1. Scope, general

1.1 These General Terms and Conditions of Contracts, Delivery and Services (General T&Cs) shall apply exclusively to compa-
ries, within the meaning of Section 14 of the German Civil Code (BGB) i.e. natural persons or legal entities that purchase the goods or service for commercial or professional purposes, and to entities subject to public law and special funds under public law.

1.2 The terms and conditions set forth below (General T&Cs) shall apply exclusively to our business relations with our custom-
ers, also with respect to information and advice. Where our Gen-
eral Terms and Conditions are implemented in business with a customer, they shall also apply to all further business relations be-
tween the customer and ourselves unless otherwise expressly agreed in writing.

Differing terms and conditions of the buyer and/or ordering party, hereinafter referred to as “customer(s),” shall only apply if we ex-
pressly acknowledge them in writing; otherwise they shall be re-
jected. Our silence regarding such differing terms and conditions shall not be deemed in particular to be acknowledgement or con-
sent, and this shall also apply to future contracts.

Our General T&Cs shall apply in place of any general terms and conditions of the customer, especially terms and conditions of pur-
chase of the customer, even if, according to such terms and con-
ditions of purchase, acceptance of an order is deemed to be the uncondi-
tional acknowledgement of the terms and conditions of purchase, or we deliver, after the customer has indicated the va-
didity of its general terms and conditions of purchase, unless we have expressly waived the validity of our own General T&Cs vis-
à-vis the customer. Exclusion of the customer’s general terms and conditions shall also apply if the general terms and conditions do not contain a separate provision on individual regulatory points of our General Terms and Conditions. By accepting our order confir-
mation or the service according to the contract, the customer ex-
pressly acknowledges that it waives its legal objection derived from the terms and conditions of purchase that our General Terms and Conditions do not apply.

1.3 If general contracts or other contracts have been concluded with our customers, these shall take precedence. They shall be supplemented by these General Terms and Conditions unless more specific regulations are agreed.

1.4 If claims for damages are specified below, this shall in the same way also mean claims for the refund of expenses within the meaning of Section 284 BGB.

2. Information / Advice / Properties of the products and ser-
vice / Cooperation of the customer

2.1 Information and explanations regarding our products and ser-
vice provided by ourselves or our distributors shall be provided solely on the basis of our experience to date. They do not consti-
tute any properties or warranties whatever in relation to our products. Values specified in this context shall be deemed aver-
age values of our products.

Unless otherwise expressly agreed, we shall not be responsible for our products and/or services being suitable for the research and/or development objective of the customer or a third party sup-
plied by the customer.

Product specifications agreed with the customer conclusively de-
terminate the properties due according to the contract. Further prop-
erties of the delivery item or our service affected by this, such as suitability for the intended purpose notified by the customer or cus-
tomy properties of such products, shall not be due.

2.2. Any information about our products and services, especially information in our quotations and brochures and on the internet and the illustrations, drawings, measurement, property or perfor-
mancc characteristics contained therein and other data, especially technical data or information on ingredients, shall be deemed ap-
proximate average values, unless otherwise agreed. This shall ap-
ply accordingly to statements made by our employees unless oth-
wise agreed. Data of our products without tolerances too, as in-
cluded on our website or in our catalogues and/or brochures, are subject to production-related deviations and changes customary in the trade and/or industry, especially due to further develop-
ments in production technology and related materials.

2.3 If we provide instructions for use, these shall be drawn up with the care customary in the industry but do not release our customer from the obligation to inspect the products carefully regarding their suitability for the purpose intended by the customer. The customer shall be obliged in any case, unless otherwise agreed, to check whether our products and/or services can be used for the purpose intended by the customer. This shall also apply to indications re-
garding import and/or approval regulations.

2.4 We assume an obligation to provide advice only on the basis of an express, separate consultancy agreement.

2.5 Reference to standards, similar regulations and technical in-
formation, descriptions and illustrations of the delivery item in quo-
tations and brochures respectively on the internet and in our ad-
vertising as well as to analyses provided or description of physical properties shall only represent a property of our products when we have expressly declared the quality to be a “property of the prod-
uct”. These are otherwise non-binding, general specifications of performance. This shall also apply to statements made by our em-
ployees unless otherwise agreed.

2.6 We shall only be deemed to have given a guarantee if we have designated a property and/or the outcome of performance as “guaranteed by law” in writing.

2.7 We shall assume no liability that our products or services can be used and/or registered and/or marketed for the customer’s in-
tended purpose other than liability mandatory by law, unless we have expressly agreed otherwise with the customer. This shall not affect the stipulation in para. 11.

2.8 The customer shall be obliged to provide us with all information and data required to perform in due time and in full.

2.9 Before providing its own information and data, the customer shall make copies so that reconstruction is possible in the event of damage or loss.

2.10 If the customer fails to comply with its obligations stated in para. 2.8 and 2.9, we shall have the right to charge the customer separately for expenses and costs we incur as a result.

3. Specimens / Documents and data provided / Samples / Es-
timates of cost

3.1 Properties of specimens or samples shall only become an in-
tegral part of the contract if this was expressly agreed in writing. The customer is not authorised to use and pass on samples.

