

**General Terms and Conditions of Supply  
for PyroScience GmbH  
Version 2.1 from 26 May 2023**

**1. General Terms, Scope**

- 1.1 These General Terms and Conditions of Supply (GTC) apply to all business relationships between PyroScience GmbH, Kackertstr. 12, 52072 Aachen, Germany (hereinafter referred to as "PyroScience") and its customers ("hereinafter referred to as "Customer"). The GTC are only applicable if the Customer is an entrepreneur (Section 14 of the German Civil Code), a legal person under public law or a special fund under public law.
- 1.2 These GTC are applicable for all deliveries and services on our part, in particular for contracts for the development, sale and/or supply of movable goods, regardless of whether we manufacture these ourselves or purchase them from suppliers. Unless otherwise agreed, the GTC are also applicable as a general agreement for similar future agreements in the version that is valid at the time of Customer's order, without the need to refer to the GTC in every individual case.
- 1.3 Our GTC apply exclusively. Differing, conflicting or supplementary General Terms and Conditions from the Customer become part of the contract if and only if we have explicitly agreed to their validity. This requirement of consent applies in all cases, for example even if we carry out the delivery to the Customer without reservation in full knowledge of their General Terms and Conditions.
- 1.4 Individual agreements reached with the Customer on an individual case (including collateral contracts, additions and amendments) take precedent over these GTC in any case. A written agreement or confirmation from us in writing is binding, subject to proof of the contrary, for the content of such agreements.
- 1.5 Legally relevant declarations and notifications, which are submitted to us by the Customer after the conclusion of the contract (e.g. setting deadlines, notifications of defects, declarations of cancellation or reduction) are required in writing to be valid.

**2. Conclusion of the Contract**

- 2.1 Our quotations are subject to change and are non-binding. This also applies if we have loaned catalogues, technical documentation (e.g. designs, plans, calculations, estimates, references to DIN-standards), other product descriptions or documents - even in electronic form - to the Customer. The property rights, title to and copyright of such documents remain with PyroScience.
- 2.2 The ordering of goods by the Customer qualifies as a binding offer of contract. Unless otherwise stated in the order, we are entitled to accept this offer of contract within four weeks of our receipt of it.
- 2.3 This receipt can either be declared to the Customer in writing (e.g. through an order confirmation) or through the performance of services.

**3. Delivery Deadline, Default in Delivery**

- 3.1 The delivery deadline is agreed individually or is given by us upon receipt of the order. If this is not the case, the delivery deadline is about 12 weeks from the conclusion of the contract.
- 3.2 If we are unable to meet the agreed delivery deadline (unavailability of performance) due to reasons for which we are not responsible through our fault, we will hereby inform the Customer immediately and concurrently provide the new, expected delivery deadline. If the performance is also not possible within the new delivery deadline, we are entitled to withdraw from the contract in whole or in part; we shall immediately reimburse the Customer's already provided counter-performance. The unavailability

of performance in this sense particularly includes the failure of our suppliers to deliver in good time, if neither us nor our suppliers are at fault.

- 3.3 The occurrence of a default in delivery is determined in accordance with legal provisions. In all cases, a written reminder by the Customer is necessary.
- 3.4 The rights of the Customer according to Clause 8 of these GTC and our legal rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of the performance and/or supplementary performance) remain unaffected.

#### **4. Delivery, Installation, Passing of Risk**

- 4.1 Unless otherwise agreed in writing the delivery shall be made EXW Aachen, Germany (Incoterms 2020), which is also the place of performance for the delivery and possible supplementary performance. The delivery can be performed at a different destination at the Customer's request and expense. Unless otherwise agreed, we are entitled to determine the method of shipment (particularly carrier, dispatch route, packaging) ourselves.
- 4.2 The risk of accidental loss and deterioration of goods will pass over to the Customer no later than at the hand over. In the event that, corresponding to Clause 4.1, a performance is to be rendered at a different destination, the risk of accidental loss and deterioration of goods and the risk of delay is, however, already passed over when the goods are handed to the carrier, forwarder or the person otherwise intended to carry out the shipment.

