

General terms and conditions of sale and delivery of ASM Automation Sensorik Messtechnik GmbH in business dealings with contractors Effective November 2017

1. Scope of application, General remarks

1.1 These General Terms and Conditions of Sale and Delivery (GTC) shall apply exclusively (i) to contractors within the meaning of Paragraph 14 of the German Civil Code (BGB), i.e. natural or legal persons who acquire the goods or services for commercial or professional use and in relation to persons of public law and fund assets governed by public law.

1.2 For the business relationship with our customers and for information and advice, the following conditions (GTC) apply exclusively. If our GTC are introduced into the transaction with the customer, they also apply to all further business relations between the customer and us, unless otherwise expressly agreed in writing.

Deviating conditions of the buyer and/or customer - hereinafter referred to as "**Customer**" shall only apply if and insofar as we expressly acknowledge them in writing. Our silence with regard to such deviating terms shall in particular not be regarded as recognition or consent, nor in future contracts.

Our GTC shall be valid in place of any Purchasing Conditions of the Customer, even where, pursuant to these conditions, the order acceptance is provided as an unconditional acknowledgment of the Purchasing Conditions, or we deliver or perform following reference by the Customer to the validity of its General Purchasing Conditions, unless we have expressly waived the validity of our GTC. The exclusion of the General Terms and Conditions of the Customer shall also apply where the General Terms of Business do not contain a separate regulation for individual points of regulation. By accepting our order confirmation, the Customer expressly acknowledges that it waives its legal objection deduced from the Purchasing Conditions.

1.3 Where framework contracts or other contracts with our Customers have been concluded, these have priority. They are supplemented, provided that no specific regulations are affected, by the present GTC.

1.4 To the extent that claims for damages are discussed in the following, claims for reimbursement of expenses within the meaning of Paragraph 284 of the BGB are meant in equal manner.

2. Information / Consultancy / Properties of the products and services / Act of cooperation of the customer

2.1 Information and explanations regarding our products and services given by us or our employees and vicarious agents are based solely on our previous experience. They do not represent any features or guarantees with regard to our products or services. The values given here are to be viewed as the average values of our products and/or our services.

In the absence of any express agreement to the contrary, we do not assume that our products and/or services are suitable for the purpose pursued by the customer.

2.2. All information on our products and services, in particular those contained in our offers and printed materials and on the Internet, and the illustrations, drawings, dimensions, features or performance characteristics contained therein, as well as other information, particularly technical information or information on ingredients, are, in the absence of a description as an "obligatory property" of our delivery items, average values to be regarded approximately. This applies accordingly to statements made by our employees, unless otherwise agreed. Non-conforming data of our products, as provided in our internet presentation or our catalogs and/or brochures, are subject to customary and/or branch-specific deviations and changes related to production, in particular due to production circumstances and related materials.

2.3 In so far as we give usage / application instructions, these are drafted with industry-specific diligence, but do not discharge our customers from the obligation to carefully examine the products as to their suitability for the intended purpose. Unless otherwise agreed, the Customer shall in all cases be obliged to check the usability of our products and/or services for the purpose intended by him. The same applies to instructions on import, customs and certification regulations.

2.4 We undertake a consultation obligation with regard to our products and their use expressly by virtue of a written, separate consultancy contract only.

2.5 A reference to standards, similar regulations as well as technical data, descriptions and illustrations of the delivery items in offers and brochures or on the Internet and our advertising, as well as on provided analyses or description of physical properties, are only a property specification of our products if we have explicitly declared the quality as a "*property of the product*", otherwise this is a non-binding, general specification of services. In the absence of any other agreement, this also applies to statements by our employees.

2.6 A guarantee in the legal sense (assumption of liability regardless of fault) shall only be accepted by us if we have termed a property and/or performance success as "*legally guaranteed*" in writing.

2.7 We assume no liability for the usability and/or registration and/or marketability of our products or services for the intended use by the Customer outside the legally binding liability unless we have agreed otherwise in writing with the Customer. The regulation in para. 11 shall remain unaffected.

2.8 The Customer is obligated to provide us with all information and data required for the provision of services in good time and in full before the order is executed.

3. Sample copies / ceded documents and data / samples / cost estimates

3.1 The properties of samples or sample copies will only be contractual if this has been *expressly* agreed with us in writing. The Customer is *not* entitled to use and pass on samples.

If, on our part, a sale is made on the basis of a commercial sample, deviations from this are permissible for the delivered goods and do not entitle us to objections and claims against us if they are customary and any agreed specifications are adhered to by the delivered goods, unless otherwise agreed.

