

# **General Terms and Conditions of Delivery of Chemtronic Waltemode GmbH, 40789 Monheim am Rhein / Germany Status 01.01.2018**

## **§1 General**

1.1 The following terms of delivery- and payment conditions apply to all current and future deliveries and services. Changes or other conditions of the customer are only valid if we have agreed to them in writing. Decisive is the order confirmation.

1.2 The contract is concluded upon receipt of the written confirmation by the supplier that he accepts the order (order confirmation). Offers are not binding.

1.3 These General Terms and Conditions of Delivery are binding if they are declared to be applicable in the offer or in the order confirmation. Different conditions of the client are valid only if they have been specifically accepted in writing by the supplier.

1.4 All agreements and legally significant declarations made by the contracting parties are valid only if they are made in writing.

## **§2 Scope of deliveries and services**

The deliveries and services of the supplier are listed in full, in the order confirmation, including any attachments thereto.

## **§3 Schematics, drawings and technical documentation**

3.1 Brochures and catalogues are not binding, save where otherwise agreed. The information given in technical documents is binding only, if an express assurance is given to that effect.

3.2 Each contracting party reserves all rights in plans and technical documents which he has issued to the other. The receiving contracting party acknowledges these rights and will not use the documents for any purpose other than that for which they were handed over to him.

## **§4 Prices**

4.1 Prices are ex works excluding packaging, delivery and shipping; within the Federal Republic of Germany plus applicable VAT; for deliveries abroad without duties and taxes.

4.2 If the supplier provides additional services (such as commissioning, service, etc.), he is entitled to reasonable compensation and reimbursement of the costs.

4.3 If the supplier assumes additional services (eg commissioning / service, etc.), he shall be entitled to reasonable compensation and reimbursement of reasonable costs.

## **§ 5 Payments**

5.1 Payments are made in accordance with the terms of payment listed in the order confirmation.

5.2 Payments are only made when they have been credited to suppliers account.

5.3 The retention or set-off against due payments due to any counterclaims of the customer not recognized by us is not permitted.

5.4 If the purchaser fails to meet the agreed payment dates, he shall pay an interest of 8% without a reminder from the date of the agreed due date. The replacement of further damage remains reserved.

## **§ 6 Taxes and customs duties for deliveries abroad**

6.1 The export and import permits required for the business must be provided by the customer.

6.2 If export and import permits are not granted, supplier can withdraw from the contract. Claims against us do not exist in this case.

6.3 Customs and other import duties are to be pay by the customer.

6.4 All sales, utility and other taxes incurred as a result of the delivery shall be pay by the customer.

## **§7 Reservation of ownership**

7.1 The supplier remains the owner of all of his deliveries until he has received payment in full as stipulated in the contract.

7.2 The customer is required to participate in measures which have become necessary to protect the supplier's property; in particular, upon the conclusion of the contract, he authorizes the supplier to effect entry or a record of the reservation of ownership in the public registers, books or similar in compliance with the relevant national legislation and to perform all the accompanying formalities.

7.3 The customer will maintain the delivered objects at his own expense for the duration of the reservation of ownership and insure them in favor of the supplier against theft, breakage, fire, water damage and other risks. Moreover he will take all measures to ensure that the supplier's right of ownership is neither impaired nor cancelled.

## **§8 Delivery Time**

8.1 Specified delivery times and shipping dates are approximate and based on the information provided by our suppliers.

8.2 The delivery lead-time begins as soon as the contract has been closed, all the official formalities such as import, export, transit and payment permits obtained, the payments which are to be made with the order affected, any sureties put up and the essential technical points clarified. The delivery lead-time is respected if notification of readiness for dispatch has been sent to the client before it expires.

8.2 The delivery lead-time shall be extended appropriately:

- a) if the supplier does not receive in a timely manner the indications which he requires for performance of the contract or if the client subsequently amends them, thereby causing a delay in delivery or provision of the services;
- b) if obstacles occur which the supplier is unable to avert, despite exercising an appropriate degree of care, regardless of whether these arise on his own premises, with the client or with a third party. Such obstacles are, for example, epidemics, mobilization, war, riot, substantial interference with operations, accidents, labour conflicts, late or defective delivery of the necessary raw materials, semi-manufactured or manufactured products, loss of important work pieces, official actions or omissions, natural events;
- c) if the client or third parties is or are late in the performance of work to be done by them or in the performance of their contractual obligations and, in particular, if the client fails to respect the payment terms.

8.3 If the supplier falls into arrears with the delivery, the customer may withdraw from the contract after expiry of a reasonable period of grace to be set by him in writing, insofar as the goods have not yet been dispatched by the expiry of the period of grace.

## **§ 9 Shipping and transfer of risk**

9.1 Benefit and risk are transferred to the client at the latest when the delivery leaves the works.

9.2 If the consignment is delayed at the request of the client or for other reasons for which the supplier is not responsible, the risk shall be transferred to the client at the time originally scheduled for delivery ex works. From that point in time onwards, deliveries will be stored and insured for the account and at the expense of the client

9.3 Unless the shipping costs are assumed by us due to special agreements, these shall be borne by the customer. Shipping, selection of the means of transport or the transport route and appropriate packaging are granted by us with due care but without assumption of liability. The risk is insured up to the point of the transfer of risk by us.

## **§ 10 Warranty & Liability**

10.1 The warranty period is 24 months. It begins with the shipment of the deliveries ex works, unless otherwise agreed.

This does not apply insofar as the law stipulates longer periods in accordance with § 438 (1) No. 2, § 479 (1) and § 634a (1) No. 1 BGB, as well as in cases of injury to life, limb or health our intentional or grossly negligent breach of duty or fraudulent concealment of a defect.

