

**I. General Provisions****1. Contracts**

- a) All deliveries and services shall be exclusively governed by the terms and conditions set forth below. These terms and conditions shall also apply to any future transactions even if no specific reference is made thereto. Deviating terms and conditions of the other contracting party (hereinafter referred to as the "Buyer") are not accepted by us unless their application was acknowledged by us in writing. Should we refer to a letter that contains or refers to the terms and conditions of the Buyer or any third party, this does not imply our agreement with the application thereof, unless clarified otherwise.
- b) All of our quotations are subject to change. A contract shall be deemed to have been entered into only upon (i) our written confirmation of the order, or (ii) a written agreement signed by the Buyer and us, or (iii) our delivery of the goods and Buyer's taking receipt thereof.
- c) Any binding agreements made between the parties by the time of conclusion of contract are laid down in writing in the contract. With the exception of managing directors or holders of the special statutory authority referred to as "Prokura" in a number sufficient to represent us, our employees are not entitled to reach any oral agreement deviating from the above. The written form shall be deemed to have been observed by transmissions via facsimile; all other telecommunications transmissions, by e-mail in particular, are not considered sufficient.
- d) Weights, measures and performance data provided in catalogues, prospectuses, flyers, advertising material, pictures and price lists are provided for information purposes only and do not represent warranted qualities. Customary deviations in the industry (manufacturing tolerances) shall in any case be permitted.

2. Prices, Terms of Payment

- a) All prices are net prices in the currency set out in the contract or the confirmation of order and do not include sales tax, which shall also be paid by the Buyer in the amount specified by the law as applicable from time to time. Unless otherwise expressly agreed, the Buyer is responsible for the payment of freight, packaging, incidentals, public charges and duties.
- b) Unless otherwise agreed upon in writing, invoices are due and payable within fourteen (14) days of the date of invoice without discount. Sec. 366 (1) German Civil Code [*Bürgerliches Gesetzbuch "BGB"*] shall be excluded, payments shall be appropriated as provided in Sec. 366 (2) *BGB*.
- c) The Buyer may not withhold or offset any payments based on counterclaims, unless such counterclaims have been recognized or have been established as final and absolute. This restriction shall not apply to claims of the buyer due to defects or partial non-fulfilment of contract resulting from the same contract as our claim.
- d) From maturity of the payment we are entitled to claim maturity interest in the amount of 5% p.a.. Should the term of payment be exceeded, we are entitled to claim default interest in the amount applicable by law from time to time. We reserve the right to assert any further default damages.
- e) We shall be entitled to make outstanding deliveries or provide services only against advance payment or the provision of security if, after having entered into the contract, we become aware of circumstances that may considerably impair the Buyer's creditworthiness, thereby jeopardizing the payment of our outstanding claims under the respective contractual relationship (and other individual orders under the same master contract).

3. Delivery and Late Delivery

- a) Delivery is ex works of the manufacturer (EXW according to Incoterms 2010 in its latest version). Upon the Buyer's request, we can also make delivery based on other conditions if this is agreed upon in writing.
- b) The Buyer shall be responsible for any back charges by the customs office.
- c) Delivery schedules are deemed to have been observed upon notice of readiness for dispatch if the goods cannot be shipped on time through no fault of our own.
- d) Deadlines and set dates shall be extended by the period during which the Buyer fails to comply with its responsibilities and obligations towards us (in particular, the release of drawings, forms, samples, etc.) or delays delivery in any other manner (in particular by requests for changes). Costs caused thereby shall be borne by the Buyer.
- e) We shall be entitled to postpone our respective obligation to make delivery in the event of
 - a. war, acts of God
 - b. strike, legitimate lock-outShould the events described above greatly impede or render the delivery of goods or the performance of services impossible and if such hindrance is not temporary in nature, each party shall be entitled to rescind the contract, however the Buyer shall only be entitled to do so after prior warning.
- f) In the event of the Buyer's failure to take receipt of the goods, we will place the goods in storage at the Buyer's risk and expense.
- g) At the Buyer's request, we will insure the goods at the Buyer's expense against theft, breakage, transport, fire and water damage or any other insurable risks.
- h) We shall be entitled to partial performance unless this is unacceptable to the Buyer.
- i) If we are in default of delivery due to slight negligence, our liability for damages for delay (damages in addition to performance) shall be limited to 5 % of the contract price of the delayed goods. This shall not apply in the event of an injury to life, the body or health.

4. Retention of Title

- a) We shall retain full title to the goods that have been delivered (goods subject to retention of title or "Reserved Goods") until the Buyer has discharged all claims due to us regardless of the legal basis thereof, including claims arising in the future or conditional claims under contracts entered into simultaneously or later. The Buyer is obligated to store Reserved Goods separately and to mark them as such, free of charge. If third parties access the Reserved Goods (in particular by way of attachment, etc.) the Buyer shall notify such third parties of our title to said goods, and shall inform us accordingly.
- c) The resale of Reserved Goods shall be allowed only in the ordinary course of business. The Buyer assigns to us any and all claims for the payment of the purchase price, compensation, replacement or any other claims due to the Buyer from third parties as a result of the sale of, damage to, or loss of the Reserved Goods, and Buyer shall be entitled to collect these claims, provided that it holds the collected amounts in trust and separately from its other assets and pays such amounts to us without delay.
- d) If the value of the collateral available to us exceeds our total receivables by more than 20%, we shall be obligated, upon the Buyer's request, to release the respective amount of collateral of our choice.



