

Version April.06

**Validity of these terms and closing of contract:**

1. Our sales, delivery and payment terms are applicable only to commerce between legal persons/legal entities.

2. All quotations, agreements, deliveries and performances shall be carried out exclusively based upon, and in accordance with, the following provisions. Unless otherwise agreed, these provisions shall also apply for deliveries to a foreign country and for all future business transactions. Any deviating terms of the buying/ordering party shall not apply, unless we have expressly confirmed them in writing.

3. All agreements and orders as well as any subsequent changes thereof must be made in writing to be valid. Oral agreements were not made.

**Quotation documents, copyright:**

We reserve the ownership rights and copyrights to all documentation connected with the offer. The documentation may not be made available to any third parties without our prior written consent. The documentation shall be returned to us immediately upon request if an order is not placed with us. All development work and designs intended for the construction of vapour phase soldering systems and other products remain the intellectual property of our company and may not be made available in any manner to any third party or utilized in any manner by the buying/ordering party or their agents for their own benefit, unless and to the extent agreed upon by us in writing. The buying/ordering party is obligated to maintain strict confidentiality even if he does not place an order.

**Prices and payment:**

1. All prices are binding, ex-works and quoted in Euros in each instance thereof and will be subject to value added tax as respectively required by law, as well as costs for packaging, loading, shipping, transportation insurance, customs and handling costs. Our list price, valid on the day of delivery, shall apply if a fixed price has not otherwise been agreed.

2. The buying/ordering party shall bear the costs of any changes in prices agreed in a foreign currency or in exchanging the Euro that arise after closing of contract.

3. Payments shall solely be made to us. Non-cash payments are only deemed as performed in full when the sum is credited to our bank account. Representatives and traveling employees of our company are not authorized to accept money. Bills of exchange shall only be accepted as performance of payment by special agreement and on the condition that they are eligible for discount. Discount expenses shall be charged commencing on the date that the invoiced amount becomes due, onwards.

4. Unless otherwise agreed, invoices shall be paid net within 15 days from the date of invoice. We reserve the right to make deliveries conditional upon advance payment, cash payment or cash on delivery, especially in instances of first orders or outstanding overdue payments. Spare parts and other deliveries related to repairs, including service and maintenance, shall be paid in full immediately after delivery.

5. In any event, our claims for payment shall become due for immediate payment if the buying/ordering party becomes insolvent, if bankruptcy proceedings are instituted against his assets or if his company is sold or comes under new ownership.

6. The buying/ordering party is not entitled to offset or reduce payments or to assert rights of retention unless his claims have been legally established by a final judgment or are undisputed.

7. In those instances stated under No. 5 above and in other circumstances that become known after and at the closing of contract, which considerably jeopardize the buying/ordering party's ability to legally fulfill the contract, we shall be able to demand a reasonable advance payment, the sum of which will be at the sole discretion of our company, or to reasonably increase the amount of an advance payment already agreed or to demand furnishing of collateral for the amount of respective outstanding debts. We shall be entitled to rescind the contract and/or demand damages in the event that the buying/ordering party fails to meet our demand, despite stipulation of a reasonable time period for compliance.

**Transfer of risk, dispatch, freight:**

1. If goods are dispatched to the buying/ordering party at his request, then the risk of accidental perishing or accidental deterioration of the goods shall transfer to the buying/ordering party when the goods are surrendered to the authorized shipping agent. This shall also apply for partial deliveries, regardless of whether shipment is carried out from the place of performance and regardless of who bears the freight costs. If the goods are ready for dispatch, and dispatch or acceptance of the goods is delayed on grounds for which we are not responsible, then

risk shall transfer to the buying/ordering party when notice is received that the goods are ready for dispatch.

2. Shipments can be insured by us at the expense of the buying/ordering party, insofar as the buying/ordering party has not provided evidence of insurance coverage within 5 days, at the latest, following our notice that the goods are ready for dispatch, or the buying/ordering party expressly states that he waives insurance.

**Retention of ownership:**

1. Delivered goods shall remain our property until full payment of all claims arising from the business transaction, including any outstanding current account balances. We are entitled to rescind the contract and to demand the issuance of the relevant, delivered goods if the buying/ordering party is in default on payment or has committed other, non-minor, violations of his contractual obligations.

2. The buying/ordering party is entitled to re-sell the goods subject to right of retention (retained goods) in the normal course of business; however, he is not entitled to pledge said goods or assign them as collateral.

