

General Terms & Conditions of the company SYS TEC electronic GmbH, Revision June 2005

The following Terms & Conditions were translated into English language for information purposes only. In any case, the German version shall prevail.

1. General

- 1.1 These General Terms & Conditions are valid for all contracts and the entire business connection between SYS TEC and the Buyer. Any other conditions, in particular the buyers General Terms & Conditions of purchasing, are not effective – even if SYS TEC does not explicitly object.
- 1.2 The Buyer acknowledges SYS TEC's General Terms & Conditions, at the very latest upon acceptance of goods from SYS TEC.

2. Quotations and Purchase Orders

- 2.1 All contract negotiations between the parties, agreements via telephone or other arrangements, in particular purchase order modifications, require written consent of both parties and they require written confirmation if they differ from the original purchase contract.
- 2.2 Purchase orders issued to SYS TEC by the Buyer are legally binding only upon SYS TEC's written confirmation.
- 2.3 Written purchase order confirmation is replaced by the invoice if the order is executed immediately.
- 2.4 SYS TEC is not obligated to accept purchase orders.
- 2.5 Quotes issued by SYS TEC are subject to change if the commitment to the quotation is not in written form.
- 2.6 These terms and conditions are valid for all quotes issued by SYS TEC.
- 2.7 A product quality guarantee is only part of the contract with explicit written confirmation. Information provided in brochures is not part of the contract unless in individual cases they are explicitly and in written form agreed as such.

3. Prices

- 3.1 Prices are calculated in EURO excluding packing for the delivery from the works in Greiz; plus sales tax on the day of accounting and other legal delivery dues.
- 3.2 Prices from the latest SYS TEC price list prevail.

4. Shipping and Transfer of Perils

- 4.1 Shipping of products is at the expense of the Buyer. Transport insurance to the handover location defined by the Buyer is carried out and taken over by SYS TEC – unless it is excluded by the Buyer in written form.
- 4.2 Partial deliveries of orders by SYS TEC are permissible.

5. Terms of Payment

- 5.1 All payments are to be made by the Buyer within 14 days of invoicing and delivery without any allowances. After which, beginning with the first reminder, standard bank interest will be charged, at a rate at least 1% above the Lombard rate of the German Federal Bank if this is higher than the legal interest rate.
- 5.2 Payments will be applied to the balancing of the earliest payable debt, including the interest payable on arrears resulting from it, any legal costs and, lastly, to the sales price.
- 5.3 Promissory notes or predated checks will only be accepted after a written promissory agreement made prior to sale, and only for payment purposes. All taxes, bank, discount, or withdrawal charges are at the expense of the Buyer.
- 5.4 When a number of promissory notes are given as payment, then all promissory notes are payable, if the next payable promissory note is not paid according to the time allotted in the promissory note agreement.
- 5.5 If the Buyer is derelict in making payments or fails otherwise to meet the terms from these General Terms & Conditions of SYS TEC, ceases payment, or if the Buyer's legal representative files for bankruptcy, then all legal fees become payable toward the sum of the total accounts payable to SYS TEC. In this case, SYS TEC has the right to renege on all contracts and to take all previously delivered merchandise back into their possession, as well as to demand restitution for all costs occurred in connection with the repossession. This includes transportation costs, devaluation of merchandise, etc.
- 5.6 The right of payment retention due to claims that do not refer to the delivery goods is excluded. Only undisputable, final and absolute debt claims may be offset against claims of the purchase price – as long as the Buyer does not assert guarantee claims.

6. Ownership Proviso, Private Resale, Transfer of Goods

- 6.1 SYS TEC maintains claims on ownership of delivered merchandise until full payment of the purchase price, including any interest resulting from default as well as legal costs.
- 6.2 Until transfer of ownership of the merchandise from SYS TEC to the Buyer, the Buyer may neither sell nor transfer ownership of said merchandise to a Third Party.

In the event that the merchandise in question is either forfeited or taken into possession by another Party, the Buyer is responsible for notifying SYS TEC. In addition, all costs resulting from the release of said merchandise are the financial responsibility of the Buyer. The Buyer may, in the course of normal business, sell the merchandise to a Third Party, as long as the Buyer is not in default on payments to SYS TEC. The Buyer is also responsible for any wear, damage or incidental product failure during the period of the ownership proviso. If the Buyer chooses to use other products in combination with SYS TEC products during this time, SYS TEC obtains co-ownership of the additional products in relation to their value when combined with SYS TEC merchandise.

