

**General Terms of Sale**

of SANTEC BW AG,  
Wormgermühle, 58540 Meinerzhagen

**§ 1**

**General Provisions, Scope of Application**

(1) The present General Terms of Sale (GTS) shall apply to the entire business relations with our customers (hereinafter: "Buyers"). These GTS shall only apply if the Buyer is a merchant, a public law entity or a public law fund.

(2) These GTS shall particularly apply for sales contracts regarding the delivery of movables (hereinafter: „item“), regardless if the item is manufactured on the basis of our own templates or templates of the Buyer (§§ 433, 651 BGB – German Civil Code).

(3) Our GTS shall apply only. Any diverging, opposing or supplementary purchase conditions of the Buyer shall not apply. Our GTS shall also apply if we effect delivery to the Buyer without reservation and in knowledge of any opposing or diverging purchase conditions.

(4) Individual agreements with the Buyer shall override these GTS.

(5) Legally relevant representations the buyer may issue to us after contract conclusion (deadlines, defect notices, rescission notices, reduction notices) shall be in writing or by e-mail to be legally valid.

(6) Place of performance for the mutual contractual obligations is Ahrensburg, Germany.

(7) Offsets rights and rights of retention may only be asserted by the Buyer, if his respective counterclaims are either ascertained by final judgement, undisputed or acknowledged by us.

(8) Should individual provisions of the contracts concluded by the parties are invalid or unenforceable, the remaining provisions shall not be affected thereby. In place of the provision invalid or unenforceable, statutory regulations shall apply. In case of regulatory gaps the principles of supplementary legal interpretation shall apply.

(9) References to statutory provisions made herein are for clarification purposes only. Even without express clarification the statutory provisions shall apply, unless expressly altered or expressly excluded by these GTS.

**§ 2**

**Conclusion of Contracts**

(1) Unless otherwise expressly agreed, our offers are without engagement.

(2) The Buyer's orders are deemed as legally binding offers. We are entitled to accept any offers within 3 weeks upon its reception.

(3) Contract offers are to be accepted by us by written communication (order confirmation e. g.) or by delivery of the ordered items to the Buyer.

(4) Images, drawings, indications of colour, weight and measurement are approximation only, unless expressly indicated as binding.

(5) We do not provide any warranty or representation that the delivered items are compatible with the hardware or software installed at the Buyer or compatible to the hardware or software available on the market. Recommendation regarding usability, compatibility and regarding other performance features shall only be binding if set out in our brochures or if confirmed by us to the Buyer in writing.

**§ 3**

**Time of Delivery**

(1) Days of delivery or periods of delivery shall only be binding if confirmed by us in writing.

(2) Unless otherwise agreed, delivery periods commence with the day on which the order confirmation is dispatched by us.

(3) As far as we are not capable to comply with binding delivery periods for reasons we are not responsible for (non-availability of performance) we shall notify the Buyer respectively without undue delay and simultaneously notify the expected follow-up delivery period. In case the delivery is also not available within the follow-up period, we are entitled to rescind the contract partially or completely. Any payment already effected by the Buyer shall be refunded without undue delay. Delayed self-delivery by our suppliers is deemed as such case of non-availability of performance provided a congruent covering deal has been closed by us, neither we nor our supplier is responsible for the delay and no procurement obligation has been incurred by us insofar.

(4) Default in delivery is subject to statutory provision. Divergent to statutory provisions, our liability in case of ordinary negligence is

limited to a lump-sum compensation. This lump-sum is per calendar week 0,5 % of the order value affected by default, however, not more than 5 % of the order value affected by default.

(5) The rights of the Buyer pursuant to § 11 of these GTS are not affected hereby.

#### § 4

##### **Delivery, Transfer of Risk, Acceptance, Default in Acceptance**

(1) Unless otherwise agreed upon, delivery is Ex Works.

(2) In any case, however, the risk of accidental loss and accidental deterioration of the items shall pass to the Buyer upon the surrender, in case of the purchase to destination, upon the delivery of the items to the forwarding agent, the carrier, or any other person or institution charged with the execution of the shipment. As far as an acceptance is agreed upon, the risk transfer comes with the acceptance. Default of acceptance by the Buyer shall be equivalent to delivery or acceptance.

(3) We will arrange for transport insurance if requested by the Buyer. The expenses

incurred insofar are to be borne by the Buyer.

(4) Transport packaging and sales packaging are taken back by us pursuant to the provisions of the German Packaging Ordinance at our premises within regular business hours. The Buyer shall bear the expenses of transport and disposal. The packaging is to return free from foreign materials and well sorted according to the type of packaging.

