

## General Terms and Conditions of Sale of SEDOTEC GmbH & Co. KG

### 1. General - Scope of Application

**1.1** Our deliveries and services are carried out exclusively on the basis of our General Terms and Conditions of Sale set out below (hereinafter referred to as "Terms and Conditions of Sale"). We do not acknowledge any conflicting, deviating or such conditions of the Buyer, which are not regulated in these Terms and Conditions of Sale unless we have expressly consented in writing to their application. Our Terms and Conditions of Sale also apply if we supply goods or services without reservation in the knowledge of conflicting conditions of the Buyer, which deviate from our conditions of sale or which are not regulated in our terms and conditions, or if the Buyer in his inquiry, in his order or in any other context refers to the validity of its conditions with the execution of the contract.

**1.2** In ongoing business relations our Terms and Conditions of Sale also apply to all future transactions with the Buyer without our needing to explicitly point out this in each case.

**1.3** All agreements entered into between us and the Buyer for the purpose of implementing this contract are laid down in writing in this contract and in these Terms and Conditions of Sale.

**1.4** The "Buyer" for the purposes of these Terms and Conditions of Sale is also the "customer" or "client" in the case of contracts for work (*Werkverträge*).

**1.5** Our Terms and Conditions of Sale apply only in relation to companies (*Unternehmen*) within the meaning of §§ 310 Para 1 and 14 German Civil Code (*BGB*).

### 2. Offers - Offer Documents

**2.1** Our offers are non-binding and subject to change unless expressly agreed otherwise.

**2.2** Orders are only binding for us if we have confirmed them in writing or conclusively accepted them through delivery or issuing an invoice. The receipt of a delivery note by the Buyer is also considered a confirmation.

**2.3** Unless expressly agreed otherwise, we are entitled to make changes to an agreed design or an agreed production of our products, provided that the changes are minor or customary in the trade and these are reasonable for the Buyer, taking our interests into account. The benchmark for reasonableness on the part of the Buyer is the effects on the value and functionality of the products, on our part technical, in particular production-related requirements.

**2.4** Unless expressly agreed otherwise, we reserve title to and the copyrights in all pictures, drawings, calculations, and other product-related, application-related or project-related documents, even if we leave them to the Buyer. This also applies to such written documents that are designated as "confidential". They may not be passed on, published or reproduced or used for any purpose other than the agreed purpose without our prior express written consent.

### 3. Prices

**3.1** Unless expressly agreed otherwise, our prices apply to deliveries "ex works" (Incoterms 2020) and do not include ancillary costs such as freight, packaging and insurance.

**3.2** The statutory value added tax is not included in the prices; it will be shown separately in the statutory amount on the invoice date.

**3.3** The deduction of any cash discount shall require a special written agreement.

**3.4** In the case of contracts where a period of more than 4 months has been agreed as the delivery period or the period for supplying the service we reserve the right to increase the prices in accordance with the change in costs that have occurred following that point in time, particularly due to collective wage agreements or changes in the cost of materials of our sub-suppliers. We are obliged to proceed in the same way in the event of any reductions in cost. We shall notify the Buyer of any such change in price at least four weeks in advance in writing. In that case the Buyer shall have a right of rescission for the time when the change in price takes effect.

### 4. Payment - Retention and Set Off - Delay

**4.1** Unless expressly agreed otherwise, the purchase price or the remuneration shall be payable immediately after the goods or services have been supplied without any cash discount and must be paid in such a manner that we have the sum at our disposal on the due date. The charges for the payment transaction shall be borne by the Buyer.

**4.2** The Buyer shall be entitled to rights of retention or rights of set off only insofar as the Buyer's counterclaims are undisputed, have become final and absolute or have been acknowledged by us. Furthermore, the Buyer shall be entitled to exercise his right of retention only insofar as his counterclaim is based on the same contractual relationship.

**4.3** If the Buyer is in delay with payment we shall be entitled to demand default interest at a rate of 8 percentage points above the published base interest rate as applicable from time to time (cf. Paragraph 247 German Civil Code (*BGB*)).

