

# General Terms and Conditions of Sale

## MATHEUS Industrie-Automation GmbH

### Section 1 General Terms, Application

(1) The following General Terms and Conditions of Sale (GTCs) shall be valid for all our business relationships with our customers (hereinafter: "Purchasers"). The GTCs shall only be valid if the Purchaser is a company (§ 14 German Civil Code BGB), a corporate body under public law, or a special fund under public law.

(2) The GTCs shall especially be valid for contracts on the sale and/or the delivery of movables (hereinafter also: "Goods"), regardless whether we produce the Goods ourselves or buy them from suppliers (§ 433, § 651 BGB). In their respective version, the GTCs shall also be valid as a framework agreement for any future contracts on the sale and/or the delivery of movables with the same Purchaser; it shall not be necessary to indicate these again in each individual case. In this case, we shall inform the Purchaser immediately about any modifications of our GTCs.

(3) Our GTCs shall be valid exclusively. Any differing, contrary or complementary general terms and conditions of the Purchaser shall only become part of the contract if we have expressly agreed to their application. This consent requirement shall be valid in any case, for example also if we perform the delivery to the Purchaser without reservation, having knowledge of their GTC.

(4) Any individual agreements with the Purchaser concluded in the individual case (including collateral agreements, amendments and modifications) shall in any case have priority over these GTCs. For the contents of such agreements, a written contract or our written confirmation shall be essential.

(5) Any declarations or indications relevant in law which must be made towards us by the Purchaser after the conclusion of the contract (e.g., setting of deadlines, notice of defects, declaration of withdrawal or mitigation), shall require written form in order to come into effect.

(6) Any hints on the application of legal regulations shall only have importance for the avoidance of doubt. Also without such avoidance of doubt, the legal regulations shall be valid unless they are not modified directly within these GTCs or expressly excluded.

### Section 2 Contract Conclusion

(1) Our offers shall be subject to confirmation and unbinding. This shall also hold if we have made available to the Purchaser any catalogues, technical documentation (e.g., designs, plans, calculations, references to DIN standards), other product descriptions, or documents - even in electronic form -, for which we reserve our property rights and copyrights.

(2) The commission of the Goods by the Purchaser shall be considered as a binding offer to conclude a contract. Insofar as the commission shall not indicate anything to the contrary, we shall be entitled to accept this offer to conclude a contract within 5 working days upon its receipt by us. Any modifications of the commission shall be indicated to us at the latest 6 weeks before a confirmed delivery date. We shall not be obliged to agree to any modifications of the commission. If we accept the modification voluntarily, the Purchaser shall pay the resulting extra costs.

(3) Acceptance may either be declared in writing (e.g., by order confirmation) or by delivery of the Goods to the Purchaser.

(4) Any declarations or indications relevant in law which must be made towards us by the Purchaser after the conclusion of the contract (e.g., setting of deadlines, notice of defects, declaration of withdrawal or mitigation), shall require written form in order to come into effect. A transmission by fax shall be sufficient in order to ensure written form; besides, any transmission by telecommunication, especially by email, shall be insufficient.

(5) Our information regarding the object of the delivery or of the service (e.g., weights, measures, utility values, load capacities, tolerances, and technical data), as well as our representation of the latter (e.g., designs and images), shall only be approximately applicable, unless the applicability for the purpose provided in the contract requires exact accordance. Such information shall not be considered as any guaranteed quality features, but as a description or characterization of the delivery or the service instead. Any deviations according to custom and usage, as well as deviations on the grounds of legal regulations or representing technical improvements, as well as the substitution of components by equal parts, shall be permissible unless impairing the applicability for the purpose provided by the contract.

### Section 3 Term of Delivery and Delayed Delivery

(1) The term of delivery shall be agreed upon individually or shall be indicated by us upon acceptance of the commission. Our performance obligation shall be subject to correct self delivery in due time. Without prejudice to our rights on the grounds of default of the Purchaser, we shall be entitled to ask for an extension of the terms of delivery and performance or a postponement of delivery and performance dates, by the period in which the Purchaser does not fulfill their contractual obligations towards us, especially if they do not make advance payments which have been agreed upon.

