

# General Terms and Conditions of Sale of Panasonic Industry Europe GmbH

## I. General / Scope

1. Our General Terms and Conditions of Sale set out below apply exclusively – even if in an individual case they are not referenced – for the entire ongoing and future business relationship with us, in particular for all contracts on deliveries and services, unless the applicability of other provisions, in particular conditions of purchase of the contractual partner, have been expressly confirmed by us in writing. We herewith expressly object to references or counter confirmations of the purchaser referring to the purchaser's conditions of purchase. Provisions of the purchaser deviating from our General Terms and Conditions of Sale have no validity, even if we have delivered or performed without reservations.

2. These General Terms and Conditions of Sale exclusively apply vis-à-vis entrepreneurs, legal entities under public law or special funds under public law within the meaning of s. 310 (1) German Civil Code (BGB).

## II. Offers / Conclusion of contract / Deviations / Exclusion of use / Offer documents

1. Our offers are non-binding. The contract only takes effect upon our written order confirmation. If we effect delivery without the purchaser receiving a confirmation, the contract takes effect under the applicability of these General Terms and Conditions of Sale upon acceptance of the delivery. The purchaser is bound by his order for two weeks as of receipt by us.

2. Minor technical and/or optical deviations from the description of the delivery item within the offer shall be deemed approved and do not affect the performance of the contract as far as the deviation is not unreasonable for the purchaser. This applies in particular for insignificant deviations in models, measurements, colours and in case of changes and improvements to adjust to the state of the art in technology and production. For the rest, we do not assume liability for the suitability of the goods for the purposes intended by the purchaser, unless the intended purpose has been included in the contractual content in writing.

3. We reserve the property rights and copyrights to all pictures, calculations, drawings and other documentation provided in the context of an order. This also applies to written documents that are expressly marked "confidential". Their disclosure to third parties is subject to our prior express written approval.

## III. Delivery times and dates / Partial deliveries / Acts of cooperation / Force majeure / Self supply reservation / Delivery prior to payment or excess of credit limit

1. Delivery times are, as far as they are not expressly agreed in writing, non-binding approximate times. Partial deliveries to a reasonable extent are permitted. We shall in any case only be in default if performance is due and the purchaser has set an appropriate grace period (usually at least 14 days) in writing that has expired without success, unless we are not responsible for the delay.

2. If our performance obligations require acts of cooperation by the purchaser, such as in particular information, provision of documents and materials or other performance, the purchaser shall be responsible for carrying out such acts of cooperation, in particular in due time.

3. If the purchaser fails to carry out such acts of cooperation in due time or at all, he shall be responsible for the resulting delay.

If the purchaser fails to carry out such acts of cooperation in due time, the delivery time shall be extended accordingly by duration of the delay.

4. If an unexpected obstacle to delivery occurs that is outside our scope of influence (such as interruption of operations due to water, fire, failure of production plants and machines, failure of self-supply, lack of material, energy, means of transport, etc., for which we are not responsible, irrespective of whether they occur to us or to our previous-suppliers or sub-contractors), we can choose to extend the delivery date reasonably by the period of time and the scope of such obstacle. We reserve the right to withdraw from the contract without compensation if the delay in delivery caused by such events lasts for longer than six weeks, if the re-occurrence of the capability to perform is not foreseeable and we have informed the purchaser thereof without undue delay. In this case, any payments already effected by the purchaser will be reimbursed without undue delay.

5. Subject to a deviating agreement, an agreed delivery time shall be deemed complied with if at that point in time the delivery item has left our company or we have performed the agreed service by that time or we have prepared the delivery items for delivery and have notified the purchaser that the items are ready for dispatch.

6. If we prove to a purchaser in the context of a delivery that despite a careful selection of our suppliers and despite the conclusion of the required contracts at appropriate conditions we were not supplied in due time by our suppliers, the delivery period shall be extended by the duration of the delay that was caused due to fact that we were not supplied by our suppliers in due time. In case of impossibility of supply by the supplier, we are entitled to withdraw from the contract. In this case, we will notify the purchaser about the impossibility without undue delay and reimburse any payments already effected.

7. Before the payment of due invoice amounts including default interest and in case of exceeding the agreed credit limit we are not obliged to effect further delivery from any current contracts. In case we are responsible for non-fulfilment of a delivery date or impossibility of performance, the purchaser is entitled, as far as legally permissible, in case of default, but only after granting an appropriate grace period, to withdraw from the contract. Clause X. applies with regard to claims for damages.

