

**General Terms and Conditions (GTCs)**  
**of**  
**MISUMI Europa GmbH**

**1. General remarks and scope**

- 1.1 These General Terms and Conditions (hereinafter "GTCs") of MISUMI Europe GmbH (hereinafter "MISUMI" or "company") shall exclusively apply to all contracts, deliveries and other services including consulting services. They shall be binding for the entire term of the business relationship with the purchaser (hereinafter also "customer" or "orderer") and for all subsequent contracts, deliveries and other services. Any other General Terms and Conditions or Conditions of Purchase are herewith expressly disclaimed also with regard to the future; the latter shall only apply when explicitly agreed to in writing by MISUMI. This also applies in the event that the customer places an order or confirm an offer submitted by MISUMI with reference to his own business or purchasing terms.
- 1.2 Unless otherwise expressly agreed in writing, the following GTCs shall exclusively apply to business relationships with an entrepreneur within the meaning of section 14 BGB (German Civil Code), a legal person under public law or a special fund under public law within the meaning of section 310, subs. 1 BGB.
- 1.3 Sales of goods (hereinafter also "products") are subject to a proper registration of the customer as well as the confirmation of the registration by MISUMI and shall be excluded for private persons or consumers within the meaning of section 13 BGB (German Civil Code).
- 1.4 In the event that a follow-up contract is concluded with the same customer as a result of the previous contractual relationship which was based on these GTCs, the present GTCs shall be effective and applicable to such follow-up contract even without explicit reference thereto.
- 1.5 This contract as well as any follow-up contracts shall be governed by MISUMI's GTCs as amended from time to time. At the customer's request, the present GTCs will be submitted in written form to the customer either in German or as a translation thereof into the English, French or Italian languages.

- 1.6 The following terms are frequently used in these GTCs and shall therefore be explained for a better understanding. This explanation is for illustration purposes only and does not represent a final definition in a legal sense.

Order: Ordering a product means to make a purchase offer via the distribution channels offered by MISUMI (online via the MISUMI Web Ordering System (WOS) under [www.misumi-europe.com](http://www.misumi-europe.com) or per e-mail) which then may be accepted by MISUMI.

Catalog: Product catalog issued by MISUMI in the respectively applicable version or currently published electronic overview on the MISUMI product range.

Registration:

Online registration: Full and proper registration of the customer with MISUMI using the online form „Web Ordering System (WOS) customer registration" on the [www.misumi-europe.com](http://www.misumi-europe.com) website, upon which MISUMI sends the customer his WOS access data via electronic mail.

Offline registration:

Proper registration of the customer by returning the completed MISUMI registration form provided with date, signature as well as company stamp, upon which MISUMI sends the customer his WOS access data via electronic mail.

- 1.7 Special order:

Orders of products which are, by derogation from the MISUMI catalog product range, provided with particular customer specifications; these orders are transmitted in writing to MISUMI via the usual ordering channels. Other special orders are so-called big orders, i.e. orders of products whose quantity exceeds the maximum quantities indicated in the printed catalog or in the online catalog within the scope of the volume discount scale as well as inventory items for which the amount ordered by the customer exceeds MISUMI's maximum storage quantity for the respective article; MISUMI will inform the customer on the fact that the order constitutes a big order in writing or by telephone after receipt of such order.

- 1.8 Stocks:

Products which are in principle kept in stock by MISUMI in the corresponding configuration and quantity.

