

# General Terms and Conditions of Sale of UVENTIONS GmbH

Version: August 2020

## 1. Scope of application

These General Terms and Conditions of Sale ("GTC") shall apply to all contracts concerning the sale of products ("Goods") by UVENTIONS GmbH, with its registered office in Hamburg, Germany, registered with the Commercial Register of the Local Court of Hamburg under HRB 159950 ("we"/"us") to its customers ("Customer"). They shall only apply if the Customer is a businessperson ('Unternehmer' according to Section 14 BGB - Bürgerliches Gesetzbuch, BGB - German Civil Code), a legal entity under public law or a special fund under public law. They shall also apply to future contracts without us making reference to this in each individual case.

## 2. General Information

- 2.1 Our deliveries, services and offers shall be made exclusively in accordance with these GTC and the statutory provisions, unless these GTC contain deviating provisions.
- 2.2 We offer the Goods exclusively for sale to businesspersons (acc. to Section 14 BGB), legal entities under public law or special estates under public law and not to consumers (acc. to Section 13 BGB).
- 2.3 Any terms and conditions of sale that are contrary to or deviate from these GTC shall not apply unless we expressly agree to them. This requirement of consent as well as these GTC shall also apply if we carry out the delivery without reservation despite our knowledge that the customer's terms and conditions are contrary to or deviate from these GTC.
- 2.4 Individual agreements with the Customer take precedence over these GTC. All agreements made between us and the Customer for the purpose of executing a transaction must be made in writing (text form is sufficient). The same applies to legally relevant declarations and notifications (e.g. setting of deadlines, notifications of defects) which are made by the Customer after conclusion of the contract.
- 2.5 Only quantities customary in trade are sold. Commercial resale requires the conclusion of a separate dealer or distribution agreement with us.

## 3. Conclusion of contract

- 3.1 Our offers are subject to change and non-binding, unless they are expressly marked as binding or contain a specific period of acceptance. This shall also apply if we have provided the Customer with catalogues, technical documentation, and other product descriptions or documents (including in electronic form) to which we reserve ownership and copyrights.
- 3.2 The Customer's order of Goods shall constitute a binding offer for the conclusion of a contract. A sales contract shall only be concluded once we dispatch the ordered Goods to the Customer or confirm the acceptance of the order in writing (order confirmation).
- 3.3 The scope of delivery and the specifications of the Goods are exclusively stated in our order confirmation or, in the absence thereof, in our offer.

## 4. Delivery

- 4.1 Our information regarding the Goods (e.g. weights, dimensions and technical data) as well as our descriptions thereof (e.g. images) shall only be decisive as approximations, unless the usability for the purpose as specified in the contract requires exact conformity. They do not qualify as guaranteed characteristics of quality, but descriptions or features of the Goods. Customary deviations are permissible insofar as they do not impair the usability for the purpose as intended in the contract.
- 4.2 Partial deliveries are permissible to a reasonable extent. If the partial deliveries can be used independently, they shall be considered each as an independent delivery as regards the due date of payment.
- 4.3 We deliver the Goods in accordance with the agreed terms. Unless otherwise agreed, our deliveries are EXW Hamburg (Incoterms 2020).

## 5. Delivery period and delay in delivery

- 5.1 Delivery periods are only binding if we have expressly confirmed them as binding in writing. Otherwise, they are approximate deadlines.
- 5.2 All delivery and dispatch periods stated by us in the order or otherwise agreed upon shall commence (a) if delivery against advance payment has been agreed upon, on the day of receipt of the complete purchase price (including applicable VAT and shipping costs) or (b) if payment by cash on delivery or on account has been agreed upon, on the day of the conclusion of the purchase contract by means of order confirmation (in the event of direct shipment of the goods without order confirmation, the order confirmation shall be

decisive). The date on which the Goods are handed over by us to the carrier is decisive for compliance with the shipping date.