Where goods are sold by us based on a sample, deviations here-
from in the goods supplied shall be admissible and shall not give cause for complaints and claims against us if they do not have a sustained impact on the normally intended use of the delivered goods and the delivered goods comply with any specifications agreed, unless otherwise agreed.

3.2 We shall retain all title and copyrights to samples, illustrations, drawings, data, estimates of cost and other documents about our products and services disclosed or provided to the customer. The customer undertakes not to make the samples, data and/or docu-
ments specified in the foregoing sentence available to third parties unless we give our express written consent, and to return them to us on request unless an order based on them has been placed with us.

The stipulations in sentences 1 and 2 shall apply accordingly to the customer’s documents, drawings or data. We may, however, make them available to such third parties, whom we are allowed to instruct to make deliveries and/or provide services with the cus-
tomer under the contract or whom we use as vicarious agents.

4. Conclusion of contracts / Scope of delivery and service / Procurement risk and guarantee

4.1 Our quotations are subject to change unless they are ex-
pressly designated as binding or expressly contain binding com-
mitments or their binding nature was otherwise expressly agreed. They are requests for orders.

The customer shall be bound by its order as a contract application for 14 calendar days - in the case of electronic orders 4 working days at our registered office - after our receipt of the order unless the customer must expect to receive our acceptance on a regular basis at a later date (Section 147 BGB). This shall also apply to reorders of the customer.

4.2 A contract is created, also in day-to-day business, only when we confirm the customer’s order in writing or text form (i.e. also by telefax or email) by order confirmation. An order confirmation shall only apply subject to the proviso that any outstanding payment ar-
rears of the customer are settled and that any credit assessment of the customer undertaken by us does not disclose any negative information.

General Terms and Conditions of Contracts, Delivery and Services of Rohm Semiconductor GmbH
in business transactions with companies
status September 2021
Where delivery is made or a service provided within the period by which the customer is bound by the quotation, our confirmation can be replaced by our delivery.

4.3 In the event of call orders or acceptance delays caused by the customer, we shall have the right to procure the material for the entire order and to manufacture the total quantity ordered immediately respectively to buy the total quantity ordered. After the order is placed, no change requests from the customer can, therefore, be considered unless this was expressly agreed in writing. In the case of call orders without agreement of delivery date, production is not guaranteed, we can at the latest 3 months after delivery confirmation require an immediate, binding stipulation about this in the time corridor of a further 2 months from the customer. If the customer fails to comply with this requirement within 2 weeks, we shall have the right, after setting the customer an extension of time of two weeks, to rescind that part of the contract not yet fulfilled and to claim damages in lieu of performance.

4.4 The customer must notify us in writing or text form in due time prior to conclusion of the contract of any special requirements of our products. Such notification shall not, however, extend our contractual obligations and liability.

Unless otherwise expressly agreed, we shall only be obliged to supply the ordered products as goods which are marketable and eligible for approval in the Federal Republic of Germany.

4.5 We shall only be obliged to deliver from our own stock (obligation to deliver from stock).

4.6 Assumption of a procurement risk or a procurement guarantee is not based solely on our obligation to deliver an item which is defined solely by its class.

4.7 We shall only assume a procurement risk within the meaning of Section 276 BGB by virtue of a separate written agreement stating “we assume the procurement risk...”.

4.8 If acceptance of the products or their shipment or the acceptance of our service is delayed for a reason for which the customer is responsible, we shall have the right, after the demand for an extension of the time of 14 days which has expired, at our option to request immediate payment of remuneration or, to rescind the contract or refuse performance and request damages in lieu of full performance. The time limit must be given in writing or text form. In doing so, we do not have to refer again to our rights under this clause.

4.9 If shipment is delayed at the customer’s request or for reasons for which the customer is responsible, we shall have the right to store the goods, beginning on expiry of the reasonable period set in the notice in writing or text form that the goods are ready for shipment, at the customer’s risk of loss and deterioration of the goods. We shall invoice the costs incurred at this 0.5 % of the net invoice amount of the stored goods for each full week or part thereof. The stored goods shall only be insured at the customer’s specific request. This shall not affect the assertion of any further rights.

Furthermore, we shall have the right, after the foregoing period according to para. 4.8 sentence 1, expires, to dispose of the contract goods otherwise, and to make a new delivery to the customer after a reasonable period (~ original delivery period plus 7 calendar days scheduling period).

4.10 If an order or call for delivery is delayed by the customer, we shall have the right to postpone the delivery by the same period of time as the customer is behind schedule plus a scheduling period of 4 working days at the place of delivery.

If a purchase on call is agreed, we must receive the individual calls, unless otherwise agreed, at least 6 weeks prior to the requested delivery date, unless a shorter call or delivery period was agreed. Unless agreed to the contrary, the customer shall be obliged to take delivery of the purchased goods in full within one year of the order confirmation being issued. If the goods are not called off in due time, we shall have the right to remind the customer of the calls and their planning and to set an extension of time for making calls and planning of 14 days. After expiry of the period without result, we shall have the right to rescind the contract or request damages in lieu of performance. In doing so, we do not have to refer again to our rights under this clause. Para. 4.8 (2) shall apply accordingly.

