

General Terms and Conditions – megro GmbH & Co. KG, Wesel

1. Validity

The following terms and conditions shall apply to all our deliveries, unless otherwise agreed upon in writing.

Standard business conditions of the Customer do not apply, regardless of whether or not we expressly object to them in a particular case.

The product offerings are only directed to Business Customers.

2. Conclusion of contract

Our offers are subject to change in terms of price, quantity, delivery period and possibility of delivery. Orders shall become binding for us only upon receipt of written acknowledgement or by delivery.

3. Delivery

We are entitled to carry out partial shipments. The delivery of excess or minor quantities in reasonable limits shall be considered as fulfillment of the contract. We do our utmost to strictly adhere to agreed upon delivery times. A pre-condition is the correct and punctual delivery of materials to us. If the delivery period is exceeded, the buyer is entitled to set an adequate extension period. The buyer has no right to withdraw from the contract because of delay in delivery or delivery impossibility before the end of the extension period. This right only exists in respect of the goods not supplied, unless the partial fulfillment of the contract has no demonstrable interest for the buyer. Buyer's claims for compensation because of delay in delivery or impossibility are – as far as legally allowed – excluded. Unforeseen events (no matter, if happened to us or to our sub suppliers) like operating breakdowns, shortages of raw materials, traffic breakdowns, official regulations, changes in currency conditions, war, strikes and other events of force majeure shall release us from our obligation to deliver for the period of the disturbance and the range of its effects. Events of this kind entitle us to withdraw from the contract totally or in parts.

4. Liability because of infringement of contract

In case of breach of contractual or pre-contractual obligations by ourselves or by our performance assistants we are only liable for willful acts and gross negligence. Our liability shall be limited to the damage foreseeable on conclusion of the contract as well as to additional expenses in case of a covering purchase.

The provisions of this Section 4 shall not apply with respect to our liability for guaranteed product specifications (within the meaning of Sec. 444 of the German Civil Code), personal injury or under the German Product Liability Act.

5. Withdrawal

If the purchaser did not declare the provided quantum (gradual deliveries) until the subscription period is expired, we have the right to withdraw from the contract after having given an adequate extension period. If the purchaser did not pay an earlier delivery by the end of the additionally given period agreed upon or if the financial situation of the purchaser deteriorates substantially to the extent that his/her ability to meet payments is in reasonable doubt, we are entitled to withhold the delivery and to grant the purchaser an additional period within which he/she shall render advance payments or provide security. We are entitled to rescind the contract after this additional period has been expired without any results.

6. Prices

Our prices apply from the place of delivery (excluding packaging), unless otherwise agreed. Orders for less than 100.00 € will be additionally charged with a handling fee of 10.00 €; this amount will be stated in the invoice separately. We reserve the right to charge the purchaser for additional costs incurred by observance of the purchaser's special shipping regulations. Increases or reevaluations of the costs related to the production, distribution, transport etc. of the goods, public charges included, authorize us to increase our prices in case of contract (gradual delivery contract). The same applies to deliveries that shall be carried out 4 months after conclusion of the contract. For the calculation the weights, dimensions and number of pieces defined in our place of dispatch are authoritative.

7. Payment – Export

Payment obligations shall not be deemed to have been fulfilled until we have the equivalent of our claim at our disposal. Our invoices have got to be paid in advance, free of charge for us, in EUR, to one of our accounts in the Federal Republic of Germany, unless other terms of payment were agreed upon in writing. When a SEPA Direct Debit Mandate is issued, payments may be made less than 2 % cash discount. We will notify the customer of the debit receipt in the invoice. The SEPA direct debit will become due for payment within three calendar days from date of invoice. If the due date is a Saturday, Sunday or public holiday, the due date shall be postponed to the first following working day. Non-payment or reverse booking of the direct debit shall be at the purchaser's expense. We further have to charge a handling fee of 25.00 €, and the default starts with the day the account is debited. For all dunning costs that arise from having fallen into arrears a dunning cost lump sum in the amount of 5.00 € for the 1st and 2nd reminder (dunning level 1, 2), and in the amount of 10.00 € for the 3rd and every further reminder (dunning level 3), plus statutory interest on arrears will be charged. The assertion of a further claim for damages remains reserved. Setting off or exertion of a retaining right is only allowed in case of undisputed or legally stated demands.

8. Dispatch and risk taking

We have the right to choose the route and method of transport according to our best judgement. We will be anxious to take special desires of the purchaser into consideration appropriately.

9. Return of goods

The return of bought goods is only in exceptional cases possible and only after our previous agreement in writing. Goods returned without our agreement will be sent back at the expense of the purchaser. Returned goods are generally travelling at the risk and at the expense of the sender. The compensation of returned goods shall depend on the usability condition of the goods. The following deductions are valid: For goods that can easily be resold, the deduction amounts to 10% of the net value, however, at least 25.00 €. We do not pay for goods that are no longer usable or obsolete. In this case, we will send a declaration of destruction.

