

General Terms and Conditions for the Delivery and Sale of Goods

1. Scope

All deliveries, services and offers of HEIMANN SENSOR GmbH (in the following “HEIMANN SENSOR”) are at all times and exclusively subject to these Terms and Conditions. Only HEIMANN SENSOR’s Terms and Conditions are relevant for each contract between HEIMANN SENSOR and customer, HEIMANN SENSOR herewith objects to all divergent or complementary terms, especially to customer’s purchasing terms. Customer’s purchasing terms are only binding for HEIMANN SENSOR, if and as far as they have been accepted by HEIMANN SENSOR in written form; otherwise they do not become part of the contract even though the customer might have communicated or sent them to HEIMANN SENSOR and / or even though HEIMANN SENSOR does not in each and every single case expressly object to them. HEIMANN SENSOR’s Terms and Conditions apply to the permanent business relationship between HEIMANN SENSOR and customer, it is not necessary for HEIMANN SENSOR to expressly refer to them again when contracting with the same customer in the future. At the latest by accepting the delivered goods the customer accepts HEIMANN SENSOR’s Terms and Conditions and waives his own purchasing terms. Any alteration of these Terms and Conditions, of HEIMANN SENSOR’s written offers or of any individual agreement between HEIMANN SENSOR and customer is only valid upon HEIMANN SENSOR’s written acknowledgement. The same applies for any amendment or additional agreement with respect to an order.

2. Conclusion of Contract, Provided Documents

2.1. Unless stipulated otherwise, HEIMANN SENSOR’s quotations are subject to changes, non-binding and may be withdrawn by HEIMANN SENSOR at any time and without any reason unless and until customer receives an order confirmation by HEIMANN SENSOR in written form. A binding contract is generated only by HEIMANN SENSOR’s written order confirmation. If customer did not receive a written order confirmation, the contract becomes binding upon delivery by HEIMANN SENSOR (fulfillment) and customer’s acceptance of the goods without objection. If and as far as an order confirmation may in singular cases differ from the respective order, the content of the order confirmation is to be decisive for the contract if customer does not object in written form within three working days from receipt of such order confirmation.

2.2. HEIMANN SENSOR reserves all property and copyrights on any documents, such as calculations, drawings etc., provided to the potential customer in connection with the placing of an order. These documents may not be made accessible to a third party unless given an explicit written approval. Upon demand, the customer shall delete any data given and either return or destroy the same.

3. Prices, Conditions of Payment

3.1. Unless stipulated otherwise, all prices are calculated ex warehouse HEIMANN SENSOR, plus respective VAT and other costs and expenses (e.g. packing, freight, insurance and customs).

3.2. Unless stipulated otherwise, payment is to be done in the currency which is specified on the invoice by bank transfer to HEIMANN SENSOR’s displayed account. All invoices are due within 10 days after delivery without any discount. HEIMANN SENSOR reserves the right to deliver in singular cases only upon C.O.D. or payment in advance. Cheques or drafts will be accepted only upon individual agreement and only on account of performance; any costs for bank discount or other cheque- or draft related expenses are to be borne by customer. After the date of the order

confirmation all changes in respect of an agreed foreign currency, the exchange rate to EUR and/or the customs duty on imports are to be borne by customer.

3.3. If the customer does not accept the full delivery of the contractually determined number of goods within the agreed delivery time, HEIMANN SENSOR reserves the right to charge the corresponding unit costs plus the costs caused by the non-acceptance of the contractual goods.

3.4. Customer may only exercise a right of retention or may only offset such receivables which are undisputed, legally determined or acknowledged by HEIMANN SENSOR, but customer may only exercise any right of retention insofar as receivables are based on the same contractual relationship.

3.5. When customer is in default with payment, all payments arriving will be used for the settlement of the oldest due claims plus emerged default interest. Default interest will be calculated at the rate of 1.5% per month or the maximum amount allowed by law, whichever is less. HEIMANN SENSOR reserves the right for additional compensation claims due to the non-payment and suspending performance until all due claims have been settled in full.