## IV. Shipment / Customs duties and charges / Transfer of risk / Transport insurance

1. We have the right to choose the transport route, means of transportation and carrier. Transport shall be effected within the agreed cost range and at the expense of the purchaser.

2. The purchaser bears all customs duties and charges incurred upon export. We will support the purchaser in obtaining documents to be issued in the country of delivery and required by the purchaser for export.

3. The risk of accidental loss or accidental deterioration of the delivery or performance shall pass over to the purchaser upon handover and/or acceptance. If the item of delivery or performance is sent to the purchaser, the risk of accidental loss or accidental deterioration shall – unless agreed otherwise – pass on the purchaser upon handover of the delivery item to the shipper, carrier or

shipping agent or collector. This also applies if the dispatch is not made from the place of performance and/or if we bear the freight costs and/or we carry out the delivery ourselves.

Handover and/or acceptance is deemed effected if the purchaser is in default of acceptance.

4. The goods will only be insured against transport risks of any kind if expressly agreed in writing and at the purchaser's expense. This and any takeover of transport costs does not affect the passing risk.

## V. Prices / Terms of payment / Default in payment / Retention / Default in acceptance

1. As far as the order confirmation does not provide otherwise, our prices apply "ex works", excluding transport, packaging, insurance and customs duties. Our prices do not include statutory VAT, which will be separately shown in the applicable amount on our invoices. Transport and packaging costs will be invoiced separately.

2. The deduction of a discount for early or punctual payment is only possible upon special written agreement.

As far as no special written agreement was made, the purchase price is due for payment net (without deduction) within 30 days as of the date of the invoice. The statutory provisions with regard to the consequences of default in payment shall apply.

3. In case of default in payment, default interest at a rate of 9% above the respective base rate shall be paid. We reserve the right to prove and assert higher default damage and to demand the statutory lump-sum for payment default (s. 288 (5) sentence 1 BGB).

If the purchaser is in default with the payment of an invoice, all obligations of the purchaser towards us shall fall due immediately, this shall also apply for the balance of any current account kept for the purchaser.

4. The purchaser shall only have a retention right if it is based on the same contractual relationship. The purchaser shall only be entitled to retention and set-off rights if his counter-claims have been determined by a court with legally binding effect or if such claims are undisputed or recognised by us.

If the goods are ready for delivery and the delivery is delayed for reasons within the responsibility of the purchaser, the purchaser is in default of acceptance upon receipt of the notification that the goods are ready for delivery.

5. The purchaser is in default of acceptance with regard to the delivery and performance to be effected by us if we offer the delivery and performance owed by us at the owed delivery time or after this time in writing and the purchaser rejects delivery and performance and/or does not confirm acceptance of delivery and performance, despite an express request to this end, within three days after receipt of the letter regarding the readiness for delivery/performance. For the rest, the statutory provisions on default of acceptance shall apply.

In case of default of acceptance the purchaser shall pay storage costs in the amount of 1 % of the order amount per month. This does not affect the purchaser's right to prove lower storage costs. Reimbursement for additional costs, in particular proposal and transport costs, shall not be affected thereby. We are insofar entitled to assert costs or damage exceeding the lump sum storage costs set out herein.

If we are entitled to damages in lieu of performance due to non-acceptance by the purchaser, we are entitled to demand 30 % of the order amount as damages from the purchaser. This does not affect the purchaser's right to prove a lower damage amount. We are insofar entitled to assert higher costs or damage exceeding the lump sum set out herein.

## VI. Retention of title

The goods delivered by us shall remain in our ownership until the complete fulfilment of all present and future obligations of the purchaser towards us from our business relationship (**Reserved Goods**). This shall also apply if payments were made to specially designated receivables by the purchaser.

In case of default in payment, a violation of the purchaser's duties under this clause VI or any other way of putting at risk our receivables secured in accordance with the above paragraph on the purchaser's sphere of risk, which also includes material deterioration of the purchaser's financial situation, (**Event of Default**) the purchaser is obliged to return the Reserved Goods to us upon first request.