10. Warranty in case of defects

The processing of goods supplied by us is at the risk of the purchaser. Our processing suggestions are non-binding, also in regard to any intellectual property rights protecting third party interests and do not excuse the purchaser from examining them in respect of adequacy and purpose. Claims for defect may only be considered where the purchaser has examined the goods thoroughly immediately following their arrival at the agreed destination (where necessary, by sample processing) and where the presumed defect is reported to us at the latest within 10 days of receipt, verifiable hidden defects shall be reported immediately following their discovery, in written form. Should the purchaser neglect the timely notification or if the goods are being processed or used by him, this shall be regarded as an approval of the goods. In case of significant defects that have been reprehended timely at the moment of the transfer of risk, we replace the goods for free against performance of obligation of pay. Should a replacement not be possible, be unsuccessful, or if we fail to do so within a reasonable period of time, we shall be obliged to concede the purchaser cancellation of the sale or reduction in value. Further claims are – as far as legally allowed – excluded.

The provisions of this Section 10 shall not apply with respect to our liability for guaranteed product specifications (within the meaning of Sec. 444 of the German Civil Code), personal injury or under the German Product Liability Act.

11. Reservation of proprietary rights

All goods supplied by us remain our property until full payment of all liabilities resulting from the business connection with the purchaser is received. The purchaser has the right to process as well as to resell the goods within the scope of a regular business enterprise managed by him. Exceptional disposals, like pledges, chattel mortgages etc. are however inadmissible. Any further processing or treatment of the reserved goods shall be carried by the purchaser without any obligations for us resulting therefrom. If the purchaser processes, blends, mixes or combines the reserved property with other products not belonging to us, we directly become joint owner of the newly created product with a share corresponding to the proportion of its reserved property to the other good at the time when the processing, blending, mixing or combining took place. If the purchaser acquires exclusive ownership of the newly created product, the parties agree that the purchaser entitles us to co-ownership in relation to invoice value of the processed or combined or blended goods and stores it free of charge. Upon acceptance of our goods, the purchaser shall assign to us all ancillary rights to the claims arising from the resale of the goods under our ownership or co-ownership against his/her customers until payment of our claims is complete, but only to the amount of the pro rata value (invoicing value) of our goods. The purchaser shall be entitled to collect receivables assigned to us as long as he fulfills his obligations to us and does not fall into loss of assets. On our demand the purchaser shall provide us with the information necessary for the confiscation and shall inform the debtor of the assignment. We must be informed immediately of access by third parties to the goods in our ownership or co-ownership and to the claims assigned to us. If the value of the receivables assigned to us exceeds our receivables to the purchaser by more than 20%, we shall be obliged, at the purchaser's request to release the amount. However, this requires that the purchaser proves to us the status (amount, due date, etc.) of the receivable assigned to us, together with a corresponding statement.

12. Breach of contract

Breach of the contract on the part of the purchaser entitle us – regardless of further claims – to cease any further delivery to the purchaser or to withdraw from the contract.

13. megro online shop

(1) All offers, sales contracts, deliveries and services made on the basis of orders by our customers through our online shop www.megro.de shall be governed by these general terms and conditions of sale.

(2) By placing an order in the online Shop, the Customer makes a binding offer to purchase the relevant product. The offer will remain open for acceptance by us for a period ending at the end of the (third) business day following the day of the offer. Without undue delay upon receipt of the order, we will send to the Customer by e-mail a confirmation of receipt, which shall not constitute an acceptance of the order. The order shall be deemed to be accepted by us either upon subsequent (e-mail) acceptance of the order or by dispatching the product. The sales contract with the Customer shall not become effective until our acceptance.

(3) Upon registration confirmation for the megro online shop, the customer is obliged to use the passwords only within the company and not to pass them on to unauthorized third parties. In the event of infringement, access will be withdrawn.

14. Disposal of electrical/electronic equipment

Only applicable for Germany.

15. Place of performance, court of jurisdiction, applicable law

Place of performance with regard to delivery is the place of dispatch, place of performance with regard to payment is Wesel. Exclusive court of jurisdiction is according to our choice either the court that is responsible for our place of business and the court of factual jurisdiction or the courts that have jurisdiction over the purchasers' place of residence. The contractual relationship is subject to German Law; the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

16. Traceability

The distributor (reseller) is obliged to guarantee the traceability of the goods we have supplied.

17. Distributor obligations when ordering medical devices

When ordering medical devices, the purchaser undertakes to comply with the dealer obligations pursuant to Article 14 MDR/IVDR.