



# General Conditions of Sale

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**SIGMA-ELEKTRO GmbH**

Registered Office | Neustadt | Germany



## § 1 General Terms

1. The purchase contract is concluded with SIGMA-ELEKTRO GmbH (hereinafter: SIGMA), Dr.-Julius-Leber-Strasse 15, 67433 Neustadt/Weinstrasse, Germany, Commercial Register: Local Court Ludwigshafen HRB 42064.
2. All deliveries and services in connection therewith shall be made exclusively based on these General Terms and Conditions unless the customer is otherwise informed by SIGMA.
3. They shall apply to all previous orders which have not yet been finally executed, as well as to all future orders, irrespective of whether these have been placed by the customer with an agent or other representative of SIGMA or have been transmitted directly to SIGMA, whether in writing (by mail or fax), by telephone or by e-mail. All orders placed by the customer with SIGMA are accepted and/or executed exclusively under the condition that the General Terms and Conditions of SIGMA have been accepted without reservation by the customer. If a customer refuses to sign the General Terms and Conditions, no orders shall be executed by SIGMA.
4. Deliveries are made exclusively based on these General Terms and Conditions. Any conflicting or different terms and conditions of the customer shall only be deemed accepted if they have been expressly accepted in writing by the SIGMA management or sales management prior to conclusion of the contract.
5. These Terms and Conditions shall also apply to all further deliveries, services, follow-up business and repair orders, even if these General Terms and Conditions have not been referred to again and/or have not been expressly agreed again for each individual order placed.
6. The customer expressly acknowledges the validity of these general business relations to the above extent and irrevocably waives, in particular in the event of legal disputes, the objection that these were not (additionally) sent again for each individual order and (additionally) agreed over again.
7. SIGMA does not submit itself to any conditions of customers or business partners, even partially, through silence or lack of objection.
8. Additional agreements made with the customer in individual cases (including collateral agreements, supplements and amendments) shall take precedence over these General Terms and Conditions. However, the content of such agreements shall be governed by a written contract or written confirmation by the SIGMA management.
9. Sales agents or other SIGMA employees who are neither part of general management nor sales management or who have not been authorized in writing by the latter are not authorized to enter into agreements pursuant to clause 8 of this paragraph.

### **SIGMA-ELEKTRO GmbH**

Dr.-Julius-Leber-Straße 15  
67433 Neustadt/Weinstraße  
Germany

Tel. +49 6321 9120-0  
Fax +49 6321 9120-34  
USt-ID-Nr. DE 149391882  
HR Ludwigshafen/Rh.  
HRB-Nr. 42064

Deutsche Bank Neustadt  
BLZ 546 700 95  
Kto. Nr. 062 55 66  
IBAN: DE44 5467 0095 0062 5566 00  
BIC (SWIFT): DEUT DE SM 546

Commerzbank AG Neustadt  
BLZ 546 400 35  
Kto. Nr. 261 44 44  
IBAN: DE40 5464 0035 0261 4444 00  
BIC (SWIFT): COBA DE FF 546

Geschäftsführer:  
Sven Kageler, Klaus-Peter Schendel



## §2 Binding nature of quotation and conclusion of sales contract

1. SIGMA's quotations are always made without engagement. They are to be understood as an invitation to the buyer to make SIGMA a purchase offer. The contract shall come into effect by the buyer's order (offer) and acceptance by SIGMA. If the latter deviates from the order, this shall be deemed to be a new non-binding offer by SIGMA. Price changes and technical changes (model, equipment, color, design, etc.) are possible without special notice, as far as they are reasonable for the customer under consideration of mutual interests. Improvements or changes to the services are permitted, as far as they are reasonable for the customer under consideration of mutual interests.
2. Orders shall be deemed accepted if they are either confirmed by SIGMA in text form or executed immediately after receipt of the order. In this case, the delivery voucher or the commercial invoice shall be deemed as order confirmation.
3. Unless otherwise agreed in writing, the ordering party of the delivery shall become the contractual partner of SIGMA and thus the payment debtor.
4. We reserve the unrestricted property and copyright exploitation rights to cost estimates, drawings and other documents. These documents may only be made available to third parties with our prior written consent. The technical data (including weights and dimensions) contained herein have been carefully prepared, errors reserved. The same applies to all data in our sales documents. However, such information does not constitute a warranty commitment; warranty commitments require our explicit confirmation in any case.

