

1 General provisions

¹ These General Terms and Conditions (hereinafter referred to as "GTC") shall apply to all contractual relations between Mikrona Group AG (hereinafter referred to as "Manufacturer") and its customers (hereinafter referred to as "Purchaser") concerning the business area Mikrona. Any other terms and conditions of the Purchaser shall only be valid if they have been expressly accepted by the Manufacturer in writing.

² These GTC shall be binding if declared to be applicable in the offer or the order confirmation.

Deviating terms of the purchaser shall only apply if they have been expressly accepted by the Manufacturer in writing.

2 Scope of deliveries and services

Deliveries and services of the Manufacturer are specified conclusively in the order confirmation and any enclosures. The Manufacturer shall be entitled to implement changes which result in improvements, provided these do not result in a price increase.

3 Plans, technical documentation and information on the website

¹ Subject to agreement to the contrary, prospectuses and catalogues shall not be binding. Information in technical documentation (user manuals, service instructions, planning information, etc.) shall only be binding where it is expressly guaranteed.

² The Manufacturer's website provides information about products and business conditions. All details on www.mikrona.com (product descriptions, illustrations, dimensions, weights, technical specifications and other details) are to be understood as approximate values only and, in particular, do not represent any warranty or guarantee, unless this is explicitly stated. All details and information on this website are presented as correctly, completely and up-to-date as possible, but the Manufacturer cannot give any guarantee for this, either explicitly or implicitly.

³ The Manufacturer reserves all rights to plans and the aforementioned documents which it has made available to the Purchaser. The Purchaser acknowledges these rights and shall not, without the prior written consent of the Manufacturer, make the Documents available in whole or in part to any third party or use them for any purpose other than that for which they were handed over to the Purchaser.

4 Regulations in the country of destination

The Purchaser shall, at the latest when placing the order, draw the Manufacturer's attention to the regulations and standards in the country of destination which relate to the execution of the deliveries and services, to the operation and to the prevention of sickness and accidents.

5 Prices

All prices are quoted – unless otherwise agreed – net, ex works, inclusive of packaging, in CHF, without application of any discount. All ancillary costs, such as for transport, insurance, export, transit, import and other permits and certifications, shall be borne by the purchaser. The purchaser shall likewise pay all types of taxes, fees, charges, duties, etc. which are levied in connection with the contract, or reimburse the Manufacturer upon provision of the appropriate proof if the Manufacturer has become liable to paying such costs.

6 Payment terms

¹ Subject to agreement to the contrary, the purchaser shall render payments at the Manufacturer's domicile without deduction of discounts, expenses, taxes, fees, charges, duties etc. within 30 days from date of invoice.

² The payment date shall be observed even where transport,

delivery, installation, launch or acceptance of the delivery or services is delayed or rendered impossible for reasons for which the Manufacturer is not responsible, or where insignificant parts are missing, or where remedial works prove necessary which do not render use of the deliveries impossible.

³ Where the purchaser fails to observe payment dates it shall, without warning notice, pay penal interest from the agreed payment date at a rate of 5% p.a.

7 Retention of title

¹ The Manufacturer shall retain ownership of its entire deliveries until full payment has been received in accordance with the contract.

² The purchaser shall have a duty to cooperate in measures necessary for the protection of the Manufacturer's property; in particular, it authorises the Manufacturer at the purchaser's cost to register upon contract conclusion an entry or notice for the retention of title in public registers, books, etc. in accordance with the applicable domestic laws, and to carry out all related formalities.

³ The client shall maintain the supplied objects at its own cost for the duration of the retention of title and shall insure them for the benefit of the Manufacturer against theft, fire, water damage and other risks. It shall furthermore take all measures required to ensure that the Manufacturer's retention of title is neither compromised nor terminated.

8 Assignment and Set-Off

The assignment or set-off of claims by the Purchaser is expressly excluded. Assignment and offsetting shall remain subject to the written consent of the Manufacturer.

9 Delivery term

¹ The delivery term shall commence once the contract has been concluded, all official formalities such as import, export, transit and payment permits have been fulfilled, any securities to be provided upon ordering have been rendered, and all essential technical points have been clarified. The delivery term shall be deemed observed if the notification of readiness to dispatch has been sent to the purchaser by the date of expiry of the delivery term.

