

**GENERAL CONDITIONS OF SALE**  
**(Terms of Delivery and Payment)**  
**of PS Automation GmbH,**  
**Philipp-Krämer-Ring 13, 67098 Bad Dürkheim**

- hereinafter called PS Automation -

**§ 1 - Scope**

- (1) All deliveries, quotations and performance made by PS Automation shall be based exclusively on these General Conditions of Sale. Customer's general terms and purchase conditions conflicting with these Conditions are hereby rejected. The Conditions of Sale of PS Automation shall also exclusively apply to deliveries PS Automation effects to a customer without reservation, even if PS Automation is aware that the customer terms do not comply with or conflict with the Conditions of Sale of PS Automation.
- (2) These General Terms and Conditions of Sale shall only apply if the customer is an entrepreneur (Sec. 14 of the German Commercial Code (BGB)), a legal entity under public law or a special fund under public law.

**§ 2 - Quotation/ Conclusion of Contract/ Scope of Delivery**

- (1) A written confirmation of order by PS Automation shall always be decisive for the conclusion of a contract and the scope of delivery. In case of a quotation by PS Automation which is timely accepted by the customer, then the terms as per the quotation shall apply.
- (2) PS Automation shall be bound to its quotations made according to the above para. (1) for a period of 30 days from the date of quotation, unless a different period is explicitly stated therein. The customer shall be bound by its offers to PS Automation for a period of 30 days from the date of the offer.
- (3) PS Automation reserves the right to correct printing or spelling errors in its quotations at any time.
- (4) Supplementary agreements and modifications shall only be binding if they have been confirmed in writing by PS Automation.

**§ 3 - Product Features/ Samples**

- (1) Any drawing, representation, dimension, weight, measure or other performance data stated by PS Automation in its quotation, the accompanying documents or other product information, price lists or sales documents shall only be binding if it has been expressly confirmed in writing.
- (2) Samples made or submitted by PS Automation have the sole purpose of giving the customer an idea of the size and quality of the goods. Para. (1) above shall apply accordingly.
- (3) PS Automation reserves its right of ownership and copyright to any cost estimate, illustration, drawing and other document as well as samples. Information contained therein may only be disclosed to a third party if PS Automation has given its express approval.

**§ 4 - Prices and Terms of Payment**

- (1) Unless otherwise stated in the quotation or the confirmation of order from PS Automation, prices quoted by PS Automation shall be "ex works" excluding packaging, which will be charged separately.
- (2) PS Automation reserves the right to adapt the prices quoted in case costs fall or rise following the conclusion of the contract, especially those due to collective agreements or increases in the cost of material. PS Automation shall furnish proof of this if requested by the ordering party.
- (3) Prices do not include statutory value added tax, which will be stated separately at the statutory amount valid on the date of the invoice.
- (4) Unless otherwise agreed, invoices issued by PS Automation shall be due net within 30 days from the date of the invoice.
- (5) PS Automation shall be entitled to set off payment against any previous customer debts, even if this is contrary to the customer's payment terms. In this case, PS Automation shall notify the customer of the offset made. Should costs and interest have been incurred, PS Automation may set off payment first against the costs, then the interest and finally the main debt owed.
- (6) Payment is deemed to have been received only when PS Automation can freely dispose of the amount. As for cheque payments, payment is deemed to have been received when the cheque has been credited to PS Automation's bank without reservation.
- (7) Should the customer default in payment, PS Automation shall be entitled to charge interest at 10 % above the current base rate of interest, pursuant to § 247 BGB [German Civil Code], commencing on the first day of default. This rate may be reduced, if the customer can prove that the rate charged is lower, whereas PS Automation reserves the right to furnish proof that the loss is higher.
- (8) In the event that PS Automation becomes aware of any circumstances pointing to a lack of credit worthiness on the customer's side, in particular because such customer dishonours cheques or suspends payments, PS Automation may charge immediately all receivables and, prior to further deliveries, may demand prepayments and securities customary in banking.
- (9) The customer may set off counterclaims only, if they have been finally established or if they are not disputed. Even in this case, customer may only retain sums for counterclaims arising under the same contractual relationship.
- (10) Payment must always be made in the currency stated on the invoice. PS Automation will not assume liability for exchange rate risks.

