General terms and conditions of sale, delivery and payment

I.
Authoritative conditions, conclusion of contracts, scope

1. All quotations, deliveries and services are exclusively subject to the following terms and conditions. Any other general terms and conditions of purchase have no legal effect even if the supplier does not explicitly waive these. By placing an order and/or accepting a delivery, the customer accepts these terms and conditions.

2. The terms and conditions only apply to companies as defined in § 14 clause 1 BGB (German Civil Code); they also apply to all future business with the customer resulting from the current business relationship.

3. The order becomes binding upon the supplier after his confirmation in writing or at the time of beginning to carry out the order. All agreements made between the supplier and the customer concerning execution of the contract are fixed in writing in this contract. Amendments, additions or other supplementary agreements are only binding if confirmed in writing by the supplier.

II.
Quotation, cost estimate, pricing, price alteration reservation

1. Quotations submitted by the supplier as well as prices and delivery possibilities quoted in his catalogues, collateral, letters, etc. are given without commitment unless described otherwise in the order confirmation or unless the supplier has explicitly stated otherwise in writing; cost estimates are given without commitment.

2. Unless another currency has been explicitly agreed, prices are understood to be in Euros ex works plus the current rate of VAT, if applicable, without packaging, freight, customs clearance and insurance, which will be invoiced separately, where applicable.
All orders are accepted based on the prices valid at the time of the order.

3. In the event the minimum order value of EURO 100.00 net per order is not reached a handling lump sum of EURO 30.00 net shall be charged.

4. If a legal amendment concerning VAT comes into force between conclusion and execution of the delivery contract, the supplier may bill the amended VAT also for partial deliveries.

III.
Despatch, packaging, cost, transfer of risk

1. Deliveries are basically made ex works at the customer's account and risk. Unless otherwise agreed in writing, the delivery clause "ex works" (Incoterms 2010) shall apply. This also applies if the supplier undertakes to take on the transport cost. For self pick-up, the transfer of risk occurs at the time of delivery to the customer. The supplier is not responsible for damage or loss occurring during transport, even if delivery carriage paid has been agreed. Unless otherwise agreed, the supplier decides on the type of packaging and despatch. For deliveries including installation or mounting, the transfer of risk occurs at the time of acceptance on the customer's premises - even if delivery carriage paid has been agreed - or, as far as this has been agreed upon, following flawless test operation.

2. If shipping is delayed due to circumstances beyond the supplier's control, the risk shall be transferred to the customer on the day of readiness for despatch as notified to the customer.

IV.
Terms of payment, consequences in the event of non-compliance, set-off

1. The supplier's receivables are payable as defined in the terms of payment agreed in writing and the information provided in the order confirmation respectively. After the due date, the supplier will invoice annual interest calculated at 8 percent above the basic interest rate.

2. In the absence of a separate agreement or definition in the order confirmation, receivables are payable without any deduction, postage free and free of bank charges within 30 days after receipt of the invoice, however at the latest 30 days after the due date and receipt of the goods or services. Thereafter interest calculated at a rate of 8 percent above the applicable basic rate p.a. will be charged, without the need for an additional reminder.

3. Unless explicitly agreed otherwise in writing, the supplier does not accept cheques or drafts.

4. The customer may only set off against receivables any own receivables which are uncontested or have been legally established. Furthermore, he/she may only exert a retention right as far as his counterclaim is based on the same contractual relationship.

5. The supplier is entitled to assign to third parties trade receivables for financing purposes.

V.
Delivery periods and liability regulations, purchase obligations, returns

1. The delivery period is defined in the written agreements. It starts once all the details for carrying out the order have been clarified, all commercial and technical issues have been settled, both parties have agreed on the conditions of business and the purchaser has complied with all obligations including providing any official certificates or approvals that may be required. The delivery period is deemed to be complied with if the delivery item has left the supplier's works or the customer has been notified of the readiness for despatch before expiry of such period.

2. If delivery is not made in good time and nor does it take place within an appropriate period of grace determined by the customer

and is for reasons within the supplier's control, the purchaser may withdraw from the contract as far as the ordered delivery is concerned.

3. Any claims for damages due to late execution of the contract or non-execution are subject to the following provisions:

If the supplier delays delivery as a result of ordinary negligence, the customer's right to damages for a demonstrated loss due to delay is limited to 0.5% per complete week of delay, up to a maximum of 5% of the invoice amount for the delivery subject to delay.