4.11 Unless otherwise expressly agreed in writing or text form or we are subject to different statutory provisions, we shall only be required to provide user information for our products and a product label in German or, at the customer’s request, in English.

In addition, we shall have the right to supply products with deviations customary in the trade in terms of quality, dimensions, weight, colour and equipment, if the customer will not suffer any unacceptable disadvantage from such deviations. Such goods shall be deemed to conform with the contract.

5. Delivery / Delivery time / Default in delivery / Packaging

5.1 Binding delivery dates and periods must be agreed expressly and in writing as binding. We shall make every endeavour to meet delivery dates and periods that are not binding or approximate (approx., about etc.).

5.2 Delivery and/or service periods shall begin with the customer’s receipt of our order confirmation, in the absence of such such a specific purpose was agreed, for that purpose in so far as legal requirements are based solely on the applicable provision...
transport. In this case, the goods shall be transported at the cus-
tomer’s risk.

When unloading and retrieving the goods, the customer shall as-
sist our personnel and/or vicarious agents if this is necessary and 
the customer can be expected to do so technically and logistically.

5.8 If no collection date which we have to confirm is given when 
the order is placed respectively delivery is not taken on the agreed 
collection date, we shall at our option ship the contract goods with 
a carrier instructed by us or we shall store the contract goods at 
the customer’s expense. We shall invoice the customer addition-
ally for packaging, transport and insurance costs incurred (the lat-
ter if transport insurance was agreed) when the goods are shi-
pped.

If the goods are stored, the customer shall pay a lump sum for the 
stored goods, to be calculated according to para. 4.9. Both parties 
shall have the right to prove that costs were lower or higher; the 
customer shall also have the right to prove that no costs were in-
curred at all.

5.9 If the customer incurs damage as a result of our default, the 
customer shall have the right to request compensation for default.
It shall amount, for each full week of default or part thereof, to 
0.5% of the net remuneration for the complete delivery and/or complete 
service which as a result of the default, is not provided by us in due time 
or according to the contract. Any further compensation for dam-
age due to delay from us shall be excluded. This shall not apply in 
the case of an intentional, grossly negligent or fraudulent act by us, 
in the case of claims due to injury to life, limb or health, in the 
case of default where a fixed delivery date is agreed within the 
meaning of the law and the assumption of a performance guaran-
tee or a procurement risk pursuant to Section 276 BGB and in the 
case of mandatory legal liability. This shall also not apply in the 
case of violation of a material contractual obligation. “Material con-
tractual obligations” are obligations, the fulfilment of which defines 
the contract and on which the customer may rely.

5.10 Unless otherwise agreed, we shall take back packaging only 
by reason of and within the scope of our legal obligation.

5.11 There is no connection between the reversal of the burden of 
proof and the foregoing stipulations.

6. Force majeure / Delivery subject to availability

6.1 If we do not receive deliveries or services from our sub-con-
tractors for us to provide a delivery or service, which is due from 
us under the contract, despite proper and adequate stocking prior 
to conclusion of the contract with the customer in terms of quantity 
and/or under our delivery or service delivery date or the latter is 
notified to us in due time,

6.2 If a delivery date or delivery period is agreed with binding force 
by law or law-like legal effect or by the customer or our sub-
counterparties, the customer shall be exonerated from our obliga-
tion to dispatch the goods, the risk of accidental loss or acci-
dental deterioration shall pass to the customer, in the case of an 
agreement to be performed at the customer’s place of business 
agreed to be performed at the customer’s place of business, upon 
delivery at the agreed place. Notice of hidden material defects must be 
given to us immediately after they are detected but the latest at the 
latter within the limitation period in respect of warranty according to para. 8.7. If the notice is sent to the customer stating that the delivery is ready 
for shipment and/or the service can be performed.

8. Warranty

8.1 The customer must give us notice of recognizable material de-
fects in writing or text form immediately but at the latest 12 days 
after delivery, in the case of delivery ex works or storage loca-
tion, otherwise, in the case of an obligation agreed to be per-
formed at our place of business with our obligation to dispatch the 
goods, upon the goods being handed over to the customer, and, 
in the case of an obligation agreed to be performed at the customer’s 
place of business, upon delivery at the agreed place. Notice of 
hidden material defects must be given to us immediately after they 
are detected but the latest at the latest within the limitation period 
in respect of warranty according to para. 8.7. A notice of defects 
that fails to comply with requirements of time or form shall exclude 
any claim by the customer for breach of duty due to material de-
fects. This shall not apply in the case of an intentional, grossly 
negligent or fraudulent act on our part, in the case of a violation of a 
material contractual obligation, in the event of injury to life, limb or 
health or the assumption of a guarantee for the absence of defects 
or a procurement risk pursuant to Section 276 BGB or other man-
datory statutory basis for liability, in particular under the Produk-
thäftungsgesetz [German Product Liability Act], and in the event of 
right of recourse in the supply chain (Sections 478, 479 BGB).