3.6. In case of a significant worsening of customer's financial circumstances after contracting, HEIMANN SENSOR may refuse delivery until customer has fully met his reciprocal obligations. If customer does not meet his reciprocal obligations within an adequate period of time, HEIMANN SENSOR is entitled to resign from the contract. HEIMANN SENSOR is entitled to resign from the contract if customer gives wrong information about his creditworthiness, if customer is not creditworthy from an objective point of view and/or if customer has filed for bankruptcy.

4. Delivery, Retention of Title, Resignation, Call-Off Agreements

4.1. All delivery dates given are not binding as long as they are not expressly declared as binding in written form. Binding delivery periods are starting from the day HEIMANN SENSOR mails the order confirmation, but not before customer has submitted all documents, licenses or approvals which might have to be provided by customer and not before customer's completion of any further interaction or information duties if so stipulated upon contracting. Even binding deliveries dates are subject to HEIMANN SENSOR's own delivery and do not represent fixed dates.

4.2. All of HEIMANN SENSOR's contractual duties and obligations are by all means subject to HEIMANN SENSOR's own correct and timely delivery. HEIMANN SENSOR will notify the customer immediately upon receiving assured notice of its own non-timely or incomplete delivery. In case of a delay in HEIMANN SENSOR's own delivery, HEIMANN SENSOR is entitled to split the goods into several partial deliveries.

4.3. In case of an unacceptable delay of HEIMANN SENSOR's own delivery which neither the customer nor HEIMANN SENSOR can be held responsible for, the customer is entitled to resign from the contract given that and only in so far as HEIMANN SENSOR may as well resign from its own contract of delivery. If HEIMANN SENSOR's own delivery is only possible in part - notwithstanding a complete order confirmation by HEIMANN SENSOR – customer may choose between accepting the partial delivery by HEIMANN SENSOR or resigning from the contract given that and only in so far as HEIMANN SENSOR may as well resign from its own contract of delivery. Any resignation has to be declared towards the other party in written form, indemnity claims are excluded.

4.4. HEIMANN SENSOR reserves the right to deliver only after customer has made an upfront payment, has paid a first installment or has provided a security deposit.

4.5. HEIMANN SENSOR meets its delivery period if and when within the agreed delivery period the goods have left HEIMANN SENSOR's warehouse or in case of a delivery ex works the production plant or HEIMANN SENSOR has informed the customer that the goods are prepared to be shipped. HEIMANN SENSOR will not be in default with any delivery before customer has not within a reasonable time asked HEIMANN SENSOR to deliver the goods by way of a written reminder.

4.6. If any of HEIMANN SENSOR's deliveries is not in-time due to a reason which the customer is responsible for, customer is obliged to compensate all additional expenditures to HEIMANN SENSOR.

4.7. In case of call-off agreements customer is obliged to trigger each call 12 weeks in advance of the desired call delivery date, if not stipulated otherwise between the parties. If not stipulated otherwise, the first call is to be received by HEIMANN SENSOR within 12 months from the order confirmation date, otherwise HEIMANN SENSOR, after the fruitless expiry of an adequate additional respite for the first call, has the right to alternatively deliver the goods to the customer and send the invoice or to resign from the call-off contract or to claim for compensation for damages because of non-fulfillment. The other party has to be informed of a resignation in written form. In case of HEIMANN SENSOR's resignation accordant to 4.7., additional claims for compensation of loss by HEIMANN SENSOR are not excluded; nevertheless customer may prove a lower loss or no loss at all.

5. Passing of Risks, Return of Goods

5.1. Goods are always sent on customer's behalf and at customer's expense while HEIMANN SENSOR chooses a suitable carrier. The risk passes to customer as soon as the goods are leaving HEIMANN SENSOR's warehouse for the purpose of being shipped to the customer. The same applies to partial deliveries, even in cases in which HEIMANN SENSOR undertakes further services, e.g. the shipment.