3. The buying/ordering party now hereby assigns to us any claims arising from resale of retained goods. However, he is entitled to collect said claims only for as long as he does not enter into default in fulfilling his obligations vis-a-vis us, discontinues payments, insolvency proceedings of his assets have been filed or opened or out-of-court settlement proceedings are being conducted. The buying/ordering party is required, at our request, to provide us with information necessary to collect the assigned claims, to surrender required documents to us and to inform the debtor of the assignment.

4. The buying/ordering party shall perform any handling and processing whatsoever of retained goods for us without any obligations arising for us from the same. If delivered goods are processed, combined, mixed or blended with other goods that do not belong to us, then we are entitled to co-ownership of the new goods commensurate with the value of our retained goods to the value of other processed goods, which they possess at the time of processing, combining, mixing or blending. Should the buying/ordering party acquire sole ownership of new goods, then the contracting parties hereby agree that the buying/ordering party shall grant to us co-ownership in the new goods commensurate with the value of our retained goods in any such new goods, which they possess at the time of processing, combining, mixing or blending, and that the ordering party shall keep our proportionate share in said new goods in safe custody for us free of charge. If retained goods are resold together with other goods, and more precisely regardless of whether resale occurs after or devoid of processing, combining, mixing or blending, then the aforementioned advance assignment, as agreed above, shall solely apply to the amount of the value of retained goods that are resold together with the other goods.

5. As collateral for our claims against him, the buying/ordering party shall also assign to us his claims against third parties arising from linking the delivered goods – or delivered goods as processed, combined, mixed or blended, where appropriate – to real estate.

6. The buying/ordering party is required to inform us immediately of any attachment, seizure or any other judicial enforcement procedures or dispositions of third parties concerning the reserved goods or the claims assigned in advance and to surrender to us all documentation necessary for intervention.

7. In the event that the realizable value of the aforementioned collateral exceeds secured claims by more than 10 %, then we are obligated, at the buying/ordering party's request, to release an appropriate portion of the collateral we hold; selection of the collateral to be released shall be our responsibility.

**Delivery dates:**

1. We shall not be held responsible or liable for any loss, damage, detention or delay caused by false or delayed delivery of goods from our suppliers.

2. Any agreed delivery dates shall be deemed adhered to if the goods have left the plant or warehouse on such date or if notice has been given that goods are ready for dispatch, or where pre-acceptance is performed and completed by or on the delivery date. Partial deliveries are permissible. The delivery date shall extend for a reasonable period, if the buying/ordering party fails to furnish in due time the documentation, permits, work-pieces, devices or any other performances he is obliged to provide, or in the event of unforeseeable, extraordinary events that can not be averted despite required and reasonable due diligence exercised under given conditions, such as, for example, interruptions in business operations, strikes and lockouts, import or export bans, non-issue or revocation of permits or other measures

instituted by authorities; this shall also apply if one of the aforementioned occurrences happens to a supplier or another manufacturer. If the buying/ordering party is in default on performing agreed partial payments, then the delivery date shall commensurately extend.

**Rights in case of defects:**

1. If the sales item and/or performance we render is defective, including the absence of the composition agreed upon, then we shall, at our own discretion, supply replacement delivery or rectify our original delivery. In this regard, we shall be granted no less than two attempts to perform replacement or rectification. If replacement delivery or rectification of our original delivery fails, then the buying/ordering party can, at his own discretion, either rescind the contract or demand a reduction. In case of minor defects, the buying/ordering party has no right to rescind the contract.

2. Obvious defects in our sales item and/or services must be reported to us immediately in writing, i.e., within 14 days after receipt, at the latest, otherwise all and any of the buying/ordering party's rights in case of defects shall be excluded.

3. We are not liable for damages that arise outside our scope of performance and influence through improper utilization or treatment, erroneous installation and operation by the buying/ordering party or any third parties, natural wear and tear, inappropriate operating materials, replacement materials, electrical, chemical or electrochemical affects. If the buying/ordering party receives defective assembly instructions, we shall be required to deliver only assembly instructions free of defects, and this only when the defective assembly instructions prohibit a proper assembly.

4. Our written order confirmations and the documents referred to therein are exclusively authoritative for the scope of our deliveries and performances. Technical information regarding the delivered goods, including illustrations, drawings and application reports as well as any weight specifications requested by the buying/ordering party do not constitute a warranty nor a quality specification. Public pronouncements, praise or advertisement of the seller or the manufacturer do not constitute a quality specification according to the contract. We assume no liability for adherence to foreign packaging and customs regulations. We reserve the right to make technical improvements, also without notifying the customer of the same or harmonizing them with the customer.

5. The time limitation for rights in case of defects is one year. It commences with delivery of the goods to the buying/ordering party and, in case of industrial performances, the acceptance of the performance by the buying/ordering party.