8.2 The delivering transport operator must also be notified of any 
material defects recognisable on delivery, and the recording of 
defects in written or text form must be arranged by the transport op-
erator. Failure to have the delivering transport operator change 
the recording of the notice of defects in due time shall exclude any 
claim by the customer for breach of duty due to material defects. 
This shall not apply in the case of an intentional, grossly negligent 
or fraudulent act by us, in the event of injury to life, limb or health, 
or the assumption of a procurement risk pursuant to Section 276
BGB, a guarantee for the absence of defects, or mandatory statutory basis for liability, in particular under the Produkthaftungsgesetz and in the event of right of recourse in the supply chain (Sections 478, 479 BGB).

If defects in number and weight were already recognisable upon delivery by virtue of the foregoing obligations to inspect, the customer may make a complaint about these defects to the delivering transport operator upon receipt of the products, and have this complaint certified. Failure to give notice of defects in due time to the transport operator shall also exclude any claim in this respect by the customer for breach of duty due to material defects. This shall not apply in the case of an intentional, grossly negligent act by us, in the case of violation of a material contractual obligation and in the event of injury to life, limb or health, or the assumption of a guarantee for the absence of defects, the assumption of a procurement risk pursuant to Section 276 BGB or in the case of a mandatory statutory basis for liability, in particular under the Produkthaftungsgesetz.

8.3 When processing, treating, combining or mixing with other goods begins, the products delivered shall be deemed approved by the customer according to the contract. This shall apply if the products are shipped on from their original destination until this corresponds to the normal use of the delivered goods.

Before any of the above activities begin or the products delivered by us are otherwise used, the customer shall be obliged to clarify, through inspections that are appropriate in terms of method and scope, whether the delivered products are suitable for the purposes the customer intends.

8.4 The customer must give notice in writing immediately of any other breach of duty by us, setting a reasonable time limit for remedy, before asserting any further rights, otherwise this shall cause the customer to forfeit the rights resulting herefrom. This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the event of injury to life, limb or health, or the assumption of a guarantee or a procurement risk pursuant to Section 276 BGB or a mandatory statutory basis for liability, in particular under the Produkthaftungsgesetz.

8.5 We shall remedy any defects, for which the customer itself is responsible, and eliminate any unjustified complaints, on behalf of and at the expense of the manufacturer, if the customer is a business person within the meaning of the Handelsgesetzbuch [German Commercial Code].

8.6 Unless breach of duty by way of exception relates to the performance of work by us, the contract may not be rescinded if our breach of duty is not material.

8.7 The limitation period for claims arising from breach of duty due to defective performance in the form of material defects is 12 months, but in the event of otherwise express agreement, calculated from the date the risk passes (see para. 7.3), in the case of refusal to accept or take delivery by the customer, from the date of the notice that the goods are ready to be taken over where obligations are to be performed at our place of business, in the case of obligations to be performed at the customer’s place of business from our attempt to deliver at the agreed place of delivery. This shall not apply to damage claims resulting from a guarantee, from the assumption of a procurement risk within the meaning of Section 276 BGB, claims for injury to life, limb or health, a fraudulent, intentional or grossly negligent act by us, in the case of violation of a material contractual obligation or if, in the cases of Sections 478, 479 BGB (recourse in the supply chain), Section 438 (1) No 2 (construction of buildings and delivery of objects for buildings), and Section 634 b (1) No 2 BGB (building defects), or insofar as a longer limitation period is otherwise mandatory by law. There is no connection between the reversal of the burden of proof and the foregoing proviso.

8.8 If the customer or a third party rectifies the products delivered by us incorrectly, we shall not be liable for the resulting consequences. This shall also apply to any changes of the delivery item undertaken without our prior consent.

8.9 Further claims by the customer for or in connection with defects or consequential damage caused by a defect, for whatever reason, shall exist only subject to the provisions of para. 11.

8.10 Our warranty (claims for breach of duty due to defective performance in the case of material defects) and liability arising herefrom shall be excluded if defects and damages connected therewith cannot be proven to be due to defective material, defective design, defective execution, or defective manufacturing materials, or, if to be provided, defective instructions on use. Warranty and liability arising herefrom shall be excluded due to breach of duty for defective performance in particular with respect to the consequences of incorrect use, inappropriate storage conditions, and the consequences of chemical, electromagnetic, mechanical or electrolytic influences that do not correspond with average standard influences provided for in our product description or a different agreed product specification or the product-specific data sheet provided by us or another manufacturer. The foregoing shall not apply in the case of a fraudulent, grossly negligent or intentional act by us, in the case of violation of a material contractual obligation or injury to life, limb or health, the assumption of a guarantee, a procurement risk pursuant to Section 276 BGB and/or liability due to a mandatory statutory basis for liability, in particular under the Produkthaftungsgesetz.

Any warranty and liability shall be excluded if the customer fails to comply with the technical regulations or instructions for use stipulated by the manufacturer and any defect or damage result from this. This shall not apply in the case of an intentional or grossly negligent act by us, in the case of injury to life, limb or health, or the assumption of a guarantee for absence of defects, the assumption of a procurement risk pursuant to Section 276 BGB or in the case of a mandatory statutory basis for liability, in particular under the Produkthaftungsgesetz and in the case of recourse in the supply chain (Sections 478, 479 BGB).