If the customer is entitled to request compensation for damage instead of delivery, the supplier shall be liable for compensation for damage in the event of a breach of the primary contractual obligations, i.e., obligations which must be complied with to allow for due execution of the contract and upon which the contract partner may normally rely and also in the event of ordinary negligence. However any claims shall be limited to the loss foreseeable at the time of contract conclusion and to a maximum of 50% of the value of the delivery.

4. If the customer wishes the supplier to make the required checks, the type and scope of such checks shall be agreed in writing. If this is not done at the latest by the time of concluding the contract, any costs resulting therefrom shall be borne by the customer.

5. Force Majeure or circumstances beyond the supplier's control (e.g., breakdown, strike) which impede execution of the order in good time shall entitle the supplier to appropriately postpone compliance with accepted obligations or, if these circumstances make delivery impossible, to withdraw from the contract in whole or in part. The same applies if for reasons beyond his/her control the supplier does not receive from a subsupplier any ordered materials required for the order or does not receive them in good time. To withdraw from the contract, the supplier must first notify the customer forthwith about unavailability and immediately refund any payments already made by the customer. In this context, claims for any kind of damage are ruled out.

6. Partial deliveries and services are basically permissible unless the customer has explicitly refused these in writing in the order.

7. If the customer is in default of acceptance or culpably breaches other obligations to cooperate, the supplier may request compensation for the resulting damage, including any additional expenses. In this event, the risk of any accidental loss or deterioration of the delivery item shall be transferred to the customer at the time when the delay in acceptance occurs. In the event of a default of acceptance by the customer, the supplier may refuse any other deliveries.

8. Framework agreements and call orders must be called at the latest within 12 months from the date of order confirmation. The delivery period must not exceed 3 months. If orders are not called within the above period of time or if the delivery period is exceeded, the supplier may, subject to an appropriate period of grace, withdraw from the contract and claim damages due to non-fulfilment.

9. Returns of goods or cancellations of orders require the supplier's written agreement. All credits for returns of goods – which are generally made at the sender's risk – are subject to a deduction of at least 10% of the net value of the goods to cover handling fees. When goods subject to retention of title are taken back, the supplier may furthermore claim compensation for use or for a reduction in the value of the goods during the time they were in the customer's possession. Special designs and goods which are no longer part of the delivery programme cannot be returned.

VI.
Complaints, claims for defects, liability regulation

1. Notwithstanding any additional obligations to examine and provide notification of defects (§ 377 HGB, German Commercial Code), the customer shall check the delivered goods for obvious faults and give written notification of any obvious defects – this also applies to incomplete or incorrect deliveries – within 5 working days after receipt of goods or for defects which only become visible later, within 5 working days following identification by the customer; otherwise the goods shall be deemed to be accepted in consideration of the obvious defect, and the customer may not exert any related rights towards the supplier.

All supplier specifications are only service descriptions and do not present a guarantee unless explicitly agreed otherwise.

2. In the event of a justified complaint, the supplier is obliged to either repair the delivered goods free of charge or replace them, this being at the supplier's discretion. If the repair or replacement fails or if the supplier refuses these without justification or delays them unreasonably, the customer may claim a reduction in the purchase price, or, if liability for defects does not relate to construction work, rescission of the contract at his/her discretion.

3. If the customer wrongfully claims an alleged defect for which the supplier is liable, the supplier may charge to the customer the resulting expenses for removal of the defect and/or detection of the defect.

4. Save as otherwise provided in item VII. (Other liability) claims for damages are subject to the following: In the event of a breach of primary contractual obligations (see above item V 3, clause 3) of the contract, the supplier shall assume liability for compensation instead of delivery, also in the event of ordinary negligence. However any claims shall be limited to replacement of the loss foreseeable at the time of contract conclusion and to a maximum of 50% of the value of defective items, unless the supplier has fraudulently kept secret the defect or has explicitly guaranteed the quality of the item and/or its performance.

5. Claims for defects are not applicable if the fault is due to non-compliance with operating, storage, maintenance or installation provisions, unsuitable or improper use, incorrect or negligent handling by the customer, natural wear and tear as well as manipulation of the delivered item by the customer or by third parties. The same applies if the supplier's products are incorrectly installed, negligently handled or used beyond what is usual or if defects are due to improper supplies, spare material, mechanical, chemical, electrochemical or electric influences.

6. Furthermore, claims for defects are not applicable if instructions and recommendations in the installation instructions or other technical documentation made available to the customer at the time of delivery have not been strictly adhered.

7. Only in urgent cases of danger to operational safety – of which the supplier must be immediately informed - or if he/she has not repaired the defect, does the customer have the right to have the defect repaired him/herself or by third parties and to claim appropriate refunding of his expenses as far as these have been required.

