

# NOXON<sup>®</sup>

## AUTOMATION

NOXON Automation GmbH + Co. KG, Postfach 91 01 49, D-75091 Pforzheim

### General Terms of Sale and Delivery

#### 1. Scope, form

- 1.1 These General Terms of Sale and Delivery apply to all our business relationships with our customers. The General Terms of Sale and Delivery shall apply only if the customer is an entrepreneur (§ 14 BGB [German Civil Code]), a legal entity under public law or a special fund under public law.
- 1.2 The General Terms of Sale and Delivery apply in particular to contracts for the sale and / or delivery of goods ("goods" or "delivery item"), irrespective of whether we manufacture the goods ourselves or purchase from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the General Terms of Sale and Delivery in the version valid at the time of the customer's order or at least in the version last communicated to him in text form also apply to similar future contracts, without us having to refer to them again in each individual case.
- 1.3 Our General Terms of Sale and Delivery apply exclusively. Deviating, conflicting or supplementary terms and conditions of the customer shall only become part of the contract if and insofar as we have expressly consented to their validity. This approval requirement applies in any case, for example, even if the customer in his order refers to the exclusive application of his general terms and conditions and we do not expressly contradict said conditions. The general terms and conditions of the customer and its suppliers shall not apply, and also not as shrink-wrap, click-wrap or other pre-formulated conditions.
- 1.4 Individual agreements (e.g. master supply agreements, quality assurance agreements) and details mentioned in our order confirmation take priority over the General Terms of Sale and Delivery. In cases of doubt trade provisions shall be interpreted in accordance with the Incoterms<sup>®</sup> issued by the International Chamber of Commerce in Paris (ICC) in force on the date the contract is concluded.
- 1.5 Significant legal declarations and notifications made by the customer with regard to the contract (e.g. setting of a deadline, notification of a defect, withdrawal or reduction) shall be made in writing. For the purpose of these General Terms of Sale and Delivery, the written form includes text in the form of a letter, email, or telefax. Statutory formal requirements and other verifications shall remain unaffected, in particular if there are doubts with regard to the legitimation of the declarant.
- 1.6 Notes on the validity of statutory regulations shall only have an explanatory function. Even without such clarification the statutory regulations shall therefore apply unless directly amended or expressly excluded in these General Terms of Sale and Delivery.

#### 2. Conclusion of contract, scope of delivery and performance, procurement risk and guarantee

- 2.1 Our offers are subject to alteration without notice and without obligation. This shall apply even if we have supplied the customer with catalogues, technical documentation (such as drawings, plans, calculations, costings and references to DIN standards), other product descriptions or documents including in electronic form, in which we reserve ownership and copyright.
- 2.2 The order for the goods placed by the customer shall be deemed a binding offer to enter into a contract. Unless otherwise stated in the order, we shall be entitled to accept this offer to enter into a contract within 14 days after we have received said offer.

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- 2.3 We can declare the acceptance either in writing (e.g. through the sending of an order confirmation) or through delivery of the goods to the customer.
- 2.4 When the customer places an order, the customer shall supply us with all the documents and especially technical drawings, specifications, inspection instructions, raw material analyses, etc. which are necessary to execute the order. In particular, the customer shall inform us about the tolerances and technical standards which must be complied with. The customer shall be liable for the accuracy of these documents and information. We will not assume liability for errors which are due to these documents or information.
- 2.5 Our written order confirmation shall be authoritative for the order. If the customer has any objections to the details contained in the order confirmation, then he must immediately reject the order confirmation. Otherwise, the contract has been concluded on the basis of the order confirmation. If there are any deviations in drawings, the performance specification in the order confirmation shall be authoritative.
- 2.6 The customer shall inform us in writing in a timely manner before the agreement is concluded regarding special requirements for the goods. However, such information shall not extend our contractual obligations or liability.
- 2.7 The assumption of a procurement risk or a procurement guarantee does not lie solely in our obligation to deliver an item that is determined only by its type.
- 2.8 We shall only accept a procurement risk pursuant to § 276 of the BGB on the strength of a written, separate agreement which shall include the term "*we accept the procurement risk ...*".
- 2.9 If changes to the content of the performance are necessary due to missing or incorrect information provided by the customer we are entitled to make these changes, whereby the customer shall refund us for any resulting costs or damages.
- 2.10 Our specifications for the object of the delivery or service (e.g. weight, dimensions, values in use, robustness, tolerances and technical specifications) and our descriptions of the same (e.g. drawings and illustrations) are only approximately applicable, unless usability for the contractually intended purpose requires exact conformity. They are not guaranteed characteristics, but descriptions or identifications of the delivery or service.

