

General Terms & Conditions of MATO Interpräsent GmbH (as per November 2019)

1. General

1.1 The following General Terms & Conditions (hereinafter referred to as "GTC") apply to all contracts concluded between the Purchaser (also hereinafter referred to as "Customer") and MATO Interpräsent GmbH (hereinafter referred to as "MATO") for the supply of goods and/or services by MATO in cases where the Purchaser is an entrepreneur (s. 14 of the German Civil Code, Bürgerliches Gesetzbuch, BGB), a legal person under public law or a special fund under public law. They apply only to contract partners within Europe (as a geographical area). The language used for the contract shall be German. The German version, as well as an English version of the GTC, are provided on www.matointerpraesent.de; the Customer may store them in reproducible form and print them out at any time. Should any doubt or discrepancies arise from the translation, the German version shall prevail.

1.2 Orders shall be carried out exclusively on the basis of the following terms and conditions. The offer, order acceptance, order confirmation, as well as the sale of any products whatsoever, are subject to these terms and conditions.

1.3 Conflicting, differing or additional terms of purchase or other restrictions laid down by the Purchaser shall be incorporated in the contract only if and to the extent that we have expressly approved their validity. **This requirement for approval shall apply in all cases, for example also if we execute the Purchaser's order without reservation but with knowledge of conflicting or differing terms on the part of the Purchaser.**

1.4 The contracts contain all agreements between us and the Purchaser for the execution of the purchase contracts. There are no dissenting verbal subsidiary agreements. The validity of individually stipulated oral agreements after the conclusion of the contract shall remain unaffected. Individual agreements expressly made by the Customer with us on a case-by-case basis shall, in any case, prevail over these General Terms and Conditions.

1.5 Legally relevant declarations and notifications which are required from the Purchaser after the conclusion of the contract (i.e. for setting deadlines, reporting defects, declaring rescission of the contract or reducing prices) are required to be made in "text form" (i.e. on a durable medium) in order to be effective.

1.6 References to applicable legal regulations are made for clarification purposes only. Even without such clarification, legal regulations shall, therefore, apply unless they are directly amended or expressly excluded in these General Terms & Conditions.

2. Offer and conclusion of a contract

2.1 The representation of our goods on our website, in our sales brochures or in any other documentation does not constitute a binding offer to the Purchaser; instead, it is an invitation to the Purchaser to place orders.

2.2 By placing an order in writing, by phone, electronically or otherwise, the Purchaser makes a binding request which we can accept within (five) working days, calculated from the day of receipt of the offer by us. Offers previously made by us are non-binding and do not constitute a binding offer to the Customer unless they have been expressly designated as binding.

2.3 A contract is concluded with the Customer as soon as we have accepted the Customer's offer either by sending an order confirmation or by dispatching the goods within the binding period in accordance with Clause 2.2 or if we have submitted an order expressly marked as binding and the Customer has accepted this offer without restrictions and amendments. If the offer is accepted by order confirmation, the text of the order confirmation shall be authoritative as to the type and content of the contract that comes into existence - subject to proof to the contrary by the Customer. The Purchaser shall verify the entire confirmation of the order and shall immediately notify us in "text form" of any errors or inaccuracies.

2.4 In the case of contracts concluded by electronic means, we are obliged to confirm receipt of order to the Customer immediately by electronic means. However, this confirmation of receipt of an order does not constitute acceptance of the Purchaser's offer.

2.5 Information about our goods (in particular technical data, measurements, performance and consumption data as well as the descriptions in the respective product information or advertising materials, etc.) are only approximate values which are commonly used in our trade; they are not guaranteed characteristics, unless a guarantee to this effect is expressly stated in "text form".

2.6 Prior to acceptance and use, the Purchaser shall check the specifications given in catalogues, brochures, and other written documents to ensure that the goods are suitable for the intended use. This shall also apply to the selection of appropriate materials. When placing an order the Purchaser shall be responsible for informing us of any special legal requirements in his country, insofar as these requirements could be applicable.