3.2 We reserve all proprietary rights and copyrights to the samples, illustrations, drawings, data, cost estimates and other documents on our products and services, which are disclosed or provided to the Customer. The Customer undertakes not to make the samples, data and/or documents listed in the above sentence accessible to third parties, unless we give our explicit written consent. The Customer has to give these back to us upon request, insofar as an order based on them is not given to us within 4 weeks after delivery to the Customer.

The provisions of sentences 1 and 2 shall apply mutatis mutandis to documents, drawings or data of the Customer; however, we may make these accessible to third parties to whom, with the permission of the Customer, we transfer deliveries and/or services covered by the contract or whom we use as performing agents or suppliers.

4. Contract formation / Scope of delivery and performance / Procurement risk and guarantee

4.1 Our offers are non-binding unless expressly designated as binding or containing explicitly binding commitments, or have otherwise been expressly agreed upon. They are invitations to place orders.

The Customer is bound by his order as a request to conclude a contract for 14 calendar days after our receipt of the order at our business address, or 5 business days in the case of electronic orders, insofar as the Customer cannot regularly expect that we would accept the order later (Sec. 147 BGB). This applies also to follow-up orders by the Customer.

4.2 Even in the case of an ongoing business relationship, a contract is only formed when we confirm the Customer's order in writing or in text form (i.e. by fax or e-mail) by means of an order confirmation notice. This order confirmation is only valid under the condition that any outstanding payment arrears of the Customer are settled, and that a credit

check on the customer performed by us has no negative result, unless explicitly agreed by us with the Customer.

In the case of delivery or performance made within the Customer's relevant binding offer period, such delivery or performance may substitute for our order confirmation. The moment of shipment of the delivery shall be determinative.

4.3 We are also entitled, in the case of call orders or of delays in acceptance for which the Customer is responsible, to procure the materials for the entire order and to produce immediately the entire quantity ordered, or enough to cover the full order amount. Any changes requested by the Customer after an order has placed can thus not be taken into account, unless otherwise explicitly agreed in writing between us and the Customer.

4.4 The Customer must timely inform us in writing prior to conclusion of the contract of any special requirements or specifications for our products or performances not explicitly offered to it. However, such notification does not expand the scope of our contractual obligations or liability.

In the absence of any explicit agreement to the contrary, we are only required to deliver the products ordered from us by the Customer as goods capable of being sold and licensed throughout the European Union.

4.5 We are only obligated to make deliveries from our own goods inventory (Vorratsschuld).

4.6 The assumption of a procurement risk within the meaning of Sec. 276 BGB is not solely in our obligation to deliver an item defined only as belonging to a certain category.

4.7 We shall only assume a procurement risk within the meaning of Sec. 276 BGB on the basis of a separate, written agreement containing the phrase "übernehmen wir das Beschaffungsrisiko..." ["we assume the procurement risk...].

4.8 If acceptance or shipment of the products or acceptance of our performance is delayed for a reason within the Customer's sphere of responsibility, we are entitled, after the setting and expiry of a 14-day grace period, to demand, at our option, immediate payment of the amount due, or to withdraw from the contract, or to refuse fulfillment of the contract and demand payment of compensation rather than full performance. Notice of the grace period must be given in written or text form. We are not required to give repeated notice of our rights under this clause.

In the case of the demand for compensation for losses provided for above, the compensation payable shall be a flat 20% of the net delivery price in the case of purchase agreements. Both Parties are entitled to submit evidence of higher actual losses, or of the nonoccurrence of a loss. The above provisions do not effect any reversal of the burden of proof.

4.9 If shipment is delayed at the Customer's request, or for reasons within the Customer's sphere of responsibility, we are entitled to store the goods at the Customer's risk of loss or deterioration of the goods, and to charge the Customer 0.5% of the net invoice amount of the stored goods for each week or part of a week they are stored. This storage period may begin upon the expiry of a reasonable grace period specified in written or text form in the notice that the goods are ready for shipment. The goods so stored shall only be insured at the Customer's specific request. The assertion of additional rights remains unaffected. The Customer is entitled to submit evidence that no or significantly lower actual costs were incurred.

In addition, we are entitled to otherwise dispose of the contractual goods in question after the expiry of the aforementioned grace period in accordance with Subsection 4.8, Sentence 1, and to supply the Customer with new goods within a reasonable period.

4.10 In the event of a delay in delivery or delivery instructions lying within the Customer's sphere of responsibility, we are entitled to delay delivery by the same amount of time as the delay caused by the Customer, plus an additional 4 business days, at the location of our registered address.

