

General Terms and Conditions of Axel Gehnich, PERFACTORY Sensorsystems (AGB)

§ 1 Validity of Terms and Conditions

For any contractual relationships between the company Axel Gehnich, „PerFactory“ (following referred to as “Manufacturer) and the buyer the general terms and conditions described in the following are solely valid. They are also valid for all future business relationships, even if they are not agreed on again formally. With the acceptance of the goods or services, our terms are considered as accepted, at the latest. Contradictory or other terms differing from the general terms and conditions of the manufacturer are not accepted, unless the

manufacturer has agreed on the validity of the same formally in writing. The conditions of the manufacturer are also valid in the case he executes the order of the buyer without reservations, although he knows contradictory terms or conditions differing from his own ones. All agreements made between the manufacturer and the buyer must be set down in writing.

§ 2 Quotations and Conclusion of Contract

The quotations of the manufacturer are without engagement and without obligation. If the order is to be qualified as an offer according to § 145 BGB, the manufacturer can accept the order within 2 weeks. Declaration of acceptance, any orders and

other oral agreements require a written or faxed acknowledgement of the manufacturer for legal effect. Purchase orders of the purchaser are binding quotations for him. Drawings, pictures, dimensions, weights or other performance data are only binding when agreed on the same formally in writing.

§ 3 Prices

The prices of the manufacturer have to be understood ex works excluding package, unless otherwise agreed. The legal sales tax is not included in the prices. The tax is shown in the invoice as a separate position in the lawful amount.

Additional supplies or services are not invoiced separately.

§ 4 Terms of Delivery and Delivery Time

Delivery dates or times respectively service dates or times, which can be agreed with or without obligation, must be set down in writing. If the goods or service are fully or partly delayed by circumstances, which are not due to the manufacturer, for example acts of God, such as traffic hold-ups, strikes, fire, water damage, power cut, disruptions of operation, official measures, lockouts, shortage of material or other inevitable events – even if they arise with suppliers of the manufacturer or their sub-contractors – the manufacturer is entitled to prolong the delivery period by the period of the interferences plus a reasonable start-up time or to fully or partly withdraw from the contract due to the unfulfilled part. If the obstruction takes more than 3 months, the purchaser is entitled after a reasonable period of grace, to withdraw from the contract with regard to the unfulfilled part. If the delivery period is prolonged or if the manufacturer is getting free from his obligation, the buyer cannot rise any claims for damages. If the manufacturer is liable for the breach of condition with regard to bindingly acknowledged dates and periods or defaults, the buyer has the claim to default compensation of 0,5% for each default week completed, however, only up to 5% of the invoice value of the goods and services which are affected by the de-

fault. Claims beyond are excluded, unless the default is due to gross negligence of the manufacturer. The manufacturer is at any time authorized to make partial deliveries or services. The compliance with the delivery of goods and service obligations of the manufacturer requires the timely and duly performance of the obligations of the buyer. If the buyer comes into a default of acceptance, the manufacturer is entitled to demand damages for the loss suffered. With the occurrence of the default of acceptance, the risk of a coincidental deterioration and the accidental decline is transferred to the buyer.

§ 5 Order Cancellation and Order Changes

In all cases, in which the completion of the order cannot be realized or in which the completion of the goods to be supplied cannot be made due to the fault of the buyer, the buyer has to pay the compensation agreed on. The same is to say, if the buyer reduces the volume of the order after having received the order acknowledgement. However, in that case the manufacturer must accept the charging of what he had saved of efforts in that case, what he earned by means of another use of his manpower or what he maliciously fails to earn. Additional orders such as changes of the scope of goods and services before

respectively during the production phase must be placed by the buyer separately. Order changes respectively additional orders are not included in the order acknowledgement respectively in the quotation of the manufacturer and are to be paid specially. As an additional demand in this sense, specially those performances are understood, which should respectively must be effected for the adaptation of the goods to be supplied contrary to the specifications and instructions of the working base of the buyer.