## §3 Pricing

1. Unless otherwise stated in the order confirmation, all prices include the applicable statutory VAT.
2. If, in the case of orders with a scheduled delivery period of 3 months or more, or in the case of successive delivery agreements (irrespective of delivery periods), significant increases in SIGMA's procurement cost (including exchange rate changes) occur after the order has been placed and prior to delivery, or if the prices recommended by SIGMA as manufacturer or distributor are substantially increased. The buyer, on the other hand, shall be entitled - to the exclusion of any further rights (in particular to damages of any kind, etc.) - to withdraw from the contract within 5 days after receipt of a corresponding notification by SIGMA. Increases of 10% or more in relation to the net price shall be deemed to be substantial.
3. Fixed prices must be explicitly agreed as such in writing; even in these cases they do not apply to follow-up orders and in the event of subsequent changes to delivery quantities and deadlines by the customer. In particular in the event of a considerable reduction of agreed delivery quantities, SIGMA shall be entitled to adjust prices and to subsequently invoice any price advantages granted. Considerable reductions shall be deemed to be reductions of 10% or more in relation to the delivery quantity.



4. If the follow-up order overlaps with the publication of a new price list, the new price is valid. The legal consequences of § 3 number 2 General Terms and Conditions of Business shall apply.
5. The minimum order value is 150.00 Euro for small orders. Less than this amount, a flat rate of 6.95 Euro will be charged for shipping and handling.

## §4 Delivery

1. Any delivery agreements deviating from these terms and conditions must be in writing. Delivery periods shall commence on the date of the order confirmation, but not before the timely and proper fulfillment of the obligations of the customer, in particular not before the customer has provided the necessary documents, permits, releases to be procured by him and not before receipt of an agreed down payment.
2. All delivery obligations of SIGMA are subject to the proviso that SIGMA itself is supplied in time.
3. Delivery periods and dates shall be deemed to have been complied with if the delivery item has left the factory or distribution center or readiness for dispatch has been notified before their expiry. This does not apply if acceptance is stipulated in the contract or if an assembly obligation has been agreed.
4. In general, deliveries are ex works including loading at the factory, but excluding packaging, freight, transfer, insurance and customs duties.
5. Delivery shall be made in accordance with the trade terms set out in the individual contract, for the interpretation of which the INCOTERMS in the version valid at the time of conclusion of the contract shall apply. Contrary agreements within these General Terms and Conditions of Business shall take precedence.
6. Partial deliveries are allowed to a reasonable extent.
7. Delay in delivery shall not be considered to have occurred in the event of force majeure, riots, untimely self-supply, interruption of operations, strike, reasons for quality inspection or rectification of defects and all circumstances over which SIGMA has no direct influence. If the delivery or performance becomes impossible or unreasonable as a result of the circumstances mentioned, SIGMA shall be released from the delivery obligation. If the delivery period is extended or if SIGMA is released from the delivery obligation, the ordering party shall not be entitled to derive any claims for damages from this. To the extent that SIGMA is released from the delivery obligation, SIGMA shall grant back any advance payments made by the customer.
8. Partial deliveries are allowed. In the case of supply contracts, each partial delivery shall be deemed an independent performance.
9. In the event of a delay on the part of SIGMA of more than 6 weeks, the customer shall be entitled to withdraw from the contract after having set in writing a reasonable period of grace of at least four weeks and having threatened to refuse performance - to the exclusion of further rights (in particular to damages of any kind, etc.). SIGMA may then also withdraw from the contract to the exclusion of any obligation.