The purchaser is obliged to treat the Reserved Goods with care; he is in particular obliged to sufficiently insure the goods at original value against fire, water damage and theft at his own expense. The purchaser shall prove to us that he has taken out appropriate insurance upon request. Should maintenance or inspection works be required, the purchaser shall carry out such works in due time at his own expense.

The purchaser is obliged to store the Reserved Goods separately so that they can be identified and claimed, for instance, in a case of insolvency of the purchaser. The goods are to be stored and made recognisable in a way that they can be identified towards third parties, in particular towards an insolvency administrator, without problems.

The purchaser shall inform us without undue delay of a change of location or the possession of the Reserved Goods. The Reserved Goods may only be brought abroad with our express written consent.

Until the occurrence of an Event of Default, the purchaser is entitled to re-sell or use the Reserved Goods in the context of proper conduct of business.

Any processing or treatment or alteration of the Reserved Goods through the purchaser will always be effected for us – without any obligation on our part. We are the manufacturer within the meaning of s. 950 BGB and acquire title to the interim and end products in the relation of the invoice value of our Reserved Goods (total amount including statutory VAT) to the invoice values of other goods at

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the point in time of processing; the purchaser shall take into custody the so created property in trust for us free of charge.

Should a direct acquisition of ownership in accordance with the above provision not be possible, the purchaser herewith transfers the co-ownership in the interim and end products in relation of the invoice value of our Reserved Goods (total amount including statutory VAT) to the invoice values of other goods at the point in time of processing.

The above provisions for processing apply accordingly to combining or mixing within the meaning of s. 947, 948 BGB of Reserved Goods with other goods.

The purchaser herewith assigns to us the claims towards third parties arising in connection with the re-sale or use of the Reserved Goods for the purpose of securing all our claims. If the purchaser sells goods to which we only have co-ownership, the purchaser assigns to us the claims towards third parties in the amount of the respective share. If the purchaser uses Reserved Goods in the context of a works contract (or similar), the purchaser assigns to us the (works compensation) claim in the amount of the invoice value of our goods used in this context.

The purchaser remains authorised to recover the assigned claims even after the assignment. Our authorisation to collect claims ourselves shall remain unaffected. We do, however, undertake to not collect claims as long as there is no Event of Default. Should this, however, be the case, we may request that the purchaser discloses the assigned claims and the respective debtors, provides all information necessary for collection, hands over the respective documents and immediately informs the debtors (third parties) about the assignment.

In case of attachments or other interference by third parties with regard to the Reserved Goods or other goods owned by us, the purchaser shall immediately inform us in writing so that we can file an action in accordance with s. 771 Code of Civil Procedure (ZPO) or take other necessary steps to defend our rights. As far as the third party is not able to reimburse the legal or out-of-court costs owed in relation to a legal action in accordance with s. 771 ZPO or other necessary steps, the purchaser shall be liable towards us for these costs. The purchaser shall support us in asserting our rights, in particular take all remedies on his part in order to protect our rights.

We undertake to release the securities we are entitled to upon the purchaser's request to the extent the realisable value of our securities exceeds the claims to be secured by more than 20%; the choice of the securities to be released is ours.

## VII. Redemption of goods

The goods delivered by us will only be taken back upon prior written approval. The goods have to be in flawless condition and have to reach us free of all transport and transport insurance costs. Returned goods will be credited less 10% for processing and stock turnover costs. Should the goods no longer be in their original packaging when returned or should they no longer be part of our current delivery programme or be damaged, we are entitled to make further deductions from the amounts to be credited. For the avoidance of doubt: Any rights for defects of the purchaser shall not be affected by this clause 7.

## VIII. Liability for defects

1. We assume liability for proven material defects and defects of title (in the following together "defects") existing at the point in time of the passing of risk. Liability for defects towards the purchaser will be met by subsequent performance in a way that we get to choose whether to repair the defective item, deliver a new item free of defects or grant the rights of the owed type. Reasonable minor deviations in models, measurements, colours as well as changes to adjust to the state of the art in technology and production shall be expressly reserved. In case subsequent performance is not successful, the purchaser is entitled in accordance with the statutory provisions to reduce the purchase price or withdraw from the contract. Subsequent performance shall be deemed unsuccessful if it was attempted without success several times and the purchaser cannot be reasonably expected to accept a further attempt.