- 5.3 If no delivery period is specified or otherwise agreed, shipment within six (6) weeks of order confirmation shall be deemed to have been agreed.
  - 5.4 If binding delivery deadlines cannot be met for reasons for which we are not responsible (non-availability of supply/service – 'Nichtverfügbarkeit der Leistung'), we shall immediately inform the Customer hereof and at the same time shall communicate the expected new delivery time. If the supply/service is neither available within the new delivery time, we are entitled to withdraw from the contract completely or in part and shall immediately reimburse any consideration provided by the Customer. A case of non-availability of the supply/service is deemed to be in particular the non-timely self-supply by our suppliers (nicht rechtzeitige Selbstbelieferung), provided we have concluded a congruent hedging transaction (kongruentes Deckungsgeschäft), neither we nor our supplier are at fault or if we are not obliged to procure in individual cases.
  - 5.5 Apart from the above, a delivery shall be considered delayed in accordance with the statutory provisions. In any case (with the exception of transactions for delivery by a fixed date – 'Fixgeschäft'), however, a reminder by the customer shall be mandatory.
  - 5.6 The Customer's right to withdraw from the contract after the fruitless expiry of a reasonable grace period granted to us remains unaffected. The same applies to the Customer's further rights in accordance with Clause 8.8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility of performance – 'Unmöglichkeit der Leistung').
- ## 6. Prices and payment conditions
- 6.1 Unless expressly agreed otherwise, our list prices valid at the time of conclusion of the contract shall apply. The prices are quoted ex works in Euro, excluding packaging, shipping, statutory value added tax, customs duties for export deliveries as well as fees and public charges.
  - 6.2 Invoiced amounts are generally due for payment without any deductions immediately after invoicing and delivery or acceptance of the Goods, unless otherwise agreed in writing. The date of payment shall be determined by the date of receipt by us. If the Customer does not make payment within ten (10) days of the due date, we shall be entitled to charge interest on the outstanding amounts at the statutory rate of interest on arrears; this shall not affect the right to claim further damages in the event of default. The same shall apply to the maturity interest (Section 353 'Handelsgesetzbuch', HGB - German Commercial Code).
  - 6.3 The assignment of the Customer's claims against us requires our prior written consent. We shall refuse our consent only for justified reasons.
  - 6.4 Only undisputed or legally established claims shall entitle the Customer to offset or retain. In case of defects of the Goods, the Customer's counter rights shall remain unaffected.
- ## 7. Shipping, transfer of risk, acceptance, default of acceptance
- 7.1 The mode of transportation and packaging are subject to our due discretion.
  - 7.2 The risk of accidental loss or accidental deterioration of the Goods shall pass to the Customer at the latest upon handover of the Goods (whereby the start of the loading process shall be decisive) to the freight forwarder, carrier or other third party designated to carry out the shipment. This shall also apply in case of partial deliveries and regardless of who bears the transportation costs.
  - 7.3 If acceptance has been agreed, the risk shall pass upon acceptance. If dispatch or handover is delayed because of circumstances for which the Customer is responsible, the risk shall pass to the Customer on the day on which we are ready for shipment and have notified the Customer thereof.
  - 7.4 Delivery periods and delivery dates refer, in the event of shipment at the request of the Customer, to the time of handover to the carrier or other third parties commissioned with the transport. We shall only be responsible for properly handing over the Goods to the carrier in due time and form and shall not be liable for any delay caused by the carrier.
  - 7.5 If acceptance has to take place in accordance with the agreement reached, the object of purchase shall be deemed to have been accepted if: (a) delivery has taken place, (b) we have notified the Customer thereof with reference to this fiction of acceptance and have requested the Customer to accept the object of purchase, (c) twelve (12) working days have elapsed since delivery or the Customer has started to use the object of purchase or has resold them and in this case twelve (12) working days have elapsed and (d)

the Customer has failed to accept the object of purchase within this period for any other reason than a defect notified to us which makes the use of the object of purchase impossible or significantly impairs it.