#### **5. Prices and Terms of Payment**

- 5.1 Unless otherwise agreed in individual cases, the prices given by PyroScience in the quotation or at another point, plus the respective legal value added tax, respective packaging and freight costs and travel and accommodation costs, are valid according to the clauses from the applicable respective price list and are always in Euro.
- 5.2 Unless otherwise agreed in individual cases, payment is due to be paid without deductions within 30 days of invoicing and delivery of the goods. Within the scope of an on-going business relationship, we are, however, at any time entitled to only conduct a delivery in part or in full with advance payment. We will declare a corresponding reservation no later than with the order confirmation.
- 5.3 Upon expiry of the payment deadline, the Customer will be in default without further notice. During the payment default, interest will be charged on the payment at the respective legal default interest rate. We reserve the right to assert further damages caused by delay. Our claim for commercial maturity interest (Section 353 of the German Civil Code) remains unaffected.
- 5.4 A set-off or right of retention is only due to the Customer when his claim is legally valid or is undisputed.
- 5.5 If, after the contract has been concluded, it becomes apparent (e.g. through an application for the initiation of insolvency proceedings) that our right to compensation is compromised by the Customer's inability to perform, we are therefore entitled to refuse service and - if applicable after setting a grace period - to withdraw from the contract according to legal provisions (Section 321 of the German Civil Code). In the case of contracts for the manufacture of non-fungible goods we can withdraw immediately; the legal regulations concerning the dispensability of setting a deadline remain unaffected.

## **6. Reservation of Title**

- 6.1 Until payment in full for all our current and future claims from the concluded contract and an ongoing business relationship (secured claims), we retain the title for the goods sold.
- 6.2 The goods under reservation of title may neither be pledged to third parties prior to payment in full of secured claims, nor assigned as security. The Customer shall notify us promptly in writing if an application for the opening of insolvency proceedings is placed or if access to goods owned by us takes place (e.g. seizures).
- 6.3 In the case of a breach of the contract by the Customer, particularly in cases of failure to pay the amount due, we are entitled, according to legal provisions, to withdraw from the contract and/or to demand the return of the goods because of the reservation of title. Any demand for the return of goods shall not include a simultaneous declaration of withdrawal; rather we are entitled to demand only the return of goods and to reserve the right of withdrawal. If the Customer does not pay the purchase price due, we can only make these rights applicable if we have first placed a reasonable deadline for payment without success or such deadline setting is unnecessary according to legal provisions.
- 6.4 Until revoked pursuant to subsection c), the Customer is allowed to dispose of and to process the goods in the ordinary course of business. In such case the subsequent clauses shall apply additionally.
- (a) The reservation of title extends to the goods originating from the processing, mixing or union of the goods supplied by us. We shall be deemed to be the manufacturer. In the event that a third party's title and ownership remain unaffected by the processing, mixing or union we shall acquire co-ownership at the ratio of the invoice value of the processed, mixed or united goods. Furthermore, for the new product the same provisions shall apply as for the goods for which we retained the title.
  - (b) The Customer herewith assigns to us for security all claims against any third party achieved from the sales of the goods or the products in the total amount or, respectively, in an amount equivalent to our expected co-ownership as mentioned in the foregoing section (a). We herewith accept the assignment. The Customer's obligations arising from section 6.2 shall apply also with respect to the assigned claims.
  - (c) The customer is authorised, in addition to us, to collect debts. We undertake not to collect debts as long as the Customer meets his payment obligations towards us, as long as his payment capability is not impaired and we do not invoke the reservation of title pursuant to section 6.3. If this should be the case we can demand from the Customer to advise the assigned claims, to name the debtors of such claims and to provide all further information, to submit the relevant documents and to inform the debtors about the assignment. Furthermore, in such case we are entitled to revoke the Customer's authority to dispose of and to process the goods for which we have retained the title.
  - (d) In the event that the value of the securities exceeds our payment claims by more than 10%, we will, at request of the Customer, release securities at our own discretion.

## **7. Warranty Claims**

- 7.1 Legal provisions apply to the rights of the Customer in cases of material defects and defects of title (including incorrect and short delivery and improper mounting or defective mounting instructions), unless subsequently otherwise agreed.
- 7.2 Warranty claims from the Customer require that he has fulfilled his obligation of inspection and reporting of complaints. If a defect becomes apparent during the inspection or later, we are to be

promptly notified thereof in writing. Such notifications are considered to be made promptly if they are within two weeks whereby the timely despatch of the notification is sufficient to safeguard the deadline. Irrespective of this obligation of inspection and reporting of complaints, the Customer shall report obvious defects (including incorrect and shortfall in delivery) within two weeks from delivery in writing whereby the timely despatch of the notification is also sufficient here to safeguard the deadline. If the Customer fails to carry out the proper inspection and/or report of defects, our liability for the defect which was not reported is excluded.