Insofar as an on call order has been agreed, we must receive the individual orders in written or text form no less than 6 weeks before the desired delivery date, unless otherwise agreed, and insofar as no shorter call or delivery period has been agreed. If no agreements to the contrary have been made, the Customer is obligated to fully accept from us the purchased goods within 6 months after conclusion of the contract. If the individual call orders are not timely made, we are entitled to issue a reminder regarding the call orders and their division, and to set a grace period of 14 days for such orders and division. If the grace period expires without result, we are entitled to withdraw from the contract for nonfulfillment, or to demand payment of compensation in

lieu of performance. We are not required to give repeated notice of our rights under this clause. Subsection 4.8, Para. 2 applies accordingly.

4.11 We are only obligated to provide user information for our products and a product label in German or in English, at our discretion, unless explicitly agreed otherwise in written or text form, or unless subject to a mandatory statutory provision to the contrary.

The Customer is responsible for providing us with all necessary information regarding the ordered goods within a reasonable period, in order that the order can be fulfilled in accordance with the contract.

4.12 We reserve the right to modify the specifications of the goods insofar as required by statutory obligations, provided that such modifications do not result in a reduction of the quality and utility for their usual purpose of the goods, and, insofar as a particular purpose was agreed, no reduction of their utility for that purpose.

4.13 We are entitled to over- or underdeliver by up to 5% of the agreed delivery quantity.

We are furthermore entitled to deliver products with industry-standard deviations in quality, dimensions, weight, color, and equipment. Such goods shall be considered as in conformity with the contract.

5. Delivery / Place of fulfillment / Delivery time / Default of delivery / packaging

5.1 Binding delivery dates and periods must be agreed explicitly and in writing. In the case of non-binding or approximate delivery dates (approx., etc.), we shall make our best effort to meet the agreed deadlines.

5.2 Delivery dates and/or periods start with receipt by the Customer of our order confirmation, but not before all economic, technical, and logistical details related to performance of the contract have been clarified between the Customer and ourselves, and all other conditions to be met by the Customer have been fulfilled in their entirety, and in particular that all agreed down payments or securities and acts of cooperation by the Customer have been made or provided in full. The same applies for delivery and/or performance dates. If the Customer has requested that changes be made subsequent to order placement, a new, appropriate delivery / performance date or period starts upon our issuance of confirmation of the change.

5.3 Deliveries prior to the end of the delivery period are permissible. In the case of an obligation to pick up goods, the delivery date shall be the date on which readiness for pickup is reported; otherwise, the date of shipment of the products. In the case of an obligation to make delivery, the date of delivery at the agreed place of delivery shall be used.

5.4 In the absence of any written agreement to the contrary, the Customer's interest in our performance expires only if we are unable to provide or timely provide material components thereof.

5.5 In the event that we should be in default of delivery, the Customer must first provide us with a reasonable grace period for full performance of – insofar as not inappropriate – 14 days. If this grace period expires without result, the Customer's claims for compensation for losses, regardless of the reason, shall only apply in accordance with the provisions of Subsection 11.

5.6 We cannot be in default of delivery as long as the Customer is in default of fulfillment of its obligations to us, including those arising under other contracts.

5.7 Unless agreed otherwise, we only accept the return of packaging materials on the basis and within the scope of our statutory obligations.

6. Force majeure / Own delivery delays

6.1 If, for reasons outside our control, we are unable, unable fully, or unable in a timely manner to make our contractually obligated delivery or performance due to a failure of delivery by our own suppliers, despite having properly ordered the correct qualities and quantities congruent with our delivery or service agreement with the Customer, we shall promptly so inform the Customer in written or text form. The same shall apply in the event of significant delays resulting from force majeure (i.e. lasting for more than 14 calendar days). In such event, we are entitled to delay delivery by the duration of our own delay in performance, or to withdraw from the contract in whole or in part regarding the portion of the contract that has not yet been fulfilled, provided that we have complied with our obligation to inform and have not assumed the procurement risk in accordance with Sec. 276 BGB or issued a delivery guarantee. Force majeure includes strikes, lockouts, official actions, energy and raw materials shortages, transportation delays or bottlenecks outside our control, operational impediments outside our control (e.g. resulting from fire, water damage, or damage to equipment), and all other impediments for which, viewed objectively, we are not culpably responsible.

6.2 If a binding delivery and/or performance date or delivery and/or performance period has been agreed, and if such date or period is not met for reasons included in Subsection 6.1 above, the Customer is entitled, after a reasonable grace period has passed without result, to withdraw from the unfulfilled portion of the contract. Further claims of the Customer, in particular for compensation for losses, are excluded in this case.

6.3 The provisions of Subsection 6.2 apply accordingly if, for the reasons specified in Subsection 6.1, continued adherence to the contract is unreasonable for the Customer, even without an explicit contractual agreement to such effect.

