

General Terms and Conditions of Trade for Business Customers

§ 1 Field of application of the terms/General

(1) These terms and conditions of trade shall apply for all contracts concluded for the sale of products of DVS Digital Video Systems AG (hereinafter called "DVS") between DVS and an entrepreneur in the sense of § 14 of the Civil Code ("BGB"), a juridical person in public law or a public-law special fund (hereinafter called "the Buyer").

(2) All contracts of purchase, also future ones, between DVS and the Buyer shall be made exclusively with incorporation of the following General Terms and Conditions of Trade. Any diverging terms of the Buyer shall not be applicable. This shall also apply even if DVS does not expressly object to the Buyer's general terms and conditions of trade, or renders the service legally due, knowing the Buyer's conflicting or diverging general terms and conditions of trade.

§ 2 Services of DVS, use of protection devices

(1) DVS shall grant the Buyer the non-exclusive right, unlimited in time, to use the software supplied with the product pursuant to the terms of these present General Terms and Conditions of Trade.

(2) DVS reserves the right to provide the products with protection devices, solely for the purpose of safeguarding its own rights (e.g. in the form of a dongle). If the protective device should show a defect, which impairs or prevents the product's operability, upon sending in the defective part within the warranty period, the Buyer shall receive a replacement free of charge.

(3) The Buyer shall only be entitled to remove or bypass the protection device to restore the product's operability, if the protection device impairs or prevents the interference-free use of the product, and DVS does not remedy the fault, following notification by the Buyer, within a reasonable period.

§ 3 Prices, payment, default

(1) The prices for the products shall be in accordance with the DVS price list valid at the time being in each case. The prices shall be net ex warehouse, without deductions and plus the statutory value-added tax.

(2) If nothing to the contrary shall be agreed, the purchase price shall be due 30 days after receipt of the invoice by the Buyer.

(3) If the Buyer should fall into arrears with payments, DVS shall be entitled to demand interest on arrears amounting to 8 % above the basic interest rate in accordance with § 247 Civil Code p.a. If DVS can prove that a greater damage has been incurred, it shall be entitled to assert this greater damage.

§ 4 Assignment, set-off, right of retention

(1) The Buyer shall not be entitled to assign claims arising from this contract.

(2) The Buyer can only set off claims by DVS against undisputed or legally finally and absolutely claims.

(3) The Buyer shall only be entitled to a right of retention for counterclaims which are based on the same contractual relationship.

§ 5 Delivery

(1) Performance periods and deadlines shall be binding only if they are expressly agreed in the contract of purchase as being binding.

(2) If the delivery of the goods should fail, DVS shall no longer be obliged to make delivery; any amounts possibly paid shall be reimbursed by DVS forthwith.

(3) If DVS should not supply the products, or not in accordance with the contract, the Buyer shall have to grant DVS an additional period of grace of two weeks in order to render the performance. Only after the expiry of this additional period of time shall the Buyer be entitled to withdraw from the contract.

(4) If delivery by DVS is delayed as a result of circumstances which do not lie within DVS's field of influence (e.g. in the case of force majeure, strike, shortage of raw materials, breakdown), after granting a reasonable additional period of time, the Buyer shall be entitled to withdraw from the contract. § 323 Par. 2 Civil Code shall remain unaffected.

(5) If DVS shall become overdue with its performance, it shall only be liable to pay compensation in accordance with the provisions stipulated under § 8.

§ 6 Reservation of ownership

(1) DVS shall retain the ownership of the products delivered ("Reserved Goods") until the purchase price has been paid in full.

(2) The Buyer may only sell the reserved goods for payment in cash or subject to reservation of ownership in the usual course of business. He shall not be entitled to make other dispositions, in particular to any transfer of ownership by way of security, pledging, sale of the entire stock in hand or clearance sale.

(3) The Buyer assigns already now all his accounts receivable resulting from the resale of the reserved goods – including the corresponding receivables arising from cheques and bills of exchange – with all subsidiary rights to DVS; the business customer shall be entitled to collect the accounts receivable in his own name for DVS. If the reserved goods are sold together with other goods, not belonging to DVS, for a total price, the assignment shall take place only for the amount with which DVS has invoiced its business customer.

(4) The Buyer shall assign all insurance or other claims to DVS which it acquires on account of loss or damage to the reserved goods.

(5) All the aforementioned assignments are hereby accepted by DVS. On request, the Buyer shall have to hand over to DVS a list of the assigned claims, as well as all the information and supporting documents for the assertion of the same.

(6) If the Buyer becomes insolvent or if an application is filed for the opening of bankruptcy proceedings in his assets, the Buyer may no longer have the reserved goods at his disposal, and DVS may disclose the Buyer's assignments, as well as withdraw from the contract, and demand the immediate handing over of the reserved goods. For the handing over, the Buyer shall have to store the reserved goods separately from his other goods, mark them as deliveries under the reservation of ownership of DVS, to refrain from every disposition over the same and to hand over a list of the reserved goods.

(7) The Buyer shall have to notify DVS forthwith in writing of third parties' seizure of the reserved goods or of the accounts receivable assigned to DVS, and to support DVS in every way with the assertion of its rights.