## §5 Shipment and Transfer of Risk

1. For the shipment of goods, SIGMA shall not be bound by the instructions of the customer, but shall be entitled to commission a forwarding agent, carrier or similar company of its own choice to transport the goods on behalf and at the risk of the customer, provided that SIGMA has generally positive experience with the transport company.
2. The risk shall pass to the customer when the goods are handed over to the forwarding agent or carrier, but at the latest when the goods leave the facility or the distribution warehouse. This shall also apply if carriage paid delivery has been agreed. Shipment is carried out on behalf of the customer.
3. If shipment is delayed as a result of circumstances for which the customer is responsible, the risk shall pass to the customer on the day of readiness. However, we shall be obliged, at the request and expense of the customer, to arrange for the insurance the customer requires.
4. At the request of the customer, we will insure the shipment at his expense against theft, breakage, transport, fire and water damage and other insurable risks.

## §6 Payment Terms

1. SIGMA may demand advance payment without giving reasons.
2. If no conflicting terms of payment have been agreed upon, the default shall occur 10 days after the invoice has been issued, even without a reminder. Interest on default shall be charged at 15%, but at least 8 percentage points above the respective base interest rate in accordance with § 247 BGB p.a. This does not exclude the assertion of further damages.
3. All deliveries and repairs are to be paid at the latest 10 days after issuing the invoice by wire transfer or in cash unless a different due date has been agreed upon.
4. Bills of exchange and cheques shall only be accepted on account of payment; the cost of discounting and collection shall be borne by the customer. After acceptance of the bills of exchange, we shall be entitled to return them if their acceptance is refused by the State Central Bank.
5. In case of wire transfer and, in case of doubt, other means of payment accepted only on account of performance, only the unconditional crediting to an account of SIGMA shall have debt discharging effect. Payments shall be credited against existing claims at SIGMA's discretion, even in the event of other provisions of the customer.
6. Notes (e.g. payment under reservation) are not recognized as payment or are considered not written upon acceptance of the service.
7. The receipt of the money or the unconditional crediting to an account of SIGMA is decisive for the calculation of the time limit. Deductions shall not be granted and shall not be recognized unless they have been individually accepted and confirmed.
8. Partial deliveries can be invoiced separately and are thus due for payment.



9. The customer is only entitled to offsetting rights if his counterclaims have been legally established, are undisputed or have been recognized by us. Furthermore, the customer is only authorized to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship. The customer shall not be entitled to a right of retention due to partial performance in accordance with § 320 Para. 2 BGB.
10. Credit notes issued by SIGMA will only be offset against future deliveries at the express and written request of the customer and are excluded from any payment. This provision shall not apply in the event of grossly negligent delivery errors by SIGMA.
11. Where credit notes represent voluntary benefits (e.g. goodwill) from SIGMA, they expire after 6 months from the date of issue.
12. SIGMA shall be entitled to check customers credit standing by generally accepted means. If, in doing so, doubts arise as to the credit standing of a customer or if any other significant deterioration of the financial circumstances of the customer occurs, SIGMA shall be entitled to revoke any payment options granted and to effect further deliveries only against advance payment. Furthermore, all invoices outstanding for payment shall become due for payment immediately and without further notice if the customer is in arrears with a service, if cheques or other rights are not honored, if he revokes direct debit authorizations granted to SIGMA, if he files for bankruptcy or composition proceedings or if the opening of such proceedings is applied for or if he shows any other deterioration of his financial circumstances. In such cases, SIGMA or one or more persons or companies appointed by the management of SIGMA shall be entitled to take back goods already delivered as security without any purchase contract already fulfilled or partially fulfilled being null and void. The customer waives any objection of any kind against this procedure. He may, however, pay outstanding debts immediately in cash or prove his credit standing by means of a written or specified confirmation from a German credit institution, if the credit institution is liable as a debtor for his information and the debt. The customer undertakes to inform SIGMA, without being requested to do so, of any deterioration of his credit standing or financial circumstances.
13. The customer already agrees with the acceptance of the goods that upon the occurrence of circumstances mentioned in § 6 item 12 of the General Terms and Conditions of Business, SIGMA or one or more persons or companies appointed by the management board may enter the premises of the customer without the latter's special permission and take possession of goods ever delivered by SIGMA at any time as security for the free disposal of SIGMA. If the goods delivered by SIGMA are not located on the premises of the customer, the customer shall be obligated to provide information on the location of the goods without being requested to do so already upon acceptance of the goods, even if the goods are no longer in the possession of the customer.