(2) Should we not be able to comply with binding terms of delivery for reasons for which we are not responsible (unavailability of performance), we shall immediately inform the Purchaser and shall simultaneously indicate the estimated new term of delivery. If the performance is unavailable also within the new term of delivery, we shall be entitled to withdraw from the contract entirely or in part; we shall reimburse any consideration of the Purchaser which has already been performed. In this sense, it shall be considered as a case of unavailability of performance if self delivery by our supplier does not take place in time, especially if we have concluded a congruent hedging transaction, if there isn't any default on our side nor on that of the supplier, or if we are not obliged to procure material in the individual case.

(3) Our delayed delivery shall be determined pursuant to the legal regulations. In any case, a reminder by the Purchaser shall be required. If we are in default of delivery, the Purchaser shall be entitled to claim liquidated damages for the damage caused by delay. For each concluded calendar week of the delay, the liquidated damages shall amount to 0.5 % of the net price (delivery value), in total however to a maximum of 5 % of the delivery value of the Goods delivered in delay. The proof remains reserved to us that the Purchaser has not suffered any damage or has suffered essentially less damage than the above liquidated damage.

(4) The rights of the Purchaser pursuant to section 8 of these GTCs, as well as our legal rights essentially in the case of exclusion of the duty to perform (e.g., on the grounds of impossibility or unreasonableness of performance and/or alternative performance), shall remain unaffected.

(5) The rights of the Purchaser pursuant to section 8 of these GTCs, as well as our legal rights essentially in the case of exclusion of the duty to perform (e.g., on the grounds of impossibility or unreasonableness of performance and/or alternative performance), shall remain unaffected.

(6) The rights of the Purchaser pursuant to section 8 of these GTCs, as well as our legal rights essentially in the case of exclusion of the duty to perform (e.g., on the grounds of impossibility or unreasonableness of performance and/or alternative performance), shall remain unaffected.

### Section 4 Delivery, Passing of Risk, Acceptance, Default of Acceptance

(1) The delivery shall take place ex warehouse, which shall be the place of performance. Upon request and at the expense of the Purchaser, the Goods shall be delivered to another place of delivery (sale by dispatch). Unless stipulated otherwise, we shall be entitled to determine the type of dispatch ourselves (in particular transport company, transport route, packaging).

(2) The risk of loss or damage to the Goods shall pass to the Purchaser at the latest at the time of delivery. In the case of sale by dispatch, however, the risk of loss or damage to the Goods as well as the risk of delay shall pass already at the time of transfer of the Goods to the transport company, the carrier, or any other person or entity assigned with the performance of the dispatch. Insofar as acceptance has been agreed upon, the acceptance is determinative for the passing of risk. Otherwise, the legal regulations of the law on contracts of service shall respectively apply if acceptance has been agreed upon. It shall be equal to the delivery or acceptance if the Purchaser is in default of acceptance.

(3) If the Purchaser is in default of acceptance or omits an obligation of cooperation, or if our delivery is delayed for other reasons for which the Purchaser is responsible, we shall be entitled to claim the resulting damages including extra expenses (e.g., storage costs). We shall claim a general compensation to the amount of 0.1 % of the amount invoiced per

calendar day, beginning at the term of delivery or - in the absence of a term of delivery - at the time of notice that the Goods are ready for dispatch, up to a maximum of 5 % of the amount invoiced.

The verification of a higher damage and our legal claims (especially the reimbursement of extra expenses, reasonable compensation, termination) shall remain unaffected; however, the compensation shall be offset against any further financial claims. The proof remains allowed to the Purchaser that we have not suffered any damage or have suffered essentially less damage than the above compensation.

### Section 5 Prices and Payment Conditions

(1) Unless stipulated to the contrary in the individual case, our current prices at the time of conclusion of the contract shall apply ex warehouse, plus the statutory Value Added Tax.