We reserve the right to change deliveries or services after conclusion of the contract as follows provided this is reasonable for the customer:

- a) product or process changes according to general further development and improvement;
- b) minor and insignificant deviations in colour, shape, design, surface structure, dimensions, weight and quantities;
- c) optical as well as other customary deviations.

### 3. Delivery period and delay in delivery

- 3.1 The delivery period is agreed individually or stated by us upon acceptance of the order.
- 3.2 If we cannot meet binding delivery deadlines for reasons for which we are not responsible (unavailability of the service), we will inform the customer without delay and at the same time notify the customer of the expected new delivery deadline. If the service is not available within the new delivery period, we are

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entitled to withdraw from the contract in whole or in part, whereby we shall reimburse immediately any consideration already provided by the customer.

- 3.3 The occurrence of our default in delivery is determined by the statutory provisions. In any case, a reminder from the customer is required.
- 3.4 The rights of the customer pursuant to section 10 of these General Terms of Sale and Delivery and our statutory rights, in particular where the duty of performance is excluded (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

#### 4. Force majeure, self-delivery

- 4.1. If, for reasons for which we are not responsible, we are not supplied, not supplied correctly or not supplied in time for the provision of our contractual deliveries or services or services of our subcontractors despite proper and sufficient stocking prior to the conclusion of the contract with the customer in accordance with the quantity and quality from our delivery or service agreement with the customer (congruent stocking), or if events of force majeure of not insignificant duration occur, we shall inform our customers in writing or in text form in a timely manner. In this case, we are entitled to postpone the delivery for the duration of the impediment or to withdraw from the contract in whole or in part due to the part not yet fulfilled, insofar as we have fulfilled our aforementioned duty to inform and have not assumed the procurement risk or a delivery guarantee.

If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part, whereby we shall immediately refund any consideration already paid by the customer.

A force majeure event can include war, civil wars, hostilities (regardless of whether war has been declared), revolution, riot, civil unrest, terror, explosions, fires, earthquakes, floods, storms, typhoons or any other natural disasters such as an epidemic, pandemic, diseases or quarantine, cyberattacks, operational disruptions of the world wide web (internet), labour disputes, strikes, lockouts, embargoes, calls for boycotts, border closures, import and export bans and other obstacles to trade due to the relevant national and internationally applicable regulations of foreign trade law, official interventions, changes to the legal situation, virus and other attacks by third parties on our IT system, insofar as these occurred despite observance of the usual care for protective measures, energy and raw material shortages, transport bottlenecks or obstacles through no fault of our own, operational hindrances through no fault of our own, due to, for example, damage caused by fire, water and machine damage, power failure, and all other hindrances which, viewed objectively, were not culpably caused by us.

Force majeure shall also apply if material shortages and production bottlenecks occur as a result of war, and also occur not due to the direct consequence of the war event, but its indirect consequence, such as an expected gas shortage due to the war in the Ukraine in 2022, which may lead to a production restriction for which we are not responsible.

- 4.2. If a delivery date or a delivery period has been bindingly agreed, but the agreed delivery date and the agreed delivery period are exceeded due to events according to section 4.1, the customer shall be entitled to withdraw from the contract due to the part not yet fulfilled after the fruitless expiry of a reasonable period of grace. Further claims of the customer, in particular for damages, are excluded in this case.

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- 4.3. The aforementioned provision in accordance with section 4.2 shall apply accordingly if, for the reasons stated in section 4.1 even without a contractual agreement of a fixed delivery date, it is objectively unreasonable for the customer to continue to adhere to the contract.

### 5. Delivery, transfer of risk, acceptance, default of acceptance

- 5.1 Delivery shall be made free carrier (FCA) place of dispatch (see details in the offer/order confirmation), which is also the place of performance for the delivery and any subsequent performance. At the request and expense of the customer, the goods shall be shipped to another destination (hereinafter "sales shipment"). Unless otherwise agreed, we shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.

- 5.2 We are only entitled to make partial deliveries if

- the partial delivery is usable for the customer within the scope of the contractually intended purpose,
- the delivery of the remaining ordered goods is ensured and
- the customer does not incur any significant additional expenses or costs as a result (unless we agree to bear these costs).

- 5.3 We are entitled to make excess or short deliveries of up to 5% of the agreed delivery quantity.

