering party shall inform Electrade GmbH without undue delay of attachments, seizures or other third-party dispositions or interventions.
10. Should the ordering party breach its obligations, in particular should it delay in making payment, Electrade GmbH shall be entitled to rescission and repossession, with the ordering party being required to turn over the goods. Repossession or enforcement of the reservation of title does not require rescission by Electrade GmbH; such actions, or an Electrade GmbH pledge of the reserved-title goods, does not entail a rescission of the agreement unless Electrade GmbH expressly so declares.
If those goods are processed (combined/commingled) by the ordering party with other goods not belonging to Electrade GmbH, the reservation of title shall extend to the finished products, such that Electrade GmbH becomes owner of the new goods, with § 950 of the German Civil Code (*Bürgerliches Gesetzbuch*) (BGB) being excluded.
11. Electrade GmbH shall be liable for defects in quality as follows:
 - a) All parts or services which display a defect in quality within the limitations period are, at Electrade GmbH's option, to be repaired, re-delivered or re-performed, at no charge, insofar as the cause thereof was already present at the time of passage of the risk of loss.
 - b) Defects in quality are time-barred in 12 months. This shall not apply insofar as longer periods are prescribed by statute (BGB § 438 I 2 (buildings and items for buildings), 479 I (claims in recourse) and § 634 a I 2 (construction defects)).
 - c) The ordering party must give Electrade GmbH written notice of defects in quality within 10 business days.
 - d) When notice of a defect is given, the ordering party's payments may be withheld to an extent reasonably proportional to the quality defects that appeared. The ordering party may withhold payments only if notice of a defect is given the justification for which cannot be doubted. If notice of a defect was wrongly given, Electrade GmbH may seek compensation from the ordering party for the expenditures which it incurred.
 - e) Electrade GmbH is first to be given an opportunity to perform within a reasonable time.
 - f) If the cure fails, the ordering party, regardless of any claims for damages, may rescind the agreement or reduce the consideration.
 - g) Defects are not to be claimed for insignificant deviations from an agreed quality, for merely insignificant impairments of usability, for natural wear and tear or damages that arise, after the risk of loss has passed, from erroneous or negligent handling, excessive demands, unsuitable operating materials, defective construction work, or because of particular external influences that are not presupposed by the agreement. If improper alterations are made, or maintenance

- work undertaken, by the ordering party or third parties, there shall likewise be no claims for defects based on the same and the consequences arising therefrom.
- h) Further claims due to defects, or claims other than those governed by this section, by the ordering party against Electrade GmbH and its agents are excluded.
12. Insofar as delivery is impossible, the ordering party may seek damages unless Electrade GmbH is not responsible for the impossibility. The ordering party's claim for damages, however, shall be limited to 10% of the value of that portion of the delivery that, due to the impossibility, cannot be put into appropriate operation.
This limitation does not apply insofar as mandatory liability attaches in cases of willful misconduct, gross negligence, or due to an injury to life, limb or health; this is not associated with any change in the burden of proof to the ordering party's detriment. This is without prejudice to the ordering party's right to rescind the agreement.
Claims by the ordering party for more extensive damages, or for compensation for expenditures made, are excluded. This does not apply insofar as mandatory liability attaches, e.g., pursuant to the German Product Liability Act (*Produkthaftungsgesetz*) (ProdHaftG), in cases of willful misconduct, gross negligence, due to an injury to life, limb or health or to the breach of material contractual obligations. Claims for damages relating thereto shall be time-barred upon the expiration of the limitations period applicable to claims for quality defects, i.e., 12 months after passage of the risk of loss. Damages claims for breach of material contractual obligations, however, are limited to typical, foreseeable contractual damages insofar as willful misconduct and gross negligence are not present or there is liability for an injury to life, limb or health. No change in the burden of proof to the ordering party's detriment is associated with the foregoing provisions.
13. If the ordering party re-sells goods – whether built in or not – obtained from Electrade GmbH, the export control laws of the country of manufacture are to be taken into account in connection therewith.
14. The legal relationship between Electrade GmbH and the customer is exclusively subject to German law. If the customer is a registered trader (*Vollkaufmann*), the District Court of Munich is agreed on as the court of jurisdiction for both parties, including for procedures relating to bills of exchange and checks and summary procedures based on documentary evidence.

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