5.2 The risk passes to customer already before the moment described in 5.1. if customer refuses the delivery of the ordered and already separated goods despite of HEIMANN SENSOR's possibility and readiness to deliver or if customer after contracting reschedules the time of delivery of the goods. Under both circumstances HEIMANN SENSOR has the right to claim 1% of the invoice amount as a monthly lump-sum default compensation for warehousing of the goods. This lump sum compensation shall not in any way affect HEIMANN SENSOR's right to claim higher de facto costs or further compensation for damages, nevertheless customer may prove a lower loss or no loss at all.

5.3. If HEIMANN SENSOR – regardless out of which reason – accepts the return of goods from a customer by issuing an RMA, the goods have to be in original condition and original packaging (including all freight papers). Goods are always returned to the HEIMANN SENSOR's warehouse at customer's expense and risk. HEIMANN SENSOR will not accept any returned goods without an underlying RMA or which are not in original condition.

6. (Extended) Retention of Title

6.1. HEIMANN SENSOR retains title and ownership of the goods until all of HEIMANN SENSOR's claims against the customer arising from the business relationship including all current and future receivables from any contracts have been fully paid. If all of HEIMANN SENSOR's receivables against the customer are incorporated into a current account, this retention of title and ownership serves as security for the respective balance amount. HEIMANN SENSOR is entitled to reclaim the goods if the customer behaves contrary to the contract to such an extent that the immediate abrogation of the contract is justified. If customer purchases goods in order to resell them, HEIMANN SENSOR hereby gives the customer a revocable authorization to resell the goods during customer's ordinary course of business, provided that the customer may assign the claims which accrue out of such resale. The

authorization to resell and to recover claims ceases as soon as customer does not comply with HEIMANN SENSOR's conditions of payment, customer right less disposes of the goods, or customer files for insolvency or insolvency proceedings against customer are being started. In such cases HEIMANN SENSOR has the right to immediately take possession of the goods in order to sell them without any restrictions or to auction them off. HEIMANN SENSOR reserves the right to claim any further compensation for damages, especially for lost profit.

6.2. As long and as far as HEIMANN SENSOR's retention of title and ownership is valid, customer is only allowed to give goods in mortgage, to assign ownership of the goods by way of security or to liquidate the goods due to HEIMANN SENSOR's up front permission to do so. If customer gives goods in mortgage with a third party, customer has to inform the third party of HEIMANN SENSOR's retention of title and has to inform HEIMANN SENSOR without undue delay about all measures of enforcement. In the event of payment by cheque or draft HEIMANN SENSOR's retention of title remains valid until customer's cheque- or draft related liability has ended.

6.3. During the time of HEIMANN SENSOR's retention of title and ownership customer is obliged to handle the goods with care and to insure the goods in due form against loss, theft or other damages. During the time of HEIMANN SENSOR's retention of title and ownership customer bears the risk of the goods' theft, the goods' worsening and the goods' loss by accident. As far as customer has insured the goods, hereby customer assigns all possible claims against the insurance company to HEIMANN SENSOR.

6.4. As far as customer resells the goods, all claims accruing out of a resale against a third party are herewith assigned as security to HEIMANN SENSOR in the amount of HEIMANN SENSOR's invoice value including VAT. If customer resells the goods together with other items from third parties, or after being reworked or processed into new products, the part of customer's invoice amount which refers to HEIMANN SENSOR's goods is herewith assigned to HEIMANN SENSOR as security including VAT. If HEIMANN SENSOR's goods are mixed with other items belonging to third parties, or are being reworked or processed into new products, customer hereby assigns his (partial) right of ownership of the new product(s) to HEIMANN SENSOR (but without any responsibilities for HEIMANN SENSOR arising out of this assignment). Such new products are considered subjects to HEIMANN SENSOR's retention of title and ownership pursuant to these Terms and Conditions. If all of customer's receivables against buyer are incorporated into a current account, customer's assignment to HEIMANN SENSOR applies to the respective balance amount. HEIMANN SENSOR is obliged to release an adequate part of the collaterals if the collaterals' value exceeds the receivables to be secured by more than 10% in perpetuity, for that purpose HEIMANN SENSOR is free to choose which parts of the collaterals are to be released.

