

General terms and conditions of the company Touch Design Europe GmbH & Co. KG Status: March 2022

§ 1 Scope

- (1) Our general terms and conditions of business apply exclusively to existing and also future business relationships. We do not recognise any terms and conditions of the customer that conflict with or deviate from our general terms and conditions unless we have expressly agreed to their validity in writing. Our terms and conditions shall also apply if we carry out the delivery to the customer without reservation in the knowledge of terms and conditions of the customer that conflict with or deviate from our terms and conditions.
- (2) Verbal agreements prior to or upon conclusion of the contract require our written confirmation to be effective.
- (3) Our terms and conditions apply exclusively to companies (legal entities under public law and special funds under public law). If the customer is not an entity, the statutory provisions shall apply.
- (4) Our terms and conditions shall also apply to all future business with the customer, even if they are not expressly included again.
- (5) For contracts in the form of already existing continuing obligations, these General Terms and Conditions shall only apply from 01.01.2019. Until this date, our previous General Terms and Conditions shall apply, which can be sent immediately on request or accessed on our homepage at www.touch-design.com.

§ 2 General regulations

- (1) The customer's general terms and conditions of business or purchase shall only apply if they have been expressly agreed to in writing by Touch Design. The mutual concurring written declarations are decisive for the scope of the deliveries.
- (2) Orders shall only become binding with our order confirmation or its fulfilment.
- (3) Our specifications do not absolve the customer from checking the suitability for the intended area of application in each case. We reserve the right to make technical changes at any time and will inform the customer accordingly. Any liability in connection with technical application advice is excluded.

- (4) Our information and recommendations are given in best faith. Suggested uses and applications are the opinion of Touch Design only and the customer should carry out their own testing procedures to confirm suitability for their purposes. Touch Design makes no warranty and disclaims all warranties, express or implied, by law, except that the materials conform to their standard specifications currently in force. The statements contained herein should therefore not be construed as warranties of satisfactory quality or suitability for purpose. Touch Design's responsibility for claims arising from breach of warranty, negligence, strict liability or otherwise is limited to the purchase price of the material. Suggestions as to working practices and procedures are based on experience and practices adopted from existing customers of the products and are made in good faith. It is the responsibility of the customer to ensure that all relevant health and safety laws and regulations are complied with. Touch Design makes no representations about such laws and regulations and accepts no responsibility, express or implied, for any breach of such regulations. Statements regarding the use of the products described herein should not be construed as a recommendation to infringe any patent and no liability is accepted for any infringement arising from such use.
- (5) The customer has the non-exclusive right to use standard software and firmware with the agreed performance features in unchanged form on the agreed devices. The customer may not make a copy of the standard software without an explicit agreement.

§ 3 Offer, Acceptance

- (1) Our offers are non-binding; cost quotations are non-binding.
- (2) Verbal collateral agreements or commitments that go beyond the content of the written offer are invalid.
- (3) The delivery times stated in the offer are approximate and non-binding, unless their binding character has been specifically agreed.
- (4) Our customers may accept an offer informally. A binding contract is concluded through our order confirmation.

§ 4 Prices- Terms of payment- Settlement

- (1) Unless otherwise specified in the order confirmation, our prices shall apply "ex works/ex warehouse" (EXW in accordance with ICC INCOTERMS 2020), excluding packaging; packaging, freight and other special services shall be charged according to expenditure and invoiced separately or charged via a flat-rate shipping and handling fee.
- (2) Invoicing shall be based on the prices valid at the time of delivery plus the legal value added tax. VAT shall not be charged only in cases where the conditions for tax exemption of export deliveries are met.