## 2. **Registration:**

- 2.1 Ordering MISUMI products requires that the customer is fully and properly registered with MISUMI and that MISUMI has confirmed the customer's registration as well as the opening of a company account. A valid VAT number is also required for duly proper and complete registration. In this case, the customer is given a customer identification number which must be indicated upon ordering.
- 2.2 Orderers whose place of business or delivery address is not in an EU member state will receive a Confirmation of Compliance declaration, which, completed in full and signed, must be returned within 48 hours to the email address stated in the document.
- 2.3 With the registration, the customer gives his consent to be informed by MISUMI by e-mail on product offers or other special matters of the company. The customer may at any time revoke his consent to receive this information.
- 2.4 The customer shall be responsible to treat his personal customer identification number as confidential and not to disclose it to any third parties.
- 2.5 The customer may not transfer, lend or disclose his registered customer identification number to any third parties.
- 2.6 The customer may cancel his registration at any time by notifying MISUMI that he wishes to cancel the latter in a letter to be signed by an authorised person and marked with a company stamp. If MISUMI receives such letter, it will delete the registration data in line with the statutory provisions according to the General Data Protection Regulations (GDPR) of the European Union and the German Data Protection Act (BDSG) upon fulfilment of any and all existing contracts.
- 2.7 MISUMI reserves the right to refuse or to revoke a registration at its reasonable discretion without stating a reason. This is particularly the case if:
  - a) the customer is not an entrepreneur within the meaning of section 14 BGB (German Civil Code);
  - b) the customer has not entered all mandatory information required in the registration form;
  - c) The customer has not sent, or not sent in due time, the Confirmation of Compliance declaration;
  - d) the customer has already been registered;
  - e) the customer's (principal) place of business, company headquarters or postal address at the time of registration is outside the European Union

(EU) or not in those countries where MISUMI offers its products via catalog;

- f) the customer has previously had his registration revoked by the company;
- g) the customer moves his place of business or registered office into a country in which MISUMI does not distribute its products after his registration has been confirmed. Enquiries regarding countries to which MISUMI products are delivered can be directed to the company under the address indicated under item 15;
- h) the customer has provided untrue or incomplete information in connection with his registration;
- i) the customer discloses, lends or assigns his identification number without being authorised to do so;
- j) for any other reasons (including without limitation, the customer's economic circumstances) entitling MISUMI in its view to reject or revoke the registration.

### **3. Offer and conclusion of contracts**

3.1 All offers submitted by MISUMI are subject to confirmation and without obligation, unless they are explicitly marked as binding or contain a deadline for acceptance. They are invitations to prospective customers to place a binding order with MISUMI. After the customer has placed his order, contracts are not entered into before receipt of MISUMI's written order confirmation, that is not by MISUMI merely acknowledging receipt of the order or by informing on or quoting prices; contracts shall, however, be entered into at the latest when the products are handed over. MISUMI's order confirmation and - in addition to the present GTCs - any terms and conditions of sale and delivery published shall determine the contents of the contract. Any agreements deviating therefrom always require an explicit confirmation in writing by MISUMI.

3.2 Information about the subject of the products or services (e.g. weight, dimensioning, loading capacity, tolerances) as well as drawings, figures or CAD data indicated by MISUMI are only roughly applicable and do not represent any warranty, to the extent that the information has not been warranted in writing. Due to worldwide production facilities, minor material deviations cannot be excluded.

- 3.3 By placing the order, the customer bindingly declares that he intends to acquire the product ordered. MISUMI shall not be obliged to accept or process any order for products. A contract shall not come into effect until MISUMI has accepted the order by sending a written order confirmation.
- 3.4 Any entitlements the customer may possibly have for a VAT refund cannot be recognised if MISUMI did not have a valid VAT number from the customer when the order was placed.
- 3.5 The order confirmation including these GTCs shall be the only relevant document governing the legal relationship between MISUMI and the customer and must be made in writing or at least in text form.
- 3.6 Comments or extensive texts next to a valid MISUMI product code are not read by the electronic order data acquisition system and will not be taken into consideration. The order shall be governed exclusively by the product code and the statement of quantity.
- 3.7 After receipt of the written order confirmation, the customer has to check it without delay and inform MISUMI promptly about any deviations from the order. If the order confirmation contains an explicit reference to a deviation from the order (e.g. different quantities/dimensions), the customer has to object in writing without delay. The customer shall pay for any expenses incurred in vain by MISUMI or any damage arising from a missing or delayed notification of or objection to defects. The customer shall be entitled to provide evidence that MISUMI has not incurred any or only minor damages due to the customer's missing or delayed notification of defects.
- 3.8 Any amendment and modifications to the agreements entered into including these GTCs must be in writing or submitted at least in text form in order to be valid.
- 3.9 MISUMI shall retain the ownership and intellectual property rights in all catalogs and electronic overviews on its product range and cost estimates published by the Company, as well as drawings, figures or calculations submitted to the customer. Without MISUMI's prior consent, these documents may neither be reproduced nor disclosed to third parties.
- 3.10 If an order exceeds customary quantities or if these are not fully available to or cannot be supplied by MISUMI, the latter reserves its right to limit the quantity accordingly. The order confirmation then comprises an offer to conclude a new

contract. The customer accepts this offer by confirming it in writing or by accepting the order confirmation without complaint.

