

SUPPLY AND PAYMENT TERMS AND CONDITIONS

of Casio Europe GmbH

1. General

1.1. The following Casio Supply and Payment Terms and Conditions shall apply to all supplies and services of Casio Europe GmbH to its customers (buyers).
1.2. General terms and conditions of the buyer shall not apply, regardless of whether or not we expressly object to them in a particular case. Even if we refer to a letter which contains general terms and conditions of the buyer or a third person or which refers thereto, this shall not be construed as an approval of such general terms and conditions.

2. Offers, orders

2.1. Our offers are always subject to confirmation. Technical details, descriptions or illustrations of the supplied item in offers, brochures or other information material do not represent warranties as to quality.
2.2. Orders are accepted by us only by written confirmation or by dispatch of the ordered items.

3. Prices

3.1. Prices are calculated on the basis of the prices valid at the date of the supply or service, unless it has been otherwise agreed.
3.2. We are entitled to increase the prices after conclusion of the contract if the price increase is justified on the basis of an increase of the costs to manufacture or the costs for procurement occurring after the conclusion of the contract for which we are not responsible and which we could not foresee when concluding the contract despite application of due care. The price increase must be in line with the cost increase.
3.3. The stipulated prices are free at loading platform ex the respective Casio distribution warehouse, including normal packaging costs.
3.4. If delivery free to the buyer's destination is agreed on and if the buyer requests a form of shipment which is not usual, e.g. express consignment or express delivery, the additional costs shall be invoiced to the buyer.

4. Payment terms

4.1. Unless otherwise agreed, our invoices are immediately payable without any deduction, all postage and charges paid.
4.2. Payments are deemed effected on the date on which we are able to draw on the amount; they shall be set against the oldest debt. No interest is payable on advance or on account payments.
4.3. Checks are accepted only on account of payment and subject to the usual reservation. Bills are accepted only after prior agreement and only on account of payment and subject to the usual reservation. The buyer shall pay discount and collection charges. No guarantee is assumed for timely collection or timely protest.
4.4. In the case of default in payment, the buyer shall pay interest of nine percentage points annually above the base rate from the beginning of the default. In addition we are entitled to hold back supplies also from other orders - to a reasonable extent and scope - and without prior announcement to deliver only against prepayment or cash on delivery.
4.5. The buyer may set off against our claims only counterclaims which are undisputed or which have been confirmed by a final and absolute court decision.
4.6. In the event of a marked deterioration in the buyer's economic condition, suspension of his payments, his over-indebtedness, application for insolvency proceedings against his assets or the dishonouring of checks by the buyer, all our claims shall become immediately due and payable. In such cases, we are entitled at our election to demand payment in advance or the provision of security or, if the buyer finally refuses to fulfil the contract or provide security after being requested to do so, we may withdraw from the contract and demand damages for non-performance.

5. Delivery

5.1. Delivery periods (delivery dates) are only binding if they are expressly confirmed by us as binding.
5.2. The delivery period is deemed met if the supplied item has been shipped or made available for collection within the said period or, in the event that shipment or collection is delayed for reasons for which we are not responsible, if the notification of the readiness for shipment or collection is made within the agreed period.
5.3. A binding delivery period shall be extended by a reasonable period if failure to meet it is not attributable to us. This applies in particular in case upon occurrence of unforeseen hindrances which cannot be eliminated with reasonable means and which are outside our areas of responsibility, such as force majeure, mobilization, war, riots, strikes, lock-outs, seizures, embargo. The same shall apply in the event of delayed self-delivery not attributable to us. In the event that delivery becomes impossible partially or wholly without it being attributable to us, we are entitled to withdraw from the contract. In such cases, the buyer has no claim for damages or subsequent delivery.
5.4. If the shipment, delivery or collection of the goods is culpably delayed by the buyer, we are entitled to charge to the buyer the additional costs which we thereby incur.
5.5. The buyer's right to withdraw from the contract after we have failed to effect delivery even within an additional period set for us remains unaffected.
5.6. Partial deliveries are permissible, if partial delivery is useable for the buyer taking account of the contractually intended purpose, delivery of the remainder of the goods is secured and the buyer does not incur any material additional costs or expense due to such partial delivery (unless we commit to bear such costs).

6. Shipment, packaging

6.1. If delivery free to buyer's place of destination has been agreed on, we may choose the type of shipment at our discretion. The buyer's special wishes shall if possible be taken into account. The buyer shall bear additional costs resulting therefrom (see 3.4).
6.2. The goods shall be delivered in packaging which meets shipping and transportation requirements. If packaging and means of transport beyond the scope of such requirements are requested, the buyer shall bear the additional costs.
6.3. If a replacement has to be provided for damaged packaging, we reserve the right to charge for this insofar as the damage was not brought about by ourselves.