- (3) Unless otherwise specified in the order confirmation, the net purchase price (without deduction) shall be due for payment within 30 days of the invoice date. If the customer is in default of payment, we shall be entitled to charge default interest in the amount of 9 percentage points above the base interest rate. In addition, we reserve the right to claim further compensation for default. In the case of the second reminder stage, we shall charge an additional flat rate of € 50.
- (4) The customer shall only be entitled to set-off rights if his counterclaims have been legally established, are undisputed or have been recognised by us. In addition, he is only entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.
- (5) The minimum order value for customer orders shall be at least € 500.00.
- (6) As far as our claim for payment is endangered as a result of subsequently occurring circumstances from which a significant deterioration of assets results, such as non-compliance with the terms of payment and / or default, we are entitled to make all claims from the business relationship due immediately. This shall also apply in the case of deferment. Under the same conditions, we may demand advance payments or securities for all current transactions. The statutory regulations on payment transactions remain unaffected by this.
- (7) Invoicing shall be in Euro or USD.

\$ 5 Delivery - Delay in delivery

- (1) Agreed delivery periods refer to the dispatch of the goods ex works or shipping point. They shall not commence before the customer has fulfilled existing duties to cooperate, in particular the documents to be provided by the customer, or after the agreed down payment has been made.
- (2) Touch Design is entitled to postpone the delivery date accordingly or, if the fulfilment of the order is seriously called into question or becomes impossible due to the events listed below, to withdraw from the contract in whole or in part without the customer incurring any claims for damages if force majeure and other events outside our sphere of influence occur which could call into question the smooth processing of the order, in particular delays in delivery on the part of our suppliers, traffic or operational disruptions, industrial disputes, shortages of materials and energy, measures taken by state authorities, as well as import and export restrictions. If the agreed delivery deadlines cannot be met, they shall be extended appropriately without the customer being able to assert any claims against us as a result. This shall also apply if the aforementioned events occur at a time when we are in default. In cases of doubt, the conditions for force majeure of the International of Commerce (ICC) shall be deemed to have been agreed between you and us. These can be accessed via the link: <https://iccwob.org/publication/icc-force-majeure-and-hardship-clauses/>.

- (3) In the case of delay in acceptance or other attributable breaches of the customer's duties to cooperate, we shall be entitled to compensation for the resulting damage, including any additional expenses.

§ 6 Framework orders - Total delivery orders Consignment deliveries

- (1) In the case of total orders for which partial deliveries are ordered on a call-off basis, the customer bindingly undertakes to accept the entire framework order quantity.
- (2) The term of framework agreements / consignment agreements shall be a maximum of 12 months with binding acceptance of a minimum order value of € 10,000.00 to € 50,000.00, the minimum value per call order shall be € 2,000.00. Individual framework orders may deviate from the above regulation. If the standard term for framework orders is exceeded by a maximum of 12 months, we reserve the right to make a price correction due to currency or raw material price movements.
- (3) If the customer does not fulfil his obligations, payment of the remaining quantity still open for delivery shall become due in full immediately upon expiry of the 12-month period, no matter how many partial deliveries have actually been accepted by the customer up to this point in time. Payment shall be due within the agreed payment terms.
- (4) If, at the end of the agreed term, the open remaining quantity of the ordered products is not yet completely finished at Touch Design, but is prefabricated as assemblies, Touch Design is entitled to invoice the customer for the value of the prefabricated stock quantity and, if necessary, to deliver it or, after consultation, to continue to store it for later delivery acceptance of the end products.
- (5) Should an extension of the term for the open remaining quantity be agreed, Touch Design shall be entitled to charge an interest rate of 9% of the agreed purchase price for the open remaining quantity.
- (6) Orders processed via consignment deliveries ("KONSI") must be accepted within the agreed term (generally 12 months for blanket orders). The removal from the KONSI stock and payment of these KONSI stocks must take place no later than 3 months after delivery. A KONSI inventory is reconciled with the customer at least once a year.

§ 7 Shipping - Packaging - Transfer of risk

- (1) Shipment shall be made to the place of delivery at the expense and risk of the customer. Touch Design assumes no liability for the cheapest shipping.
- (2) Delivered products shall be accepted by the customer, even if they have minor defects, without prejudice to the customer's rights under the following terms and conditions. Partial deliveries are permissible if they are reasonable for the customer.
- (3) As a matter of principle, Touch Design does not take out transport insurance, but only on the instructions of the customer. The costs for this shall be paid by the customer.