8. Any justified defects to a part of the delivery may not lead to a claim for the whole delivery.

VII.
Other liability (limitation and disclaimer)

1. Except for the above claims for delay and defect, the supplier accepts no liability, in particular for loss of production or loss of profit, unless the damage is due to an intentional or grossly negligent breach of obligation by the supplier or his legal representative or agent or if the damage is due to injury to life, body or health as a result of negligent breach of obligation by the supplier or his legal representative or agent or the damage is of such a kind which is usually and typically insurable with a third party liability insurance to be taken out by the supplier under appropriate terms and conditions. This applies in particular to claims for damages resulting from faults before or at the time of contract conclusion, breach of secondary obligations and claims from tort.

2. Claims under the product liability act (ProdHaftG) and for products subject to guarantees shall remain unaffected.

VIII.

Limitation periods

1. The claims as defined in VI. no. 1 and 2 shall come under the statute of limitations within one year from delivery of the items to the customer.

2. Apart from the above, these claims shall come under the statute of limitations within the statutory period of limitation.

- in the event of an intentional, fraudulent or grossly negligent breach of obligation by the supplier, his legal representative or agents;
- in the event of damage due to injury to life, body or health as a result of an intentional or negligent breach of obligation by the supplier or intentional or a grossly negligent breach of obligation by his legal representatives or agents;
- in the event of claims based on guaranteed features of the item concerned;
- if the supplier is under the obligation to refund costs which the customer must incur with a subcontractor within the supply chain resulting from the sale of a new item for the purpose of supplementary performance (§ 478 clause 2 BGB);

3. In any event, the limitation period begins in line with legal provisions. The legal provisions concerning suspension of expiry, suspension of time limits, new beginning of time limits shall remain unaffected. In the event of claims for damages pursuant to the Product Liability Act, the legal provisions concerning limitation periods shall apply; this also applies to intentional and grossly negligent breach of obligation.

4. For liability by the supplier pursuant to item VII for damages which can usually and typically be insured by a third party liability insurance to be taken out by us for appropriate terms and conditions, the limitation period shall be 1 year.

IX.
Property rights and drawings

1. If deliveries are made to a drawing or other specifications provided by the customer and if these could infringe third party property rights, the customer shall be responsible for correctness and for not infringing third party property rights. He shall hold harmless the supplier against all claims by property right holders.

Any drawings and documents handed over by the supplier to the customer must not be transferred to third parties without the previous consent of the supplier and may be reclaimed by him/her at any point in time.

2. In the event of an infringement of third party property rights attributable to the supplier, the supplier may at his/her discretion obtain at his/her expense a sufficient right of use to cover the agreed or intended use and transfer such right to the customer or replace the supplied goods as far as this does not impair the agreed and intended use of the supplied goods. If this is impossible for the supplier or if he/she refuses supplementary performance or if supplementary performance fails, the customer is entitled to legal claims and rights. This only applies to claims for damages and claims for reimbursement of expenses in accordance with these general provisions, i.e., under the provisions of item VII.

3. If the supplier provides illustrations, samples, drawings, calculations or other documents, he/she reserves the copyright and property rights and these must not be disclosed to third parties. This applies in particular to documents which are marked “confidential”; in which case the customer must obtain the supplier’s explicit written approval before transferring them to third parties.

X.
Confidentiality

1. The customer shall only use all documents (including samples, illustrations, drawings, calculations, models and data) and know-how which he/she has obtained from the business relationship and which are identified as confidential by the supplier or if he/she has an obvious interest in their confidentiality for common objectives and shall keep these secret towards third parties with the same diligence as he/she would use for his/her own documents and know-how. This obligation begins at the time of first receipt of the documents and know-how and ends three years after the end of the business relationship.

2. The obligation does not apply to documents and know-how which are generally known or which at the time of receipt were already known to the customer without being bound by a confidentiality obligation or which are transferred by third parties authorized to disclose these or which are developed by the customer without the use of any confidential documentation or know-how of the other contract party.

3. The copyright and property rights of the supplier to these documents remain unaffected by the delivery of the documents unless explicitly agreed otherwise.

XI.

Retention of title

1. The supplier reserves the title to the delivery item (retention of title goods) until all receivables from the customer resulting from the business relationship including future receivables and receivables from contracts concluded at the same time or at a later point in time have been settled. For current account claims, the reserved ownership and all rights shall be a security for all receivables including interest and cost.