## **8. Liability for defects, general limitation of liability**

- 8.1 The Customer's rights in the event of material defects or defects of title shall be governed by the statutory provisions unless otherwise specified below. The special provisions regarding the recourse of the business person in the case of final delivery of the Goods to a consumer within the scope of a consumer goods purchase (Sections 445a, 445b BGB in connection with Sections 474, 478 BGB) remain unaffected.
- 8.2 Warranty claims of the Customer require that he has fulfilled his legal obligation to examine and give notice of defects (Sections 377, 381 HGB). Complaints based on incomplete, incorrect or defective delivery shall be reported to us in writing without undue delay after delivery, hidden defects without undue delay after their discovery. Such notification shall be deemed to be without undue delay if it is made within twelve (12) days of delivery or discovery of the defect, whereby timely dispatch of the notification shall be sufficient to comply with the deadline.
- 8.3 Claims for defects lapse within one (1) year from delivery.
- 8.4 If, in the case of resale of the Goods, the last purchaser in the supply chain is a business person (Section 14 BGB), the Customer's independent right of recourse under Section 445a para. 1 BGB is excluded and, contrary to the statutory provision under Section 445a para. 2 BGB, a grace period must be set for the rights set forth in Section 437 BGB.
- 8.5 If the delivered Goods are defective, we shall in the first place have the right and obligation, at our choice, to rectify the defect or to make a replacement delivery. Subsequent performance does neither include the dismantling of the defective item nor the re-installation if we were not originally obliged to install the defective item. If we fail to provide subsequent performance, i.e. if it is impossible or unreasonable, or if we refuse or unreasonably delay the rectification or replacement delivery, the Customer may withdraw from the contract or reduce the purchase price reasonably. The same applies in the event that a reasonable grace period - to be set by the Customer - has expired without success or is dispensable according to the statutory provisions.
- 8.6 All liability for defects shall be excluded for cases of improper repairs, modifications and improper installations into other objects or attachments to other objects by the Customer or a third party, in particular if instructions, installation requirements, standards and other specifications which have been provided by us or which are generally applicable, are not complied with, unless the Customer proves that the defect is not attributable to these circumstances. The same shall apply in the event that our Goods are used outside their intended purpose and contrary to the instructions for use (see also Clause 11.2). Furthermore, the liability for defects does not apply to natural wear and tear. It does neither apply to such damage that is caused after the transfer of risk as a result of incorrect or negligent handling, excessive use, unsuitable operating materials or such chemical, electrochemical or electrical influences that are not provided for under the contract.
- 8.7 If a defect is due to our culpable conduct, the Customer may claim damages under the conditions set out in Clauses 8.8 - 8.10.
- 8.8 We are liable for damages - regardless of the legal grounds - in accordance with the statutory provisions. However, our liability is limited to cases of intent and gross negligence. In the case of breaches of duty caused by simple negligence, we may only be held liable in cases of (1) injury to life, body or health, (2) breach of an material contractual obligation (i.e. an obligation the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the contractual partner regularly relies and may rely upon); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage, (3) assumption of a guarantee for the quality of the Goods, (4) mandatory liability under the German Product Liability Act or (5) fraudulent concealment of a defect.
- 8.9 If the Customer suffers a loss of data due to our simple negligence and the recovery of the data is not possible or is made considerably more difficult due to missing or insufficient data backup on the part of the Customer, our liability is limited to the amount of the damage that would also have occurred with proper data backup.
- 8.10 The above exclusions and limitations of liability under Clauses 8.8 and 8.9 apply accordingly to breaches of duty by our executive bodies, legal representatives, employees and other vicarious agents.
- 8.11 Any voluntary guarantees granted by us shall be in addition to claims for quality defects and defects of title. The details are set out in the guarantee conditions, which may be enclosed with the Goods.