- (4) All costs for the disposal of packaging materials are the responsibility of the customer. Return deliveries of empty packaging by the customer will be accepted by us free of charge and no remuneration will be made for this. The delivery of returned packaging to Touch Design must be free of charge.
- (5) The risk shall pass to the customer when the products are handed over to the forwarder/carrier or when they leave the warehouse, even if Touch Design has taken over the delivery.

§ 8 Defect inspection - Warranty

- (1) The customer's warranty rights presuppose that the customer has duly complied with its inspection and notification obligations owed under § 377 of the German Commercial Code (HGB). This includes, among other things, that the customer immediately notifies Touch Design in writing of any defects.
- (2) Contractual claims for liability for defects (warranty) can only be asserted within twelve (12) months after the transfer of risk.
- (3) Touch Design particularly notes that we are only liable for the costs of a recall or precautionary replacement of our products if a legal obligation exists, unless the bearing of costs has been agreed with us in advance in writing and is binding. This also applies to purely optical defects. As a rule, we also do not assume the costs of a precautionary replacement as a gesture of goodwill or for image reasons, in which any defects do not represent a danger to the legal interests of third parties
- (4) As far as there is a defect in the purchased item for which we are responsible, we are entitled to subsequent performance, i.e. rectification of the defect or replacement delivery, at our discretion. The prerequisite for this is that the defect is not insignificant. If one of the two or both types of this supplementary performance is impossible or disproportionate, we are entitled to refuse it. We may refuse subsequent performance as long as the customer does not fulfil his payment obligations towards us to an extent corresponding to the defect-free part of the performance. In the event of rectification of the defect, we shall be obliged to bear all expenses necessary for the purpose of rectifying the defect, in particular transport, travel, labour and material costs, insofar as these are not increased by the fact that the purchased item has been taken to a place other than the place of performance.
- (5) If we are not prepared or not in a position to provide subsequent performance, in particular in the case of culpable delay, refusal or triple failure, the customer shall be entitled, at his discretion, to withdraw from the contract or to demand a corresponding reduction in the purchase price.
- (6) The warranty claims are limited to an amount of at least € 1 million within the scope of the insurance cover for product liability risks as personal injury, property damage and further damage arising therefrom, as far as these were caused by products manufactured or delivered by us.
- (7) Unless otherwise stated below, further claims of the customer - irrespective of the legal grounds - are excluded. Touch Design is therefore not liable for damage that has not occurred to the delivery item itself, especially for damage that has occurred due to incorrect installation of the product by a third party.
- (8) Touch Design is not responsible for loss of profit or damage to the customer's assets; this also includes claims that do not result from the defectiveness of the delivery item.

- (9) The exclusion of warranty provided for in paragraph 1 shall not apply if an exclusion or limitation of warranty for damages resulting from injury to life, body or health has been agreed which is based on an intentional or negligent breach of duty committed by us or an intentional or negligent breach of duty committed by our legal representatives or vicarious agents. This shall also not apply if an exclusion or limitation of liability for other damage has been agreed which is based on an intentional or grossly negligent breach of duty committed by us or an intentional or grossly negligent breach of duty committed by our legal representatives or vicarious agents. If we culpably breach an essential contractual obligation or a "cardinal obligation", liability shall not be excluded, but shall be limited to the foreseeable damage typical for the contract. Otherwise, it is excluded in accordance with paragraph 1. Furthermore, the exclusion of liability shall not apply in cases in which liability is assumed under the Product Liability Act for personal injury or property damage to privately used objects in the event of defects in the delivery item. It shall also not apply in the event of the assumption of a guarantee or the assurance of a characteristic, if it is precisely a defect covered by this that triggers our liability. In the event of reimbursement of expenses, the above shall apply accordingly.
- (10) Touch Design accepts no warranty for damage for the following reasons: Unsuitable or improper use, faulty assembly by the customer or a third party, natural wear and tear, faulty or negligent handling, unsuitable operating materials, replacement materials, chemical, electronic or electrical influences (insofar as we are not responsible for them), improper modifications or repair work carried out by the customer or a third party without our prior approval.
- (11) Claims for defects cannot be made against Touch Design in the case of only insignificant deviations from the agreed quality, insignificant impairment of usability and non-reproducible software errors.
- (12) Claims for supplementary fulfilment, damages and compensation for use shall become time-barred in accordance with the statutory periods. The claims for reduction and the exercise of a right of withdrawal are excluded as far as the claim for supplementary performance is time-barred. In the case of sentence 2, however, the customer may refuse payment of the purchase price to the extent that he would be entitled to do so on the basis of withdrawal or reduction. In the case of the exclusion of withdrawal and a subsequent refusal to pay, Touch Design is entitled to withdraw from the contract.
- (13) Claims arising from manufacturer's recourse shall remain unaffected by this section.

