

## 1. Priority of the General Terms and Conditions

These terms and conditions are binding for deliveries and services carried out by Microdul AG, also in such cases where they are tacitly recognised by the parties. Different terms and conditions of the customer shall only be applicable with the explicit and written confirmation of Microdul AG.

## 2. Conclusion of a Contract

All contracts require the written confirmation of Microdul AG. This requisite can only be renounced in writing.

## 3. Delivery Deadlines

3.1 Delivery deadlines shall be given in an order confirmation to the best of one's knowledge and conscience as well as being as exact as possible. Only deadlines confirmed in writing are binding.

3.2 Delays not caused by Microdul AG, however to the customer's detriment, through acts of God like natural disasters, mobilisation, war, strikes, riots, epidemics, accidents and illnesses, substantial company breakdown, delayed or faulty deliveries as well as measures undertaken by an authority, shall be made known to the customer and shall free Microdul AG from fulfilment of its agreed contractual obligations for the duration of the incident. In the event of such an occurrence, should Microdul AG be unable to carry out its agreed contractual obligation, Microdul AG shall have the right to withdraw from the contract.

3.3 Where there is a delay in delivery by Microdul AG, the customer can withdraw from the contract, provided he sets an appropriate extended deadline and specifies in writing that he will reject the delivery or services rendered if the goods are not notified as ready for delivery by the end of the extended deadline. The extended deadline begins on the date when Microdul AG receives the written extended deadline set by the customer.

3.4 Microdul AG only incurs liability in as far as the delay can be proved to be on the part of Microdul AG and the customer can provide evidence of damage caused as a result of the delay or non-fulfilment of the contractual obligations. **The indemnity in any case shall amount to no more than 10 percent of the delayed or non-delivered part of the delivery or services rendered.**

3.5 In case of delivery delay or non-fulfilment, the customer has no further claims on top of those explicitly mentioned in section 3. These limitations are not binding for illicit intentions or gross negligence on the part of Microdul AG.

## 4. Payment, Customer Delay, Settlement

4.1 If not otherwise agreed, payments are due without deduction within 30 days from the date of the bill.

4.2 Where the customer fails to meet the agreed payment deadline according to paragraph 4.1, Microdul AG shall be entitled to charge a levy of 6 percent after having issued one previous reminder. In any case the goods remain the property of Microdul AG until full and complete payment.

4.3 If the solvency of the customer substantially declines after the conclusion of the contract (e.g. if bankruptcy or insolvency proceedings are initiated), Microdul AG is not required to render its services until the customer makes payment or provides other appropriate securities for the claim.

## 5. Risk of Loss

5.1 Unless otherwise stipulated, Microdul AG shall fulfil its obligations at its place of business.

## 6. Notice of Defects, Guarantee and Rectification of Defects

6.1 Defects are to be notified in writing within two weeks after the delivery – hidden defects within two weeks after their discovery.

6.2 If the customer or a third party rectify defects on their own accord, any liability and burden of guarantee on the part of Microdul AG is void.

6.3 Microdul AG has the right to rectify defects or to replace disputed goods. Should the rectification or the replacement be faulty for the second time, the customer can withdraw from the contract or demand an appropriate reduction of the sales price. Such is also the case if Microdul AG is incapable to rectify the defects or to replace the goods.

6.4 Only in urgent cases of imperilment to the operational security and to guard against disproportionately large damage, the customer has the right, where there is a danger of degeneration of the defect, to remove the defect or to have it removed by a third party and claim the thereby necessary costs from Microdul AG. In such cases, the customer is also obliged to immediately instruct Microdul AG about the defect in writing.

6.5 The guarantee obligation is effective also for hidden defects during twelve months after delivery. With rectification of defects and replacement deliveries a new guarantee period of six months comes into effect. Where there is rectification of defects and replacement

deliveries, the original guarantee period can be extended to 24 months at the most.

6.6 Where there are defects in the delivered goods, the customer has no rights and claims other than those explicitly mentioned in section 6 (cf. also section 7).

6.7 Microdul AG fundamentally ensures only the specified and mutually agreed properties of the delivered products.

## 7. Exclusion of further liability of Microdul AG

7.1 Microdul AG is only liable for damages resulting from wilful misconduct or gross negligence by an employee in a leading position. However, Microdul AG is not liable for damages resulting from wilful misconduct or gross negligence on the part of auxiliary personnel. Otherwise Microdul AG is not liable for negligence, and it shall only be liable in as far as explicitly outlined in these terms and conditions.

**7.2 In no case, the customer has any right to compensation for loss or damage that is not directly part of the delivered product itself, such as in particular loss of production, loss of effectivity, loss of order intake, loss of profit, as well as other direct or indirect damage, except in the case that the damage is caused by a deviation from a specification of the delivered product that is agreed in writing to specifically protect the customer from such losses. This limitation of liability also applies for claims involving default in performance of contract, default in the conclusion of a contract, and/or tort.**

7.3 Subject to mandatory law and subject to 3.4, Microdul AG's liability whether in contract, tort or otherwise is in any event limited to the sum payable by the customer to Microdul AG for the contractual services that gave rise to Microdul AG's liability.

## 8. Customer equipment

If the customer provides Microdul AG with equipment with which Microdul AG is to provide services for the customer, the customer shall ensure that this customer equipment is fully insured. The customer is liable for all damage caused by his equipment while it is in the possession of Microdul AG. The customer undertakes to take all necessary and reasonable measures to minimize the risk of such damage before handing over the equipment.

## 9. Confidentiality

9.1 Both contractual parties shall not disclose business related information of each other to a third party, unless such information is commonly accessible or commonly known. Moreover, both parties shall fully endeavour to hinder third parties from accessing such information. Conversely, both contractual parties shall be permitted to continue using know-how ensuing from the course of business so long as it is not protected by patent law. Both contractual parties are obliged to make the terms of confidentiality binding on their employees.

9.2 All of the design data worked on and put to the customer's disposal by Microdul AG, shall not be used nor made accessible to a third party unless agreed to by Microdul AG explicitly in writing.

9.3 The entire intellectual property rights like copyrights, patent rights, trademarks, mask rights etc. shall remain the property of Microdul AG even in case of the submission or accessibility of design data to third parties.

## 10. Export

The exported goods can be subject to Swiss or foreign (such as European or American) export controls and embargo regulations. The customer bears the responsibility to conform to the corresponding national and international export regulations. He must ensure that all obligations regarding any re-export restrictions are consigned to the respective recipients.

## 11. Applicable Law and Court of Jurisdiction

11.1 Swiss law is valid exclusively, subject to the regulations stipulated in conventions of the United Nations concerning contracts in the international sale of goods.

11.2 In case of discrepancies between translations of these terms and conditions, the German version is binding.

**11.3 The court of jurisdiction for the entirety of disputes arising from this contract is Zurich (Switzerland).**