

TIM AG

General Terms and Conditions of Business

(Last updated: November 2018)

1. Scope of application

- 1.1 The deliveries and services of TIM AG are made exclusively under the following terms and conditions and the provisions in the respective valid specialist retailer price list, unless otherwise agreed in writing. Reference shall also be made to the manufacturers' licence conditions, included with the contracted products.
- 1.2 For further services offered by TIM AG, such as "On-Site Maintenance Service" and "Software Support", the respective general terms and conditions of the named contracts shall apply in addition to the following General Terms and Conditions (GTC). Should this result in a contradiction, the special terms and conditions of the corresponding service offers shall take precedence.
- 1.3 TIM AG shall not recognise any terms and conditions conflicting with or deviating from the GTC of TIM AG, unless TIM AG has expressly agreed to the validity of these deviating terms and conditions in writing. Non-contractual subsidiary agreements shall require the written confirmation of TIM AG in order to be valid.
- 1.4 An order placement or order (hereinafter "Order Placement") by the customer always represents a binding offer, which TIM AG can accept within three (3) weeks by sending an order confirmation or by delivering the goods. The Order Placement by the customer assumes the acceptance of the respectively applicable GTC by the customer. The contract with the customer on the basis of the offer of TIM AG is not concluded until receipt of and according to the content of a written order confirmation (also via electronic media, e.g. by e-mail or fax) by TIM AG.

The performance features of the object of the contract shall be described comprehensively and bindingly in the order confirmation. Previous offers by TIM AG - in particular with regard to technical description, quantity, price and delivery time - are non-binding.

- 1.5 TIM AG concludes contracts exclusively with entrepreneurs within the meaning of § 14 BGB (German Civil Code). TIM AG does not conclude contracts with consumers within the meaning of § 13 BGB.

2. Deliveries and services

- 2.1 The offers of TIM AG are non-binding and subject to change and are understood to be subject to the proviso that delivery is made to TIM AG by its own suppliers. A contract is established only with the written order confirmation from TIM AG, which shall occur no later than when the delivery is accepted by the customer.
- 2.2 TIM AG shall deliver on behalf of the customer directly to the latter's customers (end customers), unless a delivery to the customer has been agreed.

- 2.3 Technical and design variations that are reasonable for the customer and differ from information stated in brochures, catalogues and written documents, as well as modifications to models, designs and material made in the course of technological progress and further development are reserved, without any claims against TIM AG being derived from these.
- 2.4 TIM AG expressly reserves the right to make reasonable partial deliveries and invoice for these, unless the customer has no interest in the partial delivery.
- 2.5 The observance of delivery dates or deadlines agreed in writing for the provision of services presupposes that the customer performs all cooperative steps required for the delivery or performance of the service in good time and makes the agreed payments in due time. If this is not the case, the delivery deadline or the period for providing the service shall be extended accordingly. Unless expressly agreed otherwise in writing, written agreed delivery dates are deemed to have been met if the contractual product was handed over to the carrier on the agreed delivery date.

Delivery dates/delivery periods are subject to the correct, defect-free and timely delivery of supplies to TIM AG. Events of any kind for which TIM AG is not responsible and which delay or otherwise impede the delivery of supplies to TIM AG or the delivery of outgoing goods (e.g. import and export restrictions of an official nature, mobilisation, war, blockade, strike, terror, terrorist threat, lockout, whole or partial cessation of production/delivery restriction of the manufacturer, etc.) shall release TIM AG from its obligation to perform for the duration of the effects. If TIM AG is unable to deliver for a period of more than six (6) weeks due to such events, it is entitled to withdraw from the contract if this has not yet been fulfilled. Compensation claims on the part of the customer are excluded. In this case, TIM AG shall inform the customer immediately and return any previous payments already provided.

- 2.6 Other overruns of delivery dates/delivery periods shall entitle the customer to withdraw from the contract if it had set TIM AG a reasonable grace period of at least 30 days to no avail. The setting of the grace period must be effected in writing.
- 2.7 TIM AG may also withdraw from the contract if the manufacturer ceases to produce the contractual product after conclusion of the contract. TIM AG shall inform the customer of this immediately.