6.5. Customer is – subject to a possible revocation by HEIMANN SENSOR at any time – authorized to collect the receivables even after the foregoing assignment. In case of a revocation of such authorization, customer is obliged to provide to HEIMANN SENSOR all information necessary to collect the receivables and to notify the debtors of the assignments; customer is as well obliged to support HEIMANN SENSOR in a possible legal enforcement of HEIMANN SENSOR's rights of title and ownership (especially, but not exclusively through complying with possible time limits by way of filing necessary short-dated judicial remedies at customer's own expense).

6.6. If customer is in default of payment HEIMANN SENSOR has the right – even without expressly revoking customer's authorization – to notify the debtors of the assignments and to collect the receivables. In case of customer being in default of payment, customer is obliged to inform HEIMANN SENSOR at any time about the whereabouts of the goods and about the claims accrued by reselling the goods.

7. Customer`s Examination Duties, Warranty

7.1. Upon arrival customer is obliged to examine the delivered goods without undue delay, at the latest within five working days (if not expressly agreed on and stated in the Delivery Note), with respect to completeness, to possible transport damages and to other damages which can be detected by way of diligently inspecting the goods (visible defects and obvious errors); and customer will inform HEIMANN SENSOR of such damages, defects or errors without undue delay in written form. This obligation applies even for goods in original packaging and for welded items. Any assertion of warranty claims referring to damages which can be detected by way of diligently inspecting the goods upon arrival will be excluded after the time limit set out in sentence one of this paragraph.

7.2. Damages or defects which cannot be detected by way of diligently inspecting the goods upon arrival have to be reported without undue delay in written form to HEIMANN SENSOR, at the latest within one week of their detection and within the warranty time; an assertion of warranty claims – based on whatever cause or legal foundation - will be excluded after this time limit.

7.3. Before using delivered goods in any way customer is obliged to test the goods` quality and functional capability accordant to producer`s information, this applies especially but not exclusively to the goods` soldering capability and conduct ability. Any discrepancy of any kind between the status-quo and the ordered status has to be reported to HEIMANN SENSOR in written form without undue delay, at the latest within one week of their detection and within the warranty time. Belated complaints will not be accepted by HEIMANN SENSOR. In any case processing of the goods is regarded as approval of the correctness of the delivered goods. If and as far as customer wishes the goods to be tested before delivery (by HEIMANN SENSOR or by an independent testing house), parties have to agree on that expressly when contracting; testing houses at all times will be mandated on customer`s own expense (if not expressly agreed on otherwise in written form).

7.4. If customer asserts a claim to HEIMANN SENSOR in due time the following applies: HEIMANN SENSOR at first has the right to offer free supplementary performance (at HEIMANN SENSOR`s own choice either by replacement, by removal of defects or in case of a deficiency in title by delivery of an equivalent product without deficiency in title) within an adequate period of time. If no supplementary performance is possible or if it is refused or has been tried unsuccessfully by HEIMANN SENSOR, customer is entitled to resign from the contract given that and only in so far as HEIMANN SENSOR may as well resign from its own contract of delivery. If HEIMANN SENSOR has removed the defects or has replaced the product, HEIMANN SENSOR`s liability is the same as it used to be for the original delivery accordant to these Terms and Conditions. HEIMANN SENSOR has the right to declare any free supplementary performance subject to the condition that customer has paid the due invoice.

7.5. By installing, storing or treating the goods delivered by HEIMANN SENSOR in an inadequate way, as well as by changing, reworking or processing the goods delivered by HEIMANN SENSOR, customer loses all warranty rights provided that customer cannot prove that doing so was not causal for the asserted claim.