8.11 Claims by the customer for expenses required for the purpose of supplementary performance, in particular transport, travel, labour and material, shall not be excluded if the expenses increase because the delivery item has been subsequently brought to a location other than the customer’s branch for delivery, unless in doing so this complies with its intended use. Section 439 (3) BGB (seller bears the installation and dismantling costs for defective products) remains unaffected.

8.12 Claims based on defects shall not exist in the case of only a minor deviation from the agreed or customary quality or usability.

8.13 We give no warranty according to Section 478 BGB (recourse in the supply chain - recourse against suppliers) if the customer has treated or processed or otherwise changed the products we supply under the contract except this does correspond to the intended use of the products agreed under the contract.

8.14 In the case of defects in components of other manufacturers which we cannot eliminate for reasons of licensing law or actual reasons, we shall assign our warranty claims against the manufacturers and suppliers to the customer for the purpose of asserting such rights. The customer shall not be obliged to assert such rights in court.

The warranty claims shall exist against us in the case of material defects only if the assertion of the claims based on material defects against the manufacturer and/or our supplier was previously unsuccessful by the customer out of court or there is no prospect of success, e.g. by way of notice of default, and the customer assigns the claims assigned to it back to us. We undertake to provide the customer with the information and documents necessary for the above-mentioned extrajudicial legal defence.

8.15 Recognition of breach of duty in the form of material defects shall at all times require an express declaration on our part.

8.16 There is no connection between the reversal of the burden of proof and the foregoing stipulations.

9. Prices / Payment terms / Objection of uncertainty

9.1 All prices are on principle quoted net in EURs, ex works respectively warehouse, and exclude packaging for shipment by sea or air, freight, postage and, if a transport insurance was agreed, insurance costs, value added tax (if incurred by law) at the legally valid rate which shall be borne by the customer, any country-specific charges in the case of delivery to countries other than the Federal Republic of Germany, and customs duties and other fees and public charges for the delivery/service.

9.2 Payment methods other than cash payment or bank transfer shall require separate agreement between ourselves and the customer; this shall apply in particular to the issue of cheques and bills of exchange.

9.3 If taxes or charges are incurred by the customer or ourselves on the service we provide (withholding tax), the customer shall indemnify us against such taxes and charges.

9.4 We shall have the right to issue partial invoices depending on the progress of order processing and/or request payments on account corresponding to the progress of processing if we perform work.
shall have the right, notwithstanding further statutory rights in such cases, to cease further work on current orders or stop the delivery, and to request advance payments or the provision of appropriate, customary securities, e.g. in the form of a bank guarantee issued at the customer’s option by a German credit institution participating in the Deposit Protection Fund, for deliveries still outstanding, and, after expiry of a reasonable extension of time to provide such securities without result, to rescind the contract with respect to that part of the contract not yet fulfilled, irrespective of other statutory rights. The customer shall be obliged to reimburse us for all damages incurred by the non-performance of the contract.

9.16 The customer shall have a right of retention of title and right of set-off only with respect to those counterclaims that are not disputed or have been recognised by declaratory judgment unless these are the customer’s principal claims for performance. This shall apply mutatis mutandis if the counterclaim for set-off is in the synallagma (i.e. in the relationship of reciprocity between two performances in the contract concluded with us) with our claim.

9.17 The customer can only exercise a right of retention if its counterclaim relates to the same contractual relationship.

9.18 We shall only accept bills of exchange offered as an exception by expressly agreed and only on account of performance. We shall make discount charges to the date of the invoice until the maturity date of the bill of exchange as well as charge costs for the bill of exchange. The customer shall bear interest and costs of collection or redemption of bills of exchange. With regard to bills of exchange and cheques, the date of their redemption shall be deemed the payment date. In the event of our company’s bank retaining discount of a bill of exchange or in the event of reasonable doubt that a bill of exchange shall be discounted during the term of the bill of exchange, we shall have the right to request immediate payment in cash while the bill of exchange is taken back.

9.19 Incoming payments shall first be used to repay costs, then interest and finally the principal claims according to age. Any determination to the contrary by the customer when making payment shall be disregarded.

9.20 Timeliness of payment, by whatever means it is made, shall be determined solely by the date on which it is credited to our account. The value date shall be decisive for cheque payments. Payments by the customer must be made for our benefit, all postage and charges paid.

9.21 We have the right to assign all claims arising from the contractual relationship with the customer without restriction to third parties.

10. Retention of title / Attachment

10.1 We retain title to all goods we deliver (hereinafter referred to as “goods subject to retention of title”) until all our claims under the business relationship with the customer, including claims arising in the future from contracts concluded at a later date, are paid. This shall also apply to any balance in our favour when any or all claims by us are incorporated in a current account and the balance has been established.

10.2 The customer must insure the goods subject to retention of title adequately, in particular against fire and theft. Claims against the insurance arising from a case of damage relating to goods subject to retention of title are hereewith assigned to us in the value of the goods subject to retention of title and this assignment is already now accepted by us at this stage.

