

General Terms and Conditions of Business and Data Protection and Privacy Statement of Ilgenfritz-Electronics GmbH & Co. KG, last updated May 9, 2018

1. General provisions

1.1 Our ("Ilgenfritz-Electronics GmbH & Co. KG") goods and services are subject exclusively to these General Terms and Conditions of Business; general terms and conditions of business or terms and conditions of purchasing of the customer that conflict herewith or deviate from our General Terms and Conditions of Business are acknowledged by us only to the extent to which we have expressly consented thereto in writing. They are not valid even if we have not objected thereto in the individual case.

1.2 The provisions of Sec. 1.1 above also apply to all future transactions with the customer.

1.3 Assignment of claims against us to third parties is prohibited. Nothing herein shall affect the provisions of Sec. 354a of the German Commercial Code (HGB).

1.4 The customer is only permitted to offset claims of the customer's own, even claims concerning defects or counterclaims, against our claims if the claims being asserted have been established with final, binding legal force or acknowledged by us or are undisputed. The customer is not permitted to exercise any right of retention or withholding except if the counterclaim is based on the same contractual relationship as the one from which the customer's payment obligation arises.

1.5 The sale, resale, and disposition of goods and services and any and all technology or documentation associated therewith may be subject to German, EU, and/or U.S. export control laws and possibly the export control laws of further states. By placing an order, the customer declares compliance with such laws and regulations. The customer declares that it will obtain all permits and authorizations necessary for export and/or import, as the case may be.

2. Deliveries and other services

2.1 Offer; scope of delivery

2.1.1 Our offers are issued on a non-binding basis and subject to change. The items offered on our website or in the catalogue/brochures represent a non-binding invitation to the customer to order goods from us.

2.1.2 By ordering the desired goods by filling out and submitting the order form on the Internet, via e-mail, by fax, phone, or mail, the customer makes a binding offer to enter into a purchase agreement.

2.1.3 We are permitted to accept this offer within a period of 30 calendar days by transmitting an order confirmation or sending the goods ordered. The order confirmation will be issued by way of transmission by e-mail, fax, or mail. If the time limit elapses without confirmation being issued or the goods being sent, the offer is deemed to have been rejected.

2.1.4 The documents pertaining to any offer made by us, such as illustrations, drawings, and indications of weights and dimensions, are only approximations. Deviations from product information are permitted to the extent that they are minor, do not represent material defects, and do not violate a binding promise.

2.1.5 We reserve the rights of ownership and copyright to all drafts, catalogs, advertising materials, illustrations, drawings, calculations, and other documents. This also applies to written documents that are designated as "confidential." The customer requires our express written consent before disclosing these to third parties.

2.2 Information; advice

We provide information and technical advice to the best of our knowledge based on our experience. All information regarding the suitability and use of our products is, however, not binding and does not relieve the customer of the obligation to perform its own checks. Section 10 of these General Terms and Conditions of Business applies to liability, if any.

2.3 Prices

2.3.1 Unless otherwise stated in our order confirmation, our prices apply "ex works," exclusive of packaging, insurance, costs of carriage and any surcharge for lower quantities that may apply. These items will be billed separately. The disposal of the packaging shall be handled by the customer at the customer's own expense.

2.3.2 All prices are net prices, not including value-added tax (VAT). VAT shall be charged and stated separately in the invoice, in the amount applicable by law on the date of invoicing (currently 19%).

2.4 Payments

2.4.1 Payments must always be made in advance unless otherwise agreed in writing. In the event of default of payment, the provisions of Sec. 5.2 shall apply, and in addition thereto the statutory provisions concerning default of payment.

2.4.2 In the event of default of payment or if our claims are jeopardized by a deterioration in the customer's creditworthiness, we are entitled to render our claims arising from the business relationship with the customer due and payable. In that case, we are also entitled to refrain from making any deliveries that may still be pending, except if advance payment is made or security is provided. If the customer is unable to provide security within a reasonable time limit that has been set with a threat to rescind the contract where applicable, we have the right to rescind the contract.

2.4.3 We are entitled to charge default interest in the amount of nine percentage points above the then-applicable basic rate of interest set by the ECB p.a. from the time at which default first occurs onward. Nothing herein shall affect the right to assert claims for any higher amount of damage or loss that is actually sustained.

2.5 Delivery time

2.5.1 Unless expressly agreed otherwise, we deliver ex works or ex warehouse.

2.5.2 Delivery deadlines and delivery time limits, which may be agreed on a binding or non-binding basis, must be stated in writing and are agreed only on the condition that we are supplied correctly and on time by our own suppliers.

2.5.3 The agreed delivery time limit is deemed to have been complied with if the delivery item is available for pick-up at the plant or warehouse before the time limit expires.

