

General Terms and Conditions of OASE GmbH
(T&C version: 01.08.2012)

I. Applicability, conclusion of contract & content

Our general terms and conditions as set forth below, shall apply with priority for our goods and services, in the absence of an agreement to the contrary, however only for transactions with entrepreneurs, legal entities under public law and special assets under public law. Purchaser's conditions contradicting such terms and conditions shall not apply. Our general terms and conditions also apply for future business relationships, without express subsequent reference.

2. Our quotations are subject to alteration. Purchaser's purchase orders shall be binding. A contract shall only come into effect with our written order confirmation, which we shall be obligated to declare within two weeks after receipt of the purchase order. Assurances, oral agreements, and changes to the contract shall require our written confirmation to become effective.

3. Our product description as agreed shall apply as the exclusive condition of goods. Recommendations or advertising shall not additionally constitute any contractual qualities of the goods. The information contained in brochures, catalogues, and advertisements does not constitute any assurance of attributes. The purchaser obtains no legal guarantees from OASE GmbH, unless we expressly issue a declaration of guarantee.

4. Full and timely order execution shall be subject to availability of supplies. We shall inform purchaser without delay if a product is not available, and will refund the appropriate amount to purchaser without delay in the event of cancellation.

II. Prices and terms of payment

1. Our prices are ex works in €, plus possible installation costs, as well as applicable VAT.

2. We shall be authorised to increase list prices after conclusion of the purchase contract, if the prices for material and/or wages/salaries increase in the period between conclusion of the contract and delivery, or if there is a period of more than four months between purchase order and delivery schedule.

3. In the absence of an agreement to the contrary our invoices shall be due and payable in full, net cash, without discount of any kind at delivery or acceptance. If OASE grants a cash discount in the payment terms, these terms are valid from the date of the invoice. If a cash discount deduction is expressly agreed, the discount period shall begin with the invoice date.

4. Without further declaration on our part purchaser shall be deemed to be in arrears if payment has not been received 10 days after the due date.

5. If defects are present purchaser shall not be entitled to withhold payment in accordance with Article 273 of the German Civil Code, unless the delivery is clearly defective, or unless purchaser clearly has a right to refuse acceptance of the work. In these cases purchaser shall only be authorised to withhold payment in the amount of the claim for remuneration if the amount withheld is in an appropriate relationship to the defects and to the presumable costs of supplemental performance, primarily through repair. Undisputed or legally established claims are excluded from this restriction. Other rights to withhold or rights to refuse performance that do not fall under Articles 273, 320 of the German civil code are excluded unless they are undisputed or are legally established.

6. The purchaser shall only offset with such receivables that are undisputed or that are legally enforceable.

III. Delivery time/delayed delivery

1. Information relative to delivery times is nonbinding. The prerequisite for compliance with the delivery period shall be fulfillment of purchaser's contractual obligations. Delivery periods shall start when the contract is concluded at the earliest, however delivery periods shall not start not unless there is complete provision of documents, releases, technical clarifications, etc. that purchaser is obligated to provide. Retroactive requests for modification or supplementation extend the delivery period accordingly. The period is deemed to be complied with if the delivery item has left our plant by the date on which the delivery period expires, or if we have communicated our readiness to ship, should the goods not be sent at the proper through no fault of OASE GmbH. Likewise a delivery period shall be appropriately extended if unforeseen events or force majeure occurs.

2. If there is a delay in delivery for which we are responsible, then after a written reminder, purchaser can specify an additional appropriate period, with the statement that purchaser shall refuse acceptance of the object of the contract upon expiration of said period. Purchaser shall be authorised to withdraw from the contract by providing written declaration only after fruitless expiration of the subsequent period, and all other legal requirements. If purchaser withdraws from the contract, then purchaser shall have no right to demand damages for non-fulfillment.

IV. Transfer of risk and acceptance

1. Risk is transferred to purchaser when the delivery items are sent, even in the case of partial shipments, or if we have taken responsibility for other performances, such as the shipment and its costs, or installation. We shall be authorised to make partial shipments and partial performances that the customer can be reasonably expected to accept.