7. Shipping / Transfer of risk / Acceptance

7.1 Unless otherwise agreed, we deliver "ex works", with the Customer responsible for picking up the goods.

7.2

If pickup is delayed beyond the agreed pickup time at the Customer's request or for reasons within the Customer's control, we shall store the goods at the Customer's expense and risk. In this case, notification of readiness for shipment shall be considered equivalent to shipment.

7.3 If an obligation to pick up the goods has been agreed, the risk of accidental loss or accidental deterioration of the goods transfers upon transfer to the Customer of the goods to be delivered. If an obligation to send the goods has been agreed, transfer of risk occurs upon transfer of the goods to the freight forwarder, carrier, or other company tasked with carrying out shipment. In all cases, risk shall transfer to the customer at the latest when the goods leave our works or warehouse, unless an obligation to deliver the goods has been agreed. This also applies in the event that an agreed partial delivery is made. In the event that an obligation to deliver the goods has been agreed, risk shall transfer to the Customer upon delivery at the agreed location.

7.4 If shipment is delayed because we have exercised our right of retention in consequence of a complete or partial payment default on the part of the Customer, or for any other reason within the Customer's control, risk shall transfer to the Customer at the latest from the date on which notice is sent to the Customer that delivery or performance is ready.

8. Notification of defects / Breach of duty resulting from material defects (Warranty)

8.1 The Customer shall promptly notify us in written or text form of any discernible material defects affecting the goods supplied, no later than 12 calendar days after delivery ex works or ex warehouse, and otherwise after delivery to the Customer's premises. Notification of latent defects shall be made promptly after their discovery, and at the latest within the warranty expiration period in accordance with Subsection 8.7. Failure to make such notification in the proper form or within the specified time period obviates any claims against us by the Customer arising from a breach of duty resulting from material defects. This does not apply in the case of tortious, grossly negligent, or fraudulent acts on our part, in the event of loss of life, physical injury, or injury to health, in the event of a warranty of freedom from defects or assumption of a procurement risk in accordance with Sec. 276 BGB, or in the case of other mandatory statutory assignment of liability. The special statutory provisions regarding delivery to an end consumer (*Recourse against Suppliers*, Secs. 478, 479 BGB) remain unaffected.

8.2 Notification of material defects discernible upon delivery of the goods must also be made to the transport company making the delivery, and the making of a written or text record of the defects prompted. Failure to timely notify the transport company making the delivery of the defects excludes all claims on the Customer's part arising from a breach of duty resulting from material defects. This does not apply in the event of fraudulent, tortious, or grossly negligent conduct on our part, in the event of loss of life, physical injury, or injury to health, in the event of a warranty of freedom from defects or assumption of a procurement risk in accordance with Sec. 276 BGB, in the case of other mandatory statutory assignment of liability, and in the case of recourse claims in the supply chain (*Recourse against Suppliers*, Secs. 478, 479 BGB).

Insofar as defects of quantity or weight would have been discernible upon delivery with the exercise of the usual obligations to inspect incoming goods, the Customer must give notice of such defects to the transport company making the delivery, and request a receipt for such notice. Failure to timely notify the transport company making the delivery of the defects excludes all claims on the Customer's part arising from a breach of duty resulting from material defects. This does not apply in the event of fraudulent, tortious, or grossly negligent conduct on our part, in the event of loss of life, physical injury, or injury to health, in the event of a warranty of freedom from defects or assumption of a procurement risk in accordance with Sec. 276 BGB, in the case of other mandatory statutory assignment of liability, and in the case of recourse claims in the supply chain (*Recourse against Suppliers*, Secs. 478, 479 BGB).

8.3 Upon commencement of the processing, handling, combining, or mixing of the delivered products with others, in particular the installation of sensors provided by us, the delivered products are considered to have been accepted by the Customer as in conformity with the contract. The same shall apply in the event that the products are transferred from their original location of delivery, to the extent that such transfer does not correspond to the usual use of the delivered goods.

8.4 *Other breaches of duty on our part must be promptly reported to us by the Customer in writing or in text form before other rights are asserted, and a reasonable period for correcting such duties granted; otherwise, the Customer waives its resulting rights.* This does not apply in the case of tortious, grossly negligent, or fraudulent acts on our part, in the event of loss of life, physical injury, or injury to health, in the event of a warranty of freedom from defects or assumption of a procurement risk in accordance with Sec. 276 BGB, or in the case of other mandatory statutory assignment of liability.

8.5 Defects for which the Customer is responsible and unjustified defect returns shall be repaired on behalf and at the expense of the Customer, insofar as the Customer is a registered merchant within the meaning of the German Commercial Code [HGB].

8.6 Insofar as the breach of duty is, exceptionally, not the result of service or work carried out by us, withdrawal from the contract is excluded, insofar as our breach of duty is not of a material nature.