§ 9 Ownership of means of production - property rights (intellectual property and defect liability)

- (1) All means of production, in particular the operating items used by us to manufacture the contractual product, shall remain our property, even if they and/or their development are invoiced separately, and shall not be delivered to the customer or third parties. One-off costs, e. g. for the creation of means of production, are in principle to be understood as pro rata. The cost shares do not include the constructive and intellectual performance or development work.
- (2) Copyrights and/or property rights of the customer remain unaffected by this regulation.

- (3) Touch Design undertakes not to pass on such means of production to third parties in the future or to process orders from third parties on the basis of such means of production if this would infringe any copyrights and/or industrial property rights of the original customer.
- (4) The customer shall be solely responsible if rights, in particular copyrights of third parties, are affected by the execution of his order. The customer shall indemnify us against all claims of third parties due to such an infringement.
- (5) Touch Design shall store the means of production, e. g. cutting tools, free of charge for 2 years after the last delivery to the customer. Thereafter, we shall request the customer in writing to comment on further use within 6 weeks. Our obligation to store the tools ends if no comments are made within these 6 weeks or no new order is placed.
- (6) Warranty for defects in the development service or the associated work results and samples shall be governed by the statutory provisions of the law on contracts for work and services. This shall also apply regarding individual software. For our standard software or software from third parties, the law on sales contracts shall generally apply.
- (7) For a substantial part of our development services, we use our own know-how developed at our expense with regard to software and hardware to which we are entitled to already existing industrial property rights (e.g. patents or copyrights) ("Background Know-how" or "Existing Intellectual Property Rights"). This Background Know-How and the IP Rights therein remain our sole intellectual property. Our customers usually only receive a simple licence to our background know-how within the scope of development orders, which gives them the possibility to resell the products manufactured by us. This enables us to offer our customers cost-effective developments of individual products. Details or deviations from this can be expressly agreed in writing in individual cases.

§ 10 Tools & other operating/manufacturing equipment

- (1) In order to manufacture customer-specific products, special tools or other operating/manufacturing equipment (hereinafter referred to as "tools") may have to be manufactured individually for our customers. The costs for this shall be borne either by the customer in full or proportionately as so-called one-off costs.
- (2) As far as one-off costs are concerned, which cover 100% of the costs for the production of the tools (full costs), the ownership of these shall also not pass to the customer upon full payment of the tool costs.
- (3) Insofar as the one-off costs are pro rata one-off costs (usual procedure), these tools or other operating/manufacturing equipment shall also remain the property of Touch Design. However, we undertake not to use the individually manufactured tools or operating/manufacturing equipment for our own or third party purposes without consent, but in case of doubt only for the manufacture of the products of the respective customer.
- (4) The maintenance and servicing costs shall be borne by the respective owner, unless otherwise contractually agreed.

§ 11 Export - Export control

- (1) The customer undertakes to observe and comply with all national, European and international export regulations and export control regulations when exporting the products purchased from us.
- (2) The customer is obliged to procure all information and documents required for the export, transfer or import at his own expense. The refusal of an export licence does not entitle the customer to withdraw from the contract or to claim damages.
- (3) The customer releases Touch Design from any kind of legal liability.