2. If shipment is delayed due to circumstances for which purchaser is responsible, then the risk shall be transferred to purchaser from the day OASE GmbH is ready to ship. We shall be authorised to send the goods to purchaser if purchaser delays acceptance; or alternatively to store the goods at purchaser's costs and risk.

3. Delivered objects shall be accepted by purchaser, even if they exhibit insignificant defects, without prejudice to the rights set forth in Roman numeral VI.

V. Retention of title

1. We shall retain title to the delivery item until all payments arising from the business relationship with purchaser have been received; retention of title is based on the recognised balance.

2. If the object of sale is combined with other objects that do not belong to us, then we shall acquire joint ownership to the new object in the ratio of the object of sale's value to the value of the associated objects at the time they were combined. If said objects are combined in such a manner that purchaser's object of purchase is deemed to be the main object, then it is agreed that purchaser shall transfer proportional joint ownership to OASE GmbH. Purchaser shall preserve the sole or joint ownership that thus arises for us. Purchaser shall also transfer to OASE GmbH the receivables from a third party, to which purchaser is entitled due to the combination of the object of sale with an item and/or an object, in the amount of our sales proceeds, or that occurs through resale in this amount; however this shall only be permitted in the proper course of business. Purchaser shall not be authorised to otherwise dispose of the reserved goods, particularly for transfer of title for security, and/or pledge.

3. We shall be authorised to collect said receivable ourselves if purchaser does not honour his payment obligations. In this case purchaser shall be obligated to provide to us the information necessary to legally assert our rights against purchaser's customer, and to provide us with all required documents.

4. On purchaser's request at our discretion we shall release an appropriate portion of the security interest, if the realisable value of such interest shall exceed the amount of all claims to which we are entitled by more than 10%.

VI. Notification of defect and liability for defects

1. If purchaser is an entrepreneur, each of our deliveries shall be checked immediately for completeness and freedom from defects. After delivery purchaser shall report apparent defects, and defects that are apparent after proper examination, in writing, without delay. The entrepreneur must report each defect detected in writing without delay. The written report must contain a precise description of the defect.

When picking up the goods, or when the goods are delivered purchaser shall be obligated to acknowledge the condition of the goods himself, or to have the condition of the goods acknowledged by an authorised third party. A short delivery shall not constitute a defect, nor shall an incorrect delivery constitute a defect; in these cases we are authorised to make an additional delivery, if requested.

2. If the goods are defective due to a delivery transaction, then we shall be authorised to either replace or repair at our discretion. In the first instance purchaser's claims due to a defect in the object of sale are limited to supplementary performance. If after two reasonable attempts supplementary performance proves to be conclusively unsuccessful, then purchaser shall have the right to withhold payment, to reduce payment, or if the defect is significant, to withdraw from the contract.

3. Claims for damage compensation do not exist in the case of insignificant deviation from an agreed quality, or for insignificant impairment of usability.

4. If purchaser elects to withdraw from the contract after failed supplemental performance due to material defect of a delivery, then purchaser shall not be entitled to additional claims for damages. If after failed supplemental performance, purchaser elects to claim damages, then the goods shall remain with the purchaser if this is acceptable to purchaser. Replacement shall be limited to the difference between purchase price and the value of the defective item. This shall not apply if OASE GmbH willfully or through gross negligence caused the violation of the contractual obligation.

5. Purchaser shall be obligated to provide OASE GmbH with the required time and opportunity to undertake all repairs and replacements deemed necessary after coordination; otherwise OASE GmbH shall be released from liability for the defect. Only if we are in arrears in correcting the defect shall purchaser have the right, after a reminder and specifying an additional appropriate period, to correct the defect himself, or have said defect corrected by a third party, and to demand reimbursement of appropriate costs from us.