§ 7 Claims in the case of defects

(1) If a product does not have the agreed quality at the time of the passing of the risk, DVS can choose whether the defect shall be remedied or a replacement product supplied. In so far as DVS exchanges parts in this connection, the same shall pass into the ownership of DVS without reimbursement.

(2) Both in the case of a repair and in the case of the supply of a replacement, the Buyer shall be obliged to send the product to the return address given by DVS. Before sending the product in, the Buyer shall have to remove the objects (e.g. cards) inserted into it by him. DVS shall not be obliged to examine the product for the installation of such objects. DVS shall not be liable for the loss of such objects, unless it is readily recognisable for DVS at the time of taking back the product that such an object has been inserted into the product (in this case, DVS shall inform the Buyer and hold the object ready for collection by the Buyer; the Buyer shall bear the costs incurred in this connection). In addition, before sending a product in for repair or replacement, the Buyer shall have to create backup copies of the system software contained on the product, the applications and all his data on a separate data carrier, to remain with him, and deactivate all the passwords. Any liability for the loss of data shall not be accepted. The Buyer shall also be obliged, after the repaired product or a replacement product has been returned to him, to install the software and data and reactivate the passwords. If the Buyer sends in the goods in order to receive a replacement product or to have a repair carried out, if necessary he shall have to erase the software stored by him and other data, as well as passwords on the product sent in by him.

(3) If the remedying of the defect or the supply of a replacement within a reasonable period fails, the Buyer shall be entitled to reduce the purchase price or, provided it is not just an insignificant defect, to, withdraw from the contract. In this connection, the Buyer shall have to grant DVS three attempts at remedying the defect; this shall not apply if repeated attempts at remedying a defect are unreasonable in an individual case, or DVS unjustifiably refuses to remedy the defect or unreasonably delays in doing so.

(4) § 8 shall apply accordingly for claims for damages or reimbursement of expenses. Except in the case of malicious nondisclosure of the defect, the warranty shall end 12 months after delivery.

(5) There shall be no warranty claims if the defect shall be due to the fact that, without the consent of DVS, the Buyer or a third party has altered the product, used it inappropriately or repaired it improperly. The same shall apply if the product is not installed, operated or cared for in accordance with DVS's guidelines.

(6) If a defect is unjustly notified, DVS shall be entitled to claim compensation for the expenses incurred.

(7) In so far as the Buyer is part of a supply chain in the sense of § 478 of the Civil Code, the rights resulting from §§ 478, 479 of the Civil Code shall remain unaffected. In this case, however, the Buyer shall have to pass on the complaint about defects, addressed to him in each case by his customer, forthwith to DVS.

(8) The regulations on mercantile sale shall remain unaffected.

(9) The Buyer's warranty claims shall become statute barred in one year after delivery or acceptance.

§ 8 Liability

(1) DVS shall be unlimitedly liable for wilfully or grossly negligently caused damage.

(2) In the case of gross negligence, DVS shall be liable for the loss or destruction of data only in so far as the Buyer shall have ensured that the data from data material, that is held available in machine-readable form, can be reconstructed with reasonable expense.

(3) DVS shall only be liable for ordinary negligence if it has infringed a fundamental contractual obligation (cardinal obligation) and if the damage is based on a risk controllable solely by DVS. In both cases, the compensation for damage shall be limited with respect to its cause and in amount to such damage, whose occurrence was sensibly foreseeable at the time of concluding the contract under the circumstances known at that time. The compensation for purely pecuniary loss (e.g. loss of production or loss of profits) shall be limited by the general principles of good faith, for instance if the amount of loss goes unreasonably above the amount of the remuneration for the product.

(4) The personal liability of the legal representatives, vicarious representatives and employees of DVS for damage, which they caused by ordinary negligence, shall be excluded.

(5) Regardless of the fault of DVS, DVS shall be liable in the case of malicious nondisclosure of the defect, or if DVS has expressly assumed a guarantee.

(6) The regulations under § 8 shall apply accordingly for competing tortious claims. Any further reaching liability of DVS shall be excluded.

(7) The limitations of liability under this provision shall not apply in the case of injury to life, limb and health, as well as for claims under the product liability law.

§ 9 Applicable law, legal venue

(1) All contracts concluded with DVS shall be subject exclusively to the law of the Federal Republic of Germany. The application of the UN convention on contracts on the international sale of goods (CISG) is expressly excluded.

(2) In so far as, in the case of the Buyer, it is a matter of a businessman, a juridical person under public law or a public-law special fund, Hanover shall be regarded as agreed as the sole legal venue for all disputes arising out of the contractual relationship.

§ 10 Miscellaneous terms

(1) The place of performance is Hanover. Any dispatch of the goods to a place other than the place of performance shall take place at the Buyer's expense and risk.

(2) DVS shall be entitled to have individual obligations rendered by third parties.

(3) All notifications or declarations, which shall be made to DVS, shall be effective only if they are directed in written form to the company address given above.

(4) If individual provisions of these terms of trade should be wholly or partially ineffective, this shall not otherwise affect the efficacy of the contract.