(2) In the case of sale by dispatch (section 4 clause 1), the Purchaser shall pay the transport costs ex warehouse and the costs of any transport insurance, if such is desired by the Purchaser. Any respective customs duties, fees, taxes, or other public charges shall be payable by the Purchaser. We shall not take back any transport or other packaging subject to the German Packaging Regulations; it shall become property of the Purchaser. Pallets shall be excluded here from.

(3) The purchase price shall be due and payable within 14 days upon invoicing and delivery or acceptance of the Goods. In the case of contracts with a delivery value of more than 50,000 EUR, we shall however be entitled to ask for an advance payment to the amount of 30 % of the purchase price. The advance payment shall be due and payable within 14 days upon invoicing.

(4) Upon expiry of the above term of delivery, the Purchaser shall be in default. During the period of default, the purchase price is subject to the respectively applicable statutory interest for default. We shall reserve the right to claim any further damage caused by delay. Against merchants, our claim on the commercial maturity interest (§ 353 German Commercial Code HGB) shall remain unaffected.

(5) The Purchaser shall only be entitled to any rights of offset or retention insofar as their claims shall be legally established or uncontested. In the case of defects of the delivery, the counterclaims of the Purchaser, especially pursuant to section 7 clause 6 phrase 2 of these GTCs, shall remain unaffected.

(6) Should we realize after the conclusion of the contract that our claim on the purchase price is threatened by lacking ability of performance of the Purchaser (e.g., because of an application for the commencement of insolvency proceedings), pursuant to the legal regulations we shall be entitled to withhold performance and - after the setting of a deadline, if appropriate - to withdraw from the contract (§ 321 BGB). In the case of contracts about the manufacturing of non-fungible goods (single-item production), we shall be entitled to declare withdrawal immediately; the legal regulations about the dispensability of the setting of deadlines shall remain unaffected. We shall be entitled to execute or perform any pending deliveries or services only against any pending security.

(7) If any circumstances become known to us after the conclusion of the contract that may essentially decrease the creditworthiness of the Purchaser or may threaten the payment of our pending receivables by the Purchaser on the grounds of the respective contractual relationship (including other individual orders subject to the same framework agreement).

### Section 6 Retention of Title

(1) Until all our current and future claims on the grounds of the purchase contract and of a current business relationship (secured claims) are paid completely, we shall reserve the ownership of the sold Goods.

(2) The Goods subject to retention of title may not be pledged to any third parties before the complete payment of the secured claims, nor may they be pledged as security. The Purchaser shall inform us immediately in writing if and insofar as any third parties have access to the Goods belonging to us.

(3) In the case of a behaviour of the Purchaser in violation of the contract, in particular in the case of non-payment of the owed purchase price, we shall be entitled to withdraw from the contract pursuant to the legal regulations, and to reclaim the Goods on the grounds of retention of title and withdrawal. If the Purchaser does not pay the due purchase price, we shall only be entitled to claim these rights if we have unsuccessfully set an appropriate deadline for payment for the Purchaser before, or if such a setting of deadlines is dispensable according to the legal regulations.

(4) The Purchaser shall be entitled to sell the Goods subject to retention of title in due course of business, and/or to process these. In this case, the following regulations shall hold additionally.

(a) The retention of title shall be extended to any products at their full value which result from the processing, blending, or incorporation of our Goods; we shall be considered as the manufacturer. If the property right of third parties is reserved in the case of processing, blending, or incorporation together with goods of these third parties, co-ownership shall be established at the ratio of the invoice values of the processed, blended or incorporated goods. Besides, the same shall hold for the resulting product and for the Goods delivered subject to retention of title.

(b) As security, the Purchaser shall already now assign to us any claims against third parties resulting from the resale of the Goods or of the products; the claims shall be assigned entirely or to the amount of our possible co-ownership share according to the previous clause. We shall accept the assignment. The obligations of the Purchaser mentioned in clause 2 shall also apply with respect to the assigned claims.

