

General Terms and Conditions of Sale of
Lutronic GmbH

hereinafter referred to as Lutronic

I. General Provisions

1. These General Terms and Conditions of Sale apply exclusively. Lutronic neither recognizes conflicting conditions nor deviating terms and conditions of sale of the Purchaser unless Lutronic expressly agreed to their application in writing. These Terms and Conditions of Sale apply even in the case of Lutronic being aware of the Purchaser's terms and conditions conflicting with, or deviating from these General Terms and Conditions of Sale and performing the Purchaser's delivery without reservation.
2. All agreements made between Lutronic and the Purchaser for the purpose of fulfilling this contract are stipulated in writing in this contract.
3. These Terms and Conditions of Sale apply exclusively to companies in the meaning of Sect. 310 (1) BGB (German Civil Code).
4. These Terms and Conditions of Sale apply equally to any and all future business between Lutronic and the Purchaser.
5. Offers (e.g. quantity, delivery time, price) are without obligation and non-binding. Concrete delivery obligations shall come into being only upon order confirmation. Cost estimates, drawings, drafts and other documents (hereafter referred to as the Documents) can be adjusted. These shall only be binding where Lutronic expressly designates them as such.
6. Lutronic shall reserve unlimited proprietary rights and copyrights to all Documents. Documents shall be made available to third parties only where Lutronic has indicated prior consent or where this is necessary owing to legal regulations. Documents shall not be exploited in any other way without the consent of Lutronic. In the event that the order is not awarded, Documents must be returned immediately upon request.
7. Partial deliveries shall be permitted where deemed reasonable by the Purchaser.

II. Delivery Deadlines, Delay

1. Delivery periods and deadlines specified by Lutronic shall refer to the shipping date of the goods. The meeting of a delivery deadline shall require that all Documents, necessary permits and approvals, especially of plans, shall be furnished by the Purchaser on time, in addition to the Purchaser's compliance with the agreed terms of payment and other obligations. If these requirements are not met in time, those deadlines shall be extended accordingly. However, this clause shall not apply on condition that the delay is Lutronic's responsibility. Lutronic reserves the right to object to unfulfilled contracts.
2. Force majeure or events which prevent Lutronic from supplying or which considerably impair such goods at no fault of Lutronic's shall entitle Lutronic to postpone the date of delivery or withdraw from the contract.
3. In the event that Lutronic is unable to meet an agreed deadline on account of reasons for which it is responsible, or if the company defaults for any other reason, the Purchaser shall be obliged to grant a reasonable period of grace. Lutronic is liable in accordance with legal regulations insofar as the delayed delivery is due to the willful or gross negligent breach of contract for which Lutronic is responsible. Any representative or vicarious agent at fault shall be attributed to Lutronic. Insofar as the delayed delivery is due to a gross negligent breach of contract for which Lutronic is responsible, Lutronic's liability for damages shall be limited to the foreseeable damage that typically occurs.
4. Lutronic shall be liable in accordance with legal regulations insofar as the underlying contract constitutes a fixed date transaction in the meaning of Section 286 (2) no. 4 BGB (German Civil Code), or of Section 376 HGB (German Commercial Code). Lutronic shall equally be held liable in accordance with legal regulations insofar as the consequence of a delayed

delivery for which Lutronic is responsible results in the Purchaser being entitled to enforce that his interest in the further fulfillment of the contract turned out in discontinuance.