- 5.4 The risk of accidental loss and accidental deterioration of the goods shall pass to the customer at the latest upon handover. In the case of a sales shipment to a place other than the place of performance, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. The handover or acceptance shall be deemed equivalent if the customer is in default of acceptance.

- 5.5 If the customer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge a lump-sum compensation to the amount of 0.5% of the net price per calendar week up to a maximum of 10% of the net price in total for the case of final non-acceptance, beginning with the delivery deadline or in the absence of a delivery deadline with the notification that the goods are ready for shipment.

This shall not affect the right to provide evidence of higher damages and our other statutory right to make a claim (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected. However, the lump sum shall be offset against further monetary claims. The customer shall be entitled to prove that we have incurred no damage at all or only significantly less damage than the aforementioned lump sum.

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### 6. Supplied items / loaned items

- 6.1 If it has been agreed that we incorporate items provided to us by the customer or a third party at the customer's instigation (hereinafter "items provided") into our delivery items, the customer shall deliver the items provided to our registered office free of charge and in good time in a defect-free condition in accordance with the agreed specifications. The above provision shall apply mutatis mutandis if the customer or a third party is obliged at the customer's instigation to supply us with loaned items.
- 6.2 Upon receipt, we shall only inspect the supplied items for identity and externally recognisable transport damage. We shall give notice of defects detected by us within 5 calendar days. We shall not be subject to any further obligations to inspect and give notice of defects. We shall not be subject to any obligation to inspect and give notice of defects with regard to loaned items.
- 6.3 We shall store and handle supplied and loaned items with our customary care. There is no obligation to store the goods separately, to mark them as supplied or loaned items or to insure them.
- 6.4 We assume no liability for the technical functionality and quality defects of parts supplied by the customer. We reserve the right to refuse the installation of the supplied materials and semi-finished products if they do not meet our quality requirements and specifications.
- 6.5 Additional costs based on deficiencies in the materials supplied by the customer (travel/ installation/ removal) shall be borne by the customer.
- 6.6 The return of the loaned items shall be at the expense of the customer.

### 7. Prices and terms of payment, defence of insecurity

- 7.1 Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract shall apply, ex warehouse, plus statutory VAT.
- 7.2 In the case of sales shipment to a place other than the place of performance (section 5.1), the customer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the customer. If we do not invoice the transport costs actually incurred in the individual case, a flat rate for transport costs (excluding transport insurance) of up to 2% of the net price shall be deemed agreed. Any customs duties, fees, taxes and other public charges shall be borne by the customer.
- 7.3 The purchase price is due and payable within 14 calendar days of invoicing and delivery or acceptance of the goods. However, we are entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation.
- 7.4 Upon expiry of the aforementioned payment deadline, the customer shall be in default. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate. We reserve the right to assert further damage caused by default. With respect to merchants, our claim to the commercial default interest rate (§ 353 HGB [German Commercial Code]) remains unaffected.
- 7.5 The customer shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed. In the event of defects in the delivery, the counter-rights of the customer

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shall remain unaffected, in particular pursuant to section 10.6 sentence 2 of these General Terms of Sale and Delivery.

- 7.6 If it becomes apparent after the conclusion of the contract (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardised by the customer's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and if necessary after setting a deadline to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), we may declare withdrawal immediately, whereby the statutory regulations on the dispensability of setting a deadline remain unaffected.

### 8. Price adjustment

- 8.1 If, after the conclusion of the contract, the costs of the goods increase (e.g. due to rising raw material, transport or energy procurement costs), we have the right to demand negotiations for a price adjustment to the increased costs. If, after the conclusion of the contract, the costs of the goods decrease (e.g. due to falling raw material, transport or energy procurement costs), the customer shall be entitled to demand negotiations for a price adjustment to the lower cost.
- 8.2 For the question of whether cost increases or cost reductions have occurred after the conclusion of the contract, only those cost factors shall be relevant and shall be proven by the contracting party requesting the negotiations which relate specifically to the goods which are the subject matter of the contract (such as raw material, transport or energy costs). Cost factors outside the contractual goods (i.e. those that do not directly affect the price of the goods, such as competitive prices of other manufacturers) shall not be considered and shall not entitle the contracting party to demand price adjustment negotiations.
- 8.3 The request for negotiations shall be made in writing to the other contracting party. The contracting party which receives the request shall not unreasonably refuse the requested price adjustment.
- 8.4 If the parties do not reach an agreement on the requested price adjustment within 30 days after receipt of the request for negotiations (day of receipt = day 0), the contracting party that has requested negotiations shall have the right to determine the new prices subject to the proviso that the determination shall be made at its reasonable discretion (in particular on the basis of the value of the service to be remunerated). The respective other contracting party has the possibility to have the fairness of the new prices reviewed by the courts.