2.7 We reserve the right to make technical improvements and any changes to or deviations from the models shown in our catalogues and brochures which would be reasonable for the Purchaser to accept. This applies equally to all technical details.

We reserve the right to correct any inadvertent error without the Customer being able to derive any claims from this conduct, provided that there is an obvious need for clarification and/or correction of an obvious factual error in sales brochures, price lists, offer documents or other documents.

2.8 For products which are to be manufactured according to the Purchaser's drawings or specifications, we shall only assume an obligation to execute the order in accordance with the specifications given. We are not obliged to check the Purchaser's data and/or specifications regarding conformity and/or functionality; this is the sole responsibility of the Purchaser.

2.9 Drawings, drafts and contributions to discussions which are made during the contract negotiations are non-binding unless the Customer has expressly ordered separate advice on use and/or materials. The Purchaser may not assert any claims of whatever nature against us on the basis of such non-binding documents or services.

3. Prices and terms of payment

3.1 Unless otherwise agreed with the Customer, the list prices valid at the time of the conclusion of the contract shall apply. These are to be understood EXW (Ex Works) in Euro plus shipping, packaging and insurance costs, customs duties, accessory import duties as well as the statutory value-added tax applicable at the time, insofar as the transaction is subject to turnover tax.

3.2 Price changes are permissible if more than four (4) months have passed between the conclusion of the contract and the agreed performance or delivery date and the price change is due to a current cost increase for which we are not responsible. There is a cost increase when there is an increase in wages, material costs or distribution costs before performance or delivery. The same applies if customs duties or accessory import duties increase or are introduced or if changes in cost arise due to price increases by upstream suppliers or due to exchange rate fluctuations.

In such cases, we shall be entitled to increase the price appropriately in line with cost increases. If the increased price is 20% or more above the agreed price, the Customer has the right to withdraw from the contract in respect of the part of the order affected by the corresponding price increase. The Customer shall be entitled to withdraw from the entire contract if it would be unreasonable to expect him or her to accept partial delivery. The right of withdrawal must be asserted immediately after notification of the increased price.

3.3 The purchase price shall be due for payment in full as follows, without any deduction, unless a deviating agreement has been made with the Customer on a case-by-case basis:

3.3.1 For deliveries on account, payment is due in full, thirty (30) days from the invoice date (net 30).

3.3.2 For deliveries cash in advance, payment is due in full, immediately upon the conclusion of the contract (Clause 2.3).

3.4 We may, in our sole discretion, choose between the different payment methods available in each case. We reserve the right to offer to the Customer only the payment methods that we have chosen, such as only cash in advance in order to eliminate the risk of non-payment.

3.5 A payment shall only be deemed to have been received when the amount is available to us.

3.6 If the Customer defaults on payment, we are entitled, subject to further claims, to charge default interest in accordance with s. 288 (2) of the German Civil Code (BGB) at 9% above the basic rate of interest as well as a lump sum in accordance with s. 288 (4) of the BGB at EUR 40.

4. Delivery and transfer of risk

4.1 Unless otherwise agreed in "text form", the place of performance shall be our head office at Kirschfeldstrasse 23 in 74629 Pfedelbach (Germany).

4.2 Within Germany, we deliver "Ex Works" at Kirschfeldstrasse 23, Pfedelbach (EXW Pfedelbach, Kirschfeldstrasse23, Incoterms® 2010). This shall apply regardless of who pays the shipping costs.

4.3 Unless expressly agreed otherwise with the Customer, we deliver goods to foreign countries as follows,

4.3.1 "free carrier" ("FCA Pfedelbach, Kirschfeldstrasse 23, Germany, Incoterms® 2010") or

4.3.2 exclusively pay in advance (PIA).

4.4 Delivery dates and delivery periods are always approximate only. They are not binding on us unless we have expressly agreed to a delivery date or delivery period as binding in "text form" upon conclusion of the contract.

4.5 Delivery periods begin with the date of the order confirmation, but not before the Customer has fulfilled any duties to collaborate or to pay in advance.

