

General Terms and Conditions of Sale and Delivery

1. General Information

1.1 For the entire business relationship between Trioptics GmbH ("TRIOPTICS" or "we") and you ("you" or "customer"), including future contracts between us and the customer, the following conditions alone shall be deemed to have been agreed upon, irrespective of whether the service is rendered directly or by a subcontractor. Verbal side agreements do not exist. Terms and conditions of purchase or other terms and conditions of business of the customer are hereby rejected, even if we perform the services to the customer without reservation in the knowledge of conflicting, deviating or unregulated terms and conditions of business or if the customer refers to the application of his general terms and conditions of business in his enquiry or order. This also applies if and to the extent that the scope of the purchasing conditions or other terms and conditions of business of the customer goes beyond the scope of these sales and delivery conditions. Conflicting terms and conditions of purchase of the customer shall only apply if they have been accepted by us in writing. Deviation from a particular delivery condition in individual cases will not affect the validity of the remaining conditions. The collection and processing of personal data is governed by our privacy policy.

2. Offer and Acceptance

2.1 Our offers are subject to change without notice and non-binding unless otherwise stated in the offer. The order placed by the customer is deemed as a binding offer to conclude the contract pursuant to § 145 BGB. TRIOPTICS is entitled to accept the offer within two weeks after receipt. If TRIOPTICS does not react within the acceptance period, silence shall not be deemed to be acceptance. The acceptance of an offer is only effective if it has been declared by a representative authorised by TRIOPTICS. Side agreements are only effective if they have been confirmed by us in writing. Submitted offers of the customer to conclude a contract are irrevocable and cannot be revoked or withdrawn unless we receive a revocation before the receipt of the offer or at the same time.

2.2 Our prices are quoted ex works Wedel including customary packaging suitable for airfreight, excluding insurance and all shipping costs, levies, duties, taxes and charges, plus any applicable statutory value-added tax.

3. Delivery Date

3.1 Delivery times shall only be agreed and binding upon written confirmation. An agreed delivery period shall apply ex works. The delivery period shall not commence before full clarification of the technical details of the order, receipt of agreed documents and/or receipt of

down payments and the fulfilment of other obligations of the customer including obligations to cooperate. Obstacles to delivery due to force majeure or due to unforeseen events for which we are not responsible, in particular measures imposed by the authorities as well as import and export restrictions, entitle us to carry out delivery only after the obstacle has been removed.

3.2 The delivery period shall be reasonably extended in cases of force majeure, in particular in the event of strikes and lockouts, as well as in the event of unforeseen hindrances which are beyond our control, such as import and export restrictions, operational and transport disruptions or delays in the delivery of essential raw and construction materials for which we are not responsible, insofar as such hindrances can be proven to have a significant influence on the completion or delivery of the delivery item. This also applies if such circumstances occur at our suppliers. The delivery period shall also be extended if the customer wishes to have a specification modified after formation of the contract.

3.3 If the fulfilment of the contract becomes unreasonable for us due to the circumstances described in section 3.1 or if the financial circumstances of the customer deteriorate significantly, so that our claim for consideration is endangered, TRIOPTICS is entitled to withdraw from the contract, with no rights to damages for the customer.

3.4 Partial deliveries are permissible, as long as they do not fall below the reasonable minimum for the customer.

4. Passing of Risk and Acceptance of Goods

4.1 The risk of accidental loss or accidental deterioration shall pass to the customer upon delivery. Delivery takes place at the time of handover for transport. Shipment and transport of the goods shall be at the customer's expense and risk. Transport risks are insured by TRIOPTICS for the account of the customer. Deviations require a special agreement.

4.2 If the dispatch of the delivery is delayed because of reasons attributable to the customer, the risk of accidental deterioration and accidental destruction shall pass to the customer upon notification of readiness for dispatch. Storage costs after transfer of risk shall be borne by the customer. Further claims remain unaffected.

4.3 If the delivery requires the issuance of an export permit by the competent authority, payment of the goods shall nevertheless be owed. In such a case TRIOPTICS will deduct from the purchase price claim the amount which TRIOPTICS was able to generate through a sale of the goods or parts thereof to a third party within eight weeks after refusal of the export permit

4.4 If the customer is in default of acceptance, TRIOPTICS shall be entitled to demand reimbursement of the expenses incurred; the risk of accidental deterioration and accidental loss shall pass to the customer upon default of acceptance.

4.5 The customer waives the right to demand the return of packaging from TRIOPTICS and will dispose of it at his own expense and in accordance with the statutory provisions.