### 9. Retention of title

- 9.1 Until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims), we reserve title to the goods sold.
- 9.2 The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The customer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.
- 9.3 In the event of conduct by the customer in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand surrender of the goods on the basis of the reservation of title.

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The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the customer does not pay the purchase price due, we may only assert these rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.

- 9.4 Until revoked in accordance with (c) below, the customer is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply additionally.
- (a) The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, then we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
  - (b) The customer hereby assigns to us by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment. The obligations of the customer stated in paragraph 2 shall also apply in respect of the assigned claims.
  - (c) The customer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the customer meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to paragraph 3. If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the customer's authority to further sell and process the goods subject to retention of title.
  - (d) If the realisable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the customer's request.

## 10. Claims for defects of the customer

- 10.1 The statutory provisions shall apply to the customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly/installation or defective instructions), unless otherwise stipulated below. In all cases, the special statutory provisions on the reimbursement of expenses in the case of final delivery of the newly manufactured goods to a consumer (supplier's recourse pursuant to §§ 478, 445a, 445b or §§ 445c, 327 para. 5, 327u BGB) shall remain unaffected, unless an equivalent compensation has been agreed, e.g. within the scope of a quality assurance agreement.
- 10.2 The basis of our liability for defects is above all the agreement reached on the quality and the presumed use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us (in particular in catalogues or on our Internet homepage) at the time of the conclusion of the contract shall be deemed to be an agreement on quality in this sense. No further warranty is given for any

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(objectively) expected properties (e.g. durability, functionality, compatibility) or that the goods are suitable for a particular use, unless this has been agreed separately. Rather, the customer is responsible for checking whether the goods with the data specified in the specification or data sheet are suitable for the use intended by him. Public statements made by the manufacturer or on his behalf, in particular in advertising or on the label of the goods, take precedence over statements made by other third parties.

- 10.3 In the case of goods with digital elements or other digital content, we only owe provision and, if applicable, updating of the digital content insofar as this expressly results from a quality agreement pursuant to paragraph 2. In this respect, we assume no liability for public statements by the manufacturer and other third parties.
- 10.4 As a matter of principle, we shall not be liable for defects of which the customer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the customer's claims for defects presuppose that he has fulfilled his statutory duties of inspection and notification (§§ 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at any later time, we must be notified of this in writing without delay. In any case, obvious defects must be notified to us in writing within 5 calendar days of delivery and defects which are not recognisable during the inspection must be notified to us within the same period of time after discovery. If the customer fails to carry out the proper inspection and/or give notice of defects, our liability for the defect not reported or not reported in time or not reported properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for fitting, mounting or installation, this shall also apply if the defect only became apparent after the corresponding processing as a result of the breach of one of these obligations; in this case, the customer shall in particular have no claims for reimbursement of corresponding costs ("removal and installation costs").
- 10.5 If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering an item free of defects (replacement). If the type of subsequent performance chosen by us is unreasonable for the customer in the individual case, the customer may reject it. Our right to refuse subsequent performance under the statutory conditions remains unaffected.
- 10.6 We are entitled to make the subsequent performance owed dependent on the customer paying the purchase price due. The customer shall, however, be entitled to retain a reasonable part of the purchase price in relation to the defect.
- 10.7 The customer shall give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the customer shall return the defective item to us at our request in accordance with the statutory provisions; however, the customer shall not have a claim for return. Subsequent performance does not include the dismantling, removal or disassembly of the defective item or the fitting, mounting or installation of a defect-free item if we were not originally obliged to perform these services; claims by the customer for reimbursement of corresponding costs ("removal and installation costs") remain unaffected.
- 10.8 We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, in accordance with the statutory regulation and these General Terms of Sale and



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Delivery if there is actually a defect. Otherwise, we may demand reimbursement from the customer of the costs arising from the unjustified request to remedy the defect if the customer knew or was negligent in not knowing that there was actually no defect.

- 10.9 If a reasonable period of time to be set by the customer for subsequent performance has expired unsuccessfully or is dispensable under the statutory provisions, the customer may withdraw from the purchase contract or reduce the purchase price in accordance with the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.
- 10.10 Claims of the customer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with section 12 and are otherwise excluded.