3. Inspection and transfer of risk

- 3.1 The customer must inspect the goods immediately upon receipt for completeness, conformity with the delivery documents, and any defects. This also applies in the case of direct delivery to the end customer. In the absence of an immediate complaint, the goods shall be deemed to have been properly and completely delivered, unless there is a defect which was not discernible during the inspection carried out with due care.
- 3.2 In the event of damage in transit, it is the responsibility of the customer to immediately initiate a claim for damage with the responsible office (forwarding agency/parcel service), as otherwise any claims against the transport agent/carrier as well as against its insurance may be forfeited.
- 3.3. Non-material defects that do not impair the functionality of the delivery item do not entitle the customer to refuse acceptance of the item.

3.4 The risk of sudden loss and/or accidental deterioration in the condition of the item passes over to the customer upon handover of the contractual item to the carrier.

4. Prices and terms of payment

4.1 The prices in the respective valid specialist retailer price list are ex delivery warehouse TIM AG. These prices do not include packaging, freight, insurance or shipping. Value added tax and other statutory levies in the country of delivery as well as packaging costs, transport costs, transport insurance, environmental and handling charges and/or other contractual additional costs shall be charged to the customer accordingly.

4.2 Invoices are payable by SEPA direct debit the day after delivery, unless otherwise agreed. To this end, the customer will issue TIM AG a corresponding direct debit mandate upon conclusion of the contract. Cheques shall be accepted only as conditional payment. If the payment is not made in due time according to the agreed terms of payment, default interest at the rate of nine (9) percentage points above the base rate will be charged. TIM AG is, however, entitled to prove and assert further damage caused by the default.

4.3 If the customer is granted special conditions for certain end customers, the customer may only use the deliveries and services of TIM AG for the end customer named in the offer or the order confirmation. Should the customer nevertheless pass on deliveries and services of TIM AG to other end customers, TIM AG reserves the right to charge the customer for these deliveries and services under the conditions applicable to end customers in deviation from the agreements.

4.4 Insofar as the agreed terms of payment are not fulfilled without a justifiable reason, TIM AG can at any time demand delivery either against cash or against an advance or collateral. All outstanding claims, including those for which TIM AG has accepted bills of exchange or agreed to be paid in instalments, shall become due immediately in this case insofar as they are based on the same legal relationship.

4.5 Irrespective of the customer's repayment conditions, TIM AG shall be entitled to offset payments against the customer's older debts first. If there are several older debts, the debt to be first repaid shall be the one which offers a lower security; among several equally secured debts, this shall be the one which is the most burdensome to the debtor; among equally burdensome debts, this shall be the oldest, and with debts of the same age, each debt proportionately.

4.6 An offsetting by the customer with counterclaims and/or the exercise of a right of retention on account of such claims by the customer is only permitted if the counterclaims are undisputed or legally binding.

5. Expanded and extended retention of title

5.1 TIM AG shall retain ownership of the delivery item up until it has received all payments from the business relationship with the customer/buyer. The retention of title also extends to the acknowledged balance, to the extent TIM AG enters the claims against the customer/buyer in current account (current account reservation).

5.2 In the event of behaviour in breach of contract by the customer/buyer, in particular in the case of default of payment, TIM AG shall be entitled, after setting a reasonable deadline, to take back the delivery item; the customer/buyer is obliged to surrender the item. The taking back of the delivery

item by TIM AG always constitutes a withdrawal from the contract. The seizure of the delivery item by TIM AG likewise always constitutes a withdrawal from the contract. In case of seizures or other forms of intervention by third parties, the customer/buyer must immediately notify TIM AG in writing so that the latter can file for court action in accordance with § 771 ZPO (Code of Civil Procedure). If the third party is not in a position to reimburse TIM AG for the legal and extrajudicial costs of court action in accordance with § 771 ZPO, the customer/buyer shall be liable for the loss incurred by TIM AG.