§ 6 Property Right

If the manufacturer is obliged to supply the goods ordered according to the specifications of the buyer (drawings, models, samples, outlines etc.), the buyer grants, that property rights of third parties won't be breached. In the case

of a culpable breach of duty, the buyer is obliged to release the manufacturer from possible claims of third parties on first request.

§ 7 Transfer of Perils

The risk of loss or damage of a product supplied is transferred to the buyer, as soon as the acceptance of the items is made respectively as soon as the consignment has been handed over to the person guiding the transport or as soon as the consignment left the warehouse of the manufacturer for despatch. The

risk is transferred to the purchaser when the manufacturer advises the readiness of shipment. After the transfer of perils, the buyer is responsible for any risk of loss or damage of the delivery items or the work..

§ 8 Guarantee

The period of warranty for material defects and defect of title amounts to 12 months and begins with the transfer of perils. The sale of used items is made excluding any warranty. With regard to all supplies and services, the purchaser takes over an inspection and reproof duty according to § 377 HGB. When concluding a contract of work, § 377 HGB has an analogue application. After transfer of perils respectively upon receipt of goods, the buyer has immediately to inspect the product to full functionality and has to announce found as well as hidden defects immediately after discovery to the manufacturer; he has to announce such defect in written in an understandable form within a period of 7 days at the latest. The buyer commits himself to place any information and verifiable documents, necessary for the finding of the defects, to the disposal of the manufacturer. If the defect cannot be found after examination by the manufacturer, the buyer has to take over the costs for the inspection.

In the case of a defect, the manufacturer is entitled to make three attempts for repair or new supply (re-fulfillment), according to his own choice. Unless the re-fulfillment fails, the rights of § 437 clause 2 and 3 BGB are reserved for the purchaser after an appointment of date. The appointment of date must be made in writing. The deadline must at least amount to 14 working days. In the

case of the correction of faults, the manufacturer is obliged to take over all costs related to the correction of faults, specially transport, transit, working and material costs, unless these costs are not increased due to the fact, that the service or goods were not brought to another place than the place of fulfillment. If the purchase has a legal right to rescind from the contract, the right for compensation according to § 346 chapter 3 clause 3 BGB does not apply, provided the purchaser has observed the utmost care of a conscientious tradesman.

The right of the manufacturer for a re-fulfillment is only inapplicable when the claim for damages was effected, even if the buyer demanded for the same before.

If operation or maintenance instructions of the manufacturer are not followed, product changes are made, parts are replaced or consumable material is used, which does not correspond to the original specifications, any warranty claims are inapplicable, unless the buyer does not refute a corresponding justified contention, that one of these circumstances had lead to the damage in question.

§ 9 Retention of Title

The manufacturer reserves the property right of the delivery item until all payments related to this business connection with the buyer are received. Upon actions of the buyer contrary to the contract, above all in the case of delayed payments, the manufacturer is entitled to demand the return of the delivery item. Such a return is a withdrawal from the contract. After having taken back the delivery item, the manufacturer is entitled for further commercialization of the same. The commercialization proceeds have to be charged to the buyer's liability – reasonable commercialization costs deducted.

The buyer is entitled to sell the delivery item within a good business run. However, he already cedes all demands in the amount of the invoice amount (including value-added tax) of this demand to the manufacturer of this point of time, arising from the resale against his buyers or third parties, regardless whether the delivery item was resold with or without processing. The manufacturer entitles the buyer revocably, to collect the demands ceded to the manufacturer for his invoice in his own name. The collection authorisation can only be withdrawn, if the buyer does not duly fulfill his payment obligations.