5. Limitation of Liability

- a) Subject to the following provisions we shall only be liable for damages, provided that the Buyer asserts damage claims that are due to willful intent or gross negligence, by us, our legal representatives, employees or other vicarious agents or to a culpable violation of an essential contractual obligation. Essential contractual obligations are those obligations that have to be met in order to achieve the purpose of the contract and on the compliance with which the Buyer regularly trusts and may regularly trust.
- b) If a violation of essential contractual duties is due to slight negligence, our liability is restricted to the foreseeable, typically occurring damage. Thus, indirect and consequential damages resulting from defects in the item delivered shall be eligible for compensation only if such damages may be typically expected to occur to the item delivered when it is used for its intended purpose.
- c) Liability for culpable injury to life, the body or health and the mandatory liability pursuant to product liability act (*Produkthaftungsgesetz*) remains unaffected.
- d) Unless stipulated otherwise in the paragraphs above, liability for damages shall be excluded. For liability for default, the liability limitation pursuant to sec. 3 shall additionally apply.
- e) The aforementioned regulations shall also apply if the purchaser claims a refund of futile expenses in lieu of a claim for damages in lieu of performance.

6. Place of Fulfilment, Jurisdiction, Applicable Law

- a) The place of payment by the Buyer shall be Buxtehude, Federal Republic of Germany, the place of performance of our obligations shall be the location of our warehouse.
- b) If the Buyer is a merchant, a legal entity under public law or a special fund under public law, Buxtehude, Federal Republic of Germany, shall be the agreed-upon place of jurisdiction for any and all disputes arising under and in connection with this contract.
- c) Any legal relationship between the Buyer and us shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

II. Special Conditions for Merchandise

For contracts on the delivery of merchandise (particularly marine safety equipment and marine technology) the following provisions shall additionally apply.

1. Reservation of Self-Supply

Delivery shall be made subject to the correct and timely self-delivery by our supplier. If we are not supplied by our supplier in time despite conclusion of a covering contract we shall be entitled to extend the delivery period accordingly without being in default of delivery. In the event of a ultimate failure of self-delivery or a delay of indeterminate duration we shall be entitled to rescind the contract. In this case we will reimburse any payments already made immediately to the Buyer.

2. Assignment of Warranty Claims

Under contracts on the delivery of merchandise (such as marine safety equipment and marine technology) we hereby assign any potential warranty claims against our supplier to the Buyer. The Buyer agrees to this assignment. In case of a defect the Buyer shall only be entitled to assert warranty claims against us, if the enforcement of the claims against the supplier in court fails or is futile (in particular due to insolvency). For the duration of the lawsuit the limitation period of the Buyer's respective claims against us shall be suspended. As far as the Buyer is entitled to assert warranty claims against us, the provisions set out in part III. sec. 1 und 2 a) shall apply accordingly.

III. Special Conditions for Contracts for the Supply of Deep Sea Pressure Housings

For contracts on the delivery of Deep Sea Pressure Housings manufactured by us (VITROVEX Products) the following provisions shall additionally apply.

1. Warranty

- a) The warranty period for warranty claims is twelve (12) months from the time of dispatch or of acceptance where acceptance is required. By deviation therefrom, the statutory warranty period of two years shall apply for damage claims due to intentional or grossly negligent breaches of duty or culpable injury to life, the body or health.
- b) The Buyer is obligated to inspect the goods pursuant to Section 377 German Commercial Code [*Handelsgesetzbuch "HGB"*] immediately, however within seven (7) working days after delivery at the latest, and has to give notice of any detectable defects without undue delay. Notice of defects has to be given in writing.
- c) In the event of a defect, that the Buyer has duly given notice of, we shall, at our discretion, either replace the defective goods or remedy the defect. The Buyer is obliged to return the goods to us for the purpose of inspection and supplementary performance. If actually, there was a defect at the time of passing of risk - without prejudice to any further claims - we will reimburse to the Buyer the costs of the least expensive shipping method for the return of the goods except for additional costs incurring due to the fact that the goods are at a different location than that of their intended use. However, if it turns out that there was no defect, the shipping costs shall be borne by the Buyer.
- d) If the supplementary performance fails, is refused by us or is either impossible or unreasonable, the Buyer shall be entitled to reduce the purchase price or to rescind the contract. The Buyer shall only be entitled to claims for damages within the scope set out in the liability provision in part I sec. 5.
- e) In the event of rescission by the Buyer, the Buyer shall be liable for deterioration, loss and benefits it has failed to derive from the goods, not only from its obligation to exercise the care customarily exercised in its own affairs but also from any fault due to negligence or willful misconduct.



2. Copyrights, Intellectual Property

- a) Should the item delivered infringe upon any third party industrial property right or copyright, we shall, at our option and expense, either modify or exchange the item in such manner as to exclude the infringement of third party rights and, at the same time, maintain its agreed-upon function, or provide the Buyer with the right of use by way of a license agreement. Should this fail within a reasonable period of time, the Buyer shall be entitled to rescind the contract, reduce the purchase price or claim damages in accordance with Clauses 5 of part I hereof.
- b) The Buyer is hereby granted a non-exclusive and non-transferable right of use of any software and related documentation, including their updates for its internal use together with the products for which the programs are provided (any other rights in the programs and documentation, including any copies and updates thereof, shall be held by us). The Buyer must ensure that these programs and documentation are not available to any third party without our prior written consent. Copies may generally not be made for purposes other than archiving and data back-up or troubleshooting. The provision of source programs shall be subject to a separate written agreement. Should the original copies bear a copyright notice, such notice must be reproduced by the Buyer on all copies thereof. Unless otherwise agreed, the right of use shall be deemed granted upon each confirmation of order and delivery of the programs, documentation and updates.

3. Violation of Third Party Rights by specifications provided by the Buyer

Where items to be delivered are based on plans, drawings, models, or any other data provided by the Buyer and thereby violate third party rights, including, but not limited to, proprietary rights, the Buyer shall indemnify and hold us harmless from any and all such claims, unless the Buyer is not responsible for such violation.