8.7 Unless explicitly agreed otherwise in written or text form, we provide a warranty against material defects for a period of 12 months, calculated from the date of the transfer of risk (see Subsection 7.3), or, in the event that the Customer refuses to accept the goods, from the time at which notification of readiness for delivery is made. This does not apply to claims for compensation under a warranty, the assumption of a procurement risk in accordance with Sec. 276 BGB, claims arising from loss of life, physical injury, or injury to health, from fraudulent, tortious, or grossly negligent conduct on our part, or in the cases of Secs. 478, 479 BGB (*Recourse against Suppliers*), Sec. 438 Para. 1, No. 2 (*Construction of Structures and Delivery of Materials for Structures*), and Sec. 634a Para. 1, No. 2 BGB (*Construction Defects*), or insofar as a longer period of limitation is prescribed by statute. Sec. 305b BGB (priority of individual agreements in oral, text, or written form) remains unaffected. The above provision does not effect a reversal in the burden of proof.

8.8 If the Customer or a third party improperly repairs the delivered products, we are not liable for any resulting consequences.

8.9 Further claims of the Customer resulting from or in connection with defects or consequential damages, regardless of the reason, shall only exist in accordance with the provisions of Section 11.

8.10 Our warranty under purchase contracts concluded with us (i.e. claims from breaches of duty on the basis of defective performance due to material defects in connection with the purchase agreement concluded with us) and the resulting liability is excluded insofar as defects and resulting losses cannot be demonstrated to be the result of defective production materials, design, production, and/or processing, or insofar as such directions for use were required, of defective or missing directions. In particular, warranty claims and resulting liability for breaches of duty on the basis of defective performance are excluded for the consequences of improper use, inappropriate storage and transport conditions, and for the consequences of chemical, electromagnetic, mechanical, or electrolytic influences not corresponding to the average standard influences listed in our product description and/or operating instructions or a deviating product specification agreed with the Customer, or in our product-specific data sheet. This does not apply in the case of tortious, grossly negligent, or fraudulent acts on our part, in the event of loss of life, physical injury, or injury to health, in the event of a warranty of freedom from defects or assumption of a procurement risk in accordance with Sec. 276 BGB, or in the case of other mandatory statutory assignment of liability.

8.12 Claims of the Customer regarding expenses necessary for supplementary performance, in particular transport, toll, labor, and material costs, are excluded to the extent that the expenses have been increased as a result of the subsequent transfer of the delivered items to a location other than the premises of the Customer to which they were delivered, unless such transfer is in accordance with the normal and proper use of the items.

8.13 No defect claims may be asserted in the case of minor deviations from the agreed or standard utility or qualities.

8.14 The acknowledgement of a breach of duty on our part in the form of a material defect shall only be made in writing.

9. Prices / Payment terms / Defense of uncertainty

9.1 All prices are ex works or ex warehouse, and are given in EUROS, net of packaging, shipping, postage, and insurance costs, insofar as

transport insurance was agreed, as well as any statutorily applicable VAT to be borne by the Customer ex works or ex warehouse, plus any country-specific fees in the case of delivery to countries other than the Federal Republic of Germany, plus customs duties and other charges and official fees for delivery and/or performance. In the absence of any other agreement with the Customer, the relevant prices shall be those provided in our general price list in effect at the time the contract is concluded.

9.2 Payment methods other than cash or bank transfer shall require a separate agreement between us and the Customer.

9.3 Insofar as taxes or fees are imposed on the Customer or on us with regard to our contractual performance (tax deducted at source), the Customer shall indemnify us against such taxes or fees.

9.4 We are entitled to generate partial invoices in accordance with the progress made on processing the order, and/or to demand installment payments in accordance with such progress.

9.5 If an obligation to ship the goods has been agreed, the purchase price shall be payable 10 calendar days after handover of the goods to the carrier, otherwise, if an obligation to pick up the goods has been agreed, 10 calendar days after receipt of notification that the goods are ready for pickup. If an obligation to deliver the goods has been agreed, payment shall be due 10 calendar days after delivery of the relevant goods.

9.6 If the Customer tenders payment in a currency other than EUROS, fulfillment of the payment obligation shall only be deemed to have occurred if the foreign currency payment is equivalent in value to the agreed EURO amount on the date received.

9.7 Performances not part of the agreed scope of delivery shall, unless otherwise agreed, be carried out on the basis of our applicable general price lists.