7. Risk

7.1. Unless otherwise agreed, the risk shall pass to the buyer as soon as the goods leave our warehouse (EXW ICC Incoterms 2010).
7.2. If shipment or collection is delayed at the request of the buyer or on account of circumstances for which the buyer is responsible, the risk passes to the buyer from the date on which the goods are ready for delivery and we have notified the buyer that the goods are ready for delivery.

8. Reservation of title

8.1. The goods shall remain our property until all our current and future claims from the business relationship against the buyer are fulfilled (conditionally sold goods). Our claims are not lost by inclusion in a current account balance and its acknowledgement. The buyer shall store the conditionally sold goods in a proper manner and shall insure them adequately at his cost.
The buyer is entitled to resell the conditionally sold goods only in the course of normal business either against cash payment or subject to an agreement on reservation of title. The buyer may not assign the conditionally sold goods by way of security or pledge them or dispose of them in any other manner which thwarts or hinders the purpose of the reservation of title.
If the conditionally sold goods are seized by third parties at the buyer, the buyer shall inform the third parties seizing such goods of our reservation of title and shall immediately inform the third parties in writing together with the written record of seizure and a declaration in lieu of an oath which confirms that the seized goods are identical to the delivered conditionally sold goods.
8.2. The buyer shall carry out any processing of the conditionally sold goods on our behalf without any obligations arising thereby for us. If the conditionally sold goods are processed, combined and mixed with other goods not in our ownership, we are entitled to a share in co-ownership in the new item in the proportion that the value of our conditionally sold goods bears to the remaining processed goods at the time of processing, combining or mixing. If the buyer acquires sole ownership in the new item, he shall grant us co-ownership in the new item in proportion to the value of our conditionally sold goods and shall keep it in safe custody for us free of charge.
8.3. In the case of a resale or leasing of the conditionally sold goods, the buyer now already assigns to us by way of security the claims to which he is entitled against his customers from the resale or leasing in the amount of the value of the goods sold subject to reservation of ownership until all our claims from the business relationship with the buyer have been paid.
If the conditionally sold goods are resold or leased together with goods of other suppliers and an overall invoice is issued, the buyer shall assign to us the part of the total price claim or the total rental which relates to the conditionally sold goods included in the overall invoice; the same shall apply correspondingly to the incidental rights (conditional ownership, ownership by way of security, bills of exchange, and the like).
The buyer is entitled, as trustee and for our account, to collect the claims from resale assigned to us and to realize ancillary rights. The buyer's authorization to collect claims and to realize ancillary rights may be revoked for good cause in particular if the buyer's financial position deteriorates significantly. The above powers, in particular the buyer's authorization to collect the claims, shall lapse without revocation if the buyer fails to meet his payment obligations against us or if out-of-court or court composition or bankruptcy proceedings are initiated against him or if the opening of bankruptcy proceedings is rejected for lack of assets.
The buyer is not authorized to dispose of the assigned claims without our prior approval in some other way, e.g. by assignment to third parties (in particular to financing institutions).
8.4. In the event that the buyer defaults on payments to us, fails to honour due bills or checks, there is a suspension of payments or over-indebtedness or insolvency proceedings are initiated in respect of the buyer's assets or the opening of insolvency proceedings is rejected on the grounds of insufficient assets, the entire remaining debt shall fall due even if bills with later maturities are running. In such cases, the buyer shall on demand provide us with a list of all goods subject to reservation of title which he still has and a list of the claims assigned to us with names and addresses of the debtors and amount of the claims.
If the requirements of paragraph 1 are met, the buyer shall, at our request, inform his debtors of the assignment of the claims to us. We ourselves may inform the third-party debtors of the assignment. We are

also entitled to take back the goods subject to our reservation of title for the purposes of realization and repayment of the remaining debt. The buyer shall enable us to take possession of the goods and shall allow us or our agents access to the business premises during normal business hours. The request for return, or taking possession, of the goods does not constitute a withdrawal from the contract.
8.5. At the request of the buyer, we shall at his election release securities to which we are entitled insofar as their aggregate value exceeds our claims against the buyer from the current business relationship by more than 20%.