**§ 5 - Delivery Times and Time of Performance**

- (1) Delivery dates or periods shall only be binding, if they have been confirmed in writing by PS Automation.
- (2) The lead time stated by PS Automation shall only be binding, if all necessary information and drawings have been submitted by the customer; if all permits have been given by the authorities and all technical questions have been clarified to the extent required for a complete order processing.
- (3) PS Automation's obligations regarding delivery and performance shall only be binding on condition that the customer has fulfilled its duties properly and on time. PS Automation reserves the right to defence due to lack of performance of the contract.
- (4) Delivery shall be made ex works (EXW), PS Automation, D - 67098 Bad Dürkheim, unless it is otherwise expressly agreed. Carriage of goods by sea or plane shall be made FOB (Incoterms 2020) to the port or airport designated by PS Automation.
- (5) PS Automation shall be released from its obligation to supply or perform, if delays in the delivery and performance occur due to force majeure, including but not limited to, uproar, strike, lockout, diseases/epidemics, orders by the authorities, general lack of commodities and energy etc., also if they occur at a supplier of PS Automation or its sub-supplier, for the time of the impediment and the scope of its effects, and such events. If such circumstances continue for a period of more than 90 days or the end of such circumstances is not foreseeable, PS Automation shall be entitled to withdraw from the non-fulfilled contract or terminate the contract either as a whole or in parts. In case the delivery time is extended or PS Automation's obligation ends due to any of the above circumstances, the customer cannot derive any claims for damages from it, notwithstanding section 10 of these General Conditions of Sale. In the event that PS Automation is no longer able to satisfy all its customers as a result of the force majeure, PS Automation shall be entitled to satisfy its customers on a pro rata basis, taking due account of its own requirements. PS Automation shall not be obliged to purchase products to be manufactured by PS Automation from other sources. The above provisions shall also apply if the force majeure occurs at a supplier of PS Automation.
- (6) PS Automation may make reasonable partial deliveries and render partial performance at any time.
- (7) Should the customer default on acceptance, PS Automation may demand compensation for the damage suffered. In any case, PS Automation shall be entitled to claim statutory interest for default. Risk of accidental deterioration or loss shall pass to customer upon default of acceptance.
- (8) Customer instructions for transport must enable PS Automation to despatch the goods within 14 days after receipt of a completion note from the customer. Otherwise the despatch or storage of the goods has to be arranged by the customer. Failure to fulfil this obligation of take-over shall entitle PS Automation to store the goods on behalf of and at the cost of the customer in their stock or at a third party and, if necessary, to take out an insurance on behalf of and at the cost of the customer.
- (9) Unless otherwise specifically agreed, customer shall return all packing cases, containers, drums and other reusable packaging materials to PS Automation's works/warehouse in 67098 Bad Dürkheim, Germany, within one month from receipt of the goods at customer cost and in good condition. Customer may be charged separately for any unreturned packaging material by PS Automation.
- (10) Para. (9) shall apply according for any samples PS Automation makes available to customer.

**§ 6 - Passing of the Risk**

Safe for personal delivery by PS Automation, the risk shall pass to the customer upon handing over of the consignment to the forwarder or when it leaves PS Automation's stock in order to be shipped. This shall also apply to partial deliveries or in case PS Automation carry out the installation or assembly of the goods supplied. If despatch is delayed or hindered without any fault on the side of PS Automation, risk shall pass to the customer as soon as readiness for despatch has been announced.

**§ 7 - Retention of Title**

- (1) Until customer has made payment of all sums due to PS Automation or an associated company, including all balance claims from current accounts, for any legal ground now or in the future, PS Automation shall be granted the following securities which PS Automation will release at customer's request and at its own discretion, provided that the realisable value of the retained goods in the event of realisation exceeds the receivables by more than 10 %.
- (2) Ownership of the goods shall remain with PS Automation (reserved goods). The customer may dispose of reserved goods in the ordinary course of business (sell or rent them etc.), unless customer is in default of payment or if its financial situation has considerably deteriorated. The customer must not pledge or chattel-mortgage the reserved goods. The customer hereby fully assigns all claims resulting from a re-sale or other legal act (renting, leasing, insurance, illegal action etc.) of the reserved goods, including all balance claims from the current account as a security to PS Automation who accepts the assignment. PS Automation revocably authorizes the customer to collect the assigned debt on its own behalf for PS Automation's account. This collecting power may be withdrawn, if the Customer does not duly fulfil its obligations for payment or a significant worsening of the customer's financial situation occurs.
- (3) The retention of title shall extend to new products created by processing, mixing or combining the goods subject to retention of title at their full value, whereby PS Automation shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, if the latter's right of ownership remains, PS Automation shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the newly created products as to the goods delivered under retention of title.