2.5.4 War, strike, lockout, shortages of raw materials and/or energy, disruptions in traffic and transportation and unavoidable operational disruptions, governmental interventions – including to the extent that they render the implementation of the business in question not cost-effective on a lasting basis for the foreseeable future – and all other cases of force majeure, including those affecting our suppliers, shall release us from the obligation to deliver for the duration of the disruption and within the scope of the effects thereof. Such events shall entitle us to rescind the contract in whole or in part without the buyer having a right to damages.

2.5.5 Partial deliveries are permissible and must be paid for in accordance with the terms and conditions to the extent that they are reasonable for the customer.

2.6 Passage of risk; acceptance

2.6.1 The customer is obligated to pick up/accept the delivery item without delay after it is provided at the plant or warehouse.

2.6.2 If the delivery item is sent to the customer at the customer's request, the risk of accidental loss or deterioration thereof shall pass to the customer upon sending of the delivery item, and in any event no later than when it leaves the plant or warehouse. This applies regardless of who bears the costs of shipping.

2.6.3 If the customer falls into default of acceptance, we are entitled to demand compensation for the costs incurred by us; the risk of accidental deterioration or loss shall pass to the customer at the time when default first occurs.

2.6.4 Without prejudice to the rights arising from Sec. 9 of these Terms and Conditions, the customer is obligated to accept delivery items even if they have minor defects.

2.7 Retention of title

2.7.1 The delivery items remain our property (goods subject to retention of title) until such time as all claims arising from the legal relationship underlying the delivery have been fulfilled, regardless of the legal basis thereof.

2.7.2 In the event that the goods subject to retention of title are processed, combined, and/or intermixed with other goods by the customer, we are entitled to co-ownership of the new item in the same proportion as the invoiced value of the goods subject to retention of title to the value of the other goods used. If our ownership lapses due to processing, combination, or intermixture, the customer hereby assigns to us the ownership rights to which the customer is entitled with regard to the new status or the item within the scope of the value of the goods subject to retention of title and shall keep them safe for us on a gratuitous basis. The co-ownership rights arising pursuant to this provision apply as goods subject to retention of title within the meaning of Sec. 8.1 hereof.

2.7.3 The customer is only entitled to further process the goods subject to retention of title, combine them or intermix them with other items, and/or resell them within the scope of proper business operations and only as long as the customer is not in default. Any other disposal of the goods subject to retention of title is not permitted. Attachment, distraint, or other interference with the goods subject to retention of title by third parties must be communicated to us without delay. All intervention costs shall be borne by the customer to the extent that they cannot be collected from the third party in question. If the customer defers or extends the purchase price for its own customer, the customer must retain title to the goods subject to retention of title toward its own customer on the same terms as those on which we have retained title to the goods subject to retention of title upon delivery. Otherwise, the customer is not permitted to resell the goods.

2.7.4 The customer's claims from the resale of the goods subject to retention of title are hereby already assigned to us. They serve to provide security in the same scope as the goods subject to retention of title. The customer is only entitled and authorized to resell the goods if it is ensured that the claims to which the customer is entitled on that basis pass to us.

2.7.5 If the customer sells the goods subject to retention of title at an overall price together with other goods not supplied by us at, the assignment of the claim arising from the sale takes place in the amount of the invoiced value of the goods subject to retention of title that have been sold by us in the specific case.

2.7.6 The customer is entitled to collect on the claims assigned to us unless and until we revoke this permission. We are entitled to revoke permission if the customer does not comply with its payment obligations arising from the business relationship with us on time. If the prerequisites for the exercise of the right of revocation are met, the customer must, at our request, notify us without delay of the claims assigned and the debtors thereof and of all information necessary to collect on the claims and must turn over the associated documents to us and notify the debtor of the assignment. We are also entitled to notify the debtor of the assignment ourselves.

2.7.7 If the value of the security existing for us exceeds the claims secured by more than fifteen (15) percent in total, we are obligated to release items of security of our choice to this extent, at the customer's request.

2.7.8 If we assert the retention of title, this does not constitute rescission of the contract unless we expressly declare such rescission in writing. The customer's right to possess the goods subject to retention of title shall lapse if the customer does not meet its obligations arising from the legal relationship underlying the delivery.

2.8 Warranty; material defects

2.8.1 The customer's warranty claims in the event of defects are geared toward the statutory provisions within the time limits established by law, except where otherwise provided hereinafter.

2.8.2 The applicability of Sec. 439 (2) and (3) of the German Civil Code (BGB) is ruled out; this does not apply to the extent that a defect in performance by us becomes, in whole or as a partial service, the subject of a warranty claim of a consumer positioned further along the supply chain. The provisions of Sec. 377 of the German Commercial Code (HGB) shall apply in all cases.