4.6 Risk passes to the Customer upon notification of readiness for dispatch, if dispatch is delayed due to circumstances for which the Customer is responsible. Upon notification of readiness for dispatch, any delivery periods shall then also be deemed to have been observed.

4.7 If dispatch is delayed at the Customer's request, we shall be entitled, after setting a reasonable deadline for acceptance of the delivery and its fruitless expiry, to dispose otherwise of the delivery item and to supply the Customer with a reasonable extended deadline.

4.8 If for reasons beyond our control, we do not receive supplies or services from our own sub-suppliers or sub-contractors despite having concluded a congruent contract transaction, or if such supplies are not received correctly or in good time, or if for any force majeure occurs, we shall advise our Customers immediately in "text form". In such cases, we shall be entitled to defer performance for the duration of the impediment or to withdraw from the part of the contract not yet executed, either in whole or in part, on condition that we have fulfilled our obligation to advise our Customers as above and have not assumed the procurement or production risk. Force majeure shall be deemed to include strikes, lockouts, intervention by the authorities, power or raw material shortages, transport bottlenecks for which we are not liable, business interruptions for which we are not liable, e.g. those caused by fire, water or machine damage, and all other hindrances that cannot be objectively considered to have been culpably occasioned by us. If the delivery or performance is delayed for more than a month, both we and the Purchaser shall be entitled to withdraw from the part of the contract in proportion to the volume affected by the delivery disruption. The Purchaser shall be entitled to withdraw from the entire contract if it would be unreasonable to expect him or her to accept partial delivery.

4.9 In the case of call-off or blanket orders, we shall be entitled to manufacture or have manufactured the entire quantity ordered. Changes requested after the conclusion of the contract shall not be taken into consideration, unless otherwise expressly agreed. Call off dates and quantities can only be observed to the extent of our own delivery or manufacturing capacities unless legally binding agreements have been made. If the goods are not called off according to contract, we shall be entitled to invoice them as if they had been delivered, after a grace period of reasonable length has elapsed.

5. Delay in delivery and impossibility of performance

5.1 Irrespective of the Customer's right of withdrawal in the event of defects (see Clause 7), the Customer may only withdraw from the contract if we are responsible for a not inconsiderable breach of duty if the performance is impossible for us or if we are in default with the performance.

5.2 In the case of delay, the remedies of rescission or damage compensation in lieu of performance require that the Customer has given us a reasonable period of notice of at least four (4) weeks in "text form" to allow for the goods and services to be supplied as specified in the contract, unless we have seriously and definitively refused to render performance as owed or there are special circumstances that justify immediate rescission after weighing the interests of both parties.

5.3 Clause 8 shall apply to claims for damages.

6. Retention of title

6.1 We reserve the right to retain the title to the goods until all claims and subsidiary claims (such as costs for bill of exchange, financing costs, interest, etc.), resulting, for whatever legal reason, from our business relationship with the Purchaser, have been received in full.

6.2 The Customer shall treat the goods subject to retention of title with care, maintain them in good condition and inform us immediately in the event of damage to or loss of said goods. The Customer shall hold and preserve the goods in trust for us separately from goods in his or her ownership or in the ownership of third parties.

6.3 In the event of any third party action against our goods subject to retention of title, in particular in case of enforcement measures, the Purchaser shall immediately inform the third party of our ownership and our rights to said goods. The Customer must inform us immediately of any such intervention and hand over the documents required for an intervention; this also applies to impairments of any other kind. If the third party is not in a position to bear the necessary extrajudicial and judicial costs of our intervention, the Customer shall reimburse us these costs.

6.4 In the event that the Purchaser acts in breach of the contract, e.g. by defaulting on payment, we shall be entitled, subject to further claims, to withdraw from the contract and take back the goods subject to retention of title after a prior reminder and setting a reasonable deadline.