- (4) If reserved goods are accessed by any third party, especially by way of execution, the customer shall make clear PS Automation's ownership and notify PS Automation at once so that they can secure their rights of ownership. In the event that a third party is unable to reimburse the costs thus incurred by PS Automation in or out of court, the customer shall be held liable.
- (5) Should a customer neglect its duties, especially by default in payment, PS Automation shall be entitled to take possession of the reserved goods at once or demand, if applicable, assignment of the customer's claim for return of the goods against a third party. The recovery or pledging of reserved goods by PS Automation shall not constitute a rescission of the contract.
- (6) Customer shall keep the reserved goods as a trustee for PS Automation until all debts listed in para. (1) above have been satisfied. PS Automation shall be entitled to trace any goods sold on, also if the reserved goods are used otherwise and thus entitle the customer to payment.
- (7) Customer shall be obliged to treat the reserved goods with care and, in particular, insure them at own cost against fire, water and theft at replacement value. Maintenance and inspection work shall be carried out by the customer at own cost, if necessary.
- § 8 - Secrecy**
- (1) The customer shall treat PS Automation's Confidential Information as confidential. "Confidential information" shall mean all information which is communicated by PS Automation in the course of the performance of the business relationship or of which the customer otherwise becomes aware, provided that such information (i) is expressly marked as confidential, (ii) is declared confidential by PS Automation within fourteen (14) days after the communication or other knowledge of the customer thereof or (iii) in the case of which the information shall be deemed confidential due to its nature.
- (2) No Confidential Information shall be information which the Customer can prove (i) was already known to it at the time of notification, (ii) was already in the public domain (i.e. published) or in the public domain or state of the art, on the date of notification or will become so without breach of this agreement, (iii) was disclosed to the customer by a third party who was entitled to disclosure, or (iv) was developed by the customer independently and without recourse to the Confidential Information.
- (3) If and to the extent that the disclosure of Confidential Information should be compulsorily ordered by a court of law and/or by a public authority, the customer shall only be authorised to disclose such Confidential Information to the extent that such order so requires, provided that the customer notifies PS Automation promptly and in a timely manner in writing so as to enable PS Automation to seek remedies and/or legal redress against such official and/or court order in order to prevent such disclosure.
- (4) The customer undertakes (i) to treat the Confidential Information in strict confidence, (ii) not to disclose it to third parties and/or make it available to third parties in any other way, (iii) to use it only for purposes and within the scope of and for the purposes of the contract with PS Automation and (iv) to hand it over or destroy it without delay at PS Automation's request.
- (5) The obligation of confidentiality shall end five (5) years after the end of this contract. In the case of know-how, the obligation of confidentiality shall apply without time limit.
- (6) Unless expressly agreed otherwise in writing, information provided to PS Automation in connection with orders shall not be considered confidential.
- § 9 - Warranty**
- (1) PS Automation warrants that the products will be free from manufacturing and material defects. This is the case if the products comply with the agreed product specifications. Any further objective requirements for the products within the meaning of Sec 434 para. 2 BGB are not agreed and owed. The risk of use shall be borne by the customer. The warranty period is 24 months, commencing from the day of the passing of the risk.
- (2) Defects must be promptly indicated to PS Automation by the customer in writing within one week from receipt of the goods at the latest. Defects which cannot be found within this period despite careful examination (non-obvious defects) must be made known to PS Automation in writing immediately after their discovery. If no notification is made in due time, the customer shall not be entitled to warranty rights. The provisions of § 377 HGB [Commercial Code] shall not be affected.
- (3) Notwithstanding the provisions in section 10 of these General Conditions of Sale, in the event of defects PS Automation shall to the exclusion of all further claims, at its choice repair or replace the products.
- (4) PS Automation shall not give a warranty for defects caused by any of the following circumstances:
- inappropriate or improper use, faulty assembly or start-up by the customer or a third party, natural wear, faulty or negligent treatment, inappropriate equipment, alternative materials, poor construction work, inadequate building ground as well as chemical, electrochemical or electrical influences for which PS Automation is not to blame;
  - violation of third-party property rights to the extent such violation is directly or indirectly caused by the design specifications or instructions bindingly given by the customer.
