

General Terms and Conditions of Sale and Delivery of Pikatron GmbH

Last updated 05/2021

I. General provisions

- a. These terms and conditions of sale and delivery shall apply exclusively to the legal relationship between the Purchaser and us. The customer's general terms and conditions of business shall only apply insofar as we have expressly agreed to these terms and conditions in writing. The mutual concurring written declarations shall be decisive for the scope of the deliveries.
- b. Orders, supplements, and amendments to an order by the Purchaser shall only be deemed to have been accepted if they have been confirmed by us in writing. The receipt of a delivery note or an invoice by the Purchaser as well as the delivery shall be deemed as confirmation.
- c. We reserve our rights of use and exploitation under property and copyright law of cost estimates, drawings and other documents (hereinafter: Documents) without restriction. The Documents may only be made accessible to third parties with our prior consent. If the order is not placed with us, they must be returned to us immediately upon request. This section shall also apply accordingly to documents of the customer. However, they may be made accessible to third parties to whom we have permissibly assigned tasks.
- d. In the case of software and firmware, the Purchaser shall have the non-exclusive right of use with the agreed performance features in unchanged form on the agreed devices.
- e. The term "claims for damages" in these Terms and Conditions of Sale and Delivery also includes claims for reimbursement of wasted expenses.

II. Delivery item and delivery time

- a. Decisive for our delivery obligation is the content of our confirmation according to Art. I.b.
- b. Our obligation to deliver shall be suspended as long as the customer is to a non-negligible degree in arrears with a liability.
- c. Partial deliveries are permissible insofar as they are reasonable for the customer.
- d. The delivery time confirmed by us is to be regarded as approximate and does not constitute a delivery commitment in the sense of a relative or absolute fixed-date deal.
- e. We reserve the right to self-delivery as well as quantity deviations of +/- 2 pieces for orders up to 49 pieces and +/- 10% for orders of 50 pieces or more.

III. Prices, terms of payment and set-off

- a. Prices are quoted in euros ex works plus the applicable statutory value added tax. In exceptional cases, other currencies are also possible if this is expressly confirmed by us. Unless otherwise agreed, ancillary costs, in particular packaging, transport or insurance costs, are not included in the prices.
- b. Agreed prices are calculated on the basis of the material and substance prices, collectively agreed wages, statutory and collectively agreed social benefits and freight costs applicable on the date of conclusion of the contract. If these pricing factors increase by the time the contract is fulfilled, we shall be entitled to make a corresponding price change. In any case, we are entitled to price increases if our delivery is to be made later than 6 months after conclusion of the contract or

can only be made after the expiry of this 6-month period for reasons for which the customer is responsible.

- c. Unless otherwise agreed, payments shall be made within 30 days net from the date of invoice.
- d. If the customer is in arrears with a payment from a contract existing with us for more than 30 days, if he has suspended his payments or if there has been a significant deterioration in his financial circumstances, our claims from all contracts with the customer shall become due immediately. Deferments or other deferments of payment shall cease. We may demand advance payment or provision of security for undelivered goods and - if the customer is in default with the advance payment or provision of security - demand damages for non-performance or withdraw from the contract after the expiry of a grace period.
- e. If the customer defaults on a payment, we are entitled to charge interest on arrears in the amount of 3% above the respective discount rate of the German Central Bank. Each party reserves the right to prove different damages.
- f. If we have assumed the installation or assembly and nothing else has been agreed, the customer shall bear all necessary ancillary costs such as travel and transport costs as well as allowances in addition to the agreed remuneration.
- g. The Purchaser may only offset such claims that are undisputed or have been legally established.