2.8.3 In the event of purchase of new delivery items, the customer's warranty claims in the case of defects shall lapse one year after receipt of the delivery items.

2.8.4 The customer shall have no warranty claims in the case of purchase of used delivery items.

2.8.5 The limitation period of one year or the exclusion of warranties, as the case may be, shall not apply if the obligation to render compensation is based on bodily injury or impairment of health due to a defect for which we are responsible or to intentional conduct or gross negligence or its agents in the performance of its contractual obligations. Without prejudice to the foregoing, we are liable pursuant to the German Product Liability Act (ProdHaftG).

2.8.6 The warranty does not apply if the customer modifies the delivery items, or permits or causes them to be modified by third parties, without our consent or uses them improperly and the remediation of defects is thereby rendered impossible or more difficult to an unreasonable extent. In all cases, the customer must bear the additional costs of remediation of defects that arise from the modification.

2.8.7 The customer is obligated to inspect the delivery item for any defects upon delivery and to notify us of any such defects in writing without delay. The relevant provisions and legal consequences stipulated in the German Commercial Code (HGB) shall apply accordingly.

2.8.8 If a complaint regarding a defect turns out to be unjustified, the customer must compensate us for all expenses we have incurred as a result of the complaint.

2.9 Liability for damages due to fault

2.9.1 Our liability for damages, irrespective of the legal basis therefor, especially arising from impossibility, default, defective or incorrect delivery, breach of contract, breach of duties in the case of contractual negotiations, and tortious acts, is limited pursuant to the provisions of this Sec. 10 to the extent that the matter concerns fault in each case.

2.9.2 We are not liable in cases of ordinary negligence on the part of our corporate bodies, statutory representatives, employees, or other agents in the performance of our contractual obligations except where the matter concerns a breach of essential contractual duties. "Essential contractual duties" means those duties that confer upon the parties to the contract the right that the contract, according to its content and purpose, is specifically supposed to ensure, particularly those duties whose fulfillment renders the proper implementation of the contract possible in the first place and in compliance with which the other party to the contract generally can and does trust.

2.9.3 To the extent that we are liable on the merits for damages pursuant to Sec. 10.2 hereof, this liability is limited to damage and/or losses that we have foreseen at the time of entry into the contract as a possible consequence of breach of contract or that we should have foreseen if we had exercised the customary level of care. Indirect damage and/or losses and consequential damage and/or losses resulting from defects in the delivery items delivered are moreover only subject to compensation to the extent that such damage and/or losses are typically expected if the goods are used as agreed.

2.9.4 In the event of liability for ordinary negligence, our liability for property damage and the further financial losses arising therefrom is limited to EUR 10,000 per event (corresponding to the current coverage provided under our product liability insurance or other liability insurance), even if the matter concerns a breach of essential contractual duties.

2.9.5 The foregoing disclaimers and limitations of liability apply to the same extent for the benefit of our corporate bodies, statutory representatives, employees and other agents in the performance of our contractual obligations.

2.9.6 To the extent that we provide technical information or advice and this information or advice is not part of the scope of services owed by us and contractually agreed, this takes place on a gratuitous basis and to the exclusion of any and all liability.

2.9.7 The restrictions provided in this Sec. 10 do not apply to our liability due to intentional and grossly negligent conduct, for warranted quality features, due to loss of life, bodily injury, or impairment of health, or pursuant to the German Product Liability Act (ProdHaftG).

2.10 Consequences and risks of chip tuning

Please note that in Germany, the installation of supplementary electronics (tuning chip) and/or AdBlue electronics has consequences. These are as follows:

- in Germany, the installation of the supplementary electronics (tuning chip) causes the authorization to operate the agricultural machine to lapse;
- the operation of an agricultural machine on public roads in Germany without authorization leads to loss of insurance coverage;
- the operation of an agricultural machine on public roads without adequate insurance coverage is a punishable act in Germany;
- the installation of the supplementary electronics (tuning chip) causes the warranty claims toward the seller and toward the manufacturer to lapse;
- the installation of the supplementary electronics may lead to the loss of tax incentives for low-emission vehicles under the German Motor Vehicle Tax Act (Kraftfahrzeugsteuergesetz). This is a punishable act in Germany;
- the installation of the supplementary electronics can cause the agricultural machine to emit higher levels of harmful pollutants and thereby violate prohibitions on operating certain vehicles. This is an administrative offense in Germany.

3. Terms of service for the online portal www.ceresprotect.de

3.1 Scope of application

The use of the online portal www.ceresprotect.de with all associated subdomains (hereinafter "online portal") is subject within the relationship between the user – all users who are registered as recipients of services of any kind – and the operator of the site, Ilgenfritz-Electronics GmbH & Co. KG, to the terms of service set out below. Use by the user is permitted only if the user accepts these terms.