6. The limitation period for claims and rights due to defects - regardless of legal grounds - shall be 1 year, whether for delivery or installation / contract for work and labour. This period shall also apply for other claims for damages on the part of purchaser, regardless of legal basis, except in the case of intent, guarantee violation, or malicious concealment of defects, or in the case of claims in accordance with the German Product Liability Act, and for culpable violation of essential contract obligations on the part of OASE GmbH.

7. Notification of defect shall not expressly restrict the period of limitation for guarantee claims if after verifying the causes of the defect, we determine that we are not responsible for the defect, and communicate this information.

8. We shall not be held liable for damage that is due to unsuitable or improper use, for incorrect handling on the part of purchaser or a third party, or damage that occurs through natural wear or negligent treatment, unsuitable cleaning and care, chemical and or mechanical influence, for which we are not at fault.

9. If consequent to a notification of defect on the part of the ordering party OASE should determine when checking the goods that are the object of the notification of defect that the defect is not the responsibility of OASE, but rather that the defect is due to an operating error or improper handling, then OASE shall be authorised to bill the ordering party a flat rate service charge of 19.90 € plus VAT, plus shipping costs per product for the work load incurred. OASE shall bill a flat-rate service charge in the equivalent amount for any expenses incurred due to violations of purchaser's contract obligations or due to impermissible actions, if additional costs are incurred.

10. Liability shall be excluded in the case of negligent violation of contractual obligations. In the case of gross negligence our liability shall be limited to the damage that is contractually anticipated, this provision applies in equal measure for violation of essential contractual obligations. In all other regards we shall be liable in accordance with the German Product Liability Act for injury to life, body or health, or due to culpable violation of essential contractual obligations. Right of recourse in accordance with Article 478 of the German Civil Code shall remain unaffected with the stipulation that OASE shall have the right to settle recourse cases through supplementary performance either through repair or replacement delivery, at our discretion.

VII. Conditions governing the return of goods

Regardless of the claims regulated in number VI, if defects are present OASE shall take back defect-free delivered goods only on a case-base basis, and after prior written approval has been issued before the return shipment; take-back of products with an order value of under 100.00 € shall always be excluded for economic reasons.

The prerequisite for concluding a send back agreement in every case shall be that the goods that will be returned are in perfect faultless condition, including the packaging of said goods, and that said goods correspond to the current product line as shown in the catalogue.

If a send back agreement should be concluded, then the ordering party shall be obligated to include a copy of the invoice, a copy of the delivery ticket, and the return authorisation, with the return shipment. The ordering party shall bear the transport risk for the return shipment. Return shipments should not be sent freight collect, otherwise OASE shall be authorised to refuse acceptance of the return shipment.

For the entire handling and administration expenses, as well as the risk of reselling the returned products OASE will deduct 30% from the invoiced net value of the goods.

VIII. Liability for secondary obligations

1. Our technical application advice as well as recommendations, calculations, drawings, and project planning merely illustrate the best possible use of our products, they are provided as approximations only, and are non-binding. They do not release purchaser from his obligation to verify for himself that our products are suitable for purchaser's intended purpose.

2. If the contractual object cannot be used as stipulated in the contract due to culpable violation of secondary obligations to which we are obligated, even prior to conclusion of contract; for example due to omitted or incorrect consulting, or incorrect instructions, then under exclusion of additional claims on the part of purchaser, the provision set forth under Roman numeral VI no. 5 - 8 shall apply accordingly for our liability.

IX. Samples, drawings

We shall reserve the title and copyright to samples, drawings, and other documents. They shall not be made available to unauthorized third parties and must be returned to us on request.

X. Place of fulfilment, applicable law, legal venue

1. Place of performance for all deliveries and payments shall be the company's headquarters in Hörstel.

2. German law shall apply exclusively. The uniform law on the international sale of goods (CISG) shall not apply.

3. The place of jurisdiction shall be the location of OASE's registered office.

XI. Severability clause

Invalidation of any one of the provisions in this contract shall not affect the validity of the other provisions.