**5. Proviso of Self-Delivery - Performance of the Deliveries - Delivery Periods and Delivery Dates - Force Majeure - Dela (Verzug)**

**5.1** Unless expressly agreed otherwise, delivery is made "ex works" (Incoterms 2020) in our offer or at the place named in our acceptance, or, if no destination is specified in our offer/acceptance, "ex works" Ladenburg, Federal Republic of Germany (Incoterms 2020).

**5.2** Our obligation to deliver is subject to us being supplied ourselves correctly and in time providing we have concluded a congruent hedging transaction for the fulfilment of our obligation to deliver and we are not responsible for our own incorrect or delayed supply.

**5.3** The times we have stated for the supply of goods or services are, as a matter of principle, not fixed dates (§ 323 Para 2 No. 2 German Civil Code (*BGB*), § 376 German Commercial Code (*HGB*)).

**5.4** Periods of time and deadlines only apply subject to the proviso that all technical issues have been clarified in time and all of the Buyer's obligations have been fulfilled in time and properly. The right to raise the objection of non-performance of the contract (*Einrede des nicht erfüllten Vertrages*) is reserved.

**5.5** Incidents of Force Majeure, i.e. events, over which we have no control and for which we are not responsible, entitle us to postpone the supply of the goods or services by the duration of the hindrance and a reasonable lead time. This shall also apply if such events occur during a period of delay with performance. It shall thereby be irrelevant whether said circumstances occur at our company, the supply plant or at one of our upstream suppliers. If it is not possible for us to deliver the goods or to provide the service within a reasonable period due to such events the Buyer and we shall have the right to rescind the contract or, as the case may be, to rescind such part of the contract as has not yet been performed. There shall be no right to damages because of any such rescission.

Events of Force Majeure include, in particular, official measures and orders (regardless of whether they are valid or invalid), lack of raw materials or energy, significant operational disruptions, for example through the destruction of the entire company or important departments or the failure of essential production facilities, serious transport disruptions, fire, floods, storms, explosions or other natural disasters, mobilizations, wars, riots, pandemics and epidemics.

**5.6** If the Buyer is in default of taking delivery or if the Buyer intentionally or negligently breaches other duties to cooperate, we shall be entitled to demand compensation for any loss we thereby incur including any additional expenses. Any further-reaching claims or rights are reserved.

**5.7** We are liable for default in delivery in accordance with the statutory provisions, taking into account the restrictions set out in Section 12 with the following stipulation:

If the delay in delivery is only based on simple negligence and liability is not mandatory due to injury to life, limb, health or due to the assumption of a guarantee or a procurement risk, our liability for damage caused by delay is limited in such a way that the Buyer for each full week of delay can demand 0.5% each, but in total a maximum of 5% of the price for that part of the delivery that could not be put into appropriate operation due to the delay. This does not involve a change in the burden of proof to the detriment of the Buyer. The Buyer's statutory right of withdrawal remains unaffected.

**6. Grades - Dimensions - Weights**

**6.1** Unless foreign standards or other values have been agreed in writing, any grades and dimensions are governed by the DIN/EN standards and material specification sheets applicable at the time the contract was concluded.

**6.2** Any numbers of units, numbers of bundles and suchlike stated in the delivery note are not binding if the goods are charged by weight. Unless it is customary to weigh the good individually, the total weight of the consignment shall apply. Any variances from the calculated individual weights shall be proportionately allocated thereto.

**7. Retention of Title**

**7.1** All goods supplied shall remain our property until all of the accounts receivable to which we are entitled under the business relationship with the Buyer have been settled in full, particularly also any respective account balances (All Moneys Retention of Title - *Saldoverbehalt*). The goods covered by this retention of title are hereinafter referred to as "Reserved Goods". This shall also apply to accounts receivable which arise in future and conditional accounts receivable, e.g. arising out of bills of exchange, and also if payments are made toward particularly designated accounts receivable. This All Moneys Retention of Title (*Saldoverbehalt*) shall be finally extinguished once all of the accounts receivable covered by this All Moneys Retention of Title (*Saldoverbehalt*) and which are still outstanding at the time of payment have been settled.

**7.2** If the Buyer does not meet his payment obligations, if he is in default of payment, if an application is made to open insolvency proceedings against the Buyer's assets, if there is a suspension of payments or if the Buyer breaches other obligations, we are entitled to take back the Reserved Goods. If we take back the Reserved Goods, we withdraw from the contract. The Buyer is obliged to surrender the reserved goods.