7.6. Even if customer asserts a claim in due time to HEIMANN SENSOR, customer is not allowed to return the goods at its own discretion; precondition for returning any goods (5.3.) in every case is the issuance of an RMA by HEIMANN SENSOR in advance. Even in the case of a free supplementary performance, the defective goods may only be returned to HEIMANN SENSOR`s warehouse after HEIMANN SENSOR has issued a RMA and asked for the goods to be returned (5.3).

7.7. Only customer may enforce its own warranty rights; warranty rights against HEIMANN SENSOR are not assignable.

8. Liability

8.1. Being a middleman company, HEIMANN SENSOR is only liable for a defect or deficiency in title which is caused by HEIMANN SENSOR. Upon customer's request HEIMANN SENSOR is obliged to assign to customer any right of warranty or right of compensation for damages against a third party (supplier / manufacturer) as well as to provide all information and documentation necessary to support customer in a possible legal enforcement against such third party.

8.2. HEIMANN SENSOR is only liable in cases of loss of life, physical injury or health damage attributable to HEIMANN SENSOR by gross negligent or deliberate acting. All other claims of compensation for further damages, especially for any consequential harm caused by a defect, any indirect damage or lost profit are excluded. Any possible liability of HEIMANN SENSOR is at all times limited to the net value of the respective order(s). Any Liability for damages caused by slight negligence by HEIMANN SENSOR is excluded.

8.3. Any possible liability pursuant to the German Product Liability Law will remain unaffected of clauses 8.1. and 8.2..

9. Limitation of Actions

Differing from § 438 of the German Civil Code (BGB) the general period of limitation referring to claims arising from defects of products or deficiencies in title is one year starting from the moment the risk passes (see 5). For compensation claims for damages in cases of loss of life, physical injury or health damage and in cases of gross negligence or deliberation the respective period of limitation set out by law applies. If a manufacturer offers a longer period of warranty than the periods of limitations applicable, HEIMANN SENSOR will assign to customer such right of warranty upon customer's request provided manufacturer agrees.

10. Characteristics of Goods, Legal Information, Severability Clause

10.1. All information given by HEIMANN SENSOR referring to ROHS-conformity of goods are at all times information of the respective manufacturers or suppliers, HEIMANN SENSOR is not liable for such information.

10.2. Characteristics of the goods are exclusively the manufacturer's product specifications; HEIMANN SENSOR is not liable for such information.

10.3. All delivered goods are bound to remain in the country of delivery which customer has indicated. Resale or other usage of the goods including their technology and documentation is subject to export regulations (laws, regulations, directives, decisions, administrative deeds) of the US, of the contractors' countries of origin and of the EU and may as well be subject to the regulations of export or import of further countries. Customer is obliged to be duly informed about applicable regulations, to comply with them and if necessary to apply for and to obtain export-, re-export-, import or other authorizations. HEIMANN SENSOR indicates that breaching such regulations may result in penalties for customer. Customer is liable in all cases and exclusively for any breaches of such regulations.

10.4. Place of contractual fulfillment is at the place of the registered office of HEIMANN SENSOR. Sole forum and venue for all actual and future, direct and indirect claims arising out of the business connection between HEIMANN SENSOR and customer shall be the location of the head office of



HEIMANN SENSOR in Germany. All contractual relations between HEIMANN SENSOR and customer as well as all claims arising out of such relationship are exclusively subject to the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the Sale of Goods (CISG). The language of the arbitral proceedings shall be German.

10.5. In case that single clauses of these Terms and Conditions may be or may become in whole or in part ineffective or void, this leaves all other clauses as well as the contracts based on these Terms and Conditions unaffected in their effectiveness on the whole. Any ineffective or void clause - as well as any evident incomplete clause - shall be substituted by a clause which meets the commercial purpose best.

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