(5) If the Buyer is in delay of acceptance, fails to perform a mandatory act of cooperation or is the delivery delayed for other reasons the Buyer is responsible for, we are entitled to claim for the damages including extra expenses (storage costs etc.).

(6) We have the right to effect partial deliveries within reasonable scope.

#### § 5

##### **Cancellations and Modifications effected by the Buyer**

(1) If the Buyer places order cancellations or order modifications of custom-made items or if the Buyer places special orders, the Buyer shall compensate us for the

expenses and loss of profit incurred thereby. We reserve the right to claim for further damages.

(2) Modification requests of the Buyer prolong time of delivery until we have finalised the feasibility check by a period appropriate to implement these modification requests. The prices shall be adjusted in accordance with the requested modification.

#### § 6

##### **Force Majeure**

Disruptions caused by force majeure prolong delivery periods as long as the disruption continues. Force majeure is deemed as an event which is according to the usual course of life not foreseeable and/or not avoidable. This also applies if the disruption occurs at our suppliers or during default. Is the disruption not only temporarily, both parties are entitled to rescind the contract. In case of force majeure damage claims cannot be asserted.

#### § 7

##### **Prices, Invoices, Payment**

(1) Unless otherwise agreed, relevant prices are those indicated in our respective price

list. Prices are deemed Ex Works plus the respective VAT rate. Packaging, transportation charges, insurance as well as possible customs duties or other public levies are borne by the buyer.

(2) We are entitled to demand appropriate down-payment on the purchase price.

(3) Does a delivery period exceeds two months we are entitled to increase or decrease the prices agreed, if and insofar significant changes in labour costs, material costs, commodity costs occur after contract conclusion and if we are not responsible for the increase. Is the price intended to be increased by more than 5 %, the Buyer is entitled to rescind the contract within two weeks beginning with the reception of the increase notice.

(4) Invoices shall be paid within 30 days upon invoice date without deduction free of charge to the payment point indicated by us. Should payment be carried out within 10 days upon invoice date we grant an early payment discount of 2 % unless other receivables are due against the Buyer at that time. Payment is deemed to be effected only if the respective amount has been credited on our bank account.

(5) Bills of exchange and checks are only accepted as conditional payment and are credited subject to the receipt of payment. Discount charges and collection charges shall be borne by the Buyer. These charges are instantly payable. The acceptance of our own or third-party bills of exchange does not constitute a right to demand a cash account.

(6) Payment shall be effected only to the bank accounts indicated in our invoices. Our staff is not entitled to receive payment unless been given a written collection authority in advance.

(7) Does it become apparent that our payment claim is jeopardised by the Buyer's incapability to pay (payment arrears e. g.), we are entitled to demand sureties or stage-by-stage settlement for all pending orders. Furthermore, we are entitled to refuse our performance until surety or consideration has been fully effected.

(8) We are entitled to charge an interest on payment arrears of 8 percentage points above the relevant base interest rate, however, not less than 10 % p. a.

## § 8

### Repossession of Defect-Free Items

(1) The repossession of defect-free items is only voluntary and may be effected not more than 20 days after delivery. The repossession is subject to prior confirmation. For repossession we shall charge a lump-sum expense allowance of minimum 49,00 EUR.

(2) In case an item returned by the Buyer turns out to defective, we are entitled – in spite of our original confirmation to repossess – either to refuse repossession or to charge the Buyer with the repair expenses. Missing accessories (cables, user manuals etc.) shall also be charged.

(3) Any deduction of the amounts accruing pursuant to § 8/Subsection 1, 2 shall be made with the credit note.

## § 9

### Retention of Title

(1) Sold items shall remain in our ownership until all our current and future receivables arising out of the present sales contract and the entire business relationship between us and the Buyer (secured receivables) are fully paid.

(2) As long as the items are under retention of title (hereinafter: „reserved items“) the Buyer is obliged to handle the items carefully and to maintain the items at his expenses. In particular, the Buyer is obliged to insure the reserved items at his own expense against loss and damage at sufficient reinstatement value. The Buyer shall produce the insurance documents and shall provide evidence on premiums paid if requested by us. The Buyer hereby cedes to us all claims arising out of the insurance contract on his behalf. We herewith accept this assignment.

(3) Processing of the reserved items is deemed to be carried out on our behalf, however, without obligating us. We hereby acquire co-ownership of the new item if a reserved item is mixed or connected with another one. Our co-ownership-share amounts to the invoice values of the items involved insofar.

(4) The Buyer is entitled to sell or to process the reserved items in the ordinary course of trade. Insofar, the following provisions shall apply:

(a) The reservation of title comprises the products which are made by processing, mixing or combining with our items at their

full value, whereby we are deemed as the manufacturer. In case of processing, mixing or combining our items with products of a third party, we shall acquire co-ownership for those goods. The co-ownership is in proportion to the invoice values of the goods involved. Incidentally, the provisions herein regarding retention of title shall also apply to the goods made of/comprising our items.