9. Complaints, claims in respect of defects

9.1. The goods shall be inspected with due care promptly upon delivery to the buyer or to a third person so nominated by the buyer. With regard to obvious defects or other defects that could have been identified in a prompt and thorough inspection the goods shall be deemed approved by the buyer unless the defect is notified to us without undue delay upon delivery. With regard to any other defects the goods shall be deemed approved by the customer unless the defect is notified to us within three business days from the day when the defect has been identified; in case the defect was identifiable by the buyer during normal use of the goods at an earlier point in time such earlier point in time shall be relevant for the start of the notification period. Upon our request the rejected goods shall be resented to us free of freight paid. In case of a legitimate defect notification we shall be obliged to reimburse the costs for the most favourable shipping route; this shall not apply when the goods are located at a place other than that of the intended use.
Our liability in respect of defective deliveries is as follows:
9.2. Unless otherwise agreed, the limitation period for claims relating to defects is generally two years upon delivery. In case of capital goods such as electronic cash registers and mobile data capture systems as well as the related software and related accessories and spare parts, the limitation period is one year. The limitation periods start on the date on which the goods are delivered to the buyer.
These periods shall not apply to claims of the buyer for loss or damage caused to body, life or health or loss or damage caused by wilful misconduct or gross negligence and for damage due to the violation of material contract duties (wesentliche Vertragspflichten) by us and/or our agents, which shall become statute-barred in accordance with the statutory provisions.
The limitation period shall be extended by the period in which the delivered item cannot be used because of the need to rectify defects or make replacement deliveries. However, no new limitation period shall start in accordance with paragraph 2 as a result of the rectification of defects.
9.3. During the limitation period, unless otherwise agreed the parts which has become unusable or the use of which has become considerably impaired as a result of proven circumstances prior to the passing of risk shall at our election be replaced or repaired. Such circumstances include in particular faulty design, poor materials or defective workmanship.
9.4. The buyer shall comply with his contractual obligations, in particular the agreed terms of payment. The buyer may only withhold payments because of a defect if a complaint has been made in respect of the defect. In such cases, the withheld payment must be reasonable in relation to the extent of the defect.
9.5. The buyer shall grant us the time and opportunity required to satisfy the claims relating to defects. If the buyer does not do so, we are released from our warranty obligation and liability in respect of the defect.
9.6. If we allow a reasonable additional period to lapse without having remedied the defect or if we refuse to remedy the defect or if this is impossible, the buyer may withdraw from the contract or claim a reduction in the price. The right to withdraw from the contract exists only, if it has not been possible to remedy the defect after two repairs (in the official Casio Service) or replacement deliveries.
9.7. All warranties and liability shall be precluded in the case of improper repairs or alterations carried out by the buyer or third parties unless the buyer proves that the defect is not attributable to such repairs or alterations.
9.8. Liability for defects does not cover natural wear and tear or damage caused after passing of the risk by incorrect or negligent treatment, excessive strain, unsuitable operating media or chemical, electrochemical or electrical influences not assumed by the contract.
9.9. Further claims by the buyer against us or our vicarious agents are excluded, in particular claims for compensation for damage which has not occurred on the delivered item itself. This shall not apply insofar as mandatory liability applies in cases of intent, gross negligence or an item's lack of a quality for the existence of which a guarantee was assumed.
9.10. If our product is fitted with accessories from third-party companies and if the warranty terms and conditions of the third-party companies are attached to our product, such terms and conditions shall be taken over by us unless they are less favourable for us than the above provisions; otherwise the provisions in these terms and conditions shall apply.

10. Liability

10.1. Claims of the buyer for loss or damage against us, one of our organs, legal representatives and/or vicarious agents (in the following: "we" or "us") of any legal nature of whatsoever kind, in particular due to a violation of contract and/or tort shall be excluded.
10.2. The aforementioned exclusion of liability shall not apply to the extent such damage or loss has been caused by wilful misconduct or gross negligence or due to culpable breach of material contract duties (wesentliche Vertragspflichten). Contract duties are material if their fulfillment is necessary for the proper implementation of the contract and on the observance of which the contract partner regularly does and may rely. In the event of gross negligence and in the event of a culpable breach of material contract duties our liability is limited to the foreseeable damage typical for the type of contract.
10.3. The exclusion of liability according to paragraph 1 and the limitation of liability according to paragraph 2 shall not apply to claims for loss or damage caused to body, life or health and to the extent we are mandatorily liable, e.g. according to the German Product Liability Act (Produkthaftungsgesetz).

11. Assignment of claims

Claims from this contractual relationship and all claims arising from the loss of or damage to conditionally sold goods against the person causing the damage or such person's insurer may be assigned to third parties only with our prior approval.

12. Place of performance

Place of performance for deliveries, payment and warranties is Casio's registered office.

13. Place of jurisdiction

13.1. For all current and future disputes -including legal proceedings based on documentary evidence and checks- the exclusive place of jurisdiction shall be the Casio registered office. This also applies in the event that the place of residence or usual place of abode of the buyer is unknown or is situated in, will be relocated to, a foreign country.
13.2. In all cases referred to in clause 13.1 we alone are also entitled to commence proceedings at the court having jurisdiction over the buyer.
13.3. The statutory regulations also apply.

14. Validity and Applicable law

14.1. If individual provisions in the Casio Supply and Payment Terms and Conditions are ineffective, this shall have no effect on the validity of the remaining provisions and of the contract itself.
14.2. The Casio Supply and Payment Terms and Conditions and the contracts concluded on the basis of the Casio Supply and Payment Terms and Conditions are subject to formal and substantive German law. The "Uniform Law of the International Sale of Goods" pursuant to the Hague Convention of July 1, 1964 and the "Uniform Law on the Formation of Contracts for the International Sale of Goods" pursuant to the Hague Convention of July 1, 1964 as well and alterations and additions to these laws shall not apply.