5. Lutronic shall also be liable in accordance with legal regulations if the delayed delivery for which Lutronic is responsible is due to the culpable violation of a major contractual obligation. In this case, however, the liability for damages shall be limited to the foreseeable damage that typically occurs.
6. Where Lutronic defaults, Lutronic shall be liable for each full week of delay to effect a lump-sum compensation amounting to 0.5% of the delivery value, yet not exceeding 5% of the delivery value.
7. In the case of call orders without agreement on specific delivery deadlines, Lutronic shall be entitled to demand a mandatory definition of such dates up to three months after the confirmation of order. If the Purchaser fails to comply with this request within three weeks, Lutronic shall be entitled to impose a second deadline of two weeks and withdraw from the contract after this period has expired or reject any delivery, and claim compensation.
8. If the Purchaser is in default of acceptance, he culpably breaches his duty to co-operate, or if at the request of the Purchaser the dispatch or delivery are delayed by more than one month after readiness for shipping has been indicated, storage charges amounting to 0.5% of the price of the objects of delivery may be imposed on the Purchaser for every month commencing (up to a maximum of 5%). The contracting parties are at liberty to furnish evidence of higher or lower storage charges. The right to assert further claims or rights remains reserved.
9. Insofar as the requirements as set forth under no. (8) apply, the risk of accidental loss or accidental deterioration of the delivery passes to the Purchaser at such moment when the latter comes into default of acceptance.
10. If the contract entered into obliges Lutronic to deliver in advance, Lutronic may refuse to fulfill the performance owed if it becomes apparent after entering into the contract that Lutronic's right to consideration is jeopardized as a result of the Purchaser's lack of performance capability. This applies in particular if the consideration to which Lutronic is entitled, due to a substantial deterioration in the Purchaser's financial situation, is jeopardized.

III. Dispatch, Transfer of Risk, Return of Packaging

1. The risk shall be transferred to the Purchaser even in the case of a prepaid delivery as soon as the goods have left Lutronic's manufacturing location. Lutronic may choose the means of transport at its discretion unless a specific type of transport has been agreed with the Purchaser. A transport insurance shall only be taken out following a separate agreement. If the dispatch is delayed for reasons beyond Lutronic's responsibility, any risk shall be transferred to the Purchaser at the time readiness for shipping is communicated; Lutronic shall then have the right to store the goods at the expense of the Purchaser (art. II no. 8).
2. Lutronic shall only accept the return of used transport packaging (within the meaning of the Packaging Regulations) if the latter is returned with carriage prepaid, to Lutronic's manufacturing location.

IV. Pricing, Terms of Payment, Default

1. Unless otherwise indicated in the order confirmation, prices shall apply ex works, excluding packaging, which will be invoiced separately.
2. If the agreed delivery period exceeds four (4) months, Lutronic shall have the right at the expiry of that time to consider alterations of cost factors having occurred in the meantime (especially due to changes in the price of materials or due to collective agreements) by adapting its prices or by a recalculation.

3. Statutory value added tax is not included in the prices and is itemized on the invoice on the day of invoicing in the statutory amount.
4. Any discount is subject to a separate written agreement.
5. Unless the order confirmation states otherwise, the purchase price is payable net (without deduction) within 30 days as of the invoice date. The statutory regulations pertaining to consequences of a default of payment apply.
6. The Purchaser is only entitled to rights of offsetting if his counterclaims have been established as final and absolute, are undisputed or recognized by Lutronic. Also, the Purchaser is entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.
7. If the Purchaser fails to meet his payment obligations toward Lutronic in time, Lutronic shall be entitled to make all claims (including those based on a draft) due immediately and make any further deliveries conditional on immediate payment. This shall also apply if circumstances become known which may cause doubts as to the Purchaser's credit-worthiness

V. Liability for Material Defects

Lutronic shall be liable for material defects as follows:

1. Claims for defects of the Purchaser require that the Purchaser properly complied with his owed duties of inspection and notification of defects pursuant to Section 377 BGB (German Civil Code).
2. Notice must be given in writing of material defects, incorrect deliveries and deliveries of a quantity less than contracted as well as defects that are visible, without delay and at the latest within 10 days of receipt of the goods at the point of destination. Where concealed defects are ascertained, these must be notified in writing within three (3) working days of discovery.
3. All parts or services found to be defective within the period of limitation – irrespective of the time of operation – must be, at the discretion of the Purchaser, reworked free of charge, supplied anew or rendered anew, provided that the cause of the material defect already existed at the time risk was transferred.
4. Delivery quality and/or quality agreements that differ from those defined by Lutronic must be agreed in writing upon award of contract at the latest. A guarantee as to the attributes or durability that results in strict liability shall only apply where Lutronic has expressly guaranteed details of attributes or durability in writing.
5. Goods which were claimed to be defective shall not be subjected to further treatment. If claims for defects are justified, Lutronic shall be liable for the expenses for dispatch and packaging of the goods returned and the new delivery. Rework performed without authorization by Lutronic and the improper treatment shall result in the loss of justified claims for warranty.
6. In all cases, Lutronic shall be granted the opportunity for subsequent compliance within a reasonable period. Compensation claims under the terms of art. VI may only be asserted by the Purchaser where subsequent compliance was not rendered.
7. If the supplementary performance fails, the Purchaser may – irrespective of potential claims for compensation as specified in art. VI – withdraw from the contract or reduce payment.
8. Claims for defects shall not be deemed justified in case of inconsiderable deviations from the properties stipulated or in the case of inconsiderable impairment of usability only. In addition claims for defects shall not apply in case of natural wear or damage which – after the transfer of risk – may arise from improper or negligent handling, excessive use, inappropriate working materials or due to special external influences not provided for under to the contract. If the Purchaser or any third party perform improper modifications or repair work, no claim for compensation can be lodged for consequences resulting from them.
9. In the case of notifications of material defects, payments by the Purchaser may be withheld to an extent commensurate with the material defects established. However, the Purchaser may only withhold payments where there is clear justification for a material defect being asserted. Where the notification of defect is unjustified, Lutronic shall be entitled to demand compensation from the Purchaser for expenses incurred.
10. Purchaser's claims for expenditure which were necessary to effect post-delivery performance, e.g. the costs of transport, road, work and material, shall be excluded if expenses are increased because the object of delivery has been taken to a location different from the Purchaser's; this shall not apply if such a transport is in compliance with the intended use.
11. Claims based on the legal right of recourse by the Purchaser against Lutronic shall only exist to the extent that the Purchaser had not come to an agreement with his end customer beyond the legal claims for defects. In addition, art. V no. 10 shall also apply to the extent of the Purchaser's right of recourse against Lutronic.
12. Further, art. VI (further claims for compensation) shall be applicable to claims for damages. Further claims by the Purchaser or other claims than those governed by these art. V and VI lodged by the Purchaser against Lutronic and its vicarious agents that are based on a material defect, shall be excluded.
13. The limitation period for claims for defects is twelve (12) months as of the transfer of risk.
14. The limitation period in the case of a delivery recourse pursuant to Sections 478, 479 BGB (German Civil Code) is not affected; the period is five (5) years starting as of delivery of the defective items.

VI. Claims for Compensation

1. Claims for compensation and expenses by the Purchaser – irrespective of the legal basis – particularly on account of culpa in contrahendo, other breaches of contractual duty or tort liability for replacement of physical damage pursuant to Section 823 BGB (German Civil Code), shall be excluded.
2. The limitation pursuant to no. (1) applies also insofar as the Purchaser, instead of a claim for replacement of the physical damage demands the replacement of frustrated expenses.
3. Lutronic shall be unlimitedly liable under the legal regulations for injury to life, limb and health resulting from an intentional or negligent breach of duty on the part of Lutronic, its legal representatives or vicarious agents, and for damage covered by liability under the Product Liability Act. Lutronic shall also be liable for all damage in connection with intentional or grossly negligent contractual violations, including fraudulent intent on the part of its legal representatives and vicarious agents. Insofar as Lutronic is not accused of an intentional breach of contract, the liability for damages is limited to the foreseeable damage that typically occurs.
4. Where Lutronic has provided a guarantee as to the quality or durability of the goods or parts thereof, Lutronic shall also be liable in respect of this guarantee. However, Lutronic shall only be liable for damage which is based on the absence of the guaranteed attributes or durability but which is not directly connected with the goods in question where the risk of such damage is clearly understood from the guarantee as to attributes or durability.
5. Lutronic shall also be liable for damage caused by slight negligence where this negligence concerns the violation of central contractual obligations. The same shall apply where the Purchaser is entitled to claims for compensation in lieu of performance. However, Lutronic shall only be liable where the damage is typically linked to the contract and the foreseeable. The regulations above do not provide for an amendment to the burden of proof to the disadvantage of Purchaser.