- 5.3 The customer/buyer shall be entitled to sell the delivery item within the ordinary course of business. However, it hereby assigns to TIM AG all claims to the level of the final invoice amount (including VAT) which it accrues from the resale against its buyer or a third party. This assignment shall apply irrespective of whether the delivery item has been resold without or after processing. The customer/buyer also remains authorised to collect this debt after its assignment. TIM AG's right to collect the claim itself shall remain unaffected thereby. However, TIM AG undertakes not to recover outstanding debts for as long as that the customer/buyer duly complies with its payment obligations and is not in arrears. In the event of a breach of payment obligations or late payment, TIM AG may request that the customer/buyer disclose the claims assigned and the debtors in question to TIM AG, provide all information required for collection, surrender the relevant documents, and notify the debtors (third parties) of such assignment of claims.
- 5.4 The reworking or transformation of the delivery item by the customer/buyer shall always be carried out for TIM AG. If the delivery item is processed alongside other items not belonging to TIM AG, TIM AG shall acquire joint ownership of the new item as a proportion of the value of the delivery item to the other processed items at the time of processing. Items arising as a result of processing are subject to the same conditions as a purchased item delivered under reservation of title.
- 5.5 If the delivery item is inseparably combined or mixed with other items not belonging to TIM AG, TIM AG shall acquire joint ownership of the new item as a proportion of the value of the delivery item to the other combined or mixed items at the time of combining or mixing. If the mixing or combination is done in such a way that the customer/buyer's object is considered as the main object, it is agreed that the buyer shall assign proportional joint ownership to TIM AG. The customer/buyer shall hold sole ownership or joint ownership on behalf of TIM AG.
- 5.6 The customer/buyer assigns to TIM AG also the receivables to secure the latter's claims which it accrues vis-à-vis a third party through the combining of the delivery item with a property.
- 5.7 TIM AG undertakes to release the collateral that it holds upon the customer/buyer's request insofar as the value thereof exceeds the claim of TIM AG to be secured by more than 20%.
- 5.8 Items supplied for testing and demonstration purposes remain property of TIM AG. They may only be used by the customer beyond the test and demonstration purpose after a special written agreement with TIM AG.

6. Defects and warranties

- 6.1 For material defects and defects in title in the delivered goods and works, including incorrect and short deliveries, TIM AG shall be liable in accordance with the statutory provisions unless otherwise specified in No. 6 and No. 7.

- 6.2 The legal provisions on supplier recourse, those of the Produkthaftungsgesetz (Product Liability Act), and liability for warranties remain unaffected.
- 6.3 TIM AG is entitled to make partial performances. Partial performances are not deemed material defects within the meaning of § 434 (3) BGB.
- 6.4 Only the product information provided by TIM AG, which have become a component of the contract, shall constitute agreements as to quality. The technical data and descriptions in the product information are, however, no guarantee.
- 6.5 TIM AG does not grant its customers any guarantees, unless such agreements have been agreed individually and in writing between TIM AG and the customer. Any manufacturer's warranty acquired by TIM AG shall be passed on to the customer.
- 6.6 TIM AG assumes no liability for public statements made by third parties.
- 6.7 Warranty claims on the part of the customer presuppose that the latter has fulfilled its obligation to inspect and notify in writing in accordance with § 377 HGB (German Commercial Code), in particular has specifically notified of the defect found and stated the time of the defect discovery.
- 6.8 The buyer must give TIM AG the necessary time and opportunity to examine the notified defect, in particular hand over the goods for this purpose or enable access to the goods supplied for the purpose of the examination.
- 6.9 If, despite all due care, the delivered goods show a defect, TIM AG will either repair or replace the goods or works supplied at its discretion. Replaced parts shall become the property of TIM AG. The subsequent performance requires in each case the setting of a reasonable deadline in writing by the customer.
- 6.10 If the inspection by TIM AG on the basis of the customer's notification of defects reveals that there is no warranty claim, TIM AG shall be entitled to charge the customer for all expenses incurred. In this case, all expenses of TIM AG will be charged at the respectively valid TIM AG service prices.
- 6.11 If TIM AG does not remedy the reported defects within a reasonable grace period of a maximum of 12 months, the customer shall be entitled according to the statutory provisions to withdraw from the contract or to reduce the purchase price and/or compensation for work performed and to demand damages.
- 6.12 The warranty obligation of TIM AG shall not apply in all cases in which defects and other impairments of the services could be based on improper operation by the customer, on an intervention by the customer (e.g. change of implementation), on the services to be provided by the customer (especially data and content) or on an existing system environment of the customer which is not the responsibility of TIM AG, as long as and to the extent that the customer does not prove that the aforementioned circumstances did not cause the occurrence of the defect.
- 6.13 For return shipments effected to assert warranty rights or guarantees and/or for repairs and for returns of any kind, an agreement should be made in advance and an RMA number assigned. The customer shall bear the transport costs of the return to the extent that these increase because

the goods delivered by TIM AG have subsequently been moved to a place other than the customer's delivery address. In this case, a credit for returned goods will be deducted from the additional costs incurred by TIM AG.