(b) The Buyer hereby cedes all receivables he obtains against third parties for the resale of the items to the amount of our approximate co-ownership-share as surety. We hereby accept the assignment. The Buyer's obligations as set out in § 9/Section 2 of these GTS shall also apply to the ceded receivables.

(c) We and the Buyer are authorized to collect these receivables. We shall be obligated not to collect these receivables as far as the Buyer meets his payment obligations to us, the Buyer is not in payment default, no insolvency proceedings are applied for against the Buyer and no other deficiency in the Buyer's financial capacity occurs. If otherwise, we are entitled to demand that the Buyer informs us which receivables are comprised by the assignment and who the respective debtors are. Furthermore, the Buyer shall provide us with all information necessary for the

collection, shall hand over the relevant documents to us and shall inform the debtors (third parties) of the assignment.

(5) The Buyer shall give us full information about the whereabouts of the reserved items and the revenue generated thereby and its payment. All business documentation (including the invoices) relating to the reserved items shall be disclosed to us or to our designated agents. The Buyer shall provide us insofar with copies on our request. If the receivables are at risk, the Buyer shall inform the third-party debtor about our ownership and the assignment and shall notify the third-party debtor to immediately effect payment to us.

(6) The reserved items may neither be pledged to third parties, nor assigned as collateral before the secured receivables are fully paid. The Buyer shall notify us immediately if any third-party seeks access to the reserved items.

(7) We are entitled to rescind the contract pursuant to the statutory requirements and to claim the reserved items to be shipped back to us in case the Buyer breaches his contractual obligations, in particular in case of non-payment of due receivables. If the Buyer is in arrear we may assert these rights only if we have fruitlessly set the

Buyer an appropriate time limit for payment or if such time limit is deemed dispensable pursuant to statutory provisions. If we rescind the contract, we are entitled to dispose of the reserved goods at our discretion.

(8) We shall release the securities due to us at the request of the Buyer insofar as the value of the securities exceeds the secured accounts receivable by more than 10 %.

#### **§ 10 Warranty**

(1) The Buyer's rights in case of quality defects and defects of title are subject to the statutory provisions for sales contracts as set out in §§ 437 et. seq. BGB as far as not provided otherwise hereinafter.

(2) The primary basis of our warranty shall be the agreement made concerning the quality of the items (§ 434 section 1 sentence 1 BGB). As quality agreement is in particular deemed the respective product descriptions that were made available to the Buyer before he has placed the order.

(3) The rights set out in §§ 437 et. seq. BGB shall only apply as far as the Buyer has complied with the inspection and reporting

obligations as set out in §§ 377, 381 HGB (German Commercial Code). Insofar the following shall apply:

(a) A defect shall be reported to us in writing without undue delay if that defect becomes visible during the initial inspection or afterwards. Evident defects (including wrong delivery or short delivery) shall also be reported to us in writing without undue delay.

(b) A report is deemed to be effected without undue delay if the report has been issued within two weeks upon receipt of the item whereas the receipt of the report by us is relevant for this two-weeks period.

(c) A due defect report requires indication of date and number of the relevant delivery note and, if already available, date and number of the relevant invoice.

(d) Our warranty is excluded as far as the Buyer refrains from due defect inspection and/or due defect notification. The items affected insofar are returned to the Buyer at his expenses.

(e) For the purpose of prompt and efficient execution, the return shipment of defective items should be effected by using the return form (which can be requested at our

Support Department) and the indication of a return number (RMA) which is to be obtained at our Support Department as well. The return forms can also be printed out from our website ([www.santec-video.com](http://www.santec-video.com)).

(4) In case of a defect we are in the first place entitled to subsequent performance which is at our discretion either repair or replacement. We are entitled to refuse our obligations until the purchase price is paid if due. The Buyer, however, is entitled to retain a part of the purchase price that in value appropriately corresponds to the defect. The Buyer shall allow us sufficient time to carry out our obligations, in particular to carry out due inspection. In case we have opted for replacement, the Buyer is obliged to return the defective items to us pursuant to the statutory provisions. Our obligations do not involve disassembling of the defective item in case we originally were not obliged to install. In case of a defect, we bear the expenses appropriate to carry out our warranty obligations, in particular shipping costs, road costs, labour costs, material costs, however not the costs for mounting and dismounting.