6. Further liability on the part of Lutronic shall be excluded without consideration of the legal nature of the asserted claim. This shall apply in particular to tortious claims or claims for compensation of frustrated expenses in lieu of performance. This does not affect the liability of Lutronic under art. II no. 5. Where the liability of Lutronic is excluded or limited, this shall also apply to the personal liability of its salaried employees, wage-earning employees, co-workers, representatives and vicarious agents.
 7. Claims for reimbursement of expenses shall not be excluded in cases of non-fulfillment, but shall be limited as described in art. V no. 9.
 8. The limitation period in the event of a delivery recourse pursuant to Sections 478, 479 BGB (German Civil Code) are not affected; the period is five (5) years as of delivery of the defective item.
 9. For such claims that are not subject to the limitation period of a defect, an 18-month time limit applies. It commences as of knowledge of the damage and the damaging party.
4. As long as the Purchaser is not in default against Lutronic and Lutronic has not prohibited any reselling according to point 6 of this article, the Purchaser shall have the right to sell the goods purchased under a reservation of title in the course of ordinary business subject to the condition that the Purchaser equally agrees upon a reservation of title with his end customers in accordance with the aforementioned provisions. However, the Purchaser shall not be entitled to dispose of the goods purchased under a reservation of title in any other manner, and here in particular the Purchaser shall neither pledge the goods nor assign these by way of security.

VII. Impossibility; Adaptation of the Contract

1. Where a delivery proves impossible, the Purchaser shall be entitled to claim compensation unless Lutronic is not responsible for such impossibility. However, such a claim for compensation by the Purchaser shall be limited to 10% of the value of that part of the delivery which cannot be put in operation as intended for reasons of impossibility. This limitation shall not apply where Lutronic is subject to unlimited liability in accordance with art. VI no. 2. This does not provide for an amendment to the burden of proof to the disadvantage of the Purchaser. The right of the Purchaser to withdraw from the contract is unaffected.
 2. Should unpredictable events within the meaning of art. II no. 1 considerably modify the economic significance or the contents of the delivery or have a considerable effect on Lutronic's business, the contract shall be adapted accordingly with the principle of bona fide being observed. Should this be economically inappropriate, Lutronic shall be entitled to withdraw from the contract. If Lutronic wants to exercise its right to withdraw, Lutronic shall immediately advise the Purchaser accordingly after having recognized the extent of the event; this shall also apply if earlier agreements with the Purchaser included an extension of the delivery period.
6. If the Purchaser is in default of performance, Lutronic may prohibit any resale and combination and collect the claims covered by the assignment. The Purchaser shall provide any and all information as required and hand over all Documents. After a withdrawal from the contract Lutronic can demand the return of goods purchased under a reservation of title, which shall also include a partial withdrawal as to the goods still available. It is for Lutronic to choose the securities it wishes to release.
 7. Following the return of the purchased item Lutronic is entitled to the exploitation of the item; the proceeds from such exploitation will be offset against the customer's liabilities, minus any appropriate costs of the exploitation.
 8. The customer shall undertake to treat the purchased item with due care. The customer is in particular entitled to take out sufficient insurance at the original value against fire, damage caused by water and theft. Insofar as maintenance and inspection work is required, the customer shall perform this work in due time at its own expense.