## §7 Retention of Title and Assignments in Advance

1. The goods delivered shall remain the property of SIGMA (goods subject to retention of title) until all claims, including future claims arising from this contract and from the entire business relationship, have been satisfied. At the latest upon acceptance of the goods, the customer of SIGMA shall grant a reservation of title to SIGMA, which shall include goods delivered at an earlier as well as at a later date, even if they have been paid for, and as long as claims in favor of SIGMA still exist from other, in particular later deliveries of goods. It shall be extended and subsequent reservation of title as well as current account reservation shall be agreed. The customer expressly grants SIGMA the right to withdraw from the contract in deviation from § 449 BGB n.F. in case of default of payment. In the event of conduct of the customer in breach of contract, in particular in the event of default of payment, SIGMA shall be entitled to take back the delivery item. The taking back or assertion of the reservation of title shall not require a withdrawal by SIGMA. Such actions or the attachment of the delivery item by SIGMA shall not constitute a withdrawal from the contract, unless expressly declared in writing. SIGMA shall be authorized to realize the goods delivered after taking them back. The proceeds of such realization shall be set off against the liabilities of the customer - less reasonable realization cost.
2. The customer may resell the reserved merchandise subject to retention of title to his customers in the ordinary course of business, passing on the retention of title (in at least extended form) and only as long as he is in default vis-à-vis SIGMA. The customer shall not be entitled to transfer ownership by way of security or pledge. In the event of access of third parties to the reserved goods, the customer shall point out the ownership of SIGMA and notify SIGMA immediately. The customer shall ward off access by third parties at his own expense.
3. In the event of default of payment, also for future deliveries or services or in the event of deterioration of the customer's assets, SIGMA may, without prejudice to other rights, after assertion of the reservation of title, which may also be made verbally, take possession of the reserved goods by entering the business premises of the customer.
4. The customer is obliged to treat the delivery item with care and, if requested by us, to insure it sufficiently against damage for the duration of the reservation of title. The customer hereby assigns to us any claims against the insurance company.
5. The assertion of the reservation of title or the attachment of a delivery item by SIGMA shall not be deemed to be a withdrawal from the contract.
6. In the event of seizure or other interventions by third parties, the customer shall notify SIGMA immediately in writing so that SIGMA can file a suit in accordance with § 771 ZPO. In the event that the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to § 771 ZPO, the customer shall be liable for the loss incurred by us.



7. The customer hereby assigns by way of security to SIGMA the claims arising from the resale of the goods subject to reservation of title up to an amount of twice the outstanding claim of SIGMA. The customer is entitled to collect within the scope of normal business transactions. SIGMA may revoke this authorization for legitimate interest. Upon request of SIGMA, the customer shall provide information on the assigned claims and their debtors. The assignment may be disclosed at any time.
8. Processing or transformation of the delivery item by the ordering party shall always be carried out for SIGMA. If the delivery item is processed with other items not belonging to SIGMA, SIGMA shall acquire co-ownership of the new item in proportion of the value of the delivery item to the other processed items at the time of processing. For the object resulting from the processing, the same shall apply as for the object delivered under reservation of title.
9. If the delivered goods are inseparably mixed with other objects not belonging to us, SIGMA shall acquire co-ownership of the new object in proportion of the value of the delivered goods to the other mixed objects at the time of mixing. If the mixing is carried out in such a way that the object of the customer is to be regarded as the main object, it shall be deemed agreed that the customer shall transfer proportionate co-ownership to SIGMA. The ordering party shall keep the sole or co-ownership thus created in safe custody for SIGMA.
10. If the value of the security exceeds the payment claims of SIGMA by more than 2.5 times, SIGMA shall, upon request of the customer, release the exceeding part of the security, if the goods serving as security allow this.
11. If the customer has made an assignment, he must inform the beneficiary in writing that already at the time of placing the order, the rights and the incoming payments for the goods delivered by SIGMA have been assigned to SIGMA and the beneficiary must undertake to immediately forward the incoming payments for the goods delivered by SIGMA to SIGMA. The customer shall immediately and without being requested to do so, send SIGMA written notification of such events.