6.5 The Purchaser shall be entitled to sell and/or use and/or process the goods subject to retention of title within the scope of his or her normal business operations as long as he or she is not in default of payment and the claims assigned pursuant to Clause 6.8 are actually transferred

to us or we actually become (co-)owner pursuant to Clause 6.7. The Customer is not entitled to dispose of the goods subject to retention of title in any other way. In particular, the Customer may not pledge them or transfer them by way of security.

6.6 The treatment and processing of the goods subject to retention of title shall be carried out on our behalf without any obligations arising for us as a result. If the goods subject to retention of title are processed, combined, mixed or blended with other goods not owned by us, we shall be entitled to a co-ownership share in the new item in the ratio of the invoice value of the delivery items to the other processed goods at the time of processing, combination, mixing or blending. If the Customer acquires sole ownership of the new item by law, the Customer hereby grants us co-ownership of the new item in the aforementioned proportion and undertakes to store this item for us free of charge.

6.7 If the Customer sells the goods subject to retention of title or the object co-owned by us in accordance with Clause 6.7 alone or together with goods not owned by us, or if the Customer otherwise has a claim against a third party (insurance, tort, etc.) arising from the goods subject to retention of title or the object co-owned by us in accordance with Clause 6.7, the Customer hereby assigns to us, together with all ancillary rights, the claims arising in the amount of the value of the goods subject to retention of title - and in the case of co-ownership, in the amount corresponding to our share in the co-ownership. We accept the assignment.

Subject to revocation, we authorise the Customer to collect the claims assigned to us. The Purchaser is not entitled to assign our claims to third parties. This shall apply even for the purpose of the collection of receivables by way of factoring, unless the factoring party is simultaneously obliged to ensure that payment up to the amount of our receivables be made directly to us, as long as we still have outstanding receivables from the Purchaser.

6.8 If the Customer defaults on his or her obligations towards us, he or she shall inform us of all debtors of the assigned claims. The Customer must also notify the debtors of the assignment. In this case, we shall also be entitled to disclose the assignment to the respective debtors ourselves and to make use of our authority to collect receivables.

6.9 The non-resident Customer is obliged to take any action and make any declaration necessary to make our retention of title effective in the country to which the delivery is made, as provided for in these GTC.

6.10 At the request of the Customer, we undertake to release any collateral rights we may have if the realisable value of the collateral exceeds any claims to be collateralised by more than 10%. We may select any collateral to be released at our own discretion.

7. Notice of defects and claims for defects

7.1 The Purchaser shall be entitled to make a claim for defects only if he or she has duly fulfilled his or her obligations to inspect the goods and raise any objections (as stipulated in particular in s. 377 and s. 438 of the German Commercial Code, Handelsgesetzbuch, HGB). We do not waive our right to object to late notice of defects. Patent defects (obvious defects) must be reported to us in "text form" within eight (8) working days following receipt of the goods or provision of the services. Where no such notice is given, the goods shall be deemed to have been accepted. Latent defects (hidden defects) must be reported to us immediately in "text form" as soon as they are discovered.

7.2 The statutory provisions shall apply to the Purchaser's rights in the event of material and legal defects (including wrong and short shipment), unless otherwise stipulated below.

The special statutory regulations on deliveries of goods to end consumers (recourse by the Seller, pursuant to s. 445a, s. 445b and s. 478 of the German Civil Code (BGB)) shall remain unaffected in all cases.

7.3 Most importantly the basis for our liability for defects shall be the agreement reached on the characteristics of the goods ("guarantee of the quality of the thing"). All product descriptions, including references to technical standards, shall be regarded as an agreement on the characteristics of the goods. These descriptions do not represent a guaranteed quality unless said guarantee of the quality is made expressly and in "text form".

7.4 If no agreement on characteristics has been reached, whether or not a defect exists shall be determined in accordance with the statutory regulations (s. 434 (1) Clauses 2 and 3 of the German Civil Code). However, we shall not assume any liability for public statements made by the manufacturer or any other third parties (e.g. advertising statements).

7.5 Claims for defects shall not apply in the case of only minor deviations from the agreed qualities or only minor limitations on usability.