IX. Industrial Protective Rights and Copyrights; Defects in Title

VIII. Reservation of Title

1. The parts of the delivery (goods supplied under reservation of title) shall remain Lutronic's property until all claims Lutronic is entitled to against the Purchaser resulting from the business relationship are met. As soon as the value of all security interests to which Lutronic is entitled exceeds the amount of all claims secured by more than ten percent (10 %), Lutronic shall release the relevant part of the security interest at the Purchaser's request.
 2. The processing of goods supplied under reservation of title is performed by Lutronic acting as the manufacturer within the meaning of Section 950 German Civil Code (BGB); this shall not mean that Lutronic has to meet an obligation. Should Lutronic not become a co-owner following the processing of the goods supplied under reservation of title, the Purchaser shall transfer in advance the co-ownership of the product to Lutronic in proportion to the material values subject to a free storage relationship. If Lutronic thus acquires a (co-)ownership of goods processed, Lutronic shall already transfer them to the Purchaser subject to the condition precedent of payment of its invoices, which means that the Purchaser shall acquire a right of expectancy as it is the case with goods purchased under a reservation of title.
 3. In the case of the goods purchased under a reservation of title being seized on the part of Lutronic, withdrawal from the contract shall only apply where this is expressly indicated by Lutronic. The Purchaser shall be obliged to notify Lutronic immediately in writing in cases of seizure or other intervention by third parties.
1. Unless otherwise agreed, Lutronic shall undertake to supply goods free of industrial protective rights and copyrights held by third parties (hereinafter referred to as Protective Rights) in the country of the place of delivery only. Should a third party submit justified claims against the Purchaser which are based on the violation of protective rights by Lutronic in the course of the deliveries used as stipulated, Lutronic shall be liable to the Purchaser within the period defined in art. V no. 6 as follows:
 - a) At its own discretion and own expense, Lutronic shall either obtain a right of usage for the deliveries in question, amend the deliveries in such a way that a property right is not infringed, or replace them. If this is not possible under reasonable conditions, the legal rights of termination or reduction shall be open to the Purchaser. The Purchaser cannot claim compensation for frustrated expenses.
 - b) The obligation on behalf of Lutronic to pay compensation shall be regulated by article VI.
 - c) The above-named obligations of Lutronic shall only be effective where the Purchaser notifies Lutronic immediately in writing about claims asserted by third parties, does not admit any infringement and reserves to Lutronic all precautionary measures and settlement negotiations. If the Purchaser discontinues usage of the deliveries for reasons of damage, reduction or for other important cause, such party shall undertake to indicate to the third party that the discontinuation of usage implies no admission of an infringement of property rights.

2. Claims by the Purchaser shall be excluded if any violation of protective rights is his responsibility.
3. Claims by the Purchaser shall be excluded insofar as the violation of the protective rights was caused by the Purchaser's specifications, by an application which could not be foreseen by Lutronic or by the fact that the deliveries were modified by the Purchaser or used in combination with products not supplied by Lutronic.
4. In case of a violation of Protective Rights the Purchaser's claims governed by no. 1a) apply and for the rest, the provisions of art. V nos. 4, 5 and 9 shall apply accordingly.
5. Should further defects in title occur, the provisions of art. V shall apply accordingly.
6. Further claims by the Purchaser or claims that differ to those governed by this art. IX against Lutronic and its vicarious agents based on a defect in title shall be excluded

X. Intra-community Deliveries, Value Added Tax Liability

If Lutronic is made liable for value added tax on deliveries to EU member countries simply because the Purchaser's information furnished to Lutronic on the requirements of VAT exemption acc. to Sec. 4 no. 1b, Sec. 6a of the German Value Added Tax Act do not apply or the Purchaser or his end customer did not meet an obligation within the scope of income taxation (proper communication to the central tax office, payment of income tax or others), the Purchaser shall be obliged to compensate Lutronic for the amount of value added tax without regard to fault.

XI. Jurisdiction and Applicable Law

1. If the Purchaser is a business, then the courts at the domicile of Lutronic in Schalksmühle (venue: Hagen) shall have exclusive jurisdiction for all disputes arising directly or indirectly from the contractual relationship. However, Lutronic is equally entitled to sue at the Purchaser's domicile.
2. German substantive law applies to the contractual relations, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XII. Mandatory Character of the Agreement

Even in case of a potential legal ineffectiveness of some provisions the contract's remaining provisions shall remain binding. This does not apply if adhering to the contract would create unreasonable hardship for either party.

Schalksmühle, November 2016

