

GENERAL TERMS AND CONDITIONS

1. General

These Terms and Conditions shall apply to all deliveries and services including future deliveries and services. Any deviating provisions and amendments, in particular purchaser's contradicting Terms and Conditions, shall be excluded unless SEMA has agreed to them in writing.

2. Prices

Our prices shall include neither shipping and transport insurance costs, statutory VAT nor, for foreign business transactions, customs duties or applicable taxes.

3. Delivery Time, Delivery Processing

Any delivery dates and/or deadline shall be subject to change without notice unless we have confirmed them in writing in each individual case. Otherwise purchaser shall not be entitled to any claims in the event of delayed delivery.

Purchaser is obligated to accept the merchandise by the agreed-upon delivery deadline, or within a reasonable period of time. If purchaser should be in default in taking delivery, SEMA shall be entitled to withdraw from the contract, and to claim indemnification for any costs incurred (for example, expenses, freight charges, damage, wear and tear and/or depreciation).

In the event of force majeure, SEMA shall be entitled either to postpone their services for the duration of the disturbance or to withdraw, in whole or in part, from the contract.

Events of force majeure shall be deemed to be in particular strikes, lock-outs and/or other unforeseeable disturbances. As soon as we have knowledge about the repercussions of such an event, we shall inform purchaser thereof and either declare our intention to withdraw from the contract or else inform purchaser of the new deadline by which we expect to be able to deliver the merchandise. This shall in particular apply to the receipt of goods delivered to SEMA which SEMA requires for the performance of its obligations hereunder.

We reserve the right to make partial deliveries of any deliveries agreed upon and undertake to make subsequent deliveries within a reasonable period of time. The purchaser shall be billed only for that which they have received.

4. Transfer of Risk, Liability

The risk shall pass to purchaser as soon as the merchandise has left our premises or as soon as we have delivered the merchandise. In the event of return, purchaser shall bear the risk as well as any costs that may thereby be incurred.

Purchaser shall be liable to SEMA for the entire merchandise delivered to purchaser until full payment has been made. Any damage, wear and tear and/or depreciation shall be at the purchaser's expense.

5. Payment

Our invoices shall be due and payable net without deductions upon mutual agreement, but in no event later than 30 days. Should our payment terms be exceeded, we shall be entitled without notice to claim interest on overdue accounts in the amount of 5% above the then applicable discount rate.

6. Warranty

In the event of defective goods a complaint must be filed by purchaser within one week or, in the case of hidden defects, within six months from receipt of the merchandise. If a complaint is filed in due time and if such complaint is justified, we shall, at our choice, either rectify the defect or deliver merchandise free of defect. In any event, the precondition therefor shall be compliance with the manufacturer's terms. For the rectification of defects the purchaser must send the merchandise in question to SEMA; any transport charges thus incurred shall be borne by purchaser. For equipment purchased from subcontractors, any warranty shall be limited to the producer's warranty terms.

Regarding software we do not warrant that such software is free from interruption and/or defect or that any functions incorporated therein may be operated in any and all combinations selected by purchaser or that those functions fulfill purchaser's requirements. In the event of software defects which would impair contractual use to any significant degree we shall rectify the defect, to the extent that we are capable of doing so, either by installing a different software version or by providing advice as to how the defect can be removed and/or its effects can be avoided, depending on the nature of such defect.

We do not warrant for software which was not delivered by us or for software which was changed by purchaser or third parties.

The purchaser agrees to grant SEMA the time and opportunity that is necessary, at SEMA's discretion, to remedy any potential defects. If purchaser fails to do so, we will be released from any warranty obligations.

In the event that no remedy can be provided for a defect attributable to SEMA either by rectifying the defect and/or delivering spare parts, purchaser may demand a reduction of the purchase price. Any claims in excess of the above shall be excluded.

7. Liability

Unless provided for in the above Terms and Conditions, all liability of SEMA, including liability for consequential or direct damage, shall be excluded.

8. Collateral Agreements

Any promises, undertakings and agreements, including agreements by telephone, telegraph or teletype, which conflict with one or several provisions of the General Terms and Conditions or go beyond such General Terms and Conditions and any amendments, in particular amendments of payment terms, require SEMA's express written confirmation in order to become valid. This shall apply in particular to any and all oral collaterals. This shall also apply to any amendments to or exclusion of our General Terms and Conditions.

Purchaser's general purchasing terms and conditions shall not apply in so far as they conflict with SEMA's General Terms and Conditions which, in case of doubt, shall always prevail. Any unilateral amendments to the Terms and Conditions hereunder by the purchaser shall be inadmissible and not binding for SEMA.

9. Program Changes

Customer-specific program changes can be made only after written agreement and on the basis of written specifications signed by both parties. Any program changes at purchaser's request shall be billed separately.

10. Retention of Title, Return of Merchandise

SEMA retains title to any merchandise delivered until purchaser has settled any and all amounts payable. In the event that delivered merchandise to which we retain title has been joined and/or amalgamated with products not belonging to SEMA, SEMA will become co-owner of the resulting product. The resulting product shall be deemed to be subject to SEMA's retention of title.

The purchaser shall have no right to re-sell the delivered merchandise and/or the product resulting from joining/amalgamating to third parties.

In the event of merchandise being returned due to SEMA because of our retention of title to such merchandise, or of merchandise being returned for other reasons agreed upon, purchaser shall be liable for the risk and any costs arising from such return.

SEMA reserves the right to grant the unlimited rights (as specified under the licence agreement) to the software licence(s), only after payment in full has been effected.

11. Proviso

With late or non-payments of the remuneration, SEMA reserves the right to partially or totally cease rendering care and support service(s). This restriction does not release the user from the obligation to pay the remuneration.

12. Copyright

It is not permitted to copy software or to pass it on to third parties and/or to make such software available to third parties in any other form. The licensee shall be made liable for any non-compliance. In such a case we shall demand from the licensee ten times the program's list price as compensation. Irrespective thereof, any reproduction of the delivered software shall be prosecuted.

13. Export Permits

The merchandise delivered by SEMA shall be subject to the export control regulations of the Federal Republic of Germany. In the event of non-compliance with the applicable export regulations the purchaser shall be liable when re-selling the merchandise.

14. Place of jurisdiction-place of performance-choice of law

Our place of business in Germany, Wildpoldsried, thus Kempten/Allgäu (Federal Republic of Germany), has been agreed on as place of jurisdiction. However, SEMA is also entitled to file an action against the customer in his court of place of residence or of his company headquarters. The law of the Federal Republic of Germany shall apply; the terms of the UN Sales Law are excluded. Unless otherwise specified in our order confirmation, our place of business is also place of performance.

15. Miscellaneous

If any provisions of the contract including these General Terms and Conditions should be or become null and void, invalid, voidable and/or should supplements be or become necessary, this shall not affect the validity of the other provisions. In this case such other provisions shall be construed, replaced and/or supplemented in a way to come as close as possible to the intended economic purpose by legally valid provisions.