10.2 Place of warranty is the delivery plant (Monheim am Rhein)

10.3 If shipping, acceptance or assembly is delayed for reasons for which the supplier is not responsible; the warranty period ends at the latest 12 months after notice of readiness for dispatch. For replaced or repaired parts, the warranty period begins anew and lasts 6 months from replacement, completion of the repair or acceptance, but at the latest until the expiry of a period which is twice the warranty period according to paragraph 10.1.

10.4 The warranty expires prematurely if the purchaser or third party undertakes improper installation, alterations or repairs or if the purchaser, if a defect has occurred, does not immediately take all suitable measures to mitigate the damage and gives the supplier the opportunity to remedy the defect.

10.5 Upon written request of the Purchaser, the Supplier undertakes to repair or replace as quickly as possible at its discretion all parts of Supplier's deliveries which demonstrably become defective or unusable as a result of bad material, faulty construction or defective performance until the expiry of the warranty period, Replaced parts become the property of the supplier unless expressly waived. The supplier bears the costs of rectification incurred in his factory. The transport of the material to be repaired by the purchaser to the factory of the supplier and back is at the expense of the purchaser. In case of repair at the location of the item, the customer has to take over the resulting additional costs.

10.6 Assured features are only those which have been expressly designated as such in the order confirmation or in the specifications. The warranty is valid until the expiration of the warranty period. If the warranted features are not or only partially fulfilled, the customer is initially entitled to immediate rectification by the supplier. For this purpose, the orderer has to grant the supplier the necessary time and opportunity. Does not succeed this rework or only

In part, the purchaser is entitled to the compensation agreed for this case or, if such an agreement has not been made, to a reasonable reduction of the price. If the defect is so serious that it cannot be remedied within a reasonable period of time, and the deliveries or services for the stated purpose are not or only to a significantly reduced extent useful, the customer has the right to refuse the acceptance of the defective part or if a partial acceptance is economically unreasonable for him to withdraw from the contract. The supplier can only be obliged to repay the amounts paid to him for the parts affected by the withdrawal.

10.7 Glass parts, seals, lamps and fuses and other wearing- or consumable parts are excluded from the warranty and liability of the supplier. Damage which has not been demonstrably caused by poor material, defective design or workmanship, e.g. because of natural wear and tear, defective maintenance, failure to comply with operating instructions, excessive strain, unsuitable operating resources, chemical or electrical influences, failure by the supplier to effect installation or assembly work and for other reasons for which the supplier is not responsible are likewise excluded. Moreover the supplier shall only be liable for damage which he predicted when the contract was closed as a possible consequence of breach of contract.

10.5 The client has no rights and claims other than those expressly stated in Sections 10.1 to 10.6 in respect of defects in material design or workmanship and the absence of assured properties.

### **§11 Order cancellation**

A confirmed order can only be withdrawn with our written consent and / or with the agreement of our suppliers. In this case, the customer bears the costs incurred up to that date plus 10% of the order value. The same applies to any technical changes caused by the customer.

### **§12 Installation & Maintenance**

Installation and assembly of the delivered devices is the responsibility of the customer. If these services are to be transferred to the supplier, a special written agreement is required. Services are billed at the applicable service rates.

### **§13 Claims for Damages**

13.1 Claims for damages and reimbursement of the customer (in the following claims for damages) for whatever legal reason, in particular due to breach of duties from the obligation and from tort are excluded.

This does not apply as far as mandatory, for example, under the Product Liability Act, in cases of gross negligence, because of injury to life, limb, health or in case of breach of essential contractual obligations. The claim for damages in case of breach of essential contractual obligations, however, is limited to the contractually typical, foreseeable damage, unless there is intent or gross negligence or liability for injury to life, limb or health. A change in the burden of proof to the detriment of the purchaser is not connected with this regulation.

13.2 Insofar as the purchaser is entitled to claims for damages under this article, these shall lapse after expiry of the period of limitation applicable to claims for material defects.

### **§14 Force majeure and other circumstances**

Events of force majeure and other circumstances which make the delivery more difficult, delays delivery or makes it impossible and which we are not responsible for, entitle us to postpone the delivery for the duration of the impediments. Claims of the customer for subsequent delivery, withdrawal or compensation are excluded. If necessary, we can withdraw from the contract. Circumstances that entitle us to the above measures include, in particular, unrest, operating and traffic disruptions, work stoppages, lockouts, lack or rationing of raw materials and fuels or other equipment that is indispensable for the manufacture or delivery of the equipment, regardless of whether such disruptions and events occur to us or our suppliers.

## **§15 Miscellaneous**

15.1 Place of performance for the delivery, maintenance and repair is the location of the delivery plant Chemtronic Waltemode GmbH, Monheim am Rhein, Germany.

15.2 Place of performance for the payment is Chemtronic Waltemode GmbH, Monheim am Rhein, Germany.

15.3 All legal relations between supplier and customer are subject to the law of the Federal Republic of Germany. The validity of the UN sales law is excluded.

Jurisdiction for all disputes arising from and in connection with this contract is Dusseldorf for both parties. This also applies to bills of exchange and check processes. However, we are also entitled to take legal action against the buyer at his general place of jurisdiction.

15.4 The validity of the remaining provisions remains unaffected, should any of the above provisions be or become ineffective. In place of the invalid provision, such a provision shall be deemed to be compatible, which comes as close as possible to the law in the sense of what was originally intended and the purpose of the ineffective provision.