IV. Retention of title

- a. The objects of the deliveries (hereinafter: Reserved Goods) shall remain our property until all claims to which we are entitled against the customer from the business relationship have been fulfilled. If the value of all security rights to which we are entitled exceeds the amount of all secured claims by more than 20%, we shall release a corresponding part of the security rights at the request of the customer. We shall be entitled to choose between different security interests for the release.
- b. During the existence of the reservation of title, the Purchaser is prohibited from pledging or transferring ownership by way of security and resale is only permitted to resellers within the ordinary course of business and only on condition that the reseller receives payment from its customer or makes the reservation that ownership is not transferred to the customer until the latter has fulfilled its payment obligations.
- c. If the customer resells goods subject to retention of title, he hereby assigns his future claims from the resale against his customers with all ancillary rights - including any balance claims - to us by way of security without the need for any further special declarations. If the goods subject to retention of title are resold together with other items without an individual price having been agreed for the goods subject to retention of title, the customer shall assign to us that part of the total price claim which corresponds to the price of the goods subject to retention of title invoiced by us.
- d. The customer is permitted to process the goods subject to retention of title or to mix or combine them with other objects. The processing shall be carried out for us. The customer shall keep the resulting new item in safe custody for us with the due care of a prudent businessman. The new item shall be deemed to be goods subject to retention of title.
- e. The customer and we agree already now that in the event of combination and mixing with other objects not belonging to us, we shall in any case be entitled to co-ownership of the new object in the amount of the share resulting from the ratio of the value of the combined or mixed goods subject to retention of title to the value of the other goods at the time of combination or mixing. The new item shall be deemed to be Reserved Goods to this extent.