6. All further claims of the buying/ordering party are excluded, especially claims for damages which do not occur to the delivered goods themselves. This shall not apply in instances of intent or gross negligence or culpable violation of important contractual obligations. In the event of culpable violation of important contractual obligations, we shall solely assume liability for damages that are typical for contracts and could have reasonably been foreseen – except in instances of intent or gross negligence. The exclusion of liability shall not apply for the absence of warranties insofar as the assurance of these warranties was specifically intended to safeguard the buying/ordering party against arising damages. In addition, the exclusion of liability shall not apply in instances where the warranty is assumed for the quality or if a defect is maliciously kept secret. Moreover, this exclusion of liability shall not apply in damages to life, limb or health of the buying/ordering party that can be attributed to us, and in cases, under product liability law, liability is assumed for personal injury or property damage at or on privately utilized objects in the event of defects in the delivered goods.

**Redemption obligation pursuant to the German Electrical and Electronics Equipment Act (ElektroG):**

As far as the Electrical and Electronics Equipment Act provides or implies an obligation for taking back or disposing of supplied products by the manufacturer, the following terms apply:

1. The customer accepts the obligation to properly dispose of the supplied goods after use, in accordance with the statutory provisions and at its own expense.

2. The customer shall release the supplier from its obligations pursuant to Sec. 10 (2) Electrical and Electronics Equipment Act (Manufacturer's redemption obligation), and thus from any related third-party claims.

3. The customer shall bind third-party businesses to which it supplies the delivered goods by contract to properly dispose of these goods after use, in accordance with the



statutory provisions, and in case they are sold on, to bind the receiving party accordingly.

4. If the customer fails to bind any third party to which he supplies the delivered goods by contract to properly dispose of these and to bind any receiving party accordingly, the customer shall be obliged to take back the delivered goods after use and to dispose of them in accordance with the statutory provision at its own expense.

5. The manufacturer's entitlement to be released from his redemption obligations by the customer shall expire no sooner than two years from the definite termination of use of the device. This two-year delay will begin no sooner than the day the manufacturer receives a written notice from the customer confirming the end of use.

**Third-party proprietary rights:**

For objects manufactured in compliance with information provided by the buying/ordering party, the buying/ordering party shall assume liability for the fact that proprietary rights of third parties are not violated by manufacturing and operating any such objects. The buying/ordering party releases us from all claims of third parties based on violation of proprietary rights.

**Liability:**

Apart from the claims granted to the buying/ordering party under these provisions, the buying/ordering party shall have no further rights, and especially no claims to compensation due to violations of obligations as well as tortuous acts. This exclusion of liability shall not apply in instances of intent and/or gross negligence, or violation of an important contractual obligation or occurrence of personal injury that should have been prevented by the

violated obligation. For all remaining purposes, liability is limited to foreseeable damages typical for contracts, insofar as these damages are not intentional or caused by gross negligence. This exclusion of liability shall not apply in damages to life, limb or health of the buying/ordering party that can be attributed to us, and in instances where liability is assumed, under product liability law, for personal injury or property damage at or on privately utilized objects in the event of defects in the delivered good.

**Compensation upon cancellation of contract:**

If an order is cancelled for a reason for which the buying/ordering party is responsible, then the ordering party is required to pay us 25 % of the net value of the cancelled order as compensation; notwithstanding the possible assertion of claims for higher actual damages. The buying/ordering party has the right to proof that the value of loss is lower than 25 %.

**Saving clause:**

If any of the provisions of these terms are or become partially or wholly invalid, then this shall not affect the validity of the contract as a whole and the remaining terms of sale, delivery and payment. In this case, the parties are obligated to replace the invalid or infeasible terms or contractual provisions as with agreements that come closest to the intended purpose of the original term or provision being replaced.

**Place of performance, venue of courts and applicable law:**

1. Augsburg/Germany shall constitute the sole venue of courts for all disputes arising directly or indirectly from the contractual relationship, insofar as buying/ordering parties pertain to legal entities under public law or to special funds under public law or to businessmen – except for businessmen whose operations, pursuant to the kind and scope thereof, do not have to be established as a full business operation. The same is applicable to buying/ordering parties whose general court venue is not in Germany or whose place of residence or usual dwelling place is not known at the time of the filing of charges. The site (headquarters or branch office) stated on our order confirmation shall constitute the place of performance for businessmen or other persons as defined under the first sentence of this paragraph.

2. The contractual relationship is subject to German law in all cases, in particular the German Civil Code (BGB) and the German Commercial Code (HGB), under exclusion of all conflicting laws and the Vienna version of the UN Convention on Contracts for the International Sale of Goods (CISG).

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