4.6 From the passing of risk for the deliveries to the customer pursuant to Section 4.1 the customer is responsible for compliance with the applicable legal import and export regulations.

5. Terms of Payment / Set-off / Right of Retention

5.1 Unless otherwise agreed, payment shall be made without deduction at our free disposal. It is only relevant on what day we receive a payment and not when it was sent. In the event of default, the statutory interest on arrears shall be due, without prejudice to the possibility of claiming higher actual damages.

5.2 Discountable bills of exchange and cheques shall only be accepted on account of performance. Discount, bank and collection charges as well as stamp duties are to be reimbursed by the customer. If, during the term of an agreed instalment payment or until the maturity date of a bill of exchange, a significant deterioration in the financial situation of the customer occurs or if he is in arrears with a payment, TRIOPTICS is entitled to demand immediate payment of the total amount.

5.3 A set-off of the customer against our claims is only permissible with undisputed or recognized or legally established claims. The same applies to the exercise of rights of retention.

6. Retention of Title

6.1 The delivered items remain the property of TRIOPTICS (reserved goods) until full payment of the agreed purchase price. In addition, the delivered items remain the property of TRIOPTICS until payment of all claims arising from the business relationship with the customer. In the case of current accounts, the reserved property shall be regarded as security for our balance claim.

6.2 The customer is entitled to sell the goods in the ordinary course of business. Pledging or transfer by way of security is prohibited. If the customer sells our goods subject to retention of title, he shall herewith assign to us until the complete repayment of all our claims in accordance with Clause 6.1 the full claim against its customers arising from this legal transaction with all ancillary rights, irrespective of whether it sells the items alone or together with other goods or services. As long as he fulfils his payment obligations, the customer can collect the claims for himself in the ordinary course of business. TRIOPTICS may revoke this authorization at any time for good cause. Important reasons include the customer's delay in payment of more than one week or knowledge of a filing for insolvency of the customer's assets.

6.3 The processing or transformation of our retained goods by the customer shall always be carried out on our behalf, so that TRIOPTICS shall be the manufacturer of the new item within the meaning of of § 950 BGB (German Civil Code). However, this does not give rise to any liabilities on our part. In the event that the goods subject to retention of title are combined with other items and the result is that the customer acquires ownership or co-ownership rights, the customer already now transfers these rights to TRIOPTICS, which accepts these rights, with the

consequence that we shall be entitled to ownership of the new item subject to retention of title within the meaning of this clause. The customer shall keep the property or co-ownership for us.

6.4 The customer shall only be entitled to further process the reserved goods, to combine them with other items and to mix or resell them, as long as he is not in default, within the course of proper business operations. Any other disposal of the reserved goods is inadmissible. Any seizures or other accesses to the goods subject to retention of title by third parties must be reported to us immediately. All intervention costs shall be borne by the customer, insofar as they cannot be collected by the third party. If the customer defers the purchase price to his buyer, he shall reserve title to the reserved goods on the same terms and conditions under which TRIOPTICS reserves title to the reserved goods upon delivery of the reserved goods. Otherwise, the customer is not authorised to resell the goods.

6.5 If the value of the securities existing for us exceeds the value of the secured claims by more than 50%, TRIOPTICS shall release securities at the customer's request at its own discretion.

6.6 If the customer is in default of payment, TRIOPTICS is entitled to take back the goods on the basis of its own reservation of title, without TRIOPTICS having to declare its withdrawal from the contract. The assertion of the retention of title as well as the attachment of the delivery item by us shall not be deemed to be a withdrawal from the contract.

7. Rights to Software

7.1 If the subject matter of the contract is also or exclusively the delivery or provision of software, the following provisions shall apply, unless a separate license agreement has been concluded.

7.2 The customer receives a non-exclusive, right to use the software without restrictions in time or territory. If the customer does not use the goods and services according to this contract himself, sells or provides them in isolation or together with other goods or services to third parties (end customers) in accordance with section 7.7, only the end customer is entitled to the rights specified in this section 7. The customer has the obligation to strive for including the regulation of this section 7 into his contract with the end customer.

7.3 The software may only be used to the extent permitted by the contractual agreement: In the case of a device license, the software may only be installed and used on one (1) device at a time. Any use beyond the extent agreed in the contract is a breach of contract.

7.4 Permissible use includes the installation of the software on a device, loading into the main memory, as far as necessary and possible in each case, as well as the designated use by the customer. Under no circumstances shall the customer have the right to rent out or sublicense the purchased software in any other way, to communicate it in a wired or wireless form to the public or to make it publicly available to third parties, either in return for payment or free of charge. Section 7.7 remains unaffected.