2. Claims for defects shall become time-barred within 12 months as of the beginning of the statutory limitation period. This does not apply as far as the law in accordance with s. 438 (1) no. 2, 479 (1), 634a (1) no. 2 BGB provides for longer periods of time. Subsequent performance does not lead to an extension of the limitation period.

3. The purchaser's warranty rights are subject to the purchaser duly fulfilling his obligation of inspection and giving notice of defects in accordance with s. 377 Commercial Code (HGB). Claims of the purchaser for defect liability are excluded if the purchaser does not assert them in writing, as far as they are obvious defects, without undue delay, i.e. within a period of 14 days after handover. Hidden defects shall be asserted in writing without undue delay after they are discovered.

4. Defects resulting from unsuitable or improper use or handling of the delivery item, incorrect installation or initial operation by the purchaser or a third party and from normal wear and tear do not give rise to liability for defects. Liability for the consequences resulting from any changes and repairs effected by the purchaser or a third party is excluded.

5. We do not give any guarantees in the legal sense to the purchaser. This does not affect manufacturer's guarantees.

6. Before effecting subsequent performance, we shall be given the opportunity to inspect the goods alleged to be defective. If the goods have to be transported for the purpose of subsequent performance, we will carry out transport ourselves or through an agent unless otherwise agreed with the purchaser. A reimbursement of transport costs of the purchaser for transports that were not agreed is excluded as far as the costs exceed the amount that we would demonstrably have paid had we collected the goods ourselves.

7. Claims for damages due to defect rights, which are not time-barred, are solely governed by clause XI. Any further liability is excluded.

## IX. Third party rights

1. We warrant that the delivered goods and services or the transferred rights do not infringe any industrial property rights or copyrights of third parties in the Federal Republic of Germany. Each contracting party will notify the other contracting party in writing immediately in case claims are made against them on the grounds of infringement of such rights.

2. In case of infringements of rights we are responsible for, we are liable towards the purchaser within a limitation period of twelve (12) months from the statutory start of the limitation period as follows: At our choice and our expenses we will either acquire a right of use for the respective services, goods or rights within reasonable time or change it in a way that the property right is not infringed, but the respective product, service or right remains of the same value. In case this should not be possible for us at reasonable terms, the purchaser - following from defect rights, which are not time-barred - shall have the statutory rights of reduction, withdrawal or termination as well as claims for damages according to clause XI.

3. Our obligations as specified in clause IX. 2. are subject to the purchaser immediately notifying us in writing about the claims made by third parties, does not recognize a violation and all defence measurements and negotiations for settlement remain reserved to us.

4. Claims of the purchaser are excluded in case the purchaser is responsible for the infringement of property rights. Further, claims of the purchaser are excluded in case the infringement of property rights is caused by specific instructions of the purchaser, a use not foreseeable for us or by the respective product, service or right is changed by the purchaser or is used along with goods, services or rights not delivered, rendered or transferred by us.

## X. Supplier's recourse

If the purchaser, however, proves that the goods were sold to the last customer by way of a purchase of consumer goods within the meaning of s. 474 BGB and the purchaser was held liable for a defect in accordance with the provisions on the purchase of consumer goods, the recourse shall be governed by the statutory provisions instead of the provisions of clause VIII. Recourse claims for expenses that would not have been necessary in case of reasonable and timely involvement and complete use of the services offered by us and our network of authorised repair shops by the purchaser, are excluded.

## XI. Other liability

1. Subject to deviating provisions in these General Terms and Conditions of Sale we, our legal representatives and vicarious agents are not liable for damages, irrespective of the legal reason.

2. This does not apply (a) in case of intentional or grossly negligent acts, (b) to damage from injury to life, body or health, (c) to claims from a contractually agreed guarantee or a legally mandatory liability (e.g. according to the law on product liability (Produkthaftungsgesetz)) and (d) for damage from the violation of a cardinal duty (i.e. a material contractual duty, which has to be fulfilled in order to enable the execution of the contract in the first place, the violation of which would put at risk the achievement of the purpose of the contract and on the compliance with which the contractual partner does and may in general rely). In this regard the statutory periods of limitation shall apply.

3. In the case of liability for damage arising from the violation of a cardinal duty in accordance with clause XI. 2. (d) our liability is limited to the compensation of the foreseeable, typically occurring damage.

