General Terms and Conditions of SLM Solutions Group AG

I. Conclusion of Contract
(a) The offer, the acceptance of offer, order confirmation, the supplies, and services provided by SLM and the customer shall be provided solely subject to these General Terms and Conditions. By entering into the first contract subject to these General Terms and Conditions the customer acknowledges that they apply to the entire term of the business relationship between the parties. Any conditions or contract modifying provisions of the customer are excluded. They shall only be effective to the extent that SLM has expressly and specifically agreed in writing with SLM. Such consent shall only apply to the individual case, not to previous or future deliveries and services. SLM’s General Terms and Conditions shall also apply if SLM supplies customer without reservation knowing that the customer has contrary terms and conditions or such which diverge from SLM’s General Terms and Conditions also apply to all future transactions with the customer.
(b) Amendments or modifications to the agreements are not valid unless SLM confirmed them in writing. This also applies with regard to the written form requirement itself.
(c) SLM’s offers and quotations are non-binding and without obligation. Acceptance declarations and all orders require written confirmation from SLM to be valid.
(d) Drawings, illustrations, measurements, weights and other performance data are only binding if this is explicitly agreed in writing.
(e) All sales documents, specifications, prices and damages are to be treated as strictly confidential and shall not be made available to third parties.
(f) These terms and conditions apply only if the customer is an entrepreneur (§ 14 BGB, German Civil Code), a legal entity under public law or a special fund under public law and are not intended for consumers.
(g) A contract between the customer and SLM is concluded only if, SLM accepts customer’s order after completion of the ordering process by a separate declaration of acceptance by e-mail to customer (order confirmation). Upon acceptance of customer’s order, a contract between customer and SLM is concluded based on the Terms and Conditions for the selected products and services not agreed by the customer and SLM in writing.
(h) In the manufacturing of SLM’s products, SLM proceeds according to the “Build to Order” principle and reserves the contractually agreed timespace and resources in production for the customer upon completion of the respective orders and the customer is liable to the extent that due delivery is reasonable. In particular, SLM shall be entitled to claim liquidated damages in the amount of 15% of the respective order value. SLM is entitled to claim higher damages subject to substantiated proof of such while customer shall be entitled to submit substantiated evidence of lower damages

II. Delivery Deadlines
(a) The dates and deadlines given by SLM are non-binding, unless otherwise expressly agreed in writing with SLM. SLM is only liable to the extent that delivery is reasonably possible. If SLM is not prepared to deliver on the dates agreed, SLM shall promptly inform the customer. If the customer is not going to deliver the goods at the agreed date, the customer may terminate the contract. If the customer is in default of acceptance on the due date, SLM may store the goods at the cost and risk of the customer. In these cases, SLM is entitled to store the goods at the customer’s expense.
(b) If SLM does not deliver on time, the customer must set SLM a reasonable grace period of three months after its full performance, SLM may terminate the contract. If the customer is in default of acceptance on the due date, SLM must still pay the purchase price. In these cases, SLM is entitled to store the goods at the customer’s expense. At the request of the customer, SLM will insure the goods for the duration of storage at the customer’s expense.

III. Passing of Risk
(a) Unless otherwise agreed by customer and SLM in writing, delivery free carrier (named place of delivery) is agreed (FCA – Incoterms®2020). The risk of damaging or losing the goods passes to the customer as a matter of principle as soon as the goods were handed over to the first carrier (see also II. (c)). The customer is further responsible for the entire custom clearance.
(b) Transport or other packaging may not be returned.
(c) SLM shall only procure transport insurance if specific instruction is issued and to the account of the customer.
(d) If the customer is in default with acceptance, if it fails to cooperate as required or if SLM’s performance is delayed for other reasons for which the customer is responsible, SLM may charge for any ensuing damage, including additional expenditure which SLM incurs such as storage costs.

