

Date: 2023-12-12

#### **§ 1 Scope**

(1) All goods, services and quotes by the vendor are made exclusively on the basis of these General Terms and Conditions of Business (referred to hereinafter as "T & Cs") if the client is a company, a legal entity in German public law or a special fund in German public law. These T & Cs are an integral part of all contracts concluded by Mechatronic Medical Engineers GmbH, Darmstadt (referred to hereinafter as "Mechatronic") with its business partners (also referred to hereinafter as "clients") in respect of the goods or services to be supplied. These conditions also apply to all future goods or services supplied to the client, even if they are not agreed on again separately.

(2) Business conditions of the client's or third parties will not apply, even if Mechatronic does not dispute their validity in individual cases separately.

#### **§ 2 Offers, Concluding Contracts and the Written Form**

(1) If an order is to be referred to as a quote, we may accept this within two weeks.

(2) Additions and alterations of the agreements reached, including these T & Cs, must be in writing to be legally valid. With the exception of managing directors and authorised company officers, the employees of Mechatronic are not entitled to make any oral agreements that deviate from these conditions. Transmission by telefax will suffice to fulfil this provision.

(3) Mechatronic retains ownership or copyright on all documentation or items given or sent by it, e.g. quotes, estimates, drawings, illustrations, calculations, models etc. The client may not make this documentation or these items accessible to third parties, publicise them, use them itself or through third parties or duplicate them without the express permission of Mechatronic.

#### **§ 3 Prices and Payment**

(1) Prices apply to the agreed scope of goods or services as listed. Extra, additional, or special services will be invoiced separately. Prices are in EUROS and ex works plus packaging and the applicable statutory value added tax; in the case of export deliveries they will also include customs duties and all fees and public charges.

(2) The deduction of discount requires explicit agreement.

(3) The offsetting of counter-claims or retention of payments based on such claims is only permitted if the counter-claims are undisputed or have been established under law.

#### **§ 4 Delivery and Delivery Periods**

(1) Proposed deadlines and dates for the supply of goods and services announced by Mechatronic apply if a firm deadline or date has been expressly approved or agreed to. If shipment has been agreed to, delivery deadlines and periods apply to the moment the goods are handed over to the freight forwarder, carrier or other third party appointed to carry out the transport. The commencement of any performance or delivery period as announced presupposes that all technical issues have been clarified.

(2) Mechatronic is not liable for impossibility of delivery or for delivery delays if these are due to Acts of God or other events unforeseeable at the time the agreement was signed, e.g. operational disruptions of all kinds, problems in obtaining materials or energy, transport delays, strikes, lawful lockouts, lack of employees, energy or raw materials or non-delivery, incorrect delivery or untimely delivery by suppliers, if Mechatronic is not responsible for them. If such events make performance or deliveries considerably more difficult or impossible and the hindrance is not only of temporary duration, Mechatronic will be entitled to cancel the agreement. In the case of hindrances of only temporary duration, delivery or performance deadlines will be extended by the length of the period of the hindrance plus an appropriate start-up period. If as a result of the delay the client cannot reasonably be expected to accept the goods or services, it may cancel the contract by immediate declaration to Mechatronic.

(3) Mechatronic is entitled to make partial deliveries if the client can use the partial delivery as part of the contractually intended purpose, if delivery of the remaining goods as ordered is assured and if the client incurs no major additional effort or costs.

(4) If Mechatronic falls into arrears with the supply of goods or services or if the supply of goods or services is not possible for whatever reason, Mechatronic's liability to pay damages is limited to the provisions in § 7 of these T & Cs.

#### **§ 5 Place of Fulfilment, Transfer of Risk, Acceptance**

(1) The place of fulfilment for all obligations arising from the contractual relationship is 64293 Darmstadt, Germany, unless other arrangements have been made. If Mechatronic is also required to perform installation, the place of fulfilment will be the place where installation is to be carried out.

(2) Risk transfers to the client when the goods to be delivered are handed over to the freight forwarder, carrier or other party appointed to carry out delivery. This also applies in the case of partial deliveries or if Mechatronic has contracted to perform other services such as shipping or installation. If shipping or transfer is delayed for reasons for which the client is responsible, risk transfers to the client on the

day the goods to be delivered are ready to be shipped and Mechatronic has notified the client of this. Warehousing costs incurred after risk has been transferred will be borne by the client.

(3) Formal acceptance is to be carried out if requested by a party to the contract. If acceptance is not required, performance will be deemed to have been accepted after 12 working days have expired and following written notification that performance has been completed. If acceptance is not required and if the client uses the goods or services or part thereof, acceptance will be deemed to have been carried out after six working days have expired following commencement of use unless other arrangements have been agreed to.

#### **§ 6 Physical Defects, Claims for Defects**

(1) Information from Mechatronic on the goods or services to be supplied and all illustrations of the same are authoritative unless their usability for the contractually agreed purpose presupposes no other precise match. The information constitutes no guaranteed features of the goods' or services' inherent characteristics; rather, it is a description or characterisation of the goods or services. Deviations typical in the trade and deviations required by law or which display technical improvements and the replacement of components by equivalent parts are permitted as long as they do not impair the usability of the contractually intended purpose.

(2) The guarantee period is one year as from delivery or, if acceptance is required, after acceptance.

(3) Claims for defects presuppose that the client has duly fulfilled its obligation to inspect the goods or services and has notified us of any defects pursuant to Section 377 of the German Commercial Code. In the case of a contract for services, Section 377 of the German Commercial Code will apply analogously. Following the transfer of risk and/or acceptance of the product, the client is required to inspect it immediately to ensure that it is in working order and to notify us in writing of any defects after they have been discovered but no later than seven days thereafter.

(4) If a defect is due to fault on the part of Mechatronic, the client may request compensation under certain circumstances as per § 7.