- f. The provision on the assignment of claims according to Art. IV.c shall also apply to the new item. However, the assignment shall only apply up to the amount corresponding to the value of the processed, combined, or mixed Reserved Goods invoiced by us.
- g. If the customer combines the goods subject to retention of title with real estate or movable property, he shall also assign to us by way of security his claim to which he is entitled as remuneration for the combination, including all ancillary rights, in the amount of the ratio of the value of the combined goods subject to retention of title to the other combined goods at the time of the combination.
- h. Until revoked, the customer is authorised to collect assigned claims from the resale. In the event of good cause, in particular default in payment, suspension of payment, opening insolvency proceedings, bill protest or justified indications of over-indebtedness or imminent insolvency of the customer, we shall be entitled to revoke the collection authorisation of the customer. In addition, we may, after prior warning and observance of a reasonable period of time, disclose the assignment by way of security, realise the assigned claims and demand the disclosure of the assignment by way of security by the ordering party to the customer.
- i. In the event of seizures, confiscations or other dispositions or interventions by third parties, the customer must notify us immediately. If a justified interest is substantiated, the customer must immediately provide us with the information required to assert its rights against the customer and hand over the necessary documents.
- j. In the event of breaches of duty by the customer, in particular in the event of default in payment, we shall be entitled to withdraw from the contract in addition to taking back the goods after the unsuccessful expiry of a reasonable deadline set for the customer to perform; the statutory provisions on the dispensability of setting a deadline shall remain unaffected. The customer shall be obliged to surrender the goods. Our taking back or assertion of the reservation of title or the seizure of the goods subject to reservation of title shall not constitute a withdrawal from the contract unless we have expressly declared this.
- V. Deadlines for deliveries and delay**
- a. The observance of deadlines for deliveries assumes the timely receipt of all documents to be provided by the customer, necessary approvals and releases, in particular of plans, as well as the observance of the agreed terms of payment and other obligations by the customer. If these prerequisites are not fulfilled in time, the deadlines shall be extended accordingly; this shall not apply if we are responsible for the delay.
- b. If the non-compliance with the deadlines is due to
- force majeure, e.g. mobilisation, war, acts of terrorism, riot or similar events (e.g. pandemic, strike, lockout),
 - viruses and other attacks by third parties on our IT system, insofar as these occurred despite compliance with the usual care for protective measures,
 - obstacles due to German, US and other applicable national, EU or international regulations of foreign trade law or due to other circumstances for which we are not responsible, or
 - untimely or improper delivery of input material to us, the deadlines shall be extended accordingly.
- c. If we are in default, taking into account a reasonable grace period, the customer may - provided that they can credibly demonstrate that they have suffered damage as a result - demand compensation of the default of 0.5% for each completed week, but in no case more than a total of 5% of the price for the part of the deliveries which could not be used for the intended purpose due to the default.
- d. Both claims for damages by the Purchaser due to delay in delivery and claims for damages in lieu of performance which exceed the limits specified in Art. V.care excluded in all cases of delayed delivery, even after the expiry of any deadline set for delivery. This shall not apply in cases of liability for intent, gross negligence or injury to life, body, or health. The customer may only withdraw from the contract within the framework of the statutory provisions if we are responsible for the delay in delivery. A change in the burden of proof to the detriment of the Purchaser is not associated with the above provisions.
- e. At our request, the customer is obliged to declare within a reasonable period of time whether he will withdraw from the contract due to the delay in delivery or insist on delivery.
- f. If dispatch or delivery is delayed at the request of the Purchaser by more than one month after notification of readiness for dispatch, the Purchaser may be charged storage costs amounting to 0.5% of the price of the items of the deliveries for each additional month or part thereof, but not exceeding a total of 5%. The contracting parties are at liberty to prove higher or lower storage costs.
- VI. Transfer of risk**
- a. Even in the case of freight paid delivery, the risk shall pass to the Purchaser as follows:
- in the case of delivery without installation or assembly, when it has been brought for dispatch or collected. At the request and expense of the Purchaser, the delivery will be insured by us against the usual transport risks;
 - in case of delivery with installation or assembly on the day of takeover at their own company or, if agreed, after successful trial operation.
- b. If the dispatch, the delivery, the start, the performance of the assembly or erection, the takeover at their own company or the trial run is delayed for reasons for which the Purchaser is responsible or if the Purchaser is in default of acceptance for other reasons, the risk shall pass to the Purchaser.
- VII. Installation and assembly**
- Unless otherwise agreed in writing, the following provisions shall apply to installation and assembly:
- a. The Purchaser shall assume and provide in good time at their own expense:
- all ancillary work outside the industry, including the skilled and unskilled labour, materials and tools required for this purpose;
 - the items and materials required for assembly and commissioning, such as lifting gear and other devices;
 - energy and water at the point of use including connections, heating and lighting;
 - sufficiently large, suitable, dry and lockable rooms at the assembly site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the assembly personnel, including sanitary facilities appropriate to the circumstances; in addition, the Purchaser shall take the measures for the protection of the assembly personnel and our property at the construction site which it would take for the protection of its own personnel and property;
 - Protective clothing and protective devices required as a result of special circumstances at the assembly site.
- b. Prior to the start of the installation work, the customer shall provide the necessary information on the location of concealed electricity, gas and water lines or similar

installations as well as the required structural data without being requested to do so.

- c. Prior to the start of assembly or erection, the materials and objects required for the commencement of the work must be available at the assembly or erection site and all preparatory work must have progressed to such an extent that assembly or erection can be commenced as agreed and carried out without interruption. Access roads and the installation or assembly site must be levelled and cleared.
- d. If the installation, assembly, or commissioning is delayed due to circumstances for which we are not responsible, the customer shall bear the reasonable costs for waiting time and any additional travel required by us or the assembly personnel.
- e. The customer shall certify to us on a weekly basis the duration of the working time of the assembly personnel as well as the completion of the installation, assembly, or commissioning.
- f. If we demand acceptance of the delivery after completion, the customer shall carry this out within two weeks. Acceptance shall be deemed to have taken place if the customer allows the two-week period to elapse or if the delivery has been put into use - if applicable, after completion of an agreed test phase.

VIII. Receipt

The Purchaser may not refuse to accept deliveries due to insignificant defects.