10.3 The customer is authorised to resell the delivered products in the normal course of business. The customer is not permitted to make other disposals, especially pledging or granting of equitability lien. If the goods subject to retention of title are not paid for immediately by third-party purchasers when resold, the customer shall be obliged to resell under retention of title only. Authorisation to resell the goods subject to retention of title shall cease to apply automatically if the customer suspends its payment or defaults in payment to us.

10.4 The customer herewith assigns to us all claims including securities and ancillary rights that accrue to the customer against the end user or third parties from or in connection with the resale of goods subject to retention of title. This assignment is already now accepted by us at this stage. The customer may not reach an agreement with its purchasers that excludes or impairs our rights in any way or nullifies the assignment of the claim in advance. If the goods subject to retention of title are sold subject to warranty, also included in the claim against the third-party purchaser amounting to the delivery price agreed between ourselves and the customer shall be
deemed assigned unless the amounts applicable to the individual goods can be determined from the invoice.

10.5 The customer shall have the right to collect claims assigned to us until revoked by us, this revocation being admissible at any time. At our request, the customer shall be obliged to give us the information and documents in full required to collect assigned claims. If the customer does so, notify its purchasers immediately of the assignment to us.

10.6 If the customer incorporates claims from the resale of goods subject to retention of title in a current account relationship with its purchasers, the customer shall herewith assign to us any recognized closing balance resulting in its favour in the amount which corresponds to the total amount of the claim from the resale of our goods subject to retention of title, such claim being transferred to the current account relationship.

10.7 The customer must notify us immediately if the customer has already assigned claims to third parties arising from the resale of products delivered or to be delivered by us, especially due to real or unreal factoring, or made other agreements which can impair our current or future security interests according to para. 10. In the case of unreal factoring, we shall have the right to rescind the contract and request the products already delivered to be surrendered. This shall also apply to real factoring if, according to the contract with the factor, the customer cannot freely dispose of the purchase price of the claim.

10.8 In the event of conduct by the customer in breach of the contract through the customer’s fault, especially in the case of default in payment, we shall have the right, without rescinding the contract, to take back all goods subject to retention of title. The customer shall be obliged in this case to surrender the goods automatically. We may at any time during normal business hours enter the customer's business premises to determine the stock of the goods delivered by us. Taking back the goods subject to retention of title shall only involve rescinding the contract if we expressly state this in writing or this is prescribed by mandatory statutory provisions. The customer must notify us immediately in writing of any third-party attachment of goods subject to retention of title or any claim assigned to us.

10.9 If the value of the securities existing for us according to the foregoing provisions exceeds the secured claims as a whole by more than 10 %, we shall be obliged, at the customer's request, to release securities at our option.

10.10 We treat and process the goods subject to retention of title as manufacturers but without obligation on our part. If the goods subject to retention of title are processed or connected inseparably with other items that do not belong to us, we shall acquire co-ownership in the same ratio of the net invoice amount for our goods to the net invoice amounts for the other processed or connected items. If our goods are connected with other movable items into a uniform item that is deemed to be the principal item, the customer shall herewith already assign co-ownership thereof to us in the same ratio. The customer shall maintain ownership or co-ownership free of charge on our behalf. Rights of co-ownership accordingly arising shall be deemed goods subject to retention of title.

The customer shall be obliged at any time at our request to provide us with the information required to assert our ownership or co-ownership rights.

10.11f, in the case of deliveries abroad, specific measures and/or declarations are required from the customer in the importing country to ensure the effectiveness of our above-mentioned retention of title or our other rights indicated above, the customer shall notify us of this in writing or text form and shall take such measures and/or make such declarations immediately at its expense. We shall cooperate on this to the required extent. If the law of the importing country does not allow retention of title but allows us to reserve other rights to the delivery item, we can exercise all such rights at our reasonably exercised discretion (Section 315 BGB).

Section 315 (3) BGB (right to judicial review and determination) shall not be affected. If we cannot secure the claims against the customer in an equivalent amount, the customer shall be obliged at its expense to provide us immediately with other securities customary in the trade for the goods supplied, e.g. in the form of an irrevocable documentary credit issued by a major international bank, or other securities according to our reasonably exercised discretion (Section 315 BGB).

10.12 In the event of attachment or other intervention by third parties, the customer shall notify us immediately in writing to enable us to bring an action pursuant to Section 771 ZPO [German Code of Civil Procedure]. If the third party is not in a position to reimburse us for the judicial and extra-judicial costs of an action pursuant to Section 771 ZPO, the customer shall be liable for the loss incurred by us.

11. Exclusion/Limitation of liability

11.1 Subject to the exceptions specified in paragraph 11.2, 11.3, 11.4, 11.5 and 11.6 we shall not be liable, in particular not for claims by the customer for damages or reimbursement of expenses, for whatever legal reason, in the case of breach of duty arising from the obligation.

11.2 The above exclusion of liability according to para. 11.1 shall not apply if statutory liability is mandatory, and:

- in the case of default if delivery and/or service by a fixed date was agreed;
- in the event of injury to life, limb and health, also caused by legal representatives or vicarious agents;
- in the case of violation of material contractual obligations; “material contractual obligations” within the meaning of the Handelsgesetzbuch (German Commercial Code).