9.8 We are entitled to unilaterally increase our prices accordingly in the event of an increase in material production and/or material and/or product procurement costs, labor and related costs, social welfare costs, energy costs and costs resulting from environmental charges, and/or exchange rates and/or changes in customs duties, and/or freight charges, and/or official fees and charges, if these directly or indirectly affect the goods production or procurement costs or costs of our contractually agreed performances, and if at least 4 months have passed between contract formation and delivery. An increase in the aforementioned sense is excluded insofar as the increase in costs in one or all of the aforementioned facts is offset by a reduction in costs with regard to other of the factors mentioned. If the aforementioned cost factors are reduced without being offset by an increase in other cost factors, the cost reduction shall be passed through to the Customer by means of a price reduction.

If the new price resulting from the exercise of our aforementioned right to adjust prices is 20% or more than 20% higher than the original price, the Customer is entitled to withdraw from not completely fulfilled contracts with regard to the not fully performed portions of the contract. However, the Customer may only exercise this right promptly after being informed of the price increase.

9.9 If, exceptionally, we are contractually obligated to bear the shipping costs, the Customer shall bear any additional costs resulting from increases in freight rates after the conclusion of the contract.

9.10 Agreed payment deadlines shall be calculated from the point in time specified in Subsection 9.5.

9.11 Upon default, default interest at a rate of 9 percentage points above the base interest rate in effect at the time payment is due shall be calculated in accordance with Sec. 247 BGB. Assertion of claims for losses exceeding this amount is reserved.

9.12 If a bank transfer is agreed, the date on which money is received by us or credited to our account or that of our specified payment account shall be considered the date of payment.

9.13 *If the Customer is in default of payment, all claims for payment arising from the business relationship with the Customer shall become payable immediately. Regardless of any deferment agreements, exchange agreements and installment payment agreements, all outstanding amounts payable to us by the Customer shall become due immediately.*

9.14 If payment terms are not complied with or if circumstances become known or are discernible which, in our conscientious business judgment, give rise to reasonable doubts regarding the Customer's creditworthiness, *including such circumstances already in existence at the time the contract was concluded, but of which we were not or could not have been expected to have been aware*, we are entitled in such cases,

regardless of any additional statutory rights, to stop work on existing orders or halt delivery and demand prepayment or the provision of suitable security, e.g. in the form of a bank guarantee or a German credit institute participating in the German Deposit Guarantee Fund [Einlagensicherungsfonds], for any outstanding deliveries. If, after the expiry without result of a suitable grace period for the provision of such security, and regardless of any additional statutory rights, we may withdraw from the contract regarding the unfulfilled portion thereof. The Customer shall be obligated to compensate us for all losses incurred from nonfulfillment of the contract.

9.15 The Customer's right of retention or offset applies only with regard to such counterclaims which are not disputed or are legally enforceable.

9.16 A right of retention may only be exercised by the Customer insofar as its counterclaim arises from the same contractual relationship.

9.17 Payments received will first be applied to payment of costs, then interest, and finally principal, in order of temporal priority.

Any provisions of the Customer contrary to this made with payment shall be disregarded.

9.18 The date on which a payment is credited to our account shall be determinative for the timeliness of payment, regardless of the means of payment used. For payments by check, the value date shall be determinative. Customer payments must be made to our credit, free of postage and fees.

10. Reservation of title, Seizure of goods

10.1 We reserve title to all goods we supply (collectively "**goods subject to reservation of title**") until all our claims against the Customer arising from the business relationship, including future claims arising from contracts subsequently concluded, have been settled. This applies also in the case of an account balance in our favor, if individual or all of our claims have been included in a current account statement and the balance shown.

10.2 The Customer shall insure the goods subject to reservation of property at their replacement cost, in particular against fire and theft. Claims against the insurer from a loss event relating to the goods subject to reservation of title are hereby assigned to us in the amount of the value of the goods subject to reservation of title.

10.3 The Customer is entitled to sell on the products delivered in the normal course of business. Other dispositions, in particular pledging the goods or granting a security interest in them, are not permitted. If the goods subject to reservation of title are not paid for immediately when sold on to a third party, the Customer is obligated to sell the goods only subject to reservation of title. The entitlement to sell on the goods subject to reservation of title shall be revoked immediately if the Customer ceases to make payment or becomes in default of payment to us.

10.4 The Customer hereby assigns to us all claims, including securities and auxiliary rights, which may accrue to it in connection with the further sale of goods subject to reservation of title against the end customer or against third parties. The Customer may not enter into agreements with its own customers that would exclude or limit our rights in any way, or prevent this advance assignment of the claim. If goods subject to reservation of title are sold together with other goods, the claim against the third party buyer shall be considered to have been assigned to us in the amount of the delivery price agreed between us and the Customer, insofar as the amounts attributable to the specific goods cannot be determined from the invoice.