IX. Material defects and warranty

We shall be liable for material defects as follows, provided that the Purchaser complies with their obligation to inspect and give notice of defects:

- a. All parts or services which have a material defect, the cause of which was already present at the time of the transfer of risk and the date of the transfer of risk was not more than 24 months ago, shall, at our discretion, be repaired, replaced, or provided again free of charge.
- b. Claims for subsequent performance shall become statute-barred 6 months after the statutory commencement of the limitation period; the same shall apply to withdrawal and reduction. This period shall not apply:
 - i. insofar as the law prescribes longer periods,
 - ii. in the case of intent,
 - iii. in the event of fraudulent concealment of the defect, as well as

claims for reimbursement of expenses of the Purchaser pursuant to Section 445a of the German Civil Code (recourse of the Seller) shall also become statute-barred 6 months after the statutory commencement of the limitation period, provided that the last contract in the supply chain is not a purchase of consumer goods. The statutory provisions on suspension of expiry, suspension and recommencement of the periods shall remain unaffected.

- c. Notification of defects by the Purchaser must be made in writing without delay, in the case of obvious defects within 7 days of the transfer of risk.
- d. In the event of claims for defects, payments by the customer may be retained to an extent that is in reasonable proportion to the material defects that have occurred. The customer shall not have a right of retention if its claims for defects are time-barred. If the notification of defects is unjustified, we shall be entitled to demand reimbursement of the expenses incurred by us from the customer.
- e. The Purchaser shall give us the opportunity to remedy the defect within a reasonable period of time. If the purchaser refuses this period, we shall be released from liability for defects.

- f. The warranty period shall be 3 months for rectifications, 6 months for replacement deliveries or replacement services. However, it shall run at least until the expiry of the original warranty period for the delivery item.
- g. If subsequent performance fails, the Purchaser may - without prejudice to any claims for damages pursuant to No. X - withdraw from the contract or reduce the remuneration.
- h. Claims for defects shall not exist in case of just an insignificant deviation from the agreed quality, in case of only an insignificant impairment of usability, in case of natural wear and tear or damage occurring after the transfer of risk as a result of incorrect or negligent handling, excessive stress, unsuitable operating materials or due to special external influences not assumed under the contract, as well as in case of non-reproducible software errors. If improper modifications, installation/removal, or repair work is carried out by the Purchaser or by third parties, there shall also be no claims for defects for these and the resulting consequences.
- i. Claims of the Purchaser for expenses incurred for the purpose of supplementary performance shall be excluded to the extent that expenses are increased because the subject-matter of the deliveries has subsequently been brought to another location than the Purchaser's branch office, unless doing so complies with the normal use of the deliveries. This shall apply mutatis mutandis to claims for reimbursement of expenses of the Purchaser pursuant to Section 445a of the German Civil Code (recourse of the Seller), provided that the last contract in the supply chain is not a purchase of consumer goods.
- j. The Purchaser's right of recourse against us pursuant to § 445a of the German Civil Code (recourse of the Seller) shall only exist to the extent that the Purchaser has not entered into any agreements with its customer exceeding the statutory claims for defects.
- k. Claims for damages by the Purchaser due to a material defect are excluded. This shall not apply in case of fraudulent concealment of the defect, in case of injury to life, body or health and in case of an intentional or grossly negligent breach of duty by us. A change in the burden of proof to the detriment of the Purchaser is not associated with the above provisions. Further claims or claims other than those regulated in this Art. IX on account of a material defect are excluded.