3.2 Registration

3.2.1 The user must apply for registration as a user, providing all data relevant for business purposes correctly and using the user registration form provided for this purpose in the online portal, and must be approved by us in order to be able to use the online portal and the services offered there.

3.2.2 We will review the data provided by the user in the application and expressly reserve the right to request further information not elicited in the registration form.

3.2.3 If the outcome of the review of the application is positive with regard to the user's suitability and reliability, we will approve the user to use the online portal, and corresponding access information for the user's area of the online portal and/or the public area of the online portal will be sent to the user. The user will then be a user of the online portal.

3.2.4 The user is not permitted to log in using the data of other users or to provide false information during the registration process. All users are only permitted to register once. The user is also obligated to keep the user's own access information secret and protect it against third-party access.

3.2.5 There is no entitlement to registration. We are not obligated to accept a registration application, and we reserve the right to reject registrations without stating any reasons.

3.2.6 As a registered user, the user is permitted, for the term of the user's membership, to make use of not only the services mentioned in Sec. 5 hereof, but also to create a personal profile of the user, accessible within the online portal or, at the user's option, publicly accessible, and to connect with other members ("network").

3.2.7 When the user registers, the user is required to accept these terms of service. The user affirms that he or she is of legal age and/or an authorized representative at the time of registration.

3.3 Term

3.3.1 The user's membership depends on the registration of at least one device. After all devices have been de-registered, the membership shall lapse three months after the last device has been deleted unless a new device is registered during this period.

3.3.2 Nothing herein shall affect the right of extraordinary termination for good cause.

3.4 Costs

Membership as a user of the online portal is free of charge.

3.5 Liability for the online portal

3.5.1 We are not liable for content, programs, or executed functions that are disseminated in the online portal or executed by the online portal after configuration by the user or for damage and/or losses that arise therefor unless such damage and/or losses are caused by us through intent or gross negligence. This applies to all kinds of damage and/or losses, especially damage and/or losses that may arise as a result of errors, delays or interruptions in transmission, disruptions of the technical equipment or systems and the service, incorrect content, loss or erasure of data, viruses or otherwise during the use of this online offering.

3.5.2 We assume no responsibility for the content, freedom from errors, lawfulness and/or functionality of third-party websites linked to via the online portal. Accessing a site via links is at the user's own risk.

3.5.3 We are not liable for disruptions in the quality of access due to force majeure or based on events for which we are not responsible, particularly failures of communication networks and gateways. We make no warranty that the website will function without interruption or error or that any errors that may exist will be corrected. We also make no warranty that the content of the website is correct.

3.6 Copyright

The content offered via the online portal is protected under copyright. Use thereof is subject to the applicable copyrights. This website must not be modified, copied, re-published, transferred, disseminated, or stored without our consent. Any and all materials must be used exclusively in strict observance of all copyrights.

3.7 Release and indemnification

3.7.1 The user releases and indemnifies us from and against any and all claims, including claims for damages, which other users or other third parties may assert against us due to an infringement of their rights by the content placed on the online platform by the user. The user moreover releases and indemnifies us from and against any and all claims, including claims for damages, which other users or other third parties may assert against us due to the infringement of their rights by the user's use of the online platform. The user shall assume all reasonable costs incurred by us due to an infringement of rights of third parties, including the reasonable legal defense costs incurred. Nothing herein shall affect any further rights or claims for damages on our part.

3.7.2 The foregoing obligations of the user shall not apply to the extent that the user is not responsible for the infringement of rights in question.

3.7.3 If the user's content infringes the rights of third parties, the user shall, at our option, either procure for us at the user's own expense the right to use the content or design the content such that it is free of property rights. If the user's use of the online portal infringes the rights of third parties, the user shall immediately discontinue the use that is in breach of contract and/or unlawful at our request.

3.8. Final provisions – Data processing; miscellaneous provisions

3.8.1 We store and transfer the customer's order-related personal data exclusively for the purpose of processing and handling the customer's order (Article 6 GDPR). Pursuant to the provisions of the GDPR, the German Federal Data Protection Act (BDSG), and the German Tele-Media Act (TMG), we agree to maintain comprehensive protection of the customer's personal data.

3.8.2 We are – not – willing to participate in dispute resolution proceedings (Sec. 36 and 37 of the German Act on Alternative Dispute Resolution in Consumer Matters (VSBG)).

3.8.3 The substantive law of the Federal Republic of Germany applies; the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is ruled out.

3.8.4 Unless otherwise stated in the order confirmation, the location of our company's registered office is the place of performance.

3.8.5 If the customer is a businessperson (Kaufmann), legal entity under public law, or a public-law special fund, Schweinfurt is the exclusive place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship. The same applies if the customer is based in another country.



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