

General terms of delivery

General Terms and Conditions of Delivery for use in business transactions with entrepreneurs (as of 10 June 2015)

I. Scope of application

In addition to the individual contractual agreements, these General Terms and Conditions of Delivery (GTCD) apply to all deliveries by Endoservice GmbH (hereinafter referred to as "ES") for all business transactions with customers (hereinafter referred to as "Customer"), insofar as the Customer is an entrepreneur within the meaning of Section 14 BB.

The Customer's general terms and conditions shall only apply insofar as ES has expressly agreed to their validity in writing.

II. Conclusion of contract

- (1) The content of the contract results from our order confirmation, the customer's order and our offer. No verbal collateral agreements have been made.
- (2) The right to correct and timely self-delivery is reserved. ES shall inform the Customer immediately of the possible unavailability of the item and reimburse the corresponding consideration in the event of cancellation.

III. Terms of payment

- (1) Payment shall be due in full upon delivery. The Customer shall be in default without any further declaration by ES if it has not paid.
- (2) ES has the right to demand payment in advance. If ES demands payment in advance, the Customer shall be entitled to provide security in the amount to be paid in the form of a bank guarantee from a bank based in the EU instead of payment in advance. If the Customer makes use of this, the due date provision pursuant to III. (1) shall apply.

IV. Retention of title

- (1) The delivery item shall remain the property of ES until fulfilment of all claims to which ES is entitled from the business relationship.
- (2) The Customer is permitted to process or remodel the delivery item ("processing"). In this case, ES shall acquire co-ownership of the new goods in the ratio of the value (gross invoice value) of the processed delivery item to the value of the other processed goods at the time of processing.
- (3) In the event of the sale of the delivery item or the new goods, the Customer hereby assigns its claim from the resale against its customer with all ancillary agreements to ES by way of security, without the need for any further special declarations. However, the assignment shall only apply to the amount corresponding to the price of the delivery item invoiced by ES. The portion of the claim assigned to ES shall be satisfied with priority.

V. Liability

ES shall be liable in cases of wilful intent or gross negligence on the part of SMT or a representative or vicarious agent and in the event of culpable injury to life, limb or health in accordance with the statutory provisions. Otherwise, ES shall only be liable in accordance with the Product Liability Act, for culpable breach of material contractual obligations or insofar as

ES has fraudulently concealed the defect or has assumed a guarantee for the quality of the delivery item. However, the claim for damages for the breach of essential contractual obligations shall be limited to the foreseeable damage typical for the contract, unless another case of exclusion listed in this paragraph exists at the same time.

VI. Statute of limitations

- (1) The limitation period for claims and rights due to defects in the delivery - regardless of the legal grounds - is one year.
- (2) The limitation periods pursuant to para. 1 shall also apply to all claims for damages against ES in connection with the defect - irrespective of the legal basis of the claim.
- (3) However, the limitation periods pursuant to para. 1 and para. 2 shall apply with the following proviso:
 - a) The limitation periods shall generally not apply in the event of wilful intent or fraudulent concealment of a defect or insofar as ES has assumed a guarantee for the quality of the delivery item.
 - b) The limitation periods shall not apply to claims for damages in the event of a gross breach of duty, in the event of a culpable breach of essential contractual obligations - not consisting of the delivery of a defective item or the provision of a defective work performance - in the event of culpable injury to life, limb or health or in the event of claims under the Product Liability Act. The limitation periods for claims for damages shall also apply to the reimbursement of futile expenses.
- (3) The above provisions shall apply accordingly to claims for damages that are not related to a defect.
- (4) The above provision does not imply a change in the burden of proof to the detriment of the customer.

VII. Traceability

- (1) The customer undertakes to ensure the traceability of products supplied and resold by us to him for at least 10 years from delivery. The customer guarantees that the labelling of the product remains in place in such a way that traceability is maintained.
- (2) The customer further undertakes to co-operate in any necessary quality-related measures (e.g. recalls).

VIII. Final provisions

- (1) The sole place of jurisdiction for all disputes arising from the contractual relationship shall be the registered office of ES.
- (2) The legal relationship between the parties shall be governed by German law without the conflict of law rules of private international law and to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- (3) Should one of the provisions be or become invalid or unenforceable, this shall not affect the validity of the contract. The parties undertake to replace the invalid or unenforceable provision with a valid or enforceable provision that comes as close as possible to the economic intent of the invalid or unenforceable provision.