7.5 The customer may not change, copy or otherwise reproduce the provided software (except in the cases prescribed by law). The customer is entitled to make a backup copy. The customer shall visibly affix a “backup copy” and a copyright notice of the manufacturer to the backup copy.

7.6 The interface information required for establishing interoperability (§ 69e UrhG) can be requested from us against payment of a reasonable fee.

7.7 The customer is entitled to hand over the purchased software to a third party (e. g. end customer) by handing over the original data carrier and the documentation permanently, but not for a limited period of time. In this case, the customer must completely discontinue the use of the software, remove and delete all copies installed at the customer’s premises and delete all copies (including backup copies) on other data carriers at the customer’s premises, unless he is legally obliged to keep the software for a longer period of time.

7.8 The customer must confirm in writing the complete implementation of the measures mentioned in section 7.7 or explain to us the reasons for a longer storage period. In the event of a permanent transfer of the software, the customer is obliged to inform us in writing of the name and full address of the purchaser.

7.9 The customer undertakes to prevent the unauthorised access of his employees and other third parties to the delivered software as well as the associated documentation by means of suitable precautions, in particular the storage of the original data carriers and the backup copy in a secure place. Copyright notices, serial numbers and other features used to identify the program must not be removed or changed from the data carrier or the documentation.

7.10 Software from third party manufacturers may be part of our deliveries, provided that we indicate this accordingly. The extent of the rights to use this software is determined primarily by the respective license conditions of the third party manufacturer. The aforementioned terms and conditions shall apply in addition. The license conditions of the third party manufacturer are to be accepted by the customer, otherwise we are entitled to withdraw from the contract.

8. Liability for Material Defects and Warranty of Title

8.1 Delivered goods must be inspected immediately. We must be notified immediately in writing of any defects and wrong deliveries. An exclusion period of seven days counted from receipt of the delivery shall apply to the dispatch of notice of obvious defects. A defect is obvious if, when objectively assessed, it must also be noticed by the average customer, who is not particularly familiar with the subject matter of the contract, without any special examination effort. Hidden defects must be reported to us in writing immediately after discovery. There is an exclusion period of six (6) months.

8.2 Notice of defects must be given in writing or by fax.

8.3 Insofar as TRIOPTICS does not declare itself differently in individual cases, inspections of defect reports always take place without acknowledgement of any legal obligation. The elimination of defects does not in principle constitute an acknowledgement of a defect for which we are responsible, unless TRIOPTICS declares otherwise in individual cases.

8.4 If the delivery requires the granting of an export permit by the competent authority, refusal to grant such licence shall not constitute a defect.

8.5 TRIOPTICS shall be liable for defects in the delivery for a period of twelve months from the passing of risk (see section 4.1) in such a way that TRIOPTICS shall, at our discretion, replace or repair free of charge all parts that prove to be defective due to a circumstance existing at the time of passing of risk, in particular due to material or workmanship defects. TRIOPTICS is entitled to multiple repair/replacement delivery, but at least to three attempts. Replaced parts become our property. TRIOPTICS shall only be liable for any transport costs within the scope of our liability for material defects and defects of title up to the place where the item is to be used in accordance with the contract between us and the customer. In the absence of a corresponding provision in the contract, the registered office of the customer shall be decisive.

8.6 In the case of essential products not manufactured by us, our liability is limited to the assignment of the claims for defects of quality and title to which we are entitled against the supplier of these products. TRIOPTICS shall bear subsidiary liability in the event that claims for defects of quality and title cannot be enforced against the supplier. In this case, TRIOPTICS shall only be liable for repair or replacement delivery in accordance with section 8.5. If our operating or maintenance instructions are not followed or changes are made to the services, any material and legal warranty rights shall lapse.

8.7 If parts are replaced or materials are used which do not comply with the original specifications, any rights to material and title defects shall lapse.

8.8 The same shall apply if our services are not used in accordance with the contract or if the defect of the service is based on construction documents or other specifications provided by the customer.

8.9 If rectification of defects or replacement delivery is impossible or fails repeatedly, the customer may also assert further statutory warranty claims instead of the right to remedy defects. With regard to claims for damages, the limitation of liability specified in section 10 shall apply.

8.10 A warranty for defects in the delivered goods which are caused by normal wear and tear is excluded. In the case of goods that have been sold as declassified or used material, the customer shall not be entitled to any claims for defects.