**7.3** The Buyer may process, combine and mix the Reserved Goods in the ordinary course of business. Any processing, combining and mixing of the Reserved Goods always takes place for us as a manufacturer within the meaning of § 950 BGB, without obliging us.. The processed, combined and mixed goods are considered as Reserved Goods. Where the Reserved Goods are processed, combined and mixed by the Buyer with other goods, we shall have joint title to the new article in the proportion that the invoice value of the Reserved Goods has to the invoice value of the other goods used. If our title lapses due to processing, combining or mixing, the Buyer hereby already assigns to us his title to the new stock or goods to the extent of the invoice value of the Reserved Goods. The Buyer shall keep our (joint) property safe on our behalf and shall do so free of charge.

**7.3** The Buyer is revocably entitled to sell the Reserved Goods in the ordinary course of business upon his normal terms and conditions of business. It is not entitled to dispose of the reserved goods in any other way.

**7.4** The accounts receivable resulting from the resale of the Reserved Goods or from any other legal ground regarding the goods to which we have (joint) title with all security, which the Buyer acquires for the accounts receivable are hereby already assigned to us by way of security in the amount of the invoice value of the goods concerned. They shall serve as security to the same extent as the Reserved Goods. If the Buyer sells the Reserved Goods together with other goods that were not sold by us the account receivable arising out of the resale is assigned to us in the proportion that the invoice value of the Reserved Goods has to the invoice value of the other goods sold. When goods, to which we have a share of joint title, a part corresponding to our share of the joint title is assigned to us. If the Buyer uses the Reserved Goods for fulfilling a contract for work (*Werkvertrag*) the account receivable arising out of the contract for work (*Werkvertrag*) shall be assigned to us in advance to the same extent.

**7.5** We can demand that the buyer informs his customers of the assignment, informs us of all assigned claims and their debtors and gives us all information and documents that are necessary for collection.

**7.6** The Buyer is revocably authorized to collect accounts receivable, which have been assigned to us and which arise out of the resale, in his own name and in the ordinary course of business. We can revoke this authorization to collect if the Buyer does not meet his payment obligations, if he is in default of payment, if an application is made to open insolvency proceedings against the Buyer's assets, if there is a suspension of payments or if there is any other breach of obligations on the part of the Buyer.

**7.7** No assignment of accounts receivable arising out of the resale shall be permitted unless it is an assignment by way of true factoring, of which we have been advised and where the proceeds from the factoring exceeds the value of our secured account receivable. Our account receivable shall fall due immediately when the proceeds from the factoring are credited.

**7.8** Goods, which are still subject to a retention of title, may not be pledged, transferred by way of security or otherwise disposed of. The Buyer must notify us without undue delay in the event of any attachment or other interference by third parties. The Buyer shall bear all of the costs that need to be expended for setting aside the attachment or for the return transportation of the Reserved Goods to the extent they are not paid by any third parties.

**7.9** We undertake to release the security, to which we are entitled, upon demand by the Buyer to the extent that the realisable value of our security exceeds the accounts receivable to be secured by more than 10%. The choice of security to be released shall be up to us.

## **8. Acceptance**

**8.1** If it has been agreed that acceptance is to be performed, said acceptance must be performed without undue delay following notification of the readiness for acceptance. Unless otherwise agreed the acceptance shall be performed at our supply plant or warehouse.

**8.2** The personnel costs of the acceptance shall be borne by the Buyer; the Buyer shall be charged the cost of materials/equipment for the acceptance in accordance with our price list or the supply plant's or stock-keeper's price list.

## **9. The Passing of Risk - Dispatch - Packaging - Part Deliveries or Part Performances**

**9.1** The risk of accidental deterioration and accidental loss of the goods passes to the Buyer as soon as the goods have been handed over to him or the person appointed to carry out the delivery, but at the latest when they leave our factory, even if we have taken over the delivery if partial deliveries are made or if we have taken on other services. If the transport is delayed for reasons for which we are not responsible or due to the behavior of the Buyer, the risk is transferred to the Buyer with our notification of readiness for transport.

**9.2** Unless expressly agreed otherwise, "ex works" (Incoterms 2020) shall apply to deliveries, also with regard to the passing of risk.