The Buyer hereby forfeits his or her rights to transfer ownership of the provisioned good, at currently calculated net value, to SYS TEC; SYS TEC hereby accepts this forfeiture.

The Buyer's right to resell SYS TEC merchandise ends when the Buyer is overdue in his payments to SYS TEC, or becomes insolvent. In this case, the Buyer maintains possession of the provisioned merchandise only with SYS TEC's written permission.

7. Terms of Delivery

- 7.1 As SYS TEC itself is not the manufacturer of the majority of components used on its products, terms of delivery are only valid for the merchandise that is currently held in storage at SYS TEC. Furthermore, SYS TEC can only reference "estimated delivery dates" and cannot be bound by the terms of a fixed delivery schedule. SYS TEC is obligated to inform the Buyer in writing of any foreseeable delay in any stated, estimated delivery date.
- 7.2 If an estimated delivery date is unexpectedly delayed, then the Buyer has the right to extend to SYS TEC a 4 week grace period on delivery. Further claims or demands are excluded; including claims for loss compensation as a result of failure to comply with the terms of the contract – unless the Buyer can demonstrate that a legal representative or employee of SYS TEC is guilty of malice or gross negligence.
- 7.3 Estimated delivery dates, as originally printed in quotes, sales contracts or purchase order confirmations, are subject to change due to such issues as acts of God, inevitable production errors, strikes, and lockouts, failure to receive parts from distributors and other sources, as well as other circumstances that are beyond SYS TEC's control.

8. Cancellation of Delivery

- 8.1 If the Buyer cancels an order in part or completely, and fails to fulfill its obligation to accept delivery, SYS TEC is then justified in making claims for comprehensive loss compensation.
- 8.2 All products intended for delivery that have already been produced at the point of the Buyer's cancellation of an order or contracted agreement are to be paid for at the full sales price by the Buyer.
- 8.3 For any products that have not yet been produced, a flat-rate compensation of 60% of the order value is to be paid if cancellation by the Buyer is not made at least 30 days before the estimated delivery date.