- (5) Warranty shall also be excluded if the operating or maintenance instructions issued by PS Automation are not adhered to or if products are altered, parts are exchanged or maintenance is carried out by the customer or a third party or if the consumption material used does not conform to the original specifications and the customer cannot refute PS Automation's substantiated claim that the defect was caused by one of these events. Should the goods supplied by PS Automation infringe upon any third-party industrial property rights, the warranty shall apply only if PS Automation is notified by customer of its use by a third party. In this case, PS Automation may carry out all measures it deems suitable for defending its claims, either in its own name or on behalf of the customer. Amongst other things, PS Automation may also enter into negotiations to resolve the dispute amicably in or out of court.
- (6) PS Automation shall be given sufficient time and opportunity to carry out a necessary subsequent repair or replacement. Defects may be removed by the customer himself or a third party only if the operating safety or impending danger of serious damage require immediate action, or if PS Automation defaults in the removal of defects in which case the customer may demand reimbursement of the cost from PS Automation. Customer's right to receive a replacement shall be on condition that he has contacted PS Automation in advance.
- (7) Customer claims to expenses incurred from subsequent performance, especially for transport, travel, work and material, shall be excluded if they are based on cost increases incurred when the purchased object was subsequently taken to a place or subsidiary other than that indicated by the customer, unless this move was intended for the item.
- (8) A three-month warranty period shall be granted for replaced parts and remedial work or, as a minimum, the end of the warranty period for the original item supplied.
- (9) In case neither the remedial measures nor the replacement are successful within a reasonable period, the customer may either demand a reduction in price or rescind the contract.
- § 10 - Limitation of Liability**
- (1) Any customer claims for damages against PS Automation, its employees and representatives shall be excluded, irrespective of the grounds given and, in particular, for the neglect of duties from an obligation or tort.
- (2) PS Automation shall be liable for simple negligence in the event of a breach of essential contractual obligations, the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner regularly relies and may rely (cardinal obligations), but only to the extent of the foreseeable damage typical for the contract.
- (3) The exclusion of liability according to the previous para. (1) and (2) shall not apply to claims based on (i) the Product Liability Act, (ii) negligent or intentional injury of a person's life, body or health, (iii) gross negligence or the intentional violations, (iv) bad faith or (v) within the bounds of a guarantee rendered by PS Automation.
- (4) The above provisions do not change the burden of proof at the disadvantage of the customer.
- § 11 - Statute of Limitation**
- (1) Warranty claims of the customer shall become time-barred 24 months after the transfer of risk. Insofar as acceptance has been agreed, the limitation period shall begin with acceptance. The limitation period for contractual and tortious claims for damages is 24 months from the statutory commencement of the limitation period.
- (2) In deviation from para. (1), statutory limitation periods shall apply in the following cases: (i) In the case of buildings and items which have been used for a building in accordance with their customary manner of use and have caused its defectiveness (Sec. 438 para. 1 no. 2 BGB); (ii) in the case of a right in rem of a third party or a right registered in the land register (Sec. 438 para. 1 no. 1 BGB); (iii) in the case of special statutory provisions (e.g. Sec. 444, 445 b BGB); (iv) in the case of intent or gross negligence; or (v) in the cases of Sec. 10 para. (3).
- § 12 - Inspection Tests and Performance Data**
- (1) Should the customer wish for specific controls of the goods or materials, PS Automation shall carry out such tests at the customer's expense, if they are technically feasible and can be integrated into the production process.
- (2) PS Automation's warranty obligations stipulated herein shall not be affected by such controls unless they have been previously agreed by way of a separate written understanding.
- § 13 - Applicable Law and Venue**
- (1) These terms and conditions and the entire legal relationship between PS Automation and the customer shall be governed by and construed in accordance with German law. The conflict of laws principles and the UN convention on the international sale of goods (CISG) shall not apply.
- (2) If the customer is a businessman according to the Commercial Code (HGB) or a legal person under public law respectively public law's special funds, the exclusive venue for all disputes arising from the contractual relationship, either directly or indirectly, shall be Frankenthal/Pfalz. However, PS Automation shall be entitled to assert claims against the customer at the customer's place of jurisdiction.
- (3) In the event that a single provision of these terms and conditions shall be held to be ineffective, void or incomplete, the same shall not affect the validity of the remaining provisions. The contractual parties shall replace the ineffective or void provision or fill the gap by a provision which is most likely to achieve the economic purpose intended by the parties and do so in the form prescribed, if necessary. Should a provision be ineffective or void due to the performance or time (period or deadline) stated, then a legally admissible measure of time or performance shall replace the unenforceable or void designation.