## §8 Notification of Complaints and Defects

1. The promised services will be provided in accordance with the state of the art at the time of the order and with the care customary in the industry. SIGMA shall not be liable for ensuring that the delivered goods are suitable for specific purposes intended by the buyer and that these purposes are legally permissible.
2. The customer shall notify SIGMA in writing immediately upon receipt of the goods of any complaint due to incomplete or incorrect delivery or complaints due to recognizable defects, which are demonstrably due to circumstances that occurred prior to the transfer of risk, in particular due to defects in the material or in the processing. A copy of the purchase invoice must be enclosed as an attachment to this notification. An incomplete notification, e.g. in the event of an incomplete statement of defects or in the absence of the document, shall not be recognized as a complaint or reprimand.





3. Complaints and reprimands cannot be effectively made to commercial agents, but only to SIGMA in written form.
4. As far as the performance rendered shows a material defect or defect of title, the cause of which already existed at the time of the transfer of risk, the customer shall be entitled, at SIGMA's discretion, to subsequent performance or subsequent delivery. We shall only bear the expenses necessary for this purpose, such as wage, material, transport and travel costs, insofar as these expenses are not increased by the fact that a delivery item has subsequently been taken to a place other than the customer's registered office, unless this transfer corresponds to the intended use. Replaced parts shall become SIGMA's property and shall be returned to SIGMA.
5. Defects for which the customer can provide evidence that they were not recognizable at the time of delivery of the goods and could therefore not be notified immediately, must be reported to SIGMA in writing immediately upon detection, at the latest 3 months after receipt of the goods.
6. Claims for defects shall become statute-barred after 12 months. This shall not apply to the extent that such claims are based on intentional conduct attributable to SIGMA or to the extent that longer periods are mandatory pursuant to §§ 438 PAR. 1 No. 2 (buildings, items for buildings), 479 PAR. 1 (recourse claims), 534a PAR. 1 No. 2 (construction defects) BGB. SIGMA shall be liable for replacement parts or rectification of defects until expiry of the limitation period applicable to the original delivery item.
7. The customer's right of recourse against SIGMA pursuant to § 478 BGB (German Civil Code) shall only exist to the extent that the customer has not entered into any agreements with his customer exceeding the statutory claims for defects. § 8 No. 3 shall apply accordingly. If claims are asserted against the customer due to a defect of the newly manufactured delivery item, the customer shall be obliged to inform SIGMA without delay. He shall place his customers under a corresponding obligation if they are entrepreneurs. SIGMA reserves the right to satisfy the claims asserted by the purchaser against the customer by way of self-defense. In this case, the fulfillment of the claims of the buyer shall be deemed to be the fulfillment of any claims of the customer.
8. If the customer is in default of acceptance or does not fulfill his obligation to cooperate, the specified deadlines do not change. The decisive point in time is then the point in time at which the customer could have received the merchandise if he had behaved properly.
9. In the event of notices of defects, payments by the customer may only be withheld to an extent that is in reasonable proportion to the defects that have occurred if the customer's claims are undisputed or have been legally established. If the notice of defects is unjustified, SIGMA shall be entitled to demand reimbursement of the expenses incurred by SIGMA from the customer.



## §9 Warranty

1. SIGMA warrants to the customer that at the time of the transfer of risk, the performance is free from defects which would cancel out or considerably impair or considerably reduce the value or suitability. Insignificant reductions in value or suitability shall not constitute defects.
2. If the management of SIGMA has recognized a case of warranty, then, at the discretion of SIGMA, the customer shall be supplied with identical or equivalent goods or a credit note shall be granted in the amount of the net purchase price of the goods recognized as a case of warranty.
3. Excluded from warranty are defects or damage attributable to normal wear and tear, wear and tear within the scope of proper or improper use, proper or improper use, operating errors, negligent or intentional misconduct on the part of the customer, moisture, loss of any kind as well as other circumstances occurring after the transfer of risk and not within the sphere of SIGMA. Warranty claims shall also become void if the delivery item is improperly used or modified without the written consent of SIGMA, as well as if parts of the goods which refer to the manufacturer (e.g. logo) have been removed from the goods.
4. The customer shall not be entitled to make any acknowledgements or other assurances on behalf of SIGMA to the consumer who complains of a defect. Should the customer nevertheless make such assurances, SIGMA shall not be bound by them and shall not be obliged to pay any compensation of any kind for the goods complained about.
5. The customer shall send to SIGMA any goods complained about at his own expense, under the conditions set forth in §8 General Terms and Conditions and shall await SIGMA's decision. Under normal circumstances, he may expect this within 4 weeks after receipt of the goods complained about.
6. Warranty claims are non-assignable and non-transferable.

