

General Terms of Sale and Delivery

1. **Scope** – Sales and deliveries by Deublin Company (hereinafter referred to as "Deublin") shall be made exclusively in accordance with the following General Terms of Sale and Delivery (hereinafter referred to as the "Terms of Delivery") which Customer accepts through the making of an order for delivery or the acceptance of delivery. These Terms of Delivery shall also apply for any future transactions with Customer. The application of diverging and/or supplementary terms of Customer is excluded even if such terms are not expressly contradicted by Deublin.
2. **Conclusion and Contents of Contract**
 - 2.1 Offers by Deublin are non-binding. A contract shall not be concluded until it has been confirmed by Deublin in a written confirmation of order and shall be governed exclusively by the contents of the confirmation of order and these Terms of Delivery.
 - 2.2 Deublin reserves all rights to the sales documents (including catalogues, illustrations and drawings), plans and samples, which may not be made accessible to third parties and are to be returned immediately to Deublin upon request.
 - 2.3 Deublin reserves the right to make changes in design and construction, provided that the performance features of the object of delivery shall not be reduced and the changes serve technical progress or the simplification of production.
3. **Prices, Terms of Payment**
 - 3.1 If the parties have not agreed upon a particular price for the object of delivery from Deublin, such price shall be the Deublin price list valid at the date of the conclusion of the contract.
 - 3.2 All Deublin prices are exclusive of taxes, freight and transportation costs, customs duties and import fees, and any other charges except as expressly agreed by Deublin. Insurance shall only be upon the request and at the expense of Customer.
 - 3.3 Each invoice of Deublin shall be due for payment within 30 days of the date of invoice without any deductions; if this period for payment lapses unsuccessfully Customer shall come into default. Payments by Customer shall not be deemed to have been made until Deublin has received such amount. In the event that Customer is in default Deublin is entitled to demand interest in the applicable statutory amount. The assertion of a claim for further damages due to the default shall remain unaffected.
 - 3.4 Bills of exchange and checks shall only be accepted upon special agreement and on account of performance and free of any expense and bank charges for Deublin.
 - 3.5 Customer is only entitled to set off claims if his counterclaim is uncontested or has been established in a final judgement.
 - 3.6 Customer is only entitled to assert a right of retention to the extent that his counterclaim is based on the same contract and is uncontested or has been established in a final judgement.
4. **Periods, Deadlines, Forwarding, Passage of Risk**
 - 4.1 Delivery dates are only valid if they have been confirmed by Deublin in writing and Customer has provided Deublin in time with the information and documents necessary for the execution of the delivery and has paid any agreed advances as agreed. Agreed

periods start to run as of the date on which the order is confirmed. In the event of subsequent additional or extended contracts, such periods shall be extended accordingly.

- 4.2 Unforeseeable occurrences such as acts of God, government orders, labor disputes and other events outside Deublin's sphere of influence and for which Deublin bears no responsibility shall release Deublin for the duration thereof from its obligation to make timely delivery. Agreed periods shall be extended by the length of such disturbance; Customer shall be notified in an appropriate manner of the occurrence and end of such disturbance. If the end of the disturbance is not foreseeable or lasts longer than two months, each party shall be entitled to rescind the contract.
- 4.3 If Customer is in default of accepting delivery or should he be otherwise in breach of his duties to co-operate with Deublin, Deublin shall be entitled to reasonably warehouse the goods at the risk and expense of Customer. Deublin shall remain free to assert any other rights.
- 4.4 Deliveries shall be made ex works of Deublin. If Customer has not given specific instructions, the object of delivery shall be forwarded using a reasonable means of forwarding in the usual packaging. Deublin will not take back any packaging.
- 4.5 Risk shall pass to Customer upon the delivery of the object of delivery to the forwarder. Should the delivery or the forwarding be delayed on grounds for which Customer is responsible, risk shall pass to Customer on the day on which the object of delivery was declared to be ready for forwarding.

5. Warranty, Duty to Inspect

- 5.1 Statements in catalogues, price lists and other information material as well as descriptions made available to Customer by Deublin shall not be understood as a specific guarantee for the characteristic of the object of delivery; such specific guarantees must be expressly agreed upon in writing.
- 5.2 Customer's warranty rights shall require that he inspects the object of delivery upon receipt without undue delay and notifies Deublin of any defects in writing without undue delay, but no later than two weeks following receipt; Deublin shall be notified in writing of any hidden defects immediately upon their discovery.
- 5.3 In the event of any notification of defect Deublin shall have the right to inspect and test the objectionable object of delivery. In this respect Customer shall give Deublin the necessary time and opportunity. Deublin may demand from Customer that he returns the objectionable object of delivery to Deublin at Deublin's expense. Should Customer's notice of defect prove to be unjustified in an intentional or grossly negligent manner, Customer shall be obligated to render compensation for all of the costs incurred in relation to the notice of defect, e.g. costs for testing and forwarding.
- 5.4 If the object of delivery exhibit defects, Deublin shall be entitled to either remove the defect or deliver a replacement of the defective part or the whole object of delivery, both free of charge for Customer.
- 5.5 The costs for transport, travel, labor and material incurred in this respect shall be borne by Deublin to the extent para. 5.3, sentence 4, does not apply.
- 5.6 Customer shall give Deublin the opportunity and necessary time for removing the defect or delivering the replacement. Customer shall only have the right upon having notified Deublin without undue delay to remedy the defect itself or have the defect remedied by a

third party and demand compensation of its necessary expenses in instances of emergency in which the safety of operations is endangered or if Deublin is in default of removing the defect.