(5) Claims for defects will not apply if the client alters the item delivered or has it altered by a third party without the consent of Mechatronic and the alteration makes repair of defects impossible or difficult to the point where they are unreasonable. In all cases the client is required to bear the additional costs of repairing the defect resulting from the alteration.

(6) If there is a defect then the customer shall bear all the expenses necessary to eliminate it, in particular transport, infrastructure-, labour- and material costs (and cleaning costs in the case of contamination), but not more than 5% of the purchase price and respectively the contract work.

#### **§ 7 Liability for Compensation**

(1) Mechatronic's liability for compensation, regardless of the reason but in particular for impossibility of performance, delay, non-delivery or incorrect delivery, breach of obligations in contract negotiations and forbidden actions, is limited under the terms of § 7, provided each reason is due to fault.

(2) Mechatronic is not liable in cases of simple negligence by its management, lawful representatives, salaried employees or other agents as long as there is no breach of an essential contractual obligation. An essential contractual obligation is an obligation on which the client can and may rely. Essential contractual obligations include the obligation to deliver and install in a timely fashion goods that are free of essential defects, advisory, protective, custodial and duty of care obligations that enable the client to use the item delivered in the contractually prescribed manner or whose purpose is to protect the lives and health of the client's personnel.

(3) If Mechatronic is liable pursuant to § 7 (2) for compensation on its merits, this liability will be limited to damages that Mechatronic foresaw when concluding the agreement as a possible consequence of a breach of contract or which it should have foreseen when taking the usual care. Indirect damage and consequential damage resulting from defects in the item delivered can only be replaced or reimbursed if such damage is to be typically expected in items of this nature when used as intended.

(4) In cases of liability for simple negligence, the obligation on the part of Mechatronic to replace or reimburse physical damage is limited to the amount of € 2.500.000 for each claim and triple the aforementioned amount per year at maximum, and for additional pecuniary loss resulting from this is limited to the amount of € 1.000.000 for each claim and triple this amount per year at maximum (corresponding to the current insurance coverage of company liability insurance), including breaches of essential contractual obligations. Mechatronic will, on request, send a copy of the insurance policy to the client. Where the insurer is not required to reimburse a claim based on a breach of obligations by Mechatronic, Mechatronic will undertake to the client to be liable for the amount of coverage from its own funds.

(5) Exclusions and limitations of liability apply to the same extent to the benefit of the management, lawful representatives, salaried employees and other agents of Mechatronic.

(6) The restrictions in this § 7 do not apply to the liability of the vendor for deliberate actions, inherent guaranteed features, death, physical injury or harm to human health or liability pursuant to the German Product Liability Act.

#### **§ 8 Retention of Title, Sureties**

(1) Mechatronic retains right of ownership to the items delivered until all payments from the business relationship have been received. In the case of conduct in breach of the contract on the part of the client, Mechatronic will be entitled to take back the item delivered. Taking it back will constitute cancellation of the contract. After taking the item back Mechatronic will be authorised to sell it and to offset the proceeds from such a sale against the client's liabilities, less appropriate administrative costs.

(2) The client is obliged to treat the item delivered with care; in particular it is obliged to insure the item at its own expense against damage by fire, water and theft. If maintenance and inspection work are required, the client must carry this out at its own expense in a timely fashion.

(3) The client is entitled to resell the item delivered in the normal course of business; however it immediately assigns all claims in the final amount of the invoice (including Value Added Tax) to Mechatronic due to it from the resale to its purchaser or third parties. The client also remains entitled to collect this liability after assignment. This will not affect Mechatronic's authority to collect this debt itself. However, Mechatronic undertakes not to collect the debt itself as long as the client fulfils its payment obligations arising from the collected proceeds, does not fall into arrears and, in particular, makes no application to open insolvency proceedings.

(4) Processing or reshaping of the item delivered by the client will be carried out for Mechatronic at all times. If the item delivered is processed with other items not belonging to Mechatronic, Mechatronic will acquire joint ownership of the new item as a percentage of the value of the item purchased (final invoice amount including value added tax) in relation to the other processed items at the time of processing.

(5) If the item delivered is inseparably combined with other items not belonging to Mechatronic, Mechatronic will acquire joint ownership of the new item purchased as a percentage of the value of the item purchased (final invoice amount including value added tax) in relation to the other combined items at the time of combining. If combining is carried out in such a manner that the item belonging to the client is to be regarded as the main article, it is deemed to have been agreed that the client transfers a proportion of joint ownership to Mechatronic. The client will retain the resultant sole ownership or joint ownership for Mechatronic.

(6) The client also assigns to Mechatronic the claims against a third party that result from the connection between the purchased goods and real estate.

(7) If requested to do so by the client, Mechatronic will undertake to release the securities owed to it if the realisable value of our securities exceed the value of the claims to be secured by more than 10%; the choice of the securities to be released will be the responsibility of Mechatronic.

(8) If the goods are delivered abroad, Mechatronic will be entitled to request the client to give it an unrestricted, chronologically unlimited, directly enforceable guarantee from a bank subject to German law licensed in the EU, for the purpose of guaranteeing payment claims.

#### **§ 9 Place of Jurisdiction, Choice of Law, Final Provisions**

(1) The place of jurisdiction is the location of the place of business of Mechatronic; however, we are also entitled to bring legal action against the client at its court of domicile.

(2) The laws of the Federal Republic of Germany apply exclusively and exclude the provisions of the UN Convention on the International Sale of Goods (CISG).

(3) If the contract or these T & Cs contain omissions, it is agreed that those omissions will be replaced by those legally valid provisions that the parties to the contract would have agreed to according to the commercial aims of the contract and the purpose of these terms and conditions of business if they had known about the omission.