8.11 Any public advertising statements/product information from third parties or from us are not subject matter of the contractual product specification. Our product descriptions do not

contain any warranty for properties covered by a guarantee. Guarantees can only be agreed on an individual contract basis.

9. Right of Withdrawal

Obstacles to delivery, due to force majeure, measures by the authorities such as import and export restrictions or unforeseeable events for which TRIOPTICS is not responsible and which last longer than six weeks, entitle us to withdraw from the contract without the customer being entitled to a claim for damages. In this case, TRIOPTICS shall return the payments made by the customer without interest and without delay. TRIOPTICS shall inform the customer of the beginning and end of such hindrances to delivery.

10. Liability

10.1 We shall be liable in all cases of contractual and non-contractual liability in the event of wilful intent and gross negligence in accordance with the statutory provisions for damages or reimbursement of futile expenses.

10.2 In other cases, we shall only be liable – with the exception of liability for damages resulting from injury to life, limb or health and in accordance with the Product Liability Act or in the event of the issuance of a guarantee – in the event of breach of a contractual obligation, the fulfilment of which is essential for the proper execution of the contract and on which you as a customer may regularly rely (so-called cardinal obligation), limited to compensation for foreseeable and typical damage. In all other cases, our liability is excluded subject to the above-mentioned exceptions.

10.3 Claims for damages by the customer against us on account of slight negligence shall be excluded in any case if they are not asserted in court within a period of one year.

10.4 The aforementioned limitations of liability shall also apply to the liability of our officers, employees and vicarious agents as well as their personal liability.

10.5 In the case of software delivery, TRIOPTICS shall only be liable for the loss or alteration of customer data caused by the program to the extent that this would have been unavoidable even if the customer had complied with his data protection obligation at adequate intervals, but at least on a daily basis.

10.6 TRIOPTICS shall not be liable for any items provided by the customer which are to be processed by us.

11. Industrial Property Rights, Copyrights

11.1 If claims are raised against the customer due to infringement of an industrial property right or copyright because he uses our delivery/service in the contractually determined manner, TRIOPTICS undertakes to provide the customer the right to further use. The precondition for this is that the customer informs us immediately in writing about such claims of third parties

and that we reserve the right to take all defensive measures and extrajudicial measures. Should it not be possible under these circumstances to continue using our delivery/service under economically justifiable conditions, it is agreed that TRIOPTICS shall, at its discretion, either modify or replace the delivery/service to remedy the legal defect or take back the delivery/service and refund the purchase price paid to us, less an amount which takes into account the age of the delivery/service.

11.2 The customer shall not be entitled to any further claims based on infringements of industrial property rights or copyrights, insofar as no essential contractual obligations have been breached and no other contractual obligations have been breached either intentionally or grossly negligently. TRIOPTICS has no obligations according to section 11.1, if violations of rights are caused by the fact that our delivery/service is not used in the contractually determined manner or is used together with other than our deliveries/services.

12. Information, Consultations

Information and advice in connection with our deliveries and services are provided on the basis of our previous experience. The information given here, in particular performance data, are average data values determined in tests under normal laboratory conditions. TRIOPTICS cannot assume any obligation to comply exactly with the values and application possibilities of newly designed devices or measurement methods. Section 10 of these terms and conditions shall apply to any liability.

13. Prohibition of Assignment

The assignment of claims against TRIOPTICS to third parties is only permitted with our prior written consent.

14. Export Control

The sale, resale and disposition of the goods and services as well as any related technology or documentation may be subject to the German, EU and US export control laws and, if applicable, the export control laws of other countries. A resale in embargo countries or to blocked persons or to persons who can use or use the supplies and services militarily, for NBC weapons or for nuclear technology is subject to approval. By placing an order, the customer declares compliance with such laws and regulations and that the goods and services are not delivered directly or indirectly to countries that prohibit or restrict the import of such goods. The customer declares to obtain all necessary permits for export or import. The customer shall perform all duties of cooperation in connection with export control law. In particular, he will indicate how he wants to use the purchased goods.

15. Place of Performance, Jurisdiction, Applicable Law

15.1 The place of performance is Wedel on both sides.

15.2 Exclusive place of jurisdiction for merchants, legal entities under public law and special assets under public law is Pinneberg. However, TRIOPTICS shall also be entitled to sue the customer, who is a merchant, legal entity under public law or special fund under public law, at his place of jurisdiction or another legal venue.

15.3 German law shall apply exclusively, excluding conflict of laws and the UN Convention on Contracts for the International Sale of Goods (CISG).