11.3 If we or our vicarious agents are responsible only for slight negligence and none of the cases specified in paragraph. 11.2 bullet points 4, 5 and 6 above exist, we shall be liable in the case of violation of material contractual obligations too only for damage typical for the contract and for foreseeable damage.

11.4 Our liability is limited in amount for each individual case of damage in total to a maximum liability coverage of EUR 1,000,000.00 (one million). This shall not apply if we are responsible for fraudulent intent, intent or gross negligence, in the case of violation of a material contractual obligation and for claims due to injury to life, limb or health, and in the case of a claim arising from tort or an expressly assumed guarantee or the assumption of a procurement risk pursuant to Section 276 BGB or in cases of different higher liability coverage prescribed by law. Any further liability shall be excluded.

11.5 Exclusion respectively limitation of liability according to para. 11.1 to 11.4 above and para. 11.6 shall apply to the same extent for the benefit of our bodies, our executive and non-executive employees and other vicarious agents as well as our sub-contractors.

11.6 Claims by the customer for damages arising from the contractual relationship with ourselves may only be asserted within a preclusion period of one year as of commencement of the statutory limitation period. This shall not apply if we are responsible for intent or gross negligence, in the case of violation of a material contractual obligation and for claims due to injury to life, limb or health, and in the case of a claim arising from tort or an expressly assumed guarantee or the assumption of a procurement risk pursuant to Section 276 BGB, or where a longer limitation period is mandatory by law.

11.7 There is no connection between the reversal of the burden of proof and the foregoing stipulations.

12. Place of performance / Place of jurisdiction / Applicable law

12.1 Place of performance for all contractual obligations is our company's registered office except where an obligation to be performed at the customer's place of business is assumed or as otherwise agreed.

12.2 Any disputes shall be settled, if the customer is a trader within the meaning of the Handelsgesetzbuch [German Commercial Code], exclusively before a competent court of law at the location of our company's registered office. For the avoidance of doubt, this mechanism for the choice of jurisdiction in sentences 1 and 2 shall also apply to such circumstances between ourselves and the customer which can give rise to non-contractual obligations within the meaning of Regulation (EC) No 864 / 2007. We shall also have the right, however, to bring an action against the customer at its place of general jurisdiction.
12.3 The law of the Federal Republic of Germany shall apply exclu-
sively to all legal relations between the customer and our-

selves, in particular to the exclusion of the UN Sales Convention
(CISG). It is expressly stated that this choice of law is also deemed
to be such choice within the meaning of Art. 14 (1) (b) Regulation
(EC) No 864 / 2007 and shall, therefore, also apply to non-con-
tractual obligations within the meaning of this Regulation. If the
application of foreign law is mandatory in individual cases, our
General Terms and Conditions shall be interpreted as meaning
that the economic intent they pursue is preserved to the maximum
possible extent.

13. Property rights, licence

13.1 Unless otherwise agreed, we shall only be obliged to deliver
the sold products in the Federal Republic of Germany exempt from
third-party industrial property rights and copyrights.

If a third party raises justified claims on account of infringement
of property rights by products supplied by us to the customer, we
shall be liable to the customer subject to paragraph 11 and within
the time limit specified in B.7 as follows:

- We shall first at our option either try to obtain a right of
  use at our expense for the deliveries in question or change
  the delivery item while complying with the proper-
ties agreed under the contract so that the property right is
  not infringed, or exchange the delivery item. If we cannot
  do so on reasonable conditions, the customer shall be en-
titled to its legal rights which are defined, however, on the
basis of these General Terms and Conditions of Contracts and
Delivery.

- The customer shall, in the event of infringement of prop-
erty rights by our delivery items, only be entitled to rights
against ourselves if the customer gives us written notifi-
cation immediately about the claims asserted by third
parties, does not acknowledge any infringement, and all
defensive measures and settlement negotiations are re-
served for us.

- If the customer stops using the products for reasons of
  damage minimisation or other good cause, the customer
  shall be obliged to advise the third party that cessation
  of use is not deemed to be an acknowledgement of a
  property right infringement.

- If an appeal is filed by third parties against the customer
  for infringement of property rights resulting from the use
  of products supplied by us, the customer undertakes to
  notify us of this immediately and to give us the oppor-
tunity to participate in any legal action. The customer
  shall support us immediately in every way in conducting
  such a legal action with the necessary information from
  the customer’s sphere and the required coordination.
  The customer must not take any action which could pre-
 judice our legal position.

13.2 The customer shall have no claims if it is responsible for in-
fringement of a property right. The customer shall also have no
claims if the infringement of the property right is due to the cus-
tomer’s special instructions, an application which we could not
foresee or the fact that the products are changed by the customer
or used with products not supplied by us, which do not comply with
the intended use, if the infringement of the property right is based
on this.

13.3 If the customer duly fulfils its contractual obligations, it shall
have the right to use the services as provided in the contract.

All copyrights, patent rights or other industrial property rights shall
remain with us unless otherwise expressly agreed in writing. Sec-

tion 305b BGB (precedence of an individual agreement) shall not
be affected in the case of individual agreements in verbal, written
or text form.