10.5 The Customer remains entitled to collect the claim assigned to us unless we revoke such right, which we may do at any time. However, we undertake to revoke this collection right only for good cause. Such good cause shall be found e.g. if the Customer does not properly fulfill its payment obligations or defaults on payment. At our request, the Customer is obligated to provide us with all information and documents necessary to collect our assigned claims, and, to the extent that we do not do so ourselves, to promptly inform its own customers of the assignment.

10.6 If the Customer includes claims from the further sale of goods subject to reservation of title in an existing current account agreement with its own customers, it hereby assigns to us any acknowledged balance in its favor up to the amount of such balance corresponding to our claim from the further sale of our goods subject to reservation of title.

10.7 If the Customer has already assigned to third parties claims from the further sale of products supplied or to be supplied by us, in particular on the basis of genuine or spurious factoring transactions, or has made other agreements on the basis of which our current or future security rights pursuant to Subsection 10 could be negatively affected, it shall promptly inform us thereof. In the event of a spurious factoring transaction, we are entitled to withdraw from the contract and demand

the surrender of products already delivered. The same applies in the case of a genuine factoring transaction if the Customer is not able to dispose freely of the purchase price of the receivable after concluding the factoring agreement.

10.8 In the event of contractual violations on the part of the Customer, in particular in the event of a default of payment, we are entitled to repossess all goods subject to reservation of title after withdrawing from the contract. In this case, the Customer is required to immediately surrender the goods, and shall bear the necessary resulting transport costs. Repossession of goods subject to reservation of title by us is equivalent to a withdrawal from the contract. In the event of such withdrawal, we are entitled to dispose of the goods subject to reservation of title. The proceeds of such disposition shall be offset against our claims against the Customer resulting from the business relationship, minus reasonable costs of disposition. We may enter the business premises of the Customer at any time during normal business hours to determine the quantity of goods subject to reservation of title present. The Customer shall inform us promptly in writing of any attempts by third parties to access or otherwise take action against goods subject to reservation of title or claims assigned to us.

10.9 If the value of the securities to which we are entitled in accordance with the preceding provisions exceeds the secured claims by more than 10%, we are obligated at the Customer's request to release securities of our choice that exceed such amount.

10.10 Handling and processing of the goods subject to reservation of title is made on our behalf as the manufacturer, but imposes no obligations on us. If the goods subject to reservation of title are processed with or otherwise inextricably combined with other items not belonging to us, we acquire partial ownership of the new goods in proportion to the net invoice amounts of our goods relative to those of the other processed or combined items. If our goods are combined with other movable items into a single item that is considered the main item, the Customer hereby assigns to us its partial ownership thereof in the same proportion. The Customer shall store the property or partially owned property on our behalf at no charge. The partial ownership rights hereby created are considered goods subject to reservation of title. At our request, the Customer is obligated to provide us at any time with the information necessary to assert and pursue our property or partial ownership rights.

10.11 If, in the case of overseas deliveries, additional measures and/or declarations by the Customer regarding the agreement on reservation of title or our other rights are necessary in the foreign country, the Customer shall promptly perform such measures and/or issue such declarations in their proper form and at its own cost. We will cooperate as necessary. If the laws of the country to which delivery is made do not permit a reservation of title, but do permit us to retain other rights to the delivered goods, we may exercise all such rights at our discretion (Sec. 315 BGB). Insofar that no equivalent security for our claims against the Customer can be achieved in this manner, the Customer shall be obligated to promptly provide us with other appropriate security interests in the delivered goods or other securities at our discretion (Sec. 315 BGB) at its own expense. The Customer's right to judicial review and correction (Sec. 315 III BGB) remains unaffected.

10.12 The Customer shall immediately inform us of seizures or other actions taken by third parties with regard to the goods, in order that we can file suit in accordance with Sec. 771 ZPO. Insofar as the third party is not able to reimburse us for the court and other costs of a suit in accordance with Sec. 771 ZPO, the Customer shall be liable for the shortfall.

11. Exclusion/Limitation of liability

11.1 Subject to the following exceptions, we shall *not* be liable for violations of obligations arising from the obligatory relationship [Schuldverhältnis], regardless of the underlying legal grounds, and in particular not for claims of the Customer for damages or reimbursement of expenditures.

11.2 The preceding exclusion of liability in accordance with Subsection 11.1 does not apply in the case of mandatory statutory liability, nor in the case of:

- tortious or grossly negligent violations of obligations on our part, or tortious or grossly negligent violations of obligations on the part of our legal representatives or vicarious agents;
- violations of material contractual obligations. "*Material contractual obligations*" are those that characterize the agreement, and upon the fulfillment of which the Customer may regularly rely";
- loss of life, physical injury, or injury to health, including by our legal representatives or vicarious agents;
- default, insofar as a fixed delivery and/or fixed performance date had been agreed;

- insofar as we had assumed a warranty for the quality or characteristics of our goods or the accomplishment of a performance, or a procurement risk within the meaning of Sec. 276 BGB;
- liability under the German Product Liability Act [Produkthaftungsgesetz] or other mandatory statutory assignment of liability.

