

# General Terms and Conditions of Delivery governing all products supplied by the firm Megasonic Sweeping GmbH to traders/enterprisers and other industrial consumers

## **I. Area of application:**

For our deliveries and services (in the following: deliveries) shall our General Terms and Conditions of Delivery be applicable. We shall not accept any other terms of business or terms of purchase submitted by the party ordering, even if these do not contradict our own terms and conditions any particulars.

## **II. Offers/Prices/Setoff:**

1. All offers are tendered conditionally.
2. Prices are understood to include delivery ex works; Packaging and freight shall be charged separately. All prices quoted are understood to be net prices; the statutory vat must be added additionally.
3. Only claims which are either undisputed or which have been recognized by declaratory judgement may be set off against our claims.

## **III. Delivery period:**

1. The period of delivery stated shall be considered non-binding unless expressly otherwise stipulated. In the event that the delivery period stated shall have elapsed, the party ordering shall grant us an additional period of time of reasonable length to fulfil our obligations. If the non-observance of the delivery period is due to circumstances beyond our control, then the stipulated delivery period shall be extended by an additional period of reasonable length.
2. We shall not be held liable for damages arising from any delay in delivery unless the delay is caused intentionally or by gross negligence on our part.
3. Part delivery is acceptable as long it is reasonable for the party ordering.
4. Passing of risk and encumbrances take place with transfer of the goods, either with the despatch or transfer to a forwarder or carrier.

## **IV. Terms of payment:**

1. The invoice amount is payable 14 days after date of invoice with 2% discount or 30 days after date of invoice net, as long there is no other special agreement. Repairs and Services are payable straight away net.
2. Any objections do not relieve the party ordering of the punctual adherence to the date of payment. During late or deferred payment, without it requires a reminder, the interest and commission rates usual in banking are becoming due
3. If the financial position of the party ordering becomes unfavourable or if a negative evaluation is made by its financial position (Creditreform, etc.), then we will be entitled to demand immediately payment of the total sum before maturity or to withdraw from the contract under maintenance of a claim of damage. This applies also, if one of the above-mentioned events occurs during the duration of an agreed payment by instalments.

## **V. Liability for defects and violation of contract/warranty:**

1. We shall undertake to guarantee that all our products delivered to consumers are free from defects for a period of 24 months after delivery, the said period not to exceed 4000 machine hours, all that independent from legal warranty claims, for which we assume two years after delivery.
2. We shall not be liable for damages arising consequentially from defects in products supplied by us or from the installation of such products or the violation of collateral duties unless the damages are caused intentionally or by gross negligence.
3. Megasonic Sweeping GmbH and its vicarious agents shall only be liable for negligently caused material and property damages in the event of a breach of a material contractual obligation. This, however, is limited to the foreseeable and contract-typical damages.

4. In case of guarantee the spare parts and labour costs are on site of Megasonic Sweeping GmbH's account, travel expenses and optionally accommodations will be paid from the customer. If the customer is sending equipment during or beyond the guarantee to Megasonic Sweeping GmbH the transport charges for outgoing and return transport are for the customer's account. Consignments to Megasonic Sweeping GmbH are to declare generally carriage free.

## **VI. Retention of title:**

1. We shall be entitled to retain the title of all products supplied by us until all claims against the party ordering shall have been discharged. This shall also hold good in the event that individual products shall already have been paid.
2. The party ordering shall have the right to resell products of which we retain the title in the ordinary course of business; the party ordering shall henceforth assign all claims against its customers arising from the resale of such products to us until all our claims against the party ordering which are secured by the retention of title have been discharged.
3. If such products of which we retain the title shall be processed or installed in such a way that they form an integral part of another product or in the event of the products being installed as a part of or intermingled with other products which are not our property, then we shall acquire co-ownership of the newly created product or products. The extent of our co-ownership shall be sold, then the proportion to the price of our product in relation to the price of the newly created product. In the event that new created shall be sold, then the provisions stipulated in item 2 above shall apply. Through the subsequent partial assignment of the claim by the party ordering, we shall acquire a security interest in the claim against the customer in proportion to the extent of our co-ownership.
4. Herewith we accept the assignment of such claims agreed upon above.
4. During the existence of retention title, a pledging or a transfer by way of security of the products of which we retain the title is not allowed to the party ordering. In addition, the party ordering is obligated to communicate to his customer that the party ordering can provide the property at the reservation commodity for his customer only then if the party ordering fulfilled his liabilities opposite us.
6. With distress, seizures or other funds committed or rather interference of third parties against our reservation property the party ordering has to inform us immediately.
7. As far as the value of the security interest exceeds the value of all our secured claims by more than 20%, then – on request by the party ordering – we shall be entitled to relinquish a certain proportion of our security interest.

## **VII. General Conditions:**

1. For our supplies -/and orders for assembly apply without reservation the managing terms of delivery. In all other respects, the application of the German right is agreed upon. With orders of foreign clients, the application of the managing terms of delivery is agreed upon and in the rest of likewise the application of German right. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply.
2. Place of performance for our obligations shall be our domicile 75334 Straubenhardt, Germany.
3. Exclusive local court for all disputes arising from this contract shall be Pforzheim.
5. If one or more of the items stated in the agreement above should become invalid, the validity of the remaining provisions of this agreement shall not be affected or impaired in any way. An ineffective regulation has to be replaced by a new condition which is corresponding in sense and purpose from economic and legal view.