In the event of distraint or other third party intervention, the customer shall notify the supplier forthwith.

2. The customer may process and re-sell the delivery item within the normal course of business. This right ends when the customer defaults or ceases to make payments or if his/her assets are subject to insolvency proceedings. He/she is under the obligation to only re-sell retention of title goods under the retention of title and to ensure that receivables from the re-sale are transferred to the supplier pursuant to nos. 5 and 6. The use of retention of title goods to execute work contracts or contracts for labour and materials shall also be deemed a re-sale. He/she is not authorized to otherwise dispose of the retention of title goods, in particular for pledge or assignment as security. An assignment of claims from the re-sale of retention of title goods is prohibited unless the assignment is made within the framework of real factoring and the supplier is notified of this and if the proceeds of factoring exceed the value of secured claims. The supplier's receivables become immediately payable upon crediting the factoring proceeds.

3. By processing retention of title goods, the customer does not acquire ownership of the new item pursuant to § 950 BGB. Processing or reshaping is made for the supplier without commitment upon him/her. The processed goods are deemed retention of title goods.

4. When processing, combining and blending retention of title goods with other goods, the supplier acquires co-ownership in the new item on a pro-rata basis according to the invoice value of the retention of title goods vs. the invoice value of the other goods used for this purpose. If the supplier's ownership expires as a result of combining, blending or processing, the customer automatically assigns to the supplier the ownership and anticipated rights to the new item on a pro-rata basis according to the invoice value of the retention of title goods and the invoice value of the other items used and stores it for the supplier free of charge. His/her co-ownership rights are deemed retention of title goods.

5. The receivables of the customer resulting from the re-sale of retention of title goods are then automatically assigned to the supplier. They serve to secure receivables to the same extent as retention of title goods.

6. If retention of title goods are sold by the customer together with other items, the supplier is assigned receivables from the re-sale on a pro-rata basis according to the invoice value of the retention of title goods vs. the invoice value of the other goods. In the event of a re-sale of goods of which the supplier has co-ownership rights pursuant to no. 4, a portion of the receivables in line with his/her co-ownership is assigned to him/her.

7. At the supplier's request, the customer is under the obligation to provide a precise list of receivables including names and addresses of purchasers and to inform his purchasers of the assignment and to submit to the supplier all required information to assert the assigned receivables. At the moment of defaulting, the customer authorizes the supplier to inform the purchasers of the assignment and to collect the receivables himself/herself. The supplier may request verification of the amount of assigned receivables by his representatives using the accountancy of the customer. The customer shall provide to the supplier a list of all retention of title goods which are still available.

8. If the value of existing securities exceeds the secured claims altogether by more than 10%, the supplier shall at the customer's request release securities at his/her discretion, taking into account the customer's interests. The value of securities for simple and subsequent retention of title shall be the invoice value for which the customer purchases the goods from the supplier, for extended retention of title it shall be the invoice value for which the customer re-sells the goods.

9. The supplier may request the delivery item based on retention of title if he/she has withdrawn from the contract. He may withdraw from the contract regardless of other prerequisites of § 323 BGB and in particular without setting a deadline from the time when the customer is in default in whole or in part. This also applies if the customer ceases to make payments or if his/her assets are subject to composition or insolvency proceedings. All costs resulting from the repossession of the delivery item shall be borne by the customer. The supplier may otherwise use the delivery item which he/she has taken back.

XII.
Data processing

The supplier may process all customer data received in connection with the business relationship within the framework of the applicable legal provisions.

XIII.
Software usage

1. If software forms part of the scope of supply, the supplier grants the customer a non-exclusive right to use the supplied software, including the related documentation; the supplier puts it at his/her disposal for use on the intended delivery item. Without the explicit previous written approval,

the customer must not use the software on more than one system.

2. All other rights to the software documentation, including copies, shall remain with the supplier and his software provider respectively. The customer must not grant sublicenses.

XIV.

Place of performance, place of venue, applicable right

1. The place of performance shall be the supplier's premises.

2. The place of venue shall be the court competent at the headquarters of the supplier.

The supplier may however sue the customer at the court competent at his/her headquarters.

3. All supplies and services are subject to German law, waiving the United Nations Convention On Contracts For The International Sale Of Goods. The contract language is English. If the contract partners use another additional language, the English wording shall be determining.

XV.

Severability

If a provision of these terms and conditions is or becomes ineffective in whole or in part, this does not affect the validity of the remaining conditions. The contract parties shall replace the invalid conditions by a provision which comes as close as possible to the original intent in terms of economic effect.