§ 12 Reservation of ownership

- (1) We retain ownership of the purchased item until receipt of all payments arising from the delivery contract. In the event of breach of contract by the customer, in particular in the event of default in payment, we shall be entitled to take back the object of sale; in this case the customer already now agrees to take it back. The taking back of the object of sale by Touch Design does not constitute a withdrawal from the contract unless we have expressly declared this in writing. The assertion of the reservation of title in the event of default in payment or endangerment as well as the seizure of the delivery item by us shall be deemed to be a withdrawal from the contract. The costs arising from the repossession shall be borne by the customer. Touch Design shall be entitled to realize the object of sale after taking it back; the realization proceeds shall be credited against the customer's liabilities less reasonable realization costs.
- (2) The customer is obliged to treat the object of purchase with care; in particular, he is obliged to sufficiently insure it at his own expense against fire, water and theft damage at replacement value. If maintenance and inspection work is required, the customer must carry this out in good time at his own expense.
- (3) The customer may neither pledge nor assign by way of security the delivery item and the claim replacing it. In the event of seizure or other interventions by third parties, the customer must inform us immediately in writing so that we can take legal action in accordance with § 771 of the German Code of Civil Procedure (ZPO). Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action in accordance with § 771 ZPO, the customer shall be liable for the loss incurred by us.
- (4) The customer is entitled to resell, process or mix the object of sale in the ordinary course of business; however, he hereby assigns to us all claims arising from the resale, processing, mixing or other legal grounds in the amount of the final invoice amount agreed with us (including VAT). Touch Design hereby accepts this assignment. The customer remains authorised to collect this claim even after the assignment. Our authority to collect the claim ourselves remains unaffected by this. However, Touch Design undertakes not to collect the claim as long as the customer meets his payment obligations from the proceeds collected, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended.

If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. The direct debit authorisation may be revoked by us in the event of breach of contract (in particular default of payment) by the customer.

- (5) The processing or transformation of the object of sale by the customer shall always be carried out for us. If the object of sale is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the object of sale to the other processed objects at the time of processing. In all other respects, the same shall apply to the items created by processing as to the object of sale delivered under reservation.
- (6) If the object of sale is inseparably mixed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the object of sale to the other mixed objects at the time of mixing. If the mixing takes place in such a way that the customer's item is to be regarded as the main item, it shall be deemed agreed that the customer transfers co-ownership to us on a pro rata basis. The customer shall keep the resulting sole ownership or co-ownership for us
- (7) The customer also assigns to Touch Design the claim to secure our claim against him, which arises against a third party through the connection of the purchased item with a piece of real estate.
- (8) Touch Design undertakes to release the securities to which we are entitled at the customer's request insofar as the realizable value of our securities exceeds the claim to be secured by more than 30 %; the choice of the securities to be released is incumbent on Touch Design.
- (9) In order to realize our retention of title, Touch Design may demand that the customer dismantles the parts delivered by us and makes them available at the customer's expense. We are also entitled to remove the parts ourselves at the customer's expense.

§ 13 Place of jurisdiction - Place of performance

- (1) Unless otherwise stated in the order confirmation, our place of business shall be the place of performance.
- (2) If the customer is a commercial trader / company, our place of business shall be the place of jurisdiction. However, Touch Design is entitled to assert our claims at other permissible places of jurisdiction.
- (3) Regarding all claims and rights arising from this contract, the non-unified law of the Federal Republic of Germany (BGB, HGB) shall apply. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.
- (4) Should individual terms or conditions be wholly or partially invalid or void, the remaining terms shall remain unaffected. Rather, the contracting parties undertake to agree to a regulation by which the meaning and purpose pursued with the invalid or void regulation is largely achieved in the economic sphere.