² Delivery terms shall be extended appropriately

- if the Manufacturer does not in good time receive information required for contract performance, or the purchaser subsequently changes such information and thus causes delay to the deliveries or services;
- if obstacles occur which the Manufacturer is unable to prevent despite exercise of due care, irrespective of whether the obstacles occur to its own operations, the purchaser or a third party. Such obstacles are, for example, epidemics, mobilisation, war, riot, significant operational disruption, accidents, labour conflicts, delayed or faulty supply of the required raw material or semi-finished or finished products, official measures or omissions, and acts of God;
- if the purchaser or a third party has fallen behind in the provision of works to be performed by the same, or is in default with regard to its contractual duties, in particular where the purchaser fails to comply with the terms of payment.

³ Where a specific date is agreed instead of a delivery term this shall be equivalent to the last day of a delivery term; Section 8 (1) and (2) shall apply analogously.

10 Transfer of use and risk

¹ In the absence of an agreement to the contrary, use and risk shall pass to the purchaser upon dispatch of the delivery ex works.

² Where, upon the purchaser's request or for any other reason for which the Manufacturer is not responsible, dispatch is delayed, the risk shall pass to the purchaser at the time originally intended for dispatch ex works. From this point onwards, deliveries shall be stored at the purchaser's cost and risk.

11 Inspection and acceptance of deliveries and services

¹ The Manufacturer shall inspect deliveries and services to the customary extent prior to dispatch. Where the purchaser requests more extensive inspections these shall be agreed separately and paid for by the purchaser.

² The purchaser shall inspect deliveries and services within ten days and notify the Manufacturer of any defects in writing without delay. Where no notification is made the deliveries and services shall be deemed approved. Shipments of treatment units include a handover protocol. The purchaser must notify the Manufacturer immediately if the handover protocol is missing from the delivery. The handover protocol shall be sent to the Manufacturer within ten days of handover of the delivery.

³ The Manufacturer shall rectify defects notified in accordance with Section 10 (2) as quickly as possible, and the purchaser shall give it opportunity to do so.

⁴ Performance of an acceptance inspection and settlement of the applicable conditions require a separate agreement.

⁵ The purchaser shall have no rights and claims due to defects of any kind in deliveries and services other than those expressly specified in this Section 10 and Section 11 (warranty, liability for defects).

12 Warranty, liability for defects

¹ Warranty period:

The warranty period is 12 months. It shall commence upon dispatch of the delivery ex works or the date of any agreed acceptance of the deliveries and services. In the event that dispatch or acceptance are delayed for reasons for which the Manufacturer is not responsible the warranty period shall end at the latest 18 months after notification of readiness to dispatch.

The warranty period shall start anew for replaced or repaired parts and shall be six months as of shipment of replacement, completion of repair, or acceptance.

The warranty shall expire prematurely if the purchaser or third parties carry out improper changes or repairs or the purchaser, in the event of a defect occurring, fails to immediately take all measures required to mitigate damage and to give the Manufacturer opportunity to rectify the defect.

² Liability for defects in material, construction and workmanship:

The Manufacturer undertakes upon written request by the purchaser to, at its choice, repair or replace as quickly as possible all parts of the Manufacturer's deliveries which may be proven to be damaged and unusable before the end of the warranty period due to substandard materials, faulty construction or imperfect workmanship. Replaced parts shall become the property of the Manufacturer. The costs of transport and installation shall – in the absence of an agreement to the contrary – be borne by the purchaser.

³ Liability for guaranteed properties:

Guaranteed properties are only those which are expressly designated as such in the order confirmation. The guarantee shall apply at most until the expiry of the warranty period. Where an acceptance inspection has been agreed the guarantee shall be deemed fulfilled where proof of the respective property has been rendered on the occasion of this inspection.

Where the guaranteed properties are not or only partially fulfilled the purchaser shall initially be entitled to prompt rectification by the Manufacturer. The purchaser shall allow the Manufacturer the required time and opportunity for rectification.

In the event that rectification fails or is only partially successful

the purchaser shall be entitled to the compensation agreed for this case or, where no such agreement has been made, to an appropriate reduction of the purchase price. In the event that the defect is of a magnitude that prevents it from being remedied within a reasonable time period and the deliveries and services are not usable for their advertised purpose, or only usable to a significantly impaired extent, the purchaser shall be entitled to refuse acceptance of the defective part or, where partial acceptance could not reasonably be expected to be acceptable to the purchaser in economic terms, to withdraw from the contract.

The Manufacturer shall only be obliged to reimburse the amounts which it received in payment for the parts affected by the withdrawal.