**9.3** If we have agreed to dispatch the goods, we shall determine the delivery route and means of delivery as well as the forwarding agent and carrier. In that case the risk shall pass to the Buyer when the goods are handed over to a forwarding agent or carrier, however at the latest when leaving the warehouse or the supply plant. We shall obtain insurance only upon instruction by the Buyer and at the Buyer's cost. The duty and cost of unloading shall be borne by the Buyer.

**9.4** If dispatch is delayed due to fault on the part of the Buyer, the risk shall pass to the Buyer as of the time when it was advised that the goods were ready for dispatch.

**9.5** Unless expressly agreed otherwise, the goods are delivered unpacked. If expressly agreed, we deliver packed. We provide packaging, means of protection and/or goods carriers in accordance with our experience and at the Buyer's cost. We do not assume the Buyer's costs for his own disposal of the packaging.

**9.6** In the event of damage to or loss of the products during the transport, the Buyer must immediately arrange for the carrier to draw up an inventory of the facts.

**9.7** Insofar as this is reasonable for the Buyer, we are entitled to make partial deliveries or to provide partial services to a reasonable extent, which we can invoice separately in each case.

## **10. Warranty Claims**

**10.1** The limitation period for warranty claims is 12 months calculated as of the passing of risk. This does not apply to the extent that § 438 Para 1 No. 2 (Buildings and Things for Buildings), § 479 Par 1 (Claims asserting a Right Recourse), § 634 a (Defects in Construction) and § 438 Para 3 (Intention to Deceive) German Civil Code (*BGB*) prescribe longer periods, or for liability for damage arising out of an injury to life, body or health or for liability for damage due to an intentional or grossly negligent breach of duty.

**10.2** Complaints must be communicated to us in writing immediately, but no later than one week after delivery (obvious defects) or discovery of the defect. Otherwise, the assertion of warranty claims is excluded. Warranty claims on the part of the Buyer also require that the Buyer has duly complied with the statutory inspection and complaint obligations (in particular in accordance with § 377 of the German Commercial Code (*HGB*)). We do not agree to a restriction of the legal inspection and complaint obligations of the Buyer (in particular according to § 377 of the German Commercial Code (*HGB*)).

**10.3** If there is a defect, we shall have the right to provide subsequent performance, by either eliminating the defect or by delivering new goods that are free from defects.

**10.4** The Buyer agrees with us that in the event of a subsequent performance claim by the Buyer (rework or subsequent delivery), the more cost-effective variant is to be selected, provided that the Buyer does not suffer any disadvantages as a result.

**10.5** Claims of the Buyer due to the expenses necessary for the purpose of the subsequent performance, in particular transport, travel, labour and material costs, are excluded insofar as the expenses increase due to the fact that the goods were subsequently moved to a location other than the place of delivery, unless the shipment corresponds to its intended use.

**10.6** In the event of notices of defects, payments by the Buyer may only be withheld to an extent that is reasonable in relation to the defects that have occurred. The Buyer can only withhold payments if a justified complaint is made. If the notification of defects is culpably wrong, we are entitled to demand that the Buyer reimburse us for the expenses incurred as a result of the unjustified notification of defects.

**10.7** The Buyer's statutory rights of recourse against us only exist insofar as the Buyer has not made any agreements with his customer that go beyond the warranty claims based on German law.

**10.8** Section 12 shall apply to claims for damages.

## **11. Industrial Property Rights - Defects in Title**

**11.1** Unless we have made a deviating agreement, we are obliged to provide the service only in the country of the place of manufacture and delivery free of third party property rights. "Property rights" in the sense of these Terms and Conditions of Sale are patents, utility models and designs, brands, including their respective registrations, as well as copyrights. If a third party raises justified claims against the Buyer due to the infringement of Property Rights through services provided by us and used in accordance with the contract, we are liable to the Buyer within the period specified in Section 10.1 as follows:

**11.2** At our discretion and at our expense, we will either obtain a right of use for the services in question, change them so that the property right is not violated, or replace them. If this is not possible for us under reasonable conditions, the Buyer is entitled to the statutory right to withdraw from the contract or to reduce the price. Our obligation to pay damages remains unaffected and is based on Section 12.