7.6 In the event of a justified notice of defect, the defect shall be remedied (rectified) or replaced at our discretion. The Customer shall give us a reasonable time and opportunity to remedy the defect or make a replacement delivery. The place of performance for a cure is our registered office in 74629 Pfedelbach, Kirschfeldstrasse 23, Germany. If the defective goods are at some location other than the place of performance, they shall be properly packed along with the return number, invoice number or delivery note number, and be returned to us at no cost. In any such case, we only accept returns that are sent carriage paid.

This shall not apply if we choose rectification/repair as a cure and if the item to be rectified/repared cannot be transported to us.

7.7 The Customer shall reimburse us for reasonable costs (in particular inspection, travel, labour and transport costs) arising from an unjustified request to remedy a defect unless the Customer was unable to recognise said defect.

7.8 We shall be entitled to make cure contingent upon the Purchaser paying the due purchase price. However, the Purchaser shall be entitled to retain part of the purchase price to an extent that is reasonably proportionate to the defect.

7.9 Should the cure fail or should we unjustifiably refuse or unduly delay a necessary cure or a replacement delivery or if the Customer cannot reasonably be expected to accept rectification/repair for any other reason and if the requirements of s. 281 (2) or s. 323 (2) of the German Civil Code (BGB) have not been met, the Customer shall be entitled to claim compensation for damage, or if we rightly refuse cure due to disproportionality, the Customer may withdraw from the contract or reduce the purchase price instead of waiting for rectification/repair or subsequent delivery, provided that the further legal prerequisites are fulfilled, as well as assert claims for damages or reimbursement of expenses, the latter within the scope of Clause 8.

7.10 Claims from seller recourse (s. 445a, s. 445b and s. 478 of the German Civil Code BGB) against us only exist insofar as the Purchaser has not reached any agreements with his own customer which go beyond the mandatory statutory claims for defects. The Purchaser shall be entitled to make a claim for defects only if he or she has duly fulfilled his or her obligations to inspect the goods and raise any objections.

Said rights shall likewise be excluded if the defect is based on advertising statements or other contract agreements which do not originate from us, or if the Purchaser has given the end consumer a special guarantee. The obligation shall also be excluded if the Purchaser himself or herself was under no legal obligation to fulfil warranty claims of the end consumer, or if he or she failed to object to such a claim brought against him or her. This shall also apply if the Purchaser has assumed further warranties toward the end consumer exceeding legal regulations.

8. Compensation for damage

8.1 Claims for damages against us due to the breach of a contractual obligation and/or due to a tortious act and/or due to culpa in contrahendo or in the run-up to the conclusion of the contract as well as for other legal reasons, in particular the breach of general duties of consideration (s. 241 (2) of the German Civil Code (BGB)) or other contractual obligations (s. 280 (1) BGB) are excluded insofar as they are not based on intentional or grossly negligent action.

This shall not apply in the event of injury to life, body or health or in the event of claims based on breach of essential contractual obligations and/or guarantees or claims under the [German] Product Liability Act and/or compensation for damage caused by delay (s. 286 of the German Civil Code (BGB)) or if we have fraudulently concealed defects in the delivery item.

In this respect, we are liable irrespective of the degree of fault. However, our liability for violation of significant contractual obligations as a result of minor negligence shall be limited to direct, average losses that are typical of the contract and foreseeable in view of the nature of the contract concluded.

Material contractual obligations are those contractual obligations which protect the Customer's legal positions which are essential to the contract and which the contract has to grant the Customer according to its content and purpose; material contractual obligations are also those contractual obligations the fulfillment of which is essential for the proper execution of the contract and the observance of which the contractual partner regularly relies on and may rely on.

8.2 The aforementioned exclusion of liability also applies to slightly negligent breaches of duty by our performing agents (Erfüllungsgehilfen) or vicarious agents (Verrichtungsgehilfen).

8.3 Any exclusion or limitation of our liability for compensation for damage shall also extend to the personal liability for compensation for damage for our employees, staff, representative and performing agents.