X. Industrial property rights and copyrights; defects of title

- a. Unless otherwise agreed, we are obliged to make the delivery only in the country of the place of delivery without infringing the industrial property rights and copyrights of third parties (hereinafter: property rights). If a third party asserts justified claims against the customer due to the infringement of property rights by deliveries made by us and used in accordance with the contract, we shall be liable to the customer within the period stipulated in Art. IX. as follows:
 - i. We shall, at our discretion and at our expense, either obtain a right of use for the deliveries concerned, modify them in such a way that the property right is not infringed, or replace them. If this is not possible for us under reasonable conditions, the customer shall be entitled to the statutory rights of withdrawal or reduction.
 - ii. Our obligation to pay damages is governed by Art. VIII.
 - iii. Our aforementioned obligations shall only exist insofar as the Purchaser immediately notifies us in writing of the claims asserted by the third party, does not acknowledge an infringement and all defensive measures and settlement negotiations remain reserved for us. If the customer ceases to use the delivery for reasons of mitigation of damages or other

important reasons, he shall be obliged to point out to the third party that the cessation of use does not constitute an acknowledgement of an infringement of property rights.

- b. Claims of the Purchaser are excluded insofar as they are responsible for the infringement of property rights.
- c. Claims of the Purchaser are also excluded insofar as the infringement of property rights is caused by special specifications of the Purchaser, by an application not foreseeable by us or by the fact that the delivery is modified by the Purchaser or used together with products not supplied by us.
- d. In the event of infringements of property rights, the claims of the Purchaser set out in Art. X.a.i the provisions of Art. IX.d, IX.e, IX.i and IX.j accordingly.
- e. In the event of other defects of title, the provisions of Art. IX accordingly.
- f. Further claims or claims other than those regulated in this Art. X against us and our vicarious agents due to a defect of title are excluded.

XI. Fulfilment reservation

- a. The performance of the contract is subject to the proviso that there are no obstacles due to German, US-American or other applicable national, EU or international regulations of foreign trade law as well as no embargos or other sanctions.
- b. The customer is obliged to provide all information and documents required for the export, transfer, or import.

XII. Impossibility and contract adjustment

- a. Insofar as the delivery is impossible, the customer is entitled to demand compensation unless we are not responsible for the impossibility. However, the customer's claim for damages shall be limited to 10% of the value of that part of the delivery which cannot be used for its intended purpose due to the impossibility. This limitation shall not apply in cases of liability based on intent, gross negligence or injury to life, body, or health; this does not imply a change in the burden of proof to the detriment of the customer. The right of the customer to withdraw from the contract remains unaffected.
- b. Insofar as events within the meaning of Art. V.b significantly change the economic significance or the content of the delivery or have a significant effect on our business, the contract shall be adjusted appropriately in good faith. Insofar as this is not economically justifiable, we shall be entitled to withdraw from the contract. The same applies if required export licences are not granted or cannot be used. If we wish to make use of this right of withdrawal, we must inform the customer immediately after realising the consequences of the event, even if an extension of the delivery period was initially agreed with the customer.

XIII. Other claims for damages

- a. Unless otherwise provided for in the Terms and Conditions of Delivery and Payment, claims for damages by the Purchaser are excluded, irrespective of the legal grounds, in particular for breach of duties arising from the contractual obligation and from tort.
- b. This does not apply insofar as liability is assumed as follows:
 - i. in accordance with the Product Liability Act,
 - ii. in case of intent,
 - iii. in the event of gross negligence on the part of owners, legal representatives, or executive employees,
 - iv. in the event of fraudulent intent,
 - v. due to culpable injury to life, body, or health, or
 - vi. due to the culpable breach of essential contractual obligations.

However, the claim for damages for the breach of material contractual obligations shall be limited to the foreseeable and direct damage typical for the contract, unless another of the aforementioned cases applies.

- c. A change in the burden of proof to the detriment of the Purchaser is not associated with the above provisions.

XIV. Jurisdiction and applicable law

- a. If the customer is a merchant, the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our principal place of business. However, we are also entitled to take legal action at the registered office of the customer.
- b. This contract including its interpretation shall be governed by German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XV. Binding nature of the contract

The contract shall remain binding in its remaining parts even if individual provisions are legally invalid. This shall not apply if adherence to the contract would represent an unreasonable hardship for one party.

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