Repair conditions

Repair conditions (RB) (as of 04/06/2015)

I. Scope of application

1. These terms and conditions apply to all repairs ordered from Endoservice GmbH (hereinafter referred to as Endoservice), insofar as the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code) and nothing else has been expressly agreed in writing. The customer's terms and conditions shall only apply insofar as we expressly confirm their validity in writing.
2. These GTC shall also apply in their currently valid version to future transactions with the customer, the content of which is a repair. Endoservice shall provide the customer with the respective updated version of the STC when subsequent orders are placed.

II. Order / Conclusion of contract / Place of fulfilment

1. Cost estimates are prepared on the basis of a non- or only partially dismantled appliance. If further defects or additional expenses are identified during the execution of the repair that exceed 20% of the originally estimated repair amount, we will inform the customer and only carry out the repair after a new written order has been placed. The cost estimate refers to the defects identified therein.
2. A repair contract is only concluded upon acceptance of our offer / cost estimate. Our offer can be accepted within 4 weeks of receipt.
3. The place of fulfilment is Emmingen-Liptingen.
4. The customer undertakes to ensure the traceability of the products ordered from us and resold by him for 10 years. He guarantees that the labelling of the product will be maintained in such a way that in the event of a defect being detected, the defective parts / products / batches can be traced.

III. Warranty, liability

1. Claims for defects due to faults in the work carried out by us shall expire 6 months after collection or dispatch of the repaired appliance, unless we have caused the defect wilfully or through gross negligence or have fraudulently concealed it. Claims for defects due to improper use, non-observance of the operating instructions, external interference, impact, drop or storage damage for which we are not responsible and normal wear and tear are excluded.

2. The warranty extends exclusively to the repair work carried out.
3. The assertion of claims for damages and expenses due to defects in the repaired devices is excluded if we are unable to carry out subsequent fulfilment for reasons for which we are not responsible. Compensation is limited to the amount of the repair costs. The above does not apply to claims in accordance with §§ 1, 4 ProdHG, in the event of injury to life, limb or health and in cases of intent, malice and gross negligence.

IV. Terms of payment

1. Repair invoices must be paid within 14 days.
2. After prior warning, we shall be entitled to sell equipment provided to us in a pledge sale and to offset the proceeds against our claims against the customer arising from this or previous transactions (balance liability). Additional freight costs incurred due to unauthorised refusal of acceptance shall be borne by the customer.

VI Applicable law, place of jurisdiction, partial invalidity

1. The law of the Federal Republic of Germany applies to these terms and conditions and all legal relationships between Endoservice and the customer. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.
2. If the Customer is a merchant, a legal entity under public law or a special fund under public law, the registered office of ES (Emmingen) shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship.
3. Should a provision in these terms and conditions or a provision within the framework of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements.

Terms and conditions of purchase

Terms and Conditions of Purchase of Endoservice GmbH for use in business transactions with entrepreneurs (as of 03.11.2015)

- I. In addition to the individual contractual agreements, these General Terms and Conditions of Purchase (GTCP) shall apply to all orders placed by Endoservice GmbH (hereinafter referred to as "ES") for all business transactions with suppliers and other contractors (hereinafter referred to as "Supplier").

The Supplier's general terms and conditions shall only apply insofar as SMT has expressly agreed to their validity in writing.

- II. The supplier assumes the procurement risk and is fully responsible for the procurement of the contractually agreed delivery and service and the necessary supplies and services - even if not at fault.

- III. The prices include packaging and free delivery.

- IV. The supplier, who is not merely an intermediary, shall be liable for defects in his delivery or service even if he is not at fault.

- V. The limitation period for claims and rights of ES due to defects in the delivery or service - irrespective of the legal grounds - is three years. Longer statutory limitation periods shall remain unaffected, as shall further provisions on the suspension of expiry, suspension and recommencement of limitation periods.

- VI. (1) The sole place of jurisdiction for all disputes arising from the contractual relationship shall be the registered office of ES.

- (2) The legal relationship between the parties shall be governed by German law without conflict of laws provisions and excluding the UN Convention on Contracts for the International Sale of Goods.

- (3) All contractual terms and conditions are set out in our order and these GPC. There are no verbal collateral agreements.

- (4) Should one of the provisions be or become invalid or unenforceable, this shall not affect the validity of the contract. The parties undertake to replace the invalid or unenforceable provision with a valid or enforceable provision that comes as close as possible to the economic intent of the invalid or unenforceable provision.