## **9. Reservation of title**

- 9.1 The delivered Goods ("Reserved Goods") remain our property until full payment of all claims arising from the respective purchase contract.
- 9.2 The Customer is obliged to treat the Reserved Goods with due care, in particular the Customer is obliged to insure the Reserved Goods adequately at its own expense against damages from fire, water and theft at replacement value.
- 9.3 The Customer is authorised to resell the Reserved Goods in the ordinary course of business, provided he is not in default of payment. The Customer may not pledge or transfer by way of security the Reserved Goods or the claims arising from a resale in lieu thereof.
- 9.4 The Customer hereby assigns to us all claims against third parties arising from the resale of Reserved Goods as collateral. He is authorised to collect such claims for our account until we revoke this authorisation or the Customer suspends his payments to us. Our right to collect the claims ourselves shall not be affected; however, we shall not collect the claims ourselves and shall not revoke the authorisation to collect the claims as long as the Customer duly meets his payment obligations, there is no significant deterioration in his financial situation, no application for the opening of insolvency proceedings has been filed and there is no other deficiency in his capacity to perform.
- 9.5 The Customer must inform us immediately in writing of any access by third parties to the Reserved Goods and any claims belonging to us. The third party must be informed of our reservation of title. If the third party is not able to reimburse us for the judicial and extrajudicial costs incurred by us in this connection, the Customer shall be liable for such costs.
- 9.6 If the realisable value of the collateral exceeds our claims by more than twenty per cent (20%), we will release collateral of our choice at the Customer's request.
- 9.7 In the event of a breach of contract on the part of the Customer - in particular default of payment - we are entitled to withdraw from the contract in accordance with the statutory provisions and demand the return of the Reserved Goods. If the Customer does not pay the due purchase price, we may only assert these rights if we have previously set the Customer a reasonable grace period for payment or if such a grace period is dispensable according to the statutory provisions. The Customer shall bear the transportation costs incurred for the return of the Reserved Goods.
- 9.8 If it becomes apparent after conclusion of the contract that our claim to the purchase price is endangered 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 grace period, to withdraw from the contract (Section 321 BGB). If we manufacture custom-tailored products for the Customer, we can declare our withdrawal from the contract immediately; the statutory provisions on the dispensability of setting a deadline remain unaffected.
- 9.9 If the intended reservation of title is not legally effective according to the law in whose area of application the Goods are located, the Customer hereby commits to agree to a provision, which comes closest to the nature of the reservation of title according to the applicable law. If a special registration or other prerequisites are required, the Customer hereby agrees to arrange for these requirements to be met at his own expense.

## **10. Data protection**

We will store and process the customer data provided to us in accordance with the applicable law for the purpose of the execution of the contract, i.e. to the extent necessary for the establishment and execution of the underlying contractual relationship and/or further agreements between us and the Customer.

### **11. Regulatory obligations / compatibility / disposal**

- 11.1 The Customer shall comply with all statutory and/or official regulations, laws, ordinances and orders applying to the Customer and his business.
- 11.2 We expressly point out that the Goods may only be used and stored in accordance with their respective purpose and in accordance with the instructions for use; furthermore, they are not certified as medical devices and the scope of application is therefore limited to non-medical areas.
- 11.3 The Customer undertakes that the Goods will only be used for the purpose specified by the manufacturer.
- 11.4 The Customer shall provide us with the following information immediately by telephone or e-mail: Customer feedback relevant to the safety and performance of the Goods; any dissatisfaction

expressed by users with the products and documentation; any adverse incidents that may be related to the Goods.

- 11.5 Insofar as not expressly stated in the operating instructions supplied, we make no statement as to the compatibility of the Goods with other products.
- 11.6 According to the ElektroG ('Elektro- und Elektronikgeräte-Gesetz', German Electrical and Electronics Equipment Law), our Goods are appliances of the "commercial sector" (so-called b2b appliances), as they are not comparable with appliances from private households in terms of their nature and users. Our Goods may therefore not be disposed of at municipal collection points. In deviation from Section 19 ElektroG (take-back obligation of the manufacturer) the following is agreed: The Customer indemnifies us from the obligation to take back the Goods in accordance with the ElektroG and any related claims and undertakes to properly dispose of the delivered Goods (electrical appliances) at his own expense (assumption of the obligation of disposal). The claim for the assumption of the obligation of disposal and indemnification by the Customer shall not lapse before the expiry of two (2) years after the final use of the device.

## **12. Export control**

- 12.1 The export of certain goods, information, software and documentation may be subject to authorisation, e.g. due to their nature or intended use or final destination. The Customer shall strictly observe the export regulations relevant to the goods, information, software and documentation, in particular those of the EU or EU member states and the USA.
- 12.2 The Customer shall procure at his own expense all licenses, documents and permits required for the export and import of the Goods and the use of the Goods. A refusal of the export permit does not entitle the Customer to withdraw from the contract or to assert claims for damages against us.

## **13. Applicable law/court of jurisdiction**

- 13.1 German law shall apply to these GTC and all legal relations between the Customer and us, with the exception of the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 13.2 The place of jurisdiction for all disputes arising from the contractual relationship is Hamburg (Germany). Alternatively, we are entitled to file a lawsuit at the Customer's general place of jurisdiction.