IV. Payment
(a) The purchase price shall be due for payment within ten days after receipt of the invoice. The date of payment shall be the day on which the payment is credited to SLM’s account.
(b) The customer automatically is in default with payment as soon as the respective deadline for payment pursuant to (a) expires. During default, interest shall accrue on the purchase price at the applicable statutory default interest rate. SLM is further entitled to the statutory default amount pursuant to § 288 (5) sentence 1 BGB (German Civil Code). SLM reserves the right to assert claims for any further default interest due. If the customer does not accept these terms, it has no effect on SLM’s statutory entitlement to interest (§§ 352, 353 HGB, German Commercial Code).
(c) Payments shall only be made by bank transfer; payment by bill of exchange or cheque shall not be recognized as fulfilment of the payment obligation.
(d) It may be agreed by the customer and SLM that the customer opens a documentary letter of credit through his bank (or any other bank acceptable to SLM). In this individual case it is stipulated that the letter of credit will be opened in accordance with the General Guidelines and Customs for Documentary Credits, Revision 2007, ICC Publication No. 600.
(e) Customer shall only be set to off and assert a right of retention, if (i) his counterclaim used for this purpose is either undisputed or has been legally established, or (ii) in the case of procedural assertion is ready for decision at the time of the last oral hearing, or (iii) in is in a reciprocal relationship (Synallagmatik) with the main claim.
(f) SLM reserves the right, at its timely notification of the customer and before delivery of the goods, to increase the price of the goods in such a way as is reasonable due to external factors (e.g. increases beyond SLM’s control (such as exchange rate fluctuations, currency regulations, changes in customs rates, significant increases in material or manufacturing costs) or due to changes in suppliers, and it assumes a price increase (external costs (such as customs duties) are reduced or eliminated altogether.
(g) Unless otherwise agreed in writing between customer and SLM, all prices quoted by SLM are based on “FCA Incoterms®2020”. If SLM is prepared to deliver the goods to other locations, the customer shall bear the costs of transport, packaging and insurance.
(h) Except as provided for in this General Terms and Conditions all levies, duties, taxes, duties and other charges shall be borne by the customer.

V. Warranty
(a) The customer’s rights in the case of material or legal defects (including incorrect delivery and insufficient quantities, faulty assembly or instructions) are subject to statutory requirements unless otherwise stated or qualified in these General Terms and Conditions.
(b) Claims of the customer due to defects become time-barred one (1) year after delivery/acceptance of the product or work performed by SLM to the customer. In the case of used products, the warranty against entrepreneurs is excluded. The customer’s warranty claims become time-barred (i) for damages resulting from a grossly negligent or intentional breach of obligations on SLM part, on the part of SLM’s legal representatives or vicarious agents, (ii) for fraudulently concealed defects, (iii) for claims under the Product Liability Act or other mandatory statutory liability provisions, (iv) if and to the extent that SLM has assumed a guarantee and (v) in the event of culpable injury to life, limb or health.
(c) The basis of SLM’s liability for defects is above all the agreement reached on the quality of the goods. All products delivered by SLM are intended for normal use and have a quality which is usual for items of the same type and which the customer could reasonably expect.
(d) Other than in the cases provided for in VI. (b), (c) and (d) of these General Terms and Conditions SLM has no duty to provide warranty for defects where SLM has agreed to supply used or refurbished products. Nor is SLM liable under warranty for defects if the customer has made changes or repairs himself or if he has made changes or repairs himself by the customer or a third party commissioned by the customer without SLM’s written consent, natural wear and tear, incorrect or negligent use, misapplication, external influence (e.g. unauthorized modifications) and/or failure to meet the warranty.
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VI. Liability

(a) Unless otherwise set out in these General Terms and Conditions, SLM shall be liable for a breach of contractual and non-contractual duties as provided for by statute.

(b) SLM shall only be liable for damages resulting from an intentional or grossly negligent breach of duty by SLM or by one of SLM’s legal representatives or vicarious agents. 

(c) In the event of a negligent breach of duty on SLM’s part or by one of SLM’s legal representatives or vicarious agents SLM shall be liable only if:

(i) the damage is attributable to a defect in the goods if responsibility for the breach of duty lies with SLM; in all other respects statutory provisions apply.