### 11. Property rights and defects of title

- 11.1 In accordance with this section 11, we warrant that the delivery item is free of industrial property rights or copyrights of third parties. The customer must inform us immediately of any risks of infringement that become known (in particular industrial property rights asserted by third parties) or alleged cases of infringement. Furthermore, the customer must support us to a reasonable extent in the defence against the asserted claims.
- 11.2 Claims for defects due to the infringement of industrial property rights shall only exist if (i) at least one industrial property right from the family of industrial property rights is infringed which is published either by the European Patent Office or in one of the states of the Federal Republic of Germany, France, Great Britain, Austria or the USA, (ii) the industrial property right is not or was not owned by the customer or by a company in which the customer holds a direct or indirect majority of the capital or voting rights, (iii) we reserve the right to take all defensive measures, including out-of-court settlements, and (iv) the infringement of rights was not caused by the fact that the customer modified the goods without authorisation or used them in a manner not in accordance with the contract.
- 11.3 Claims of the customer due to the infringement of property rights are excluded insofar as (i) the customer is responsible for the infringement of property rights, (ii) we have manufactured the goods according to specifications or instructions of the customer or according to drawings, models or other descriptions or information of the customer equivalent thereto provided by the customer and did not know or could not have known in connection with the goods developed by us, that industrial property rights are thereby infringed, (iii) the (alleged) infringement of the industrial property right results from the use in combination with another object not originating from us or (iv) the products are used in a manner which we neither knew nor could have foreseen.
- 11.4 In the event that the delivery item infringes an industrial property right or copyright of a third party, we shall, at our discretion and at our expense, modify or replace the delivery item in such a way that the rights of third parties are no longer infringed, but the delivery item continues to fulfil the contractually agreed functions, or procure the right of use for the customer by concluding a licence agreement with the third party. If we do not succeed in doing so within a reasonable period of time, the customer shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages on the part of the customer are subject to the limitations of section 12 of these General Terms of Sale and Delivery.
- 11.5 In the event of infringements of rights by goods of other manufacturers supplied by us, we shall, at our discretion, assert our claims against the manufacturers and upstream suppliers for the account of the

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customer or assign them to the customer. In such cases, claims against us shall only exist in accordance with this section 11 if the legal enforcement of the aforementioned claims against the manufacturers and suppliers was unsuccessful or is futile, e.g. due to insolvency.

### 12. Other liability

- 12.1 Unless otherwise stated in these General Terms of Sale and Delivery, including the following provisions, we shall be liable for any breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 12.2 We shall be liable for damages - irrespective of the legal grounds - within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), in the following cases
- a) for damages arising from injury to life, limb or health,
  - b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfilment of which enables the proper execution of the contract in the first place and on the observance of which the contractual partner regularly relies and may rely), whereby in this case, however, our liability is limited to the compensation of the foreseeable, typically occurring damages.
- 12.3 Insofar as we provide technical information or act in an advisory capacity and this information or advice is not part of the contractually agreed scope of performance owed by us, this shall be done free of charge and to the exclusion of any liability.
- 12.4 Our liability is limited insofar as the customer has effectively limited or excluded liability towards its customers. To this end, in the event of a dispute, the customer shall provide us with any information necessary for the assessment of such limitations of liability, in compliance with data protection and other applicable mandatory legal provisions.
- 12.5 The limitations of liability resulting from para. 2, para. 3 and para. 4 shall also apply to third parties as well as to breaches of duty by persons (also in their favour) whose fault we are responsible for according to statutory provisions. They do not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the customer under the Product Liability Act.
- 12.6 Due to a breach of duty that does not consist of a defect, the customer may only withdraw or terminate if we are responsible for the breach of duty. A free right of termination of the customer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.
- 12.7 A reversal of the burden of proof is not associated with the above regulations.

### 13. Limitation period

- 13.1 Notwithstanding Section 438 (1) no. 3 of the BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as an acceptance has been agreed, the limitation period shall commence with the acceptance.

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13.2 If the goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory regulation (§ 438 para. 1 no. 2 BGB). Other special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1, para. 3, §§ 444 , 445b BGB) shall remain unaffected.

13.3 The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages of the customer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases.

Claims for damages by the customer pursuant to § 8 para. 2 p. 1 and p. 2 (a) as well as pursuant to the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

#### 14. Changes to the business environment

If, during the term of the contract, there is a significant change in the economic, technical or legal circumstances which were decisive in determining the content of the contract, and if, as a result, our obligations become grossly disproportionate, under consideration of the term of the contract, we may demand that the contract be adjusted to the changed circumstances in a reasonable and equitable manner. The nature and extent of any contractual adjustment to be made shall depend on whether and to what extent the advantage of one contractual partner is offset by a disadvantage for the other contractual partners.