- 7.3 If the performance provided by PyroScience is faulty or defective, we can initially choose whether we provide supplementary performance by correcting the defect (subsequent improvement) or by delivering an item which is free from defects (replacement delivery). Our right to refuse supplementary performance according to legal and other applicable provisions remains unaffected.
- 7.4 We are entitled to make the owed supplementary performance dependent on the Customer paying the amount due. However, the Customer is entitled to retain an appropriate portion of the payment in relation to the defect.
- 7.5 The Customer must give us the time required for the owed supplementary performance, particularly to hand over the faulty goods for purposes of inspection. In the event of replacement delivery, the Customer shall return the defective object to us according to legal and other applicable provisions. Supplementary performances includes neither the removal of defective goods nor their re-installation, if we were not originally obligated to installation.
- 7.6 The expenses required for the purposes of inspection and supplementary performance, particularly transport, route, work and material costs (not removal and installation costs), are to be borne by us if there actually is a defect. Otherwise we can demand the reimbursement of the costs incurred from the unjustified request for the rectification of a defect (particularly inspection and transport costs), unless the lacking defect was not discernible for the Customer.
- 7.7 In urgent cases, such as the risk of operating safety or the avoidance of excessive damage, the Customer has the right to rectify the defect themselves and to claim reimbursement from us for the hereby objectively required costs. We must be informed of such self-help promptly, if possible prior to the repair. The right of self-remedy does not exist if we were entitled to refuse a corresponding supplementary performance according to legal and other applicable provisions.
- 7.8 If the supplementary performance has failed, or if a deadline for subsequent performance set by the Customer has expired without success or is unnecessary in accordance with legal and other applicable provisions, the Customer can withdraw from the contract or reduce the remuneration. However, no right to cancellation exists for insignificant defects.
- 7.9 With respect to the limitation period for material defects and defects of title, the provisions of section 8.6 shall apply. Consumables, in particular sensor heads, are excluded from warranty claims.

## **8. Other Liability**

- 8.1 Unless stated otherwise in these GTC including in the following provisions, we will be liable in the event of a violation of the contractual and non-contractual obligations according to the relevant legal regulations.
- 8.2 We will be liable for damages – no matter for what legal grounds – in cases of wilful intent and gross negligence. With simple negligence we will only be liable, unless a more moderate standard of liability according to legal provisions is applicable (e.g. for the same care as in our own affairs),
- a) for damages arising from injury to life, body and health,

- b) for damages arising from a violation, which is not of minor significance, of an essential contractual obligation (obligation, the fulfilment of which enables the proper execution of the contract in the first place and the observance of which the contractual partner relies and may rely on); in this case our liability is however limited to the reimbursement of the foreseeable, typically occurring damages.
- 8.3 The limitations of liability resulting from clauses 8.2 also apply in cases of violation of duties or in favour of persons, whose fault we are responsible for according to legal provisions. They do not apply insofar as we have fraudulently concealed a defect or if we have assumed a guarantee for the condition of the goods and for the Customer's claims based on the German Product Liability Act (Produkthaftungsgesetz).
- 8.4 Claims for damages because of defective works or services require that the damages incurred have been caused by negligent or wilful behaviour of PyroScience according to the aforementioned clauses . A claim for damages instead of performance requires the setting of a reasonable deadline by the Customer.
- 8.5 The Customer can only withdraw from or terminate the contract because of a breach of duty which is not based on a defect, if we have caused the breach of duty by a negligent or wilful act or omission. A free right to termination is excluded for the Customer. The legal requirements and consequences otherwise apply.
- 8.6 The period of limitation for claims arising from defects in quality and for defects in title is 24 Months from the date of delivery. If an acceptance has been agreed, the limitation period begins with the acceptance. However, claims for damages from the Customer according to Clause 8.2 Sentence 1 and Sentence 2 a) and according to the Product Liability Act become time-barred exclusively pursuant to the legal periods of limitation.

## **9. Choice of Law and the Place of Jurisdiction**

- 9.1 The law of the Federal Republic of Germany applies to these GTC and the contractual relationship between ourselves and the Customer.
- 9.2 If the Customer is a merchant within the meaning of the German Commercial Code, a legal person under public law or a special fund under public law, our registered office in Aachen is the exclusive place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship. However, we are also entitled in all cases to bring actions in the place of fulfilment of the delivery obligation according to these GTC or according to an overriding individual agreement, at the Customer's general place of jurisdiction. Overriding legal provisions, particularly regarding exclusive jurisdiction, remain unaffected.

## **10. Other Provisions**

- 10.1 Additions and modifications to the agreements made between the parties must be made in writing.
- 10.2 Should one of the above provisions be or become legally ineffective, this shall not affect the effectiveness of the remaining provisions. The invalid provision shall be replaced by a provision which comes as close as possible to the meaning and purpose of the invalid provision.

**Version History**

Changes in version 2.1:

- The address of PyroScience GmbH was adapted on page 1, because the company moved to a new location in May 2023.