11.3 In the event that we or our vicarious agents have been only slightly negligent, and none of the exceptions of Subsection 11.2, Points 4, 5, and 6 above apply, we shall also be liable in the case of the violation of material contractual obligations for typical and foreseeable losses.

11.4 Our liability is limited in amount to a maximum of EUR 500,000.00 for each individual loss event. This does not apply in the event of fraud, tortious acts, or gross negligence, for claims arising from loss of life, physical injury, or injury to health, or in the case of a claim arising from a tortious act, an expressly assumed warranty, or the assumption of a procurement risk in accordance with Sec. 276 BGB, or in the event of greater, statutorily mandated liability limits. Liability beyond this scope is excluded.

11.5 The exclusions and limitations of liability in accordance with Subsections 11.1 to 11.4 and 11.6 above apply in the same scope for our decision-making bodies, our executive and non-executive employees and other vicarious agents, and our subcontractors.

11.6 The above provisions do not effect a reversal of the burden of proof.

12. Place of fulfillment / Place of jurisdiction / Applicable law

12.1 The place of fulfillment for all contractual obligation shall be the registered address of our company, except in the case of the assumption of a responsibility to make performance or delivery at another location or unless otherwise agreed.

12.2 The exclusive place of jurisdiction for all disputes arising under this agreement shall be the location of our registered address, insofar as the Customer is a merchant within the meaning of the German Commercial Code [HGB]. For the sake of clarity, these provisions on jurisdiction in Subsections 1 and 2 also apply to such circumstances between us and an ordering party that could result in extracontractual obligations within the meaning of Regulation (EC) 864 / 2007. However, we are also entitled to take legal action against the Customer at the latter's ordinary place of jurisdiction.

12.3 All legal relationships between us and the Customer shall be governed exclusively by the laws of the Federal Republic of Germany, in particular excluding the applicability of the UN Convention on Contracts for the International Sale of Goods (UN CISG). It is hereby explicitly made clear that this choice of law is to be understood as such within the meaning of Art. 14 Para. 1 b) of Regulation (EC) 864 / 2007, and thus shall also apply to extracontractual claims within the meaning of this Regulation. If the application of foreign law is mandatory in a specific case, our GTCs shall be construed so as to conserve to the greatest extent possible the economic intent they are intended to pursue.

13. Incoterms / Written form requirement / Severability clause

13.1 Insofar as trade terms in accordance with the International Commercial Terms (INCOTERMS) have been agreed, the INCOTERMS 2010 shall apply.

13.2 All agreements, collateral agreements, undertakings, and contractual amendments shall only be effective in written form. This applies also to the abrogation of this written form requirement. The priority of individual agreements in written, text, oral, or implicit form (Sec. 305b BGB) remains unaffected.

13.3 Should a provision of this contract become or be found to be invalid or ineffective, in whole or in part, for reasons of the law of the General Terms and Conditions pursuant to Secs. 305 through 310 BGB, the statutory provisions shall apply.

Should a current or future provision of the contract become or be found to be invalid or ineffective, in whole or in part, for reasons other than the provisions relating to the General Terms and Conditions pursuant to Secs. 305 to 310 BGB, the validity and effectiveness of the remaining provisions of this contract shall not be affected, insofar as performance of the contract would not represent an unreasonable hardship for a Party, including taking into account the following provisions. The same shall apply if a gap in the contract requiring filling is identified after conclusion of the contract.

Contrary to the principle according to which a severability clause merely reverses the burden of proof, the validity and effectiveness of the remaining contractual provisions shall be maintained under all circumstances, and Sec. 139 BGB thus abrogated in its entirety.

The Parties shall replace such provisions that are invalid or ineffective for reasons other than the provisions relating to the law of General Terms and Conditions in accordance with Secs. 305 to 310 BGB, and such gaps as require filling, with such valid and effective provisions that most closely reflect the legal and economic content of the invalid or ineffective provision and the overall purpose of the contract. Sec. 139 BGB (partial invalidity) is expressly excluded. If the invalidity of a provision is due to a measure of performance or time specified therein (performance period or date), the provision shall be agreed with such legally permissible measure closest to the original measure.

Notice:

Pursuant to the provisions of the Data Protection Act, we hereby give notice that contract performance is carried out by our company using an electronic data processing system, and that we also store in this context data received in connection with our business relationship with the client.

ASM Automation Sensorik Messtechnik GmbH
November 2017