(5) Our warranty obligations shall lapse if and as far as the defect is due to mal-operation, disregard of user instructions, the

use of operating elements and attach devices which are not authorized by us or any other unauthorized treatment of the item. Our warranty obligations shall also lapse if the defect is due to wear and tear (in particular at TFT-Panels, mechanic parts in Dome-Systems, pan-tilt-units, hard drives, service desks and keyboards, infrared illuminants/LED etc.) or if the defect has been caused by force.

(6) Does the Buyer culpably launch an unjustified request for defect remedy, the Buyer is obligated to compensate us for the damages incurred thereby. The presumption of culpability as set out in § 280 section 1 sentence 2 BGB does apply insofar. The Buyer is obliged to reimburse inspection expenses to us at the amount of minimum 39,00 EUR plus VAT. The Buyer retains the right to prove that the damage incurred is less than 39,00 EUR.

(7) To the extent that the defect is caused by a significant third-party product we are entitled to perform our warranty obligations in the first place by ceding the warranty claims to the Buyer we have against the supplier of that third-party product. If the settlement of the ceded claim fails or otherwise cannot be enforced, the Buyer is entitled to resort to the warranty claims as set out in § 10 of these GTS.

(8) The Buyer's claims for damages and the reimbursement of frustrated expenses are finally stipulated in § 11 of these GTS.

### **§ 11 Liability**

(1) Unless otherwise provided by these GTS and its provisions hereinafter, our liability for the breach of contractual and non-contractual obligations are subject to the respective statutory provisions.

(2) We shall be liable for damages – no matter for what legal grounds – in cases of intent or gross negligence. In case of ordinary negligence we are solely liable for

a) damages arising from the loss of life, bodily injury and health damages,

b) damages arising from infringement of cardinal obligations of the contract (obligations which are indispensable for appropriate contract performance and on which the contract partner reasonably relies on and reasonably may rely on). In case of infringement of a cardinal obligation our liability for damages is limited in its amount to the foreseeable and typical damage.

(3) The limitation as set out before in subsection 2 does not apply if the defect has been fraudulently concealed or if a quality guarantee has been assumed. The same applies to all claims based on the Produkthaftungsgesetz (German Products Liability Act).

(4) In case the breach of contract is not based on a defect of title or a defect of quality, the Buyer is only entitled to rescind or terminate the contract if we are responsible for the breach. An assumption-free right of the Buyer to rescind or to terminate the contract (in particular a right pursuant to §§ 651, 649 BGB) is excluded.

### **§ 12 Limitation**

(1) Divergent to § 438 section 1 no. 3 BGB the general limitation period for claims based on defects of quality or defects of title is one year. This limitation period commences when the item has been delivered either to the Buyer, to a recipient specified by the Buyer or – as far as we are obliged to install the item – when the item is installed either at the Buyer or at a recipient specified by the Buyer.

(2) The aforesaid limitation period shall apply to all contractual and non-contractual damage claims based on a defect of the delivered item, unless in a particular case general statutory limitation (§§ 195, 199 BGB) would result in a shorter limitation period. The limitation period of the Produkthaftungsgesetz (German Products Liability Act) is not affected hereby. For any other kind of damage claims raised by the Buyer, the statutory limitation exclusively applies in accordance with § 11 of these GTS.

### **§ 13 Third Parties' Rights**

As far as we are instructed to produce according to the Buyer's templates or specifications, the Buyer guarantees hereby that these templates or specifications are not encumbered by third parties rights (in particular patents, design patents and copyrights). In case we are claimed for by third parties for infringement with regard to these templates or specifications – regardless if before court or out-of-court, founded or unfounded – the Buyer hereby exempts us against all damages resulted thereby. This exemption shall also comprise appropriate and necessary legal expenses.

**§ 14**  
**Repairs**

(1) Repairs which are not part of our warranty obligations are effected only against payment and if the item is send to us Franco Domicile, appropriately packed and with a detailed defect description enclosed therein. Otherwise the item shall be returned to the Buyer without attention at the Buyer's expenses.

(2) In case an item been sent in to us turns out to be flawless upon inspection, we have the right to impose an inspection lump-sum at the amount of 49,00 EUR plus shipping costs and VAT.

(3) In case hardware products of other providers had been installed, we reserve the right to decline a Buyer's repair request. Return shipment of repaired items and spare parts shipment are effected by us only on a cash-on-delivery basis.

law of the Federal Republic of Germany. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not be applicable.

(2) Exclusive place of jurisdiction for all disputes arising between the Buyer and ourselves is at our head office. However, we are entitled to file actions at the Buyer's place of general jurisdiction or at any other place of statutory jurisdiction.

(3) The Buyer is noted that all personal data is only used within the scope and for the purpose of contract processing.

Valid from: 22-February-2021

**§ 15**

**Applicable Law, Place of Jurisdiction**

(1) These GTS and the entire legal relations between us and the Buyer are subject to the