#### 15. Export control, customs

15.1 When exporting, the customer is responsible for compliance with the export control regulations applicable to the goods in each case. In case of violation of export regulations by the customer, we are entitled to withdraw from the contract.

15.2 If the delivery includes an export requiring approval by us, the contract shall only be deemed concluded upon receipt of the respective approval. The customer undertakes to provide all documents required for approval.

15.3 The customer agrees to provide proof of use and/or end-use certificates upon request even if these are not officially required.

15.4 In the event of export/transfer, the customer shall only be exempt from German VAT upon receipt of a legally valid export certificate.

15.5 If deadlines or dates cannot be met due to delays in export control, the delivery period shall be extended and the delivery date shall be adjusted in accordance with the delay.

#### 16. Compliance with the law

16.1 In connection with the contractual relationship, the customer is obliged to comply with the legal provisions applicable to him in each case. This applies in particular to anti-corruption and money laundering laws as well as antitrust, labour and environmental protection regulations, Directive 2002/95/EC (RoHS) and REACH Regulation (EC) 1907/2006.

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16.2 The customer with its registered office in the European Union shall ensure that the goods delivered by it comply with all relevant requirements to place the goods on the market in the European Union. The same applies to customers with registered offices outside the European Union but in the European Economic Area. Upon request, the customer shall provide us with evidence of conformity by submitting suitable documents.

### 17. Confidentiality

17.1 The customer shall be obliged to keep drawings, plans, illustrations, calculation, models, samples and other documents ("confidential information") confidential. As far as the confidential information in the sense of this agreement does not satisfy the legal requirements of a trade secret (§ 2 No.1 GeschGehG [German Trade Secret Act]), this information, however, falls under the contractual obligations of this agreement.

17.2 Information is not deemed to be a trade secret or confidential,

- which was in the public domain or generally known before the communication or which became known at a later date and does not violate an obligation to secrecy;
- which was already verifiably known to the customer before the customer received the information from us and does not violate an obligation to secrecy;
- which was obtained independently by the customer without use of or reference to any trade secrets or confidential information from us; or
- which was passed on or made available by a third party entitled to pass on the information without violation of the obligation to secrecy.

17.3 The customer may only disclose or pass them on to third parties with our express written consent, provided that the customer has obliged third parties to maintain comparable confidentiality. The customer shall be liable to us for breaches of contract by commissioned third parties as for his own misconduct.

17.4 The obligation to maintain secrecy shall survive the termination of the contract. The obligation to maintain secrecy shall only expire if and to the extent that the knowledge contained in the documents provided has become generally known. If the customer violates this confidentiality obligation, he shall be obliged to pay us a contractual penalty.

17.5 In the event of a culpable breach by the customer (including its employees, representatives or organs of the recipient or other persons for whom the recipient is responsible within the meaning of §§ 31, 278 of the BGB) of the obligations arising from this clause 17, the customer undertakes to pay us an appropriate contractual penalty, the amount of which we shall determine at our reasonable discretion (§ 315, BGB) and the appropriateness of which may be reviewed by the courts in the event of a dispute. Any further contractual or statutory claims (e.g. §§ 6 et seq. GeschGehG [Trade Secret Act]) shall remain unaffected by this, whereby any contractual penalty paid due to the breach shall be offset against any additional claim for damages.

17.6 In all other respects, the provisions on the protection of trade secrets (implemented in Germany by the Trade Secret Act and in other member states of the European Union by the implementation of Directive 2016/943) as well as the agreements made in non-disclosure agreements apply to the handling of trade secrets.

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### 18. Transfer of rights and obligations

- 18.1 We are entitled to transfer our rights and obligations to third parties without prior consultation with the customer.
- 18.2 However, the assignment of the rights and/or the transfer of the customer's obligations arising from the contractual relationship to a third party are not permitted without our written consent. This does not apply to payment claims.

### 19. Choice of law and place of jurisdiction

- 19.1 The law of the Federal Republic of Germany shall apply to these General Terms of Sale and Delivery and the contractual relationship between us and the customer to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- 19.2 If the customer is a merchant within the meaning of the HGB, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office. The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB. However, we are also entitled in all cases to initiate legal proceedings at the place of performance of the delivery obligation in accordance with these General Terms of Sale and Delivery or a prior individual agreement or at the general place of jurisdiction of the customer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.