⁴ Exclusions from the liability for defects:

Damage which was not demonstrably caused by substandard materials, faulty construction or imperfect workmanship, but e.g. due to natural wear and tear, inadequate servicing, disregard of operating instructions, excessive use, unsuitable operating materials, chemical or electrolytic impacts or any other reasons for which the Manufacturer is not responsible, is excluded from the Manufacturer's warranty and liability.

⁵ Exclusivity of warranty claims:

The purchaser shall have no rights and claims arising from defects in material, construction or workmanship and from absence of guaranteed properties other than those expressly specified in Section 11 (1) to (4).

⁶ Liability for collateral duties:

The Manufacturer shall only be liable with regard to claims of the purchaser based on faulty advice and similar defects and for breach of any collateral duties in case of unlawful intent or gross negligence.

13 Exclusion of any other liability of the Manufacturer

All cases of breach of contract and their legal consequences and all claims of the purchaser, regardless of the legal grounds on which they are based, are regulated conclusively by these provisions. In particular, all claims to damages, reduction of purchase price, rescission of contract or withdrawal from the contract which are not expressly stated are excluded. The purchaser shall have no claims in any case for compensation for damage to objects other than the supplied object itself, specifically for treatment loss, loss of use, loss of custom, loss of profits and other direct or indirect damage. This exclusion of liability shall not apply to unlawful intent or gross negligence on the part of the Manufacturer; however, it shall apply to unlawful intent or gross negligence on the part of auxiliary persons. Moreover, this exclusion of liability shall not apply where there are conflicting mandatory laws.

14 Right of recourse of the Manufacturer

Where persons are injured or objects belonging to third parties damaged as a result of acts or omissions by the purchaser or its auxiliary persons and action is brought against the Manufacturer as a result the Manufacturer shall have a right of recourse against the purchaser.

15 Return shipments

¹ Return shipments in exchange for a credit note require the Manufacturer's prior approval in all cases.

² Credit notes for returns below a value of CHF 75 are excluded. Guarantee claims are excluded from the above provision.

³ In the case of return shipments which are not due to fault on the part of the Manufacturer (e.g. erroneous order) the granting of a credit note shall be at the sole discretion of the Manufacturer. The Manufacturer shall take into account the reusability of the delivery and shall deduct a flat fee for expenses.

16 Compliance

¹ Complaint and Vigilance:

The purchaser has to inform the Manufacturer in any vigilance case, product recall, field corrective actions taken, relying to Manufacturer's products within 10 calendar days. Any customer complaint influencing the products shall be shared with the Manufacturer.

² Traceability:

The purchaser has to establish proper traceability to end user based upon Lot Numbers of the Manufacturer have a tracking of the same after delivery.

³ Training:

One subject matter expert of the purchaser has to be sent to a training at the Manufacturer's headquarter. Internal training of other employees has to be documented by purchaser.

⁴ Failure within warranty time:

Failure of a product within warranty time represents a complaint according to ISO13485:2016 and 21CFR820. Complaints have to be evaluated for Vigilance (Europe, Reportability to the authority) and MDR (FDA Medical Device Reporting). Product failure within warranty time has to be reported to the headquarter of Manufacturer within 20 days after awareness with the following data: (1) the name of the device; (2) the date the complaint was received; (3) serial number; (4) the name, address, and phone number of the complainant; (5) the nature and details of the complaint; (6) the dates and results of the investigation; (7) any corrective action taken; and (8) any reply to the complainant.

17 Legal venue, applicable law and interpretation

¹ The domicile of the Manufacturer shall be the legal venue for both the purchaser and the Manufacturer. However, the Manufacturer shall be entitled to commence legal action against the purchaser at the purchaser's seat.

² The legal relationship shall be governed by Swiss substantive law to the exclusion of international conventions, including the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG), and to the exclusion of conflict of laws rules.

³ The legally binding version of these GTC is the German version. If versions in other languages contain contradictions, misunderstandings or errors due to the translation, the German version shall be valid.

18 Further Provisions

¹ The most recent version of the Privacy Policy applies to the storage and processing of personal data. It can be accessed at www.mikrona.com.

² These GTC, the General Terms and Conditions of Purchase and the Privacy Policy may be amended from time to time. The Manufacturer requests that the current terms and conditions be read carefully with each order.

³ Should individual provisions of these GTC be invalid or ineffective, this shall not affect the validity of the remaining provisions and these GTC as a whole.

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