

**1. Scope of Application:** Our delivery of goods and services are subject to these Conditions of Sale and additionally the applicable statutory law only. Terms that vary therefrom, including any general conditions of purchaser, shall only be considered binding if they have been confirmed by us in written form. Our delivery of goods, performance of services or acceptance of payments does not constitute acceptance on our part of terms that vary from these Conditions of Sale and the applicable statutory law.

**2. Offers, Contracts:** Our offers are made subject to confirmation. A contract is only formed when we give order confirmation in writing or when orders are fulfilled by us.

**3. Form:**

**3.1** For the purposes of these Conditions of Sale, (a) “in writing” means in text form (including email, facsimile, computer-generated letters and telegrams), and (b) “written form” means a hand-signed document. Any amendment or supplement to these Conditions of Sale including this Section 3.1, and any termination or mutually agreed cancellation of a contract shall be made in written form.

**3.2** Other statements and notices shall be made in writing.

**4. Prices:** Unless otherwise agreed in writing, our prices are quoted ex works and do not include the packaging costs. Value added tax shall be payable additionally by purchaser at the statutory rate in effect on the invoice date.

**5. Payment, Set-off:**

**5.1** Unless agreed otherwise in writing, payment to us by purchaser shall be effected latest five (5) days after the delivery or the performance of services.

**5.2** Set-off by purchaser is permitted only for claims that are undisputed or have been upheld by final decision of a court of competent jurisdiction.

**6. Place of Performance, Shipment, Risk:**

**6.1** Unless otherwise agreed in written form, the place of delivery or performance shall be our place of production or storage. Except the provision under Section 6.2, the risk of the goods shall be transferred from us to purchaser upon delivery.

**6.2** If shipment has been agreed to be included, we shall ship the goods at purchaser’s risk unless otherwise agreed in written form. Furthermore, we shall determine the manner of shipment, shipment route and carrier.

**7. Partial Delivery and Performance:** Partial delivery and performance by us shall to a reasonable extent be permitted.

**8. Delivery Schedules, Delay:**

**8.1** If we fail to comply with the agreed schedules of delivery or performance or other contractual obligations on time, purchaser shall grant us in writing an additional delivery or performance period of reasonable length, such period to be at least three (3) weeks.

**8.2** If delivery or performance does not take place by the end of the additional delivery or performance period, purchaser shall be entitled to rescind the contract or request us to continue the delivery/performance. Purchaser shall, upon our request, notify us in writing within a reasonable time period, whether purchaser intends, as a result of the delay, to rescind the contract and/or insist on the delivery/performance by us. If Purchaser insists on delivery/performance, purchaser shall grant us in writing a further reasonable period for delivery/performance.

**9. Transport Insurance:** Unless otherwise agreed in written form, we are authorized to obtain appropriate transport insurance on behalf and at the expense of purchaser in an amount at least equal to the invoiced value of the goods.

**10. Retention of Title:**

**10.1** The goods sold shall remain our property until all our claims against purchaser arising from our business relationship with purchaser have been satisfied.

**10.2** If the goods have been processed by purchaser, our retention of title shall extend to the new products. If the goods have been processed, combined or mixed by purchaser with goods of others, we acquire joint title pro rata to that part of the new products representing the invoiced value of our goods in relation to the total value of the other goods which have been processed, combined or mixed.

**10.3** In the event our goods are combined or mixed with goods of purchaser or of any third party, purchaser hereby assigns to us its rights with regard to the new products. If purchaser combines or mixes our goods with goods of a third party for payment, purchaser hereby assigns to us its right to payment from such third party.

**10.4** Purchaser may, in the ordinary course of its business, resell any goods which are subject to our retention of title or sell the new products. If, upon such sale/resale, purchaser does not receive the full purchase price in advance or upon delivery of such goods or new products, purchaser shall agree with its customer a retention of title arrangement on the same terms as set out herein. Purchaser hereby assigns to us all its claims arising from such sale/resale and its rights arising from the said retention of title arrangement. Upon our request, purchaser shall inform its customer of such assignment of rights and provide us with the information and documents necessary to enforce our rights. Notwithstanding the foregoing, purchaser shall only be entitled to collect payments from claims arising from such sale/resale if purchaser has satisfied its liabilities to us.

**10.5** In the event that the security interests granted to us exceed the value of our claims, we shall, upon request of purchaser, release such security interests as we deem appropriate. The exercise of our right of retention of title may only be regarded additionally as a rescission with our prior consent made in writing.

**11. Force Majeure:** Conditions of force majeure shall release us from our delivery and performance obligations. In this respect, the force majeure shall include but not limited to the act of gods, fire, explosion, shortage of energy or raw material supplies, industrial disputes, governmental decrees, breakdown of transport or of our operations. Furthermore, we shall be released from our delivery and performance obligations if our sub-suppliers or affiliates are affected by any of the above force majeure. The term “affiliate” here shall mean any entity, wherever incorporated, which is, directly or indirectly controlled by, controls or is under common control with us; the term “control” here means being the ability to exercise more than fifty percent (50%) of the voting stock of an entity, or to appoint a majority of the board of directors of an entity, or to direct or cause the direction of the management or policy of an entity.