## XII. Disposal of packaging / Redemption of old devices

Disposal of packaging shall, at our choice, in general be effected through a comprehensive system within the meaning of the Packaging Ordinance (VerpVO) or through a third party instructed by us. Packaging that we have to take back in accordance with the statutory provisions shall be delivered to our warehouse carriage paid. Taking back old devices requires a respective agreement, unless the law mandatorily prescribes otherwise.

## XIII. Anti-corruption clause

1. The purchaser is aware of the importance of anti-corruption measures. The purchaser will comply with the relevant German, European and other provisions and use his best effort to ensure that his employees and representatives do so as well. Corruption within the meaning of this provision comprises active and passive bribery and accepting and granting undue advantages in the area of the public and private economic sector.

2. The purchaser will comply with the provisions on the avoidance of crimes of fraud and breach of trust as well as crimes against competition and ensure that they are also complied with by his employees and representatives.

3. The purchaser will keep orderly and complete books about all business transactions.

4. In case of a breach of the above obligations we are, notwithstanding any further claims, entitled in accordance with the statutory provisions to immediately end any business relationship with the purchaser and withdraw from delivery contracts that were already concluded. Furthermore, the purchaser shall reimburse to us any damage resulting from such breach, including reasonable legal costs. The claim for damages does not exist if the purchaser proves that he was not at fault.

## XIV. Reserve of fulfillment / Approvals / End-use-statement / export control

1. Under no circumstances are we obliged to fulfil contractual duties which would make us violate legal provisions applicable to us both domestically and abroad, in particular but not limited to Japan. All purchases and sales made in the context of the business relationship with the purchaser are subject to obtaining the permits required in accordance with the applicable statutory provisions (such as export permits). Upon our request, the purchaser will provide us with all information and documents, including an end-use statement, in the required form, that we need in order to obtain such required permits.

2. The purchaser shall use all deliveries and services solely in accordance with the details stated in the end-use statement and fulfil all conditions set out in the permit.

3. The purchaser guarantees that he does not sell, lease or otherwise dispose of "goods" to customers, who to the purchaser's knowledge use such "goods" for "military purposes". For the purpose of this clause, "goods" are all deliveries and services (including any documentation) to be provided by us in accordance with the contracts concluded with the purchaser and the term "military purposes" includes the construction, development, manufacturing or use of weapons, including but not limited to nuclear weapons, biological weapons, chemical weapons and missiles.

4. The purchaser further guarantees that he neither directly nor indirectly delivers "goods" to countries for which the export of the "goods" is prohibited by export limitations based on resolutions of the United Nations Security Council that are applicable to the purchaser.

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5. For each breach of his obligations under the above clauses 2 to 4, the purchaser is liable to us for any direct and indirect damage that results from such breach unless the purchaser is not responsible for the breach. Any such breach entitles us to withdraw from the contract and terminate the business relationship with immediate effect.

The purchaser's liability for damages also includes compensation for lost profit, indirect damage and incidental and consequential costs. The purchaser indemnifies us from any liability and from any claims, debts and costs (including costs for experts and reasonable lawyers' fees), liability for damages and fines that result from a breach of the obligations set out in this clause 5, unless the purchaser is not responsible for the breach.

### **XV. Place of jurisdiction and choice of law / Place of performance / INCOTERMS® 2010 / Partial invalidity**

1. Munich shall be agreed as exclusive place of performance and venue and place of jurisdiction for contracts with businesses to which these General Terms and Conditions of Sale apply, whereas we are also entitled to bring legal action at the place of registered office or any branch office of the purchaser. Otherwise, the statutory venue and place of jurisdiction shall apply.

2. The contracts concluded with us are subject to the laws of the Federal Republic of Germany excluding the conflict of laws provisions and UN sales law (the UN Convention of Contracts for the International Sale of Goods (CISG) dated 11 April 1980) as amended.

3. This contract and the legal relationships between the parties are subject to the INCOTERMS® 2010. In the case of discrepancies between the provisions of these General Terms and Conditions of Sale and the INCOTERMS® 2010, the provisions of these General Terms and Conditions of Sale shall prevail.

4. If any provision of these General Terms and Conditions of Sale is or becomes legally invalid in whole or in part, the validity of the remaining provisions shall remain unaffected.

5. We are entitled to amend our General Terms and Conditions of Sale from time to time with effect for contracts to be concluded in the future.

(Current state: August 2017)