We further agree on the extended retention of title from the supplementary clause: Extended retention of title to "General Terms and Conditions of Delivery for Products and Services of the Electrical Industry" (ZVEI- Supplementary Clause: June 2011) hereafter:

- (1) The items of the Supplies (Retained Goods) shall remain the property of the Supplier Designs until all claims he has against the Purchaser under the business relationship have been fulfilled. If the value of all security interests to which the Supplier is entitled exceeds the amount of all secured claims by more than 20 %, the Supplier shall release a corresponding part of the security interests at the request of the Purchaser; the Supplier shall be entitled to choose between different security interests when releasing the security interests.
- (2) During the existence of the reservation of title, the Purchaser shall be prohibited from pledging or transferring ownership by way of security and resale shall only be permitted to resellers in the ordinary course of business and only on condition that the reseller receives payment from its customer or makes the reservation that ownership shall not pass to the customer until the latter has fulfilled its payment obligations.
- (3) If the Purchaser resells Retained Goods, it hereby assigns to the Supplier by way of security its future claims against its customers from the resale together with all ancillary rights - including any balance claims - without any further special declarations being required. If the goods subject to retention of title are resold together with other items without an individual price having been agreed for the goods subject to retention of title, the Purchaser shall assign to the Supplier that part of the total price claim which corresponds to the price invoiced by the Supplier for the goods subject to retention of title.
- (5)
 - a. The Purchaser is permitted to process the reserved goods or to mix or combine them with other objects. The processing shall be carried out for the supplier. The Purchaser shall keep the resulting new item for the Supplier with the due care of a prudent businessman. The new item shall be deemed to be goods subject to retention of title.
 - b. The Supplier and the Purchaser agree already now that in the event of combination or mixing with other items not belonging to the Supplier, the Supplier shall in any case be entitled to co-ownership of the new item in the amount of the share resulting from the ratio of the value of the combined or mixed reserved goods to the value of the other goods at the time of combination or mixing. The new item shall be deemed to be reserved goods to this extent.
 - c. The regulation on the assignment of claims according to No. 3 shall also apply to the new item. However, the assignment shall only apply up to the amount of the value of the processed, combined or mixed reserved goods invoiced to the supplier.
 - d. If the Purchaser combines the goods subject to retention of title with real estate or movable property, it shall also assign its claim to which it is entitled as remuneration for the combination, together with all ancillary rights, to the Supplier by way of security in the amount of the ratio of the value of the combined goods at the time of the combination.
- (6) Until revoked, the Purchaser is authorized to collect assigned claims from the resale. In the case of good cause, in particular default of payment, cessation of payments, opening of insolvency proceedings, protest of a bill of exchange or justified indications of over-indebtedness or imminent insolvency of the Purchaser, the Supplier shall be entitled to revoke the Purchaser's collection authorization. Furthermore, the supplier may, after prior disclosure of the assignment by way of security, realize the assigned claims and demand the disclosure of the assignment by way of security by the customer.

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- (7) In the case of seizures, attachments or other dispositions or interventions by third parties, the customer shall notify the supplier without delay. If a justified interest is substantiated, the Purchaser shall immediately provide the Supplier with the information required to assert its rights against the Customer and hand over the necessary documents.
- (8) In the case of breaches of duty by the Purchaser, in particular in the case of default in payment, the Supplier shall be entitled to withdraw from the contract in addition to taking back the Retained Goods following the unsuccessful expiry of a reasonable deadline set for the Purchaser to perform; the statutory provisions on the dispensability of setting a deadline shall remain unaffected. The customer shall be obliged to surrender the goods. The taking back or assertion of the retention of title or the seizure of the reserved goods by the Supplier shall not constitute a withdrawal from the contract unless the Supplier has expressly declared this.

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We further agree on the software clause for the licensing of standard software as part of deliveries. For all products with integrated software, we additionally refer to the software clause according to ZVEI, as of April 2012, as a supplement and amendment to the "General Terms and Conditions of Delivery for Products and Services of the Electrical Industry" (GL), which can be found in a separate document on our homepage.