- 8.4 In all other cases of non-delivery at the Buyer's behest, a flat-rate compensation of 40% of order value will be assessed.
- 8.5 The Buyer reserves the right to document proof that the amount of actual loss is smaller than that claimed by SYS TEC.
- 8.6 SYS TEC maintains the right to demand default compensation after discontinuing delivery if the Buyer fails to pay for partially delivered products according to the terms of contract.
- 9. Warranty (Hardware)**
- 9.1 The warranty is valid up to 12 months after the Buyer has received merchandise.
- 9.2 Damage ("defects") sustained to merchandise during shipping and/or missing items are to be reported by the Buyer in writing within 8 days of receiving merchandise. The Buyer is obligated to inspect the merchandise immediately after delivery and, in the case of defects, to inform SYS TEC in writing. The Buyer is also responsible for returning the defective articles to SYS TEC along with providing a detailed description of alleged defects. If the Buyer fails to notify SYS TEC, then it is assumed that the merchandise was received and considered acceptable. That is, unless even by close inspection of the merchandise no visible defects could be found. In this case, the Buyer must immediately inform SYS TEC of such defects for verification by SYS TEC. Otherwise the merchandise will be considered accepted regardless of any defects.
- 9.3 In the instance of a substantiated complaint, the Buyer is entitled to make use of legal warranty claims according to the following restrictions:
It rests with SYS TEC to make good its warranty by repairing or replacing any material or manufacturing defects in the effected merchandise.
The Buyer must allow SYS TEC at least 3 attempts for supplementary performance if nothing else arises out of the kind of merchandise, the defect or other circumstances.
Depending on the attempt for supplementary performance, the Buyer must concede at least 14 days to SYS TEC if nothing else arises out of the kind of merchandise, the defect or other circumstances.
Upon SYS TEC's failure to repair or to replace any defective merchandise – not in case of slight negligence –, the Buyer has the right to demand a discount on the sales price, to annul the purchase contract or to demand proper fulfillment of the contract. For the rest, no.10 is effective.
In case of slight negligence of SYS TEC, the claim for compensation is limited to the amount of the purchase price, whereas any fulfillment and the objective value of the defective merchandise is to count towards compensation. For the rest, no.10 is effective.
- 9.4 If the Buyer is not in agreement with these terms of the warranty, then it is left with no claims for annulment, abatement or compensation, including compensation for assembly or disassembly costs and consequential loss.
- 9.5 SYS TEC warrants no product defects that result from coincidental factors, improper use, negligence, modification, improper installation, and improper product testing methods or repairs made by the Buyer.
- 9.6 Removal or elimination of the original technical quality assurance emblem or modifications to the purchasing object – if not designed to do so – will reverse the onus of proof for the defective merchandise.
- 9.7 The Buyer's right to withdraw from the purchase contract in case of breach of duty by SYS TEC is excluded. This is unless SYS TEC is at fault or the right for withdrawal results from defects of the merchandise.
- 10. Warranty (Software)**
- 10.1 Laws for contracts of personal service are effective for all software deliveries. Rights and laws applicable for contracts for work and services and purchasing contracts are excluded.
- 10.2 If software developed and sold by SYS TEC does not function according to the parameters described in the contract or product description and a complaint is made to SYS TEC in writing, SYS TEC is obligated to make all necessary repairs, gratis, within 12 months.
- 10.3 For software resold but not produced by SYS TEC, SYS TEC shall recognize no warranties given SYS TEC's rights as stated in the current licensing terms with the original software manufacturer.
- 10.4 Software discrepancies and limitations caused by innovations in the market are not considered defects. The Buyer only has claims to continued software maintenance and adaptation if a consultation service is a component of a sales agreement.
- 10.5 Compensation liability for immediate or subsequently incurred damages is excluded, unless it can be demonstrated that a legal representative or employee of SYS TEC is guilty of malice or gross negligence.
- 11. Manufacturer's Liability**
- 11.1 Considering the warranty of properties, SYS TEC's liability for consequential damage caused by a defect is limited to those warranties that are expressly supposed to prevent such consequential damages.
- 11.2 SYS TEC is not liable for slight negligence, unless essential contractual obligations are violated (cardinal obligations).
- 11.3 In the event of lost data SYS TEC is only liable for the extent of loss that would have occurred if daily data backup had been conducted.
- 11.4 Regardless of previous provisions SYS TEC is liable up to a maximum of 250.000,00 EUR per year and per violation of an obligation.
- 11.5 Limitations of liability are not valid for the liability according to the Product Liability Act as well as for damages of life, body and health.
- 11.6 As far as liability insurance is provided, limitations of liability as listed in previous provisions and in 9.3 remain unaffected.
- 11.7 The statutory limitation period in § 195 of the German Civil Code is limited to 12 months.
- 12. Export and Re-export**
- 12.1 All of SYS TEC's deliveries are subject to export licenses according to German commercial export law. It is the obligation of the Buyer to be aware of these laws.
- 12.2 Technical proprietary knowledge, licenses, copyrights and trademarks associated with all SYS TEC products remain within the Federal Republic of Germany. The resale or re-export of single or system integrated SYS TEC products requires SYS TEC's permission.
- 13. Jurisdiction**
- 13.1 The venue for any legal actions for any and all disputes about or resulting from these General Terms & Conditions or any separate contractual relations with SYS TEC shall be Greiz.
- 13.2 All legal proceedings between SYS TEC and Buyers exclusively fall under the legal jurisdiction of the Federal Republic of Germany.
- 14. Miscellaneous**
- 14.1 All agreements between the parties including alterations are to be made in writing.
- 14.2 If the Buyer should happen to fail to meet the terms from the purchase contract, SYS TEC can refuse further delivery without danger of invalidating its legal rights and contractual obligations.
- 14.3 If a provision of these General Terms & Conditions is declared legally ineffective, then it is considered to have been substituted for by a provision that approaches the intended function of the now ineffective provision and takes the interests of both parties involved into consideration.
- 14.4 The Buyer cannot transfer or forfeit its rights to a Third Party without the written consent of SYS TEC.
- 14.5 If the Buyer falls under the personal extent of protection of the Data Protection Act, the Buyer declares itself in agreement with SYS TEC's right to a thorough analysis of said data, to the extent that such an analysis is deemed necessary for the purpose of the contract.
- 14.6 Copyrights, as well as application and exploitation rights to a final product, remain with SYS TEC, independently on the delivery to the Buyer as stipulated by contract.
Deconstruction or reverse engineering of single parts or SYS TEC systems is only allowed with the expressed written consent of SYS TEC.
- 14.7 Reproduction of SYS TEC software is only allowed for Buyer's internal usage or for backup.
- 14.8 SYS TEC products may not be installed in life-sustaining medical or military systems without the express written consent of SYS TEC electronic GmbH.
The current copyright provisions are also valid for products sold but not produced by SYS TEC.