8.4 If claims are asserted against us by third parties for product liability or for breach of official safety regulations or for other legal reasons under domestic or foreign law, the Customer shall reimburse us for the expenses incurred in accordance with the provisions of the liability law applied to us, insofar as the Customer did not inform us at the time of conclusion of the contract or did not fully inform us of the later use of the goods delivered by us and insofar as the omitted information was the cause of the damage, unless the Customer proves that he or she is not responsible for the damage and the omitted information.

9. Compensation for wasted expenditures

Entitlement to claim compensation for wasted expenditures (or reimbursement of futile expenses) according to s. 284 of the German Civil Code (BGB) shall be excluded, if and to the extent that entitlement to damages in lieu of performance does not exist or has effectively been ruled out.

10. Industrial property-rights, copyrights

10.1 We reserve all copyrights, rights of use and other property rights to the content and works which we create on websites, in sales brochures or any other media. German copyright law shall apply. Any adaptation, reproduction, distribution or other mode of exploitation shall require our written approval in "text form". This shall apply in particular to any commercial use of our content and works.

10.2 If a custom-made product is manufactured in accordance with the Purchaser's specifications of originals supplied by the Purchaser, the Purchaser guarantees that he or she is the owner of the corresponding copying and reproduction rights and that industrial property rights of third parties are not infringed by the production and distribution of the delivery items. The Customer shall indemnify us against all claims, costs, and damages (including attorney's fees) which relate to an infringement of rights in this respect unless the Customer is not responsible for the infringement. We shall be under no obligation to verify the rights of the Purchaser.

11. Set-off and retention

11.1 The Customer shall be entitled to offset only if the counterclaims arise from the same contractual relationship. If the counterclaim does not arise from the same contractual relationship, the Customer may apply an offset only if the counterclaims are established with legal force, if we have acknowledged them or if they are undisputed.

11.2 No right of retention is permitted unless the Customer's counterclaim originates from the same contractual relationship and is undisputed or legally established.

12. Limitation of claims for defects

12.1 Unless otherwise agreed on a case-by-case basis, all claims for defects cited in s. 438 (1) No. 3, s. 445b (1) and s. 634a (1) No. 1 of the German Civil Code (BGB) become statute-barred in one year from the handover of the delivery items or - if acceptance has been agreed - from acceptance of the delivery item.

This shall not apply insofar as liability for damages resulting from injury to life, body or health is concerned and/or the defect is attributable to a grossly negligent or intentional breach of duty on our part and/or we have fraudulently concealed a defect and/or if we have assumed a guarantee and/or the last contract in the supply chain pursuant to s. 445a of the German Civil Code (BGB) is a consumer contract pursuant to s. 474 of the German Civil Code (BGB). In these cases, the statutory limitation periods shall apply.

12.2 Claims arising from the [German] Product Liability Act and the statutory provisions on suspension, suspension of expiry and recommencement of limitation (in the case of other claims) shall remain unaffected.

13. Choice of law and venue

13.1 The laws of the Federal Republic of Germany shall apply for these General Terms and Conditions and for all legal relations between us and the Purchaser. Prerequisites and effects of the reservation of title pursuant to s. 6 shall be subject to the law applicable at the place where the goods are stored, insofar as under said law, the choice of German law would be inadmissible or ineffective.

13.2 If the Purchaser is a merchant within the meaning of the German Commercial Code (HGB), a legal person under public law or a special fund under public law, our head office shall be deemed the exclusive - as well as international - place of jurisdiction for all disputes arising either directly or indirectly from the contractual relationship. However, in cases of commercial trading, we shall also be entitled to sue before the court with competence for the Customer or before any other court that may be competent under national or international law.

13.3 If any provisions in this Contract with the Customer, including these General Terms and Conditions, should be or become invalid, in whole or in part, or if the agreements therein should contain any loophole, this shall not affect the validity of any of the remaining provisions. In such cases, the Parties undertake to replace the provision that is invalid, in whole or in part, by a valid provision whose practical effect most closely approximates that of the invalid provision.