**12. Product Information:** Unless otherwise agreed in writing, the contractual characteristics of our goods shall be exclusively based on our product specifications in their current version. Any information about properties, durability and other data shall be deemed to be guarantees only if they are agreed and indicated by us as such in written form. Written and verbal information about goods, equipment, plant, applications, processes and process instructions is based on research and experience in the field of applied engineering. We provide such information, which is accurate to the best of our knowledge, subject to our right to modify and further develop it and such information shall not be binding. The aforesaid shall not release purchaser of its obligation to verify the suitability of our goods for the use

intended by purchaser. Unless otherwise agreed in written form or mandatorily required by statutory law, we do not warrant to purchaser that our goods will not infringe the intellectual property rights of any third party.

**13. Complaints:** All claims, particularly those relating to defects and delivery shortfalls, must be submitted to us in writing without delay, but not later than ten (10) days from the delivery of goods or, in the case of latent defects, within five (5) days from the date such defect(s) is discovered or should have been discovered through reasonable investigation. If purchaser does not notify us of claims within such time period or in the agreed form, our goods or services referred to in such non-compliant notice shall be deemed to be delivered or performed in accordance with the contract. If purchaser, knowing of defects, accepts our goods or services, purchaser shall only be entitled to raise a claim for such defects if purchaser has reserved such rights in writing at the time of delivery.

**14. Rights of Purchaser in Case of Defects:**

**14.1** Purchaser shall have no right to remedies for a defect in our goods or services if the contractually agreed characteristics of the goods and services are only unsubstantially impaired. In the event of justified and rightfully raised defect claims of the delivered goods or services, we reserve the right, solely at our discretion, to either replace or repair the goods or services. We shall always be granted reasonable time to provide such replacement or repair. If our repair or replacement fails to remedy the defects, purchaser shall be entitled to either adjust the purchase price respectively or rescind.

**14.2** Furthermore, purchaser may claim pursuant to statutory law damages and refund of its actual out-of-pocket expenses necessary for the purpose of repair or replacement. Refund shall be precluded should such expenses be increased because the goods were later transported to a place other than the delivery place originally agreed. For the avoidance of doubt, Section 15 shall apply to claims for damages and refund under this Section 14.2.

**14.3** Claims by purchaser against us pursuant to statutory law can only be made to the extent purchaser has not agreed with its customers on provisions exceeding the statutory rights in cases of defects.

**15. Liability:**

**15.1** We, our legal representatives, employees, and persons employed to perform our obligations shall only be liable for damages and claims for expenses of purchaser, irrespective of the legal basis therefor, whether based on breach of obligations deriving from the contract and/or tort, (i) in the event of intentional misconduct or gross negligence on our part, the part of our legal representatives, employees or persons employed to perform our obligations, or (ii) if the breach of our contractual obligations violates the essence of the contract and purchaser relies, and is entitled to rely, on the fulfillment of such obligations (essential obligations). In the event of slight negligence in breach of essential obligations, our liability for damages shall be limited to the foreseeable damage typical for a contract of this nature up to €100,000 or equivalent value in other currency or twice the invoiced value of the goods or services in question if this value exceeds €100,000 or equivalent value in other currency.

**15.2** The aforementioned exclusion or limitation of liability shall not apply in cases of damage to life, body or health or in other cases of mandatory liability.

**16. Time Limits:** The time limits to raise claims regarding defects, guarantees, damages or expenses compensation and other disputes between the parties shall exclusively refer to the mandatory stipulations of the law and regulations of Japan.

**17. Compliance with Statutory Regulations, Export and Customs Regulations, Indemnification, Rescission:**

**17.1** Unless otherwise agreed in written form, purchaser shall be responsible for compliance with statutory and regulatory requirements for the import, transport, storage, use, distribution, and export of the goods.

In particular, without limitation, purchaser shall not use, sell or otherwise dispose of any of the goods for producing or developing nuclear weapons, chemical or biological weapons, missiles, or any other weapons of mass destruction; for the unlawful manufacture of drugs; in violation of embargoes; in violation of any legal registration or notification requirement; or without having obtained all relevant approvals required under applicable laws and regulations. The purchaser shall indemnify us against, and hold us harmless from, any claims, damages, costs, expenses, liabilities, loss, claims or proceedings whatsoever arising out of, or in connection with, any breach by purchaser of its obligations set forth above.

**17.2** Where a statutory or regulatory approval requirement applies to the export of our goods/services at the time of delivery/performance and documents from purchaser’s side are required, purchaser shall timely furnish us with such documents. In the event that such export approval is not granted for any reason, we shall be entitled to rescind.

**17.3** We are also entitled to rescind in the event a product registration obligation applies and registration at the time of delivery/performance has not been applied for or granted.

**17.4** If the purchased goods are subject to customs preferences due to their preferential origin, we shall try (without obligation) to provide valid Certificate of Origin according to applicable laws and regulations..

**18. Place of Jurisdiction:** Any disputes arising out of or in connection with these Conditions of Sale shall be exclusively under the jurisdiction of the Court where our registered address is located. If we institute legal proceedings against purchaser, we shall also have the option to institute legal proceedings at the jurisdiction of the Court where the registered address of purchaser or ours is located.

**19. Applicable Law:** The contract and the legal relationship with purchaser shall be governed by the substantive laws of Japan and the UN Convention on Contracts for the International Sale of Goods shall not apply.

**20. Trade Terms:** If any trade terms have been agreed pursuant to the International Commercial Terms (INCOTERMS), they shall be interpreted and apply in accordance with INCOTERMS 2010.

**21. Severability:** Should any of these Conditions of Sale be deemed wholly or partly invalid, this shall have no effect on the validity of the remaining terms.