The processing or change of the delivery item by the buyer is always made for the manufacturer. If the delivery items is processed with other parts not belonging to the manufacturer, the manufacturer acquires the joint ownership of the new part in the relation of the value of the delivery item (invoice amount plus value-added tax) to the value of the remaining processed parts at the point of the processing. For the part produced by the processing, the same is to say as for the part supplied under reserve. If the delivery item is inseparably mixed with other items not belonging to the manufacturer, the manufacturer acquires the joint ownership of the new part in relation of the value of the delivery item

(invoice value including value-added tax) to the other mixed items at the point of the mixing.

If the mixing is made in such a way, that the part of the buyer has to considered as the main thing, it is understood as agreed, that the buyer transfers the proportional joint ownership of the new part to the manufacturer. The sole or the joint ownership is kept by the buyer for the manufacturer gratuitously. For safeguard the buyer cedes the demands to the manufacturer, which accrue from the connection of the delivery item with a plot against a third party.

On request of the buyer, the manufacturer is committed to release the safeties legally entitled to him in so far as the realized value of his safeties does not exceed the demands to be safed (including all balances from current account), which are entitled to the manufacturer from legal argument against the buyer now or in future by 10%. The selection of the safeties to be released are incumbent on the manufacturer.

Upon access of third parties to goods under reserve, above all garnishments, the buyer has to point out to the property of the manufacturer and has to notify him immediately, so to enable the manufacturer to assert his property rights. If the third party is not able to refund the juridical or extrajudicial costs connected therewith, the buyer is liable for these costs.

§ 10 Payment

The invoices of the manufacturer are due immediately. In case of a delivery to foreign countries, the manufacturer is entitled to ask for a presentation of an unlimited, absolute guaranty surety of a major bank underlying the law of the Federal Republic of Germany in the amount of the order value of the delivery item for the safety purposes of his payment demands.

If the buyer gets into a default of payment, the manufacturer is entitled to claim interests at an amount of 10 percent over the respective basic interest rate of the European Central Bank for compensation from the corresponding point of time. The interests have to be set lower if the buyer proves a lower charge. The proof of a higher damage by the manufacturer is permitted. If the buyer does not fulfill his payment obligation due to this agreement within one calendar

week, the manufacturer is entitled to stop working. Delays arised thereby are not allowed for contractual penalty agreements. Charging rights or rights of retention only apply to the buyer, when his counterclaims are legally binding, undisputed or approved by the manufacturer. Moreover, the manufacturer is entitled to exercise the right of retention as far as his counterclaim is based on the same contractual relationship.

§ 11 Limitation of Liability

Claims for damage – regardless of which legal ground they are based - both against the manufacturer or against his place of execution respectively performance assistance are excluded unless for willful or wantonly negligent action. As far as no willful violation of the contract can be accused, the compensation liability is limited to the typical contractually and predictable damage. In any case, a liability of the manufacturer for damages of life, body or health, a liability according to the product liability law and other claims of manufacturer's liability or the acquisition of a guarantee by the manufacturer remain unaffected. If the

buyer appoints to the acquisition of a guarantee, he bears the burden of proof. The liability of the manufacturer for a non-accidental violation of a contractual obligation, a so-called cardinal obligation, which fulfillment enables the duly execution of the contract, remains untouched as well. In that case, however, the compensation liability is limited to the predictable, typical damage.

§ 12 Assignment, Applicable Right, Jurisdiction, Place of Performance, Miscellaneous

The manufacturer is entitled to assign his demands from goods and services. For these terms and conditions and the whole privity of contract between manufacturer and buyer, the right of the Federal Republic of Germany to the exclusion of the UN-purchase right (CISG) is valid. As far as the buyer is merchant who has been entered as such in the commercial register in the meaning of the German Commercial Code (HGB), legal entity of the public law or separate estate subject to public law, the registered office

of the manufacturer is exclusive jurisdiction for all indirect or direct disputes arising from the contractual relationship. The registered office of the manufacturer is the place of performance. If a condition of these terms and conditions or a condition in the scope of other agreements is or become invalid, the validity of all other terms and conditions or agreements remain unaffected.

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