(d) Where SLM’s liability is excluded or limited under the above provisions, this shall be deemed acceptance, irrespective of whether SLM still has to provide deliveries or other services, in particular assembly works. If SLM’s contractual provisions also include the voluntary assumption of the delivery item, an acceptance protocol will be produced after its completion, which must be signed by the customer and SLM. In this report the defects are to be recorded which are known to the customer at this time or which are obvious. If these defects are not recorded, SLM’s performance shall be deemed to have been accepted without defects.

(e) The customer has the right to use and/or process/alter the reserved goods as security. If the reserved goods are attached or otherwise seized by third parties, the customer must make SLM’s position as owners clear and notify SLM in writing without undue delay so that SLM can assert SLM’s title rights. SLM in writing without undue delay so that SLM can assert SLM’s title rights.

(f) The customer shall be obliged to informing SLM immediately and to inform SLM in writing without undue delay of any court or out-of-court costs which SLM incurs in this connection, the customer will be liable to SLM for such costs.

(g) The customer has the right to use and/or process/alter the reserved goods in the proper course of business until the realization, but he must hold any remuneration (including any insurance payments) for SLM and keep the funds separate from his own assets and those of third parties. A combination, mix and/or sale of the reserved goods shall be subject to prior written approval of SLM. If the reserved goods are processed or altered such processing will always be carried out for SLM as manufacturers in SLM’s name and for SLM’s account and SLM will acquire directly title or co-ownership in the transformed or altered products. If the customer alters making materials of values belonging to two or more owners or if the value of the newly created item is higher than the value of the reserved goods – provided SLM co-owns the product, in all other cases, SLM will be entitled to claims and counterclaims to the value of the reserved goods (gross invoice value) to the value of the newly created item. The customer hereunder转让 the reserved goods or co-ownership (in the ratio set out above) in the newly created item as security to cover the eventual that SLM does not for some reason acquire ownership or co-ownership; SLM hereby terminates the prerequisite of the reservation of title.

(h) In the event of seizure or other interventions by third parties, the customer must inform SLM immediately so that SLM can take appropriate action in accordance with § 771 ZPO. If the customer does not comply with this requirement, customer shall be liable for the damage incurred.

(i) The customer shall indemnify SLM for all losses arising from an infringement of patent or other industrial property rights by third parties.

(j) If SLM takes back the reserved goods this shall also constitute declaration of withdrawal from the contract.

IX. Compliance, anti-corruption regulations

(a) The Customer warrants that it acts in accordance with applicable statutory provisions, in particular antitrust law as well as regulations on combating corruption and money laundering and other criminal law provisions. If there is a justified concern that the Customer has been or is at the time the contract was concluded in the above obligations, SLM shall be entitled to withdraw from the contract if SLM cannot reasonably be expected to be protected against the effects on mandatory law under the German Product Liability Code).

(b) If the Customer is subject to the above provisions, this applies to the personal liability of SLM’s directors and officers, legal representatives, employees, staff and other vicarious agents.

(c) The Customer must indemnify SLM from all claims asserted against SLM due to the non-compliance with such regulations by the Customer.

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X. **Severability Clause, Applicable Law**

(a) Should individual contractual terms become invalid in whole or in part, the rest of the contract shall remain valid; this also applies in the event that there is a lacuna. The provision which is invalid in whole or in part or the lacuna to be filled shall be remedied by an appropriate provision which in its meaning and purpose, as far as is legally possible, reflects what the contractual parties would have wanted had they considered this point at the time.

(b) This agreement shall be subject to the laws of the Federal Republic of Germany. The uniform international on the sale of goods (CISG) shall not apply.

(c) The place of performance for all claims from the contract concluded between us and the customer shall be Lübeck.

(d) The place of jurisdiction shall be Lübeck. This place of jurisdiction is the sole competent place of jurisdiction for claims of the customer against SLM. SLM may bring action against the customer at the respective location of the appliance.

Date: May 2021