7. Limitation of liability and statute of limitation

- 7.1 In the case of property damage or financial loss, TIM AG is not liable on its merits for breaches of duty of its organs and agents caused negligently. This does not apply to damage due to injury to life, limb or health, nor to a violation of the GDPR (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and the repealing of Directive 95/46/EC (General Data Protection Regulation)) by TIM AG as a controller.
- 7.2 In case of violation of material contract obligations (known as "major obligation", i.e. an obligation whose fulfilment is essential to the proper execution of the contract and on adherence to which the contractual partner can and does regularly rely, i.e. a significant main contractual obligation, such as the obligation to delivery free from material defects, as well as consulting, protection and duty of care obligations that are intended to enable the customer to use the delivery object in accordance with the contract or to protect the property of the client or the life and limb of the staff of the client from significant damage), TIM AG is also liable on its merits for breaches of duty by its organs and agents caused negligently.
- 7.3 The statutory liability provisions apply to claims resulting from warranties, resulting from supplier regress in accordance with § 478 BGB and in accordance with the German Product Liability Act.
- 7.4 In the case of property damage or financial loss caused negligently, in the case of violation of a significant contractual obligation ("major obligation"), the liability of TIM AG shall be limited in the amount to the damage foreseeable at the time of contract conclusion and typical to the contract.
- 7.5 TIM AG is not liable for the loss of data where the damage would not have occurred in the case of proper data backup under the customer's responsibility. Otherwise, the liability of TIM AG for the loss of data is limited to the typical expenses involved in restoration that would have occurred in the case of proper data backup.
- 7.6 TIM AG is not liable for the compensation of material or immaterial damage in accordance with Art. 82 GDPR due to a negligent violation of data protection provisions.
- 7.7 Where and to the extent that the liability of TIM AG is excluded, this also applies to the personal liability of the organs, employees, staff, personnel and agents of TIM AG.
- 7.8 Notwithstanding the statutory regulations, the customer must assert any material damage warranty claims against TIM AG within 12 months of transfer of risk or acceptance, otherwise they shall expire by limitation.
- 7.9 This does not apply to damage warranty claims resulting from non-fulfilment of the material damage warranty claims, to claims resulting from restitution obligations, to warranty promises, in the case of supplier regress, or in the case of malicious concealment of a defect. The statutory periods of limitation apply in these cases.
- 7.10 The statutory periods of limitation also apply in the case of claims due to intentional or grossly negligent violations of duty or injury to life, limb or health.

8. Industrial property rights and copyrights of third parties

- 8.1 Software shall be delivered on the basis of the licence agreements of TIM AG with its suppliers. TIM AG shall make these licence agreements available to the customer upon delivery of the goods; the customer undertakes to adhere to these licence agreements and to draw the attention of its end customers to the licence conditions and to oblige the latter accordingly.

9. Export and import permits

9.1 If TIM AG provides services on a cross-border basis, these shall be subject to the granting of an export licence, in particular under German federal foreign trade law. It is the customer's responsibility to obtain information about any relevant export restrictions and/or other licensing requirements and to ensure the legal prerequisites for an authorised export or shipment to third countries and to provide evidence of this at the request of TIM AG.

10. Other provisions

10.1 The customer shall not be entitled to transfer any delivery claims arising from the contract.

10.2 The place of fulfilment is the administrative headquarters of TIM AG. Wiesbaden is agreed as the exclusive place of jurisdiction. The law of the Federal Republic of Germany shall apply exclusively under exclusion of international private law and the UN convention on the international sale of goods (CISG), even if a contracting party has its registered office abroad.

10.3 Order processing takes place at TIM AG using electronic data processing. The customer hereby expressly agrees to the electronic processing and storage of its data arising from and disclosed in the course of the business relationship with TIM AG and which is required for order processing. The customer also consents to TIM AG using this data for its business purposes within the sense of the Datenschutzgesetz (Federal Data Protection Act). This means that TIM AG is entitled to send to the customer direct advertising for their own similar goods or services by e-mail if the customer has transmitted its e-mail address in the course of the business relationship and does not object to this.