(c) The Purchaser shall remain entitled to collect the receivables aside from us. We shall be obliged not to collect the receivables as well as the Purchaser fulfills their payment obligations towards us, is not in default in payment, has not applied for the commencement of insolvency proceedings, and as long as there is no other defect concerning their ability to perform. Should this however be the case, we shall have the right to ask the Purchaser to indicate to us the assigned claims and their debtors, to give us any information necessary for the collection, to submit the respective documents, and to inform the debtors (third parties) about the assignment. The Purchaser shall not assign any claims from the resale to third parties. This shall not apply to the assignment in the framework of a real factoring contract, which is permissible insofar as the proceeds are paid to us.

(d) If the realizable value of the securities exceeds our claims by more than 10 %, we shall release securities upon request of the Purchaser at our option.

(5) If the agreement on a retention of title is not permissible or not permissible in the chosen form according to the law of the state where the delivery item is or where the delivery item has been transported prior to the complete payment of the purchase price, the Purchaser shall take any legal actions and cooperate in such actions that are necessary in order to agree on a valid retention of title according to the previously mentioned regulations, or to reach a legal status as similar as possible.

### Section 7 Claims for Defects of the Purchaser

(1) Concerning the rights of the Purchaser in the case of material or legal defects (including wrong or short delivery, as well as inappropriate assembly or defective assembly instructions), the legal regulations shall apply unless stipulated to the contrary hereinafter. The special legal regulations concerning the final delivery to a consumer shall remain unaffected in any case (supplier regress pursuant to § 478, § 479 BGB).

(2) Our defect liability shall not be based on the agreement concluded about the quality of the Goods. As agreement about the quality of the Goods shall be considered the product descriptions (also of the manufacturer) indicated as such which have been available to the Purchaser prior to the commission, or have been included in the contract in the same way as these GTC.

(3) If the quality has not been agreed upon, it shall be judged according to the legal regulations whether there is a defect or not (§ 434 sec 1 phrases 2 and 3 BGB). We shall however not accept liability for any public statements of the manufacturer or of other third parties (e.g., advertisements).

(4) The claims for defects of the Purchaser shall require that they have fulfilled their legal obligations to examine the goods and to give notice of defects (§ 377 and 381 HGB). If a defect occurs during the examination or later, such defect shall be reported immediately to us in writing. The report shall be considered as immediate if it is made within two weeks; the deadline shall be considered as being kept if the report has been dispatched in due time. Independently from this obligation to examine and to give notice of defects, the Purchaser shall indicate any obvious defects (including wrong and short delivery) in writing within two weeks upon delivery; the deadline shall also be considered as being kept if the report has been dispatched in due time. If the Purchaser neglects the proper examination and/or notice of defects, our liability for the defect that has not been indicated shall be excluded.

(5) If the delivered item is defective, the Purchaser shall first be entitled to claim at their option as alternative performance the elimination of the defect (remedy) or the delivery of a defect-free item (substitute delivery). If the Purchaser does not declare which of the two rights they intend to choose, we may set an appropriate respective deadline. If the Purchaser does not choose within this deadline, the right to choose shall be transferred to us upon expiry of such term. The alternative performance shall neither include the disassembly of the defective item, nor the new assembly, if we have not been bound to assemble the item. The Purchaser shall be entitled to condition the owed alternative performance on the payment of the due purchase price by the Purchaser. However, the Purchaser shall be entitled to retain a part of the purchase price adequate in relation to the defect.

(6) We shall be entitled to condition the owed alternative performance on the payment of the due purchase price by the Purchaser. However, the Purchaser shall be entitled to retain a part of the purchase price adequate in relation to the defect.

(7) The Purchaser shall give us the necessary time and occasion required for the owed alternative performance; in particular, they shall submit the faulty goods to us for purposes of examination. In the case of substitute delivery, the Purchaser shall return the defective item to us according to the legal regulations. The alternative performance shall neither include the disassembly of the defective item, nor the new assembly, if we have not been bound originally to assemble the item.

(8) The expenses required for purposes of examination and alternative performance, especially costs for transport, travelling, labor, and material (disassembly and assembly costs excluded) shall be payable by us if there is indeed a defect. If, however, a request of the Purchaser to remedy a defect turns out to be unjustified, we shall be entitled to claim the resulting costs to be compensated by the Purchaser.