**11.3** The above-mentioned obligations only exist if the Buyer informs us immediately in writing of the claims asserted by a third party, does not recognize an infringement and we reserve the right to take all defense measures and settlement negotiations. If the Buyer ceases to use the service to reduce the damage or for other important reasons, he is obliged to point out to the third party that the cessation of use does not entail an acknowledgment of an infringement of Property Rights.

**11.4** Claims by the Buyer are excluded if he is solely responsible for the infringement of Property Rights.

**11.5** Claims by the Buyer are also excluded if the infringement of Property Rights is caused (a) by special specifications of the Buyer, (b) by an application that was not foreseeable by us or (c) by the fact that the service is changed by the Buyer or a third party or is used together with products not supplied by us.

**11.6** Any further claims or claims other than those regulated in this Section 11 by the Buyer against us or our vicarious agents due to a defect in title are excluded.

## **12. General Limitation of Liability**

**12.1** We are liable for damages and for reimbursement of wasted expenses in the sense of § 284 of the German Civil Code (*BGB*) (hereinafter referred to as "Damage(s)") due to defects in the delivery or service or due to breach of other contractual or non-contractual obligations, in particular from tort, only in the case of intent or gross negligence. The above limitation of liability does not apply in the event of injury to life, limb or health, the assumption of a guarantee or a procurement risk, the breach of essential contractual obligations or liability under the Product Liability Act.

**12.2** Compensation for breach of essential contractual obligations is limited to the replacement of typical contractual damage that we should have foreseen as a possible consequence when the contract was concluded due to circumstances recognizable to us, unless there is intent or gross negligence or due to injury to life, limb or health or the assumption of a guarantee or a procurement risk or under the Product Liability Act.

**12.3** The foreseeable damage typical for the contract within the meaning of Section 12.2 is

- a) per claim: maximum EUR 7,500,000.00 for bodily injury, property damage and financial losses
- b) 2-fold maximised per insurance year

**12.4** Regardless of the above Sections 12.1 and 12.2, the economic circumstances on our premises, the type, scope and duration of the business relationship, any causation and negligence contributions of the Buyer in accordance with § 254 of the German Civil Code (*BGB*) are when determining the amount of the claims for Damages against us to be considered appropriately in our favour. In particular, the compensation payments, costs and expenses that we are obliged to bear must be in reasonable proportion to the value of the products we have delivered.

**12.5** Insofar as our liability for Damages is excluded or limited, this shall also apply to the personal liability for Damages of our employees, workers, staff, representatives and vicarious agents.

**12.6** The above provisions do not entail any change to the burden of proof to the detriment of the Buyer.

**12.7** Essential contractual obligations within the meaning of Sections 12.1 and 12.2 are those obligations, the fulfilment of which enables the proper execution of the contract in the first place and on the fulfilment of which the Buyer relied and was allowed to trust.

## **13. Place of Performance - Place of Jurisdiction - Governing Law**

**13.1** Unless otherwise agreed, the place of performance for all obligations of both parties shall be Ladenburg, Federal Republic of Germany.

**13.2** For all legal disputes that fall within the substantive jurisdiction of the local courts (*Amtgerichte*), the district court of Weinheim, Federal Republic of Germany and for legal disputes that fall within the substantive jurisdiction of the regional courts (*Landgerichte*), the regional court of Mannheim, Federal Republic of Germany as the place of jurisdiction. However, we are optionally entitled to take legal action at Buyer's registered office.

**13.3** The governing law shall exclusively be the law of the Federal Republic of Germany; the provisions on the conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.

## **14. Miscellaneous**

**14.1** If a Buyer, who is based outside the Federal Republic of Germany (foreign customers) or his authorised agent collects EU-duty paid goods or transports or dispatches them abroad the Buyer must produce to us the export certificate necessary for tax purposes. If said certificate is not produced the Buyer must pay the value added tax (Umsatzsteuer) on the invoice amount and statutorily owed by us for said deliveries.

**14.2** When EU-duty paid goods are delivered from one EU member state to another EU member state the Buyer must notify us - prior to the delivery - of its VAT ID number under which his intra-Community acquisitions are taxed within the EU. Otherwise, he must pay us the amount of value added tax (Umsatzsteuer) statutorily owed by us in addition to the agreed purchase price.

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