If patentable inventions are made at our company within the scope
of implementing the contract, we shall grant the customer a non-
exclusive and non-transferable right to use them under preferen-
tial conditions. This shall not affect the customer’s enti-
tement to receive all rights arising from the invention in the event
of the achievement of the invention being a main contractual obli-
gation on our part.

14. Export control / Product approval / Import regulations

14.1 In the absence of any contractual agreements to the contrary
with the customer, the delivered goods are placed on the market for
the first time within the Federal Republic of Ger-

many or, in the case of delivery outside the Federal Republic of

Germany, to the agreed country of first delivery (first country of
delivery).

14.2 The export of certain goods by the customer from there may
be subject to authorisation e.g. because of their nature or intended
purpose or final destination. The customer itself shall be obliged
to check this and to comply strictly with the relevant export regu-
lations and embargos. In particular the export rules of the European
Union (EU), Germany respectively other EU Member States and,
if applicable, the USA or Asian or Arab countries and all other third
countries involved if the customer exports the products supplied
by us or has them exported.

Furthermore, the customer shall be obliged to ensure that the re-
quired national product approvals or product registrations are ob-
tained before transferring the products to a country which differs
from the first country of delivery agreed with us and that the spec-
ifications set out in the national law of the country in question re-
garding the provision of user information in the national language
are complied with as well as all import regulations.

14.3 The customer shall in particular check and ensure, and, on
request, provide evidence to us that

- the products provided are not intended for use in armaments,
nuclear facilities or weapon technology;
- no companies and persons specified on the US Denied Persons
  List (DPL) are supplied with original US goods, US software and
  US technology;
- no companies and persons specified on the US Warning List, US
  Entity List or US Specially Designated Nationals List are supplied
  with original US products without relevant authorisation;
- no companies and persons are supplied who are specified on
  the List of Specially Designated Terrorists, Foreign Terrorist Or-
  ganizations, Specially Designated Global Terrorists or the EU Ter-
  rorist List or other relevant negative lists for export controls;
- no military recipients are supplied with the products delivered by
  us;
- no recipients are supplied that violate other export control regu-
  lations, especially of the EU or the ASEAN countries;
- all early-warning indications of the competent German or national
  authorities of the respective country of origin of the delivery are
  complied with.

14.4 Goods supplied by us may only be accessed and used if the
above-mentioned checks and assurances have been carried out
respectively provided by the customer; otherwise the customer
must refrain from carrying out the intended export and we shall not
be obliged to perform.

14.5 Where goods supplied by us are passed on to third parties,
the customer undertakes to oblige such third parties in the same
way as specified in para. 14.1 - 14.4, and to notify them of the
need to comply with these legal provisions.

14.6 The customer shall at its own expense ensure, where deliv-
ery outside the Federal Republic of Germany is agreed, that the
goods to be supplied by us comply with all national import regu-
lations of the first country of delivery.

14.7 The customer shall indemnify us against all damages and
expenses resulting from the negligent breach of the foregoing ob-

15. Incoterms / Written form / Severability clause

15.1 If trade terms are agreed according to the International Com-
mercial Terms (INCOTERMS), the INCOTERMS 2020 shall apply.

15.2 All agreements, collateral agreements, assurances and con-
tract amendments shall only be valid when given in writing. This
shall also apply to cancellation of the written form requirement.
This shall not affect the precedence of an individual agreement in
written, text or verbal form (Section 305b BGB).

15.3 If any provision of the contract concluded with us is or shall
become invalid/void or unenforceable in whole or in part for rea-
sons relating to the Law of General Terms and Conditions accord-

ing to Sections 305 to 310 BGB, statutory provisions shall apply.

If any current or future provision of the contract is or shall be
invalid/void or unenforceable in whole or in part for reasons other
than the provisions relating to the Law of General Terms and Con-
ditions according to Sections 305 to 310 BGB, this shall not affect
the validity of the remaining provisions of this contract unless the performance of the contract, also in consideration of the following provisions, would present an unreasonable hardship for one of the parties. This shall also apply if, after the contract is concluded, it is found to have a gap that requires filling.

Contrary to any principle, according to which a severability clause in principle is to reverse the burden of proof only, the validity of the remaining provisions of the contract shall be maintained in all circumstances and therefore Section 139 BGB waived as a whole.

The parties shall replace any invalid/void/unenforceable provision or gap that requires filling for reasons other than the provisions relating to the Law of General Terms and Conditions according to Sections 305 to 310 BGB by a valid provision that corresponds in its legal and economic content to the invalid/void/unenforceable provision and the purpose of the contract as a whole. Section 139 BGB (partial nullity) is expressly excluded. If the invalidity of any provision is due to a measure of performance or time (time limit or date) stated therein, a measure which most closely corresponds to the original measure in a legally admissible way must be agreed for this provision.

Note: In accordance with the provisions of the Bundesdatenschutzgesetz [German Federal Data Protection Act] (BDSG) and the General Data Protection Regulation (GDPR), we draw attention to the fact that contracts are processed in our company on EDP equipment, and that we also in this respect store data received as a result of the business relationship with the customer.

Willich, September 2021