## §10 Liabilities for Warranted Properties

1. Only those characteristics explicitly designated as such in writing by SIGMA's management shall be considered as warranted characteristics. A written assurance of a property shall only become valid after the signature of the Executive Board.
2. Advice, recommendations and information etc. regarding usability, properties and other features are generally not binding.
3. All RoHS and REACH information is based on supplier or manufacturer information, some of which is only given without obligation, and therefore cannot be guaranteed by SIGMA.
4. If the goods do not fulfil a warranted characteristic according to § 10 number 1 General Terms and Conditions, the warranty claims of the customer are limited to rectification of defects, issue of a credit note or delivery of goods with the warranted characteristic to the same extent. SIGMA shall be entitled to the right to choose.



5. Notwithstanding these claims, in the event of damage, the customer shall allow SIGMA to remedy the defect in order to reduce the damage. The customer shall grant SIGMA the necessary time and opportunity, after consultation with SIGMA, to carry out all repairs and replacement deliveries which appear necessary at its reasonable discretion. Otherwise, SIGMA shall be released from the consequences of damage which occur because the customer did not give SIGMA the necessary time and opportunity to carry out the necessary remedial measures or replacement deliveries. Only in urgent cases where operational safety is endangered and to prevent disproportionately large damage - in which case SIGMA shall be notified immediately.
6. As far as our liability is excluded or limited, this shall apply to the personal liability of the employees, workers, staff, representatives or vicarious agents of SIGMA.

## **§11 Other Claims for Compensation**

1. SIGMA shall only be liable for claims for damages arising from positive breach of contract, tortious acts, organizational fault and culpa in contrahendo before or upon conclusion of the contract to the extent that this liability cannot be excluded herewith in a legally permissible manner and in this case only if SIGMA or its vicarious agents can be accused of intent or gross negligence. The burden of proof in this respect shall be borne by the customer.
2. Only members of SIGMA's executive management shall be deemed to be vicarious agents within the meaning of clause 1 unless liability is mandatory for other vicarious agents. Commercial agents and employed sales representatives are not vicarious agents in this sense.
3. SIGMA is not liable for direct damage, consequential damage and loss of profit.
4. In each case of damage, the liability for material damage is limited to twice the order value, but to a maximum of EURO 10,000 (10K).
5. The mandatory provisions of the product liability law remain unaffected.
6. The personal liability of SIGMA's employees, workers, staff, representatives and vicarious agents is, to the extent permitted by law, excluded or limited.



## §12 Closing Provisions

1. The customer's rights under this agreement are not transferable without prior consent of SIGMA.
2. Invalidity of individual provisions shall not affect the validity of other provisions of this agreement. Ineffective provisions shall be replaced by effective provisions which come as close as possible to the intended purpose, particularly in economic terms.
3. The customer's personal data required for the business relationship between SIGMA and the customer are stored by SIGMA only for the purpose of order processing, customer support, surveys and information. No data will be passed on to third parties beyond this purpose. The customer expressly agrees to the use of his data as described above unless objected in writing.

## §13 Place of Fulfillment and Jurisdiction

1. Place of fulfillment for deliveries is our assembly facility, respectively our warehouse. Place of fulfillment for payments is our registered headquarters in Neustadt/Weinstrasse.
2. Place of jurisdiction is the place of business of SIGMA-ELEKTO GmbH, Dr.-Julius-Leber-Strasse 15, 67433 Neustadt/Weinstrasse, Germany. However, SIGMA shall also be entitled to sue the buyer at any other legal place of jurisdiction.
3. This agreement shall be governed by and construed in accordance with the laws of the Federal Republic of Germany except for the United Nations Convention on the International Sale of Goods (CISG) and the rules of private international law.

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