

Particle Metrix GmbH

General Terms and Conditions of Sale and Delivery valid from 01 May 2021

1. General

- 1.1. All offers, sales and deliveries are based on our following general terms and conditions of contract.
- 1.2. We hereby already object to any conflicting terms and conditions of purchase, delivery and payment of the Buyer. These shall not apply even if they are contained in a letter of confirmation from the purchaser subsequent to our order confirmation and we do not object to this. Our silence in this respect shall mean its rejection. However, we shall be entitled to waive the validity of our own GTC in whole or in part at any time.
- 1.3. Even in the event of contradictions in the preceding mutual contractual declarations or letters of confirmation, the contract shall in any case be concluded by acceptance of our delivery or other performance services under our contractual terms and conditions reproduced here.

2. Offers

- 2.1. Our offers are subject to change unless they are expressly stated to be binding or firm. The contract shall only become binding through an order confirmation sent by us in text form.
- 2.2. The illustrations, drawings, brochures, advertising material, etc. relating to our products, in particular the data contained therein, only represent approximate values. In no case do they contain guarantees or assurances of certain properties. Guarantees and warranties shall only be agreed in writing and designated as such. A defect within the meaning of § 434 of the German Civil Code (BGB) shall only be deemed to exist if the actual quality deviates not only insignificantly from the quality described in the illustration, drawing, brochure or advertising leaflet.

3. Shipping, transport and insurance

- 3.1. The transport of the goods is at the risk of the buyer. Even if we select the means of transport, the transport person and/or the transport route, the risk of damage or accidental loss of the goods shall pass to the buyer upon handover to the transport company. This also applies in the event that we have sold carriage paid, FOB or CFR.
- 3.2. Only at the express request of the buyer, shipments are insured by and against transport damage. The resulting premiums and expenses shall be borne by the buyer.

4. Delivery dates

- 4.1. Stated delivery and performance dates are non-binding unless they have been expressly agreed.
- 4.2. Special circumstances such as strikes, shutdowns, operational restrictions, operational disruptions, import and export bans, handling difficulties with our suppliers, pandemics and other events and circumstances not foreseen by us which directly or indirectly disrupt or prevent delivery or performance shall release us from our performance obligation for the duration and to the extent of the operational or shipping disruptions resulting therefrom, without the Buyer being able to derive any claims for damages therefrom.
- 4.3. If we fail to meet a delivery deadline agreed as binding, the purchaser shall be entitled to withdraw from the contract after the fruitless expiry of a reasonable grace period to be set by him. In this case, the purchaser shall only be entitled to damages if we are at fault and the grace period has expired fruitlessly; in the event of slight negligence, the damages shall be limited to 5% of the purchase price for each week that the object of purchase is delayed, but no more than one and a half times the purchase price.

5. Retention of title

- 5.1. Our deliveries remain our property until full payment of the respective purchase price claim against the buyer.
- 5.2. The same shall also apply insofar as we are entitled to further claims against the purchaser - for whatever reason, in particular also from previous mutual transactions. In the case of a current account, the retained title shall be deemed security for our balance claims.
- 5.3. The purchaser may resell our delivery item - provided he is not in default with the payment of the purchase price - in proper business transactions subject to retention of title. As long as the goods subject to retention of title are with the purchaser, the purchaser shall keep them for us with the due diligence of a prudent businessman.
- 5.4. If the purchaser sells the goods subject to retention of title together with others, he hereby assigns the claims from the resale of the goods subject to retention of title in the full amount, in the case of prior treatment or processing or mixing with goods not belonging to us in the amount of the value of the processed goods subject to retention of title. If such a sale is made at a total price, the buyer hereby assigns to us his purchase price claim in the amount of the value of the goods subject to retention of title which are the subject of this purchase contract.
- 5.5. At our request, the purchaser is obliged to notify the third-party debtor of the assignment to us, stating the amount of our claim. He shall provide us with all information and documents necessary for the assertion of our rights. If the value of the claims assigned to us exceeds our outstanding total claim against the purchaser by more than 20%, we shall be obliged to retransfer the excess portion at the purchaser's request.
- 5.6. Pledging, transfer by way of security and assignment by way of security of our goods subject to retention of title as well as the rights to which we are entitled and other dispositions by the buyer affecting our rights are not permitted. Interference by third parties - whether with the goods subject to retention of title, the claims assigned to us or the rights established in accordance with the above paragraphs - must be reported to us immediately by the purchaser, who must send us all documents necessary for an intervention. All costs of an intervention by us shall be borne by the buyer.
- 5.7. The assertion of the reservation of title as well as the taking back of the reserved goods by us shall not be deemed to be a withdrawal from the contract, but shall only be made as security for our claims.

6. Warranty for defects, consumables

- 6.1. The warranty period is 1 year from the date of performance. Parts which prove to be unsuitable as a result of defective material or faulty workshop workmanship shall, at our discretion, be repaired at our premises or at the customer's premises or supplied anew. No liability shall be assumed for damage resulting from natural wear and tear and/or improper use. If the purchaser carries out modifications, repairs or maintenance work himself or through a third party without our consent, he shall bear the burden of proof that the defect in the item was already present at the time of handover. The duration of the functional capability of the equipment supplied by us depends on the special purpose and to a large extent on the type and duration of use. This leads to the fact that the exchange of certain wearing parts becomes necessary in longer or shorter intervals. For this reason, we already supply certain wear parts. The wear of these or other parts is not covered by the warranty.
- 6.2. We must be notified immediately in writing of the discovery of any defects, in the case of obvious defects within 8 days of delivery. In the event of complaints, the purchaser is not entitled to make any changes or rework at our expense without our consent. Rejected parts become our property. Liability for rework carried out or spare parts supplied shall only exist up to the expiry of the warranty period for the original delivery. The regulation on retention of title (above 5.) also applies to subsequent deliveries.

- 6.3. If the repair or replacement delivery fails (e.g. because it is impossible, fails twice or does not succeed within a reasonable period), the customer may, at its option, demand a reduction of the remuneration or rescission of the contract. The limitation of liability according to clause 8 below shall apply. When returning the goods, the customer shall ensure correct declaration for customs and taxes and, if necessary, consult us beforehand.

7. Liability for damages

We shall only be liable for damages based on an intentional or grossly negligent breach of duty by us or one of our legal representatives or vicarious agents. Excluded from this limitation of liability are damages arising from the breach of an obligation, compliance with which is of particular importance for the achievement of the purpose of the contract (cardinal obligation), unless the damages are not foreseeable or not typical for the contract. Furthermore, this limitation of liability shall not apply to damages resulting from injury to life, body or health caused by a negligent or intentional breach of duty by us or by one of our legal representatives or vicarious agents. Liability shall not be limited if, for example, in the case of personal injury or damage to privately used property, liability is mandatory under the Product Liability Act.

8. Supplementary provisions

- 8.1. Should individual provisions of the above contractual terms and conditions be or become invalid, this shall not affect the validity of the remaining provisions and the contract as a whole. The contracting parties shall execute the contract as then with an effective replacement provision that comes closest to the economic purpose pursued by the omitted provision.
- 8.2. The contract and its execution shall be governed exclusively by German law. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.
- 8.3. Place of performance is Inning am Ammersee.
- 8.4. If both parties are merchants, the place of jurisdiction for all claims arising from this contract and its execution shall be Inning am Ammersee with the proviso that we may also choose the buyer's general place of jurisdiction as the place of jurisdiction.