- 5.7 Parts replaced by Deublin shall become property of Deublin.
- 5.8 Deublin shall not assume any warranty for damages caused by inappropriate or improper use, faulty storage, faulty safekeeping, faulty transport, faulty assembly, incorrect start-up of operation, faulty maintenance, faulty treatment or incorrect installation by Customer, the use of inappropriate accessories or inappropriate spare parts or by natural wear and tear, provided that Deublin does not bear the responsibility for such damages.
- 5.9 The limitation period for the warranty claim for the object of delivery shall be twelve months from the date of the shipment. Otherwise paragraph 6 shall apply.

6. Limitation of Liability

- 6.1 Should Customer not be in the position to employ the delivered product as contractually foreseen due to negligent advice or recommendation given by Deublin before or after conclusion of the contract by misrepresentation of other accessory obligations – namely instruction for operation and maintenance of the delivered products – 5.6 and 6.2 of these conditions will be applied accordingly, all other claims being excluded.
- 6.2 In the event of fundamental breach of essential obligations from the contract Deublin shall be liable for as well gross as slight negligence of their employees, the latter liability being limited to the amount of reasonably foreseeable damage under the contract. In the event of breach of non-material contractual obligations Deublin shall not be liable for slight negligence.
- 6.4 Deublin shall not be liable for any other events.

7 Retention of Title

- 7.1 The delivered products shall remain the property of Deublin until any and all claims of Deublin arising under the business relationship with Customer have been fully paid.
- 7.2 In the case of current accounts this retention of title shall be deemed to be security of the claim for the balance to which Deublin is entitled.
- 7.3 Customer shall only be allowed to sell products subject to this retention of title (hereinafter: products subject to retention of title) within normal and proper business transactions. Customer is not entitled to pledge the products subject to retention of title grant chattel mortgages on them or make other dispositions endangering Deublin's title to such products. Customer hereby assigns its claim under the resale of the products to Deublin, and Deublin hereby accepts such assignment. Should Customer sell the products subject to retention of title after the processing or transforming or joining of such products with other goods or together with other goods, this assignment of claim shall only be agreed to in the amount of the portion equivalent to the price agreed to between Deublin and Customer plus a safety margin of 10 % of this price. Customer is granted the revocable authorization to collect in trust the claims assigned to Deublin in its own name. Deublin may revoke such authorization and the right to resell the products if Customer is in default of the performance of material obligations such as payment to Deublin.
- 7.4 Any processing or transformation of the products subject to retention of title by Customer shall always be for Deublin. If products subject to retention of title are processed with other

- objects, Deublin shall acquire joint ownership of the new object in the ratio of the value of the products subject to retention of title to the other processed objects at the time of processing. The same regulations applying to the products delivered under retention of title shall otherwise apply to the new object created by processing.
- 7.5 Should the products subject to retention of title be joined with other objects, Deublin shall acquire joint ownership of the new object in the ratio of the value of the products subject to retention of title to the other objects at the date of joining. Should the joining of the objects occur in such manner that Customer's objects are to be viewed as the main object, it shall be deemed to have been agreed that Customer shall assign proportionate joint ownership to Deublin. Customer shall hold the joint ownership created in such manner in custody for Deublin.
- 7.6 Customer shall provide Deublin at all times with all desired information concerning the products subject to retention of title and/or claims assigned to Deublin under this Contract. Attachments of or claims by third parties to the products subject to retention of title shall be immediately reported to Deublin by Customer and accompanied by the necessary documents. Customer shall at the same time advise the third party of Deublin's retention of title. The costs of the defense against attachments and claims shall be borne by Customer.
- 7.7 Customer is obligated to treat the products subject to retention of title with care for the duration of such retention of title.
- 7.8 Should Customer be in default of material obligations such as payment to Deublin, Deublin may take back the products subject to retention of title and otherwise realize them for the purpose of satisfying its matured claims against Customer without prejudice to any other rights it may have. In such case Customer shall grant Deublin or Deublin's agents immediate access to the products subject to retention of title and surrender the same. Should Deublin demand delivery under this clause, this shall not be deemed to be a cancellation of contract.
- 7.9 In the case of deliveries to other jurisdictions in which the foregoing provisions governing the retention of title do not have the same security effect as in United States, Customer shall do everything to create equivalent security rights for Deublin without undue delay. Customer shall cooperate in all measures such as registrations, publication, etc. which are necessary and expedient to the validity and enforceability of such security rights.
- 7.10 Upon Deublin's request Customer shall be obligated to reasonably ensure the products subject to retention of title, to provide Deublin with the respective proof of insurance and to assign to Deublin any claims arising under such insurance contract.
- 8. Product Liability** – Customer shall neither alter the delivered products nor their design. In particular, he shall not alter or remove warnings about the risks of the improper use of the delivered products. If Customer is in breach of this provision, he shall indemnify Deublin within their internal relationship against product liability claims of third parties, provided that he is responsible for the defect causing liability.
- 9. General Provisions**
- 9.1 All amendments and additions to this Contract and/or these Terms of Delivery and any side agreements must be in writing. This shall also apply to any amendment of this written form requirement.



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- 9.2 If a provision of this Contract and/or these Terms of Delivery is fully or partially invalid, the validity of the remaining provisions shall remain unaffected. The same shall apply in the event that this Contract and/or these Terms of Delivery are incomplete.
- 9.3 Exclusive venue for all disputes arising from this contractual relationship shall be the courts in the state of Illinois, USA. Deublin shall also be entitled, however, to take legal action before the competent court having jurisdiction over Customer's registered office.
- 9.4 The laws of the United States, with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG), shall be applicable.