(9) In urgent cases, e.g., if operating safety is threatened or if excessive damage must be prevented, the Purchaser shall be entitled to remedy the defect themselves and to claim compensation of the objectively required expenses from us. We shall immediately be informed about such self-help, if possible in advance. The right of self-help shall not apply if we are entitled to refuse a respective alternative performance according to the legal regulations.

(10) If the alternative performance has failed or if an appropriate term to be set by the Purchaser for the alternative performance has expired without success or is dispensable according to the legal regulations, the Purchaser shall be entitled to withdraw from the purchase contract or to reduce the purchase price. In the case of a negligible defect, however, there shall be no right of withdrawal.

(11) Any claims of the Purchaser on damages or on the compensation of futile expenses shall only apply subject to section 8 and shall otherwise be excluded.

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### Section 8 Liability

(1) Unless otherwise stipulated within these GTCs including the following stipulations, we shall be held liable subject to the applicable legal regulations in the case of a violation of contractual and non-contractual obligations.

(2) We shall be held liable for damages in the case of intent and gross negligence, for whatever legal reason. In the case of ordinary negligence, we shall only be held liable for:

a) damages on the grounds of a violation of life, body, or health

b) damages on the grounds of a violation of an essential contractual obligation (obligation without the fulfillment of which the proper execution of the contract shall be impossible, and in the fulfillment of which the other contracting party shall and is supposed to trust fully); in this case, our liability shall however be limited to the compensation of the predictable and typically occurring damage.

(3) The liability restrictions pursuant to clause 2 shall not apply if we have fraudulently concealed a defect or if we have granted a warranty for the quality of the Goods. The same shall hold for any claims of the Purchaser pursuant to the German Product Liability Law.

(4) The Purchaser shall only be entitled to withdraw from or to terminate the contract on the grounds of a violation of an obligation not consisting in a defect if we are responsible for such violation. Any free right of termination of the Purchaser (in particular according to § 651 and § 649 BGB) shall be excluded. Besides, the legal requirements and legal consequences shall apply.

### Section 9 Statute of Limitations

(1) § 438 sec. 1 no. 3 BGB notwithstanding, the general statute of limitations for any claims on the grounds of material and legal defects shall be one year upon delivery. Insofar as acceptance has been agreed upon, the statute of limitations shall begin upon such acceptance.

(2) If, however, the goods represent a building or an item which has been used for a building according to its usual application, and which has caused the defect (building material), the period of limitation shall be 5 years upon delivery according to the legal regulations (§ 438 sec. 1 no. 2 BGB). Special legal regulations concerning material claims for restitution of third parties (§ 438 sec. 1 no. 1 BGB), in the case of fraud of the seller (§ 438 sec. 3 BGB), and concerning claims of supplier regress in the case of final delivery to a consumer (§ 479 BGB) shall also remain unaffected.

(3) The above periods of limitation of the sale of goods law shall also apply to contractual and non-contractual claims on damages of the Purchaser that are based on a defect of the Goods, unless the application of the regular legal statute of limitation (§ 195, § 199 BGB) results in a shorter statute of limitation in the individual case. The periods of limitation of the Product Liability Law shall remain unaffected in any case. Otherwise, the legal periods of limitation shall exclusively apply to any claims on damages of the Purchaser pursuant to section 8.

### Section 10 Applicable Law and Jurisdiction

(1) These GTCs and all the legal relationships between us and the Purchaser shall be governed by the law of the Federal Republic of Germany, excluding international uniform law, especially the UN Convention on Contracts for the International Sale of Goods. The conditions and effects of the retention of title pursuant to section 6 shall be subject to the law applicable at the respective place of storage of the item, insofar as according to such law the decision in favour of the German law is unpermissible or ineffective.

(2) If the Purchaser is a merchant in the sense of the German Commercial Code, a corporate body under public law, or a special fund under public law, the exclusive - also international - place of jurisdiction for all the disputes which may result directly or indirectly from the contractual relationship shall be our place of business in Osann-Monzel. We shall however also be entitled to take legal action at the general place of jurisdiction of the Purchaser.

Date: 1<sup>st</sup> October 2015

### Geschäftsführer

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