- 3.11 Upon the customer's enquiry or at his special request, MISUMI will submit a price information/quotation. This price information/quotation shall be subject to confirmation by and without obligation for MISUMI and does not represent an acceptable offer for MISUMI (cf. items 3.4 - 3.5).
- 3.12 The conclusion of the contract shall be subject to the proviso of a correct and timely self-supply by MISUMI's suppliers. This only applies to cases where MISUMI is not responsible for the non-delivery. If the requested products are not available, MISUMI will inform the customer accordingly without delay.
- 3.13 Verbal or telephone orders shall be excluded.
- 3.14 The information contained in MISUMI catalogs (e.g. information on prices or delivery times), in printed or electronic overviews on its product range or, for example, in advertisements does not constitute an offer. MISUMI reserves the right to correct, modify or delete such information at any time.
- 3.15 Upon request, the customer may place special orders (cf. item 1.7). MISUMI will verify the corresponding enquiries and, if applicable, calculate a price for this special order and inform the customer accordingly. If the customer is interested, he may then place an order in line with the above conditions. These special orders shall also be subject to the present GTCs, unless otherwise agreed by the parties; if this is the case, such individual agreements shall prevail over these GTCs.

#### **4. Modifications to orders, returning of dispatched products**

##### **4.1 Modifications and cancellation of orders:**

MISUMI gives the customer the possibility to modify or cancel his orders in line with the following provisions:

- a) The provisions of this item 4 shall not affect the customer's statutory rights. The possibility to modify or cancel an order shall be subject to the proviso that MISUMI accepts this. MISUMI explicitly reserves the right to exceptions to the following rules at its own discretion, where, in exceptional cases, MISUMI cannot accept such cancellation due to the manner, type, quantity or shipment date of the products or the distribution system used.

The customer will be informed accordingly without delay after receipt of the request for modification or cancellation of the order.

- b) In general, orders may be cancelled free of charge, provided that such cancellation is received by MISUMI on the day the order confirmation was sent to the Customer.

Precondition for the cancellation free of charge is, that MISUMI receives the cancellation in written form within 2 hours after the order confirmation was sent, latest one hour before MISUMI business closing hours (Monday to Thursday 17:00 h (CET), Friday 16:00 h (CET)). This means, that cancellation on work days Monday to Thursday has to be made latest until 16:00 h (CET) and on Fridays latest until 15:00 h (CET) within to hours.

Cancellations later than 2 hours after the order confirmation was sent, respectively 1 hour before MISUMI business closing hours, will be charged with a cancellation fee amounting 50 % of the order value.

- c) Cancellations later than on the day, when the order confirmation was sent to the Customer, may be cancelled depending on the delivery time of certain components and must be requested individually from the Customer Service.
- d) To the extent that the order concerns products whose configuration and quantity is kept on stock by MISUMI, the order may in principle be cancelled free of charge up to one day prior to shipment, provided that MISUMI accepts such cancellation.
- e) Notwithstanding the above provisions, special orders in accordance with items 1.7 and 3.13 of these GTCs as well as express orders may not be cancelled.
- f) The cancellation fees are calculated from the order value (contract value including taxes, freight, etc. - see 5.1). The usual working days (Monday to Friday) at MISUMI at the company's place of business in Frankfurt am Main, Germany, shall be relevant for the calculation of the above periods.
- g) Any request for modification or cancellation of orders must be directed to the e-mail address indicated under item 15 of these GTCs quoting the order and customer identification number.

#### 4.2. **Return of products already delivered**

- a) In principle, returned products will not be accepted back.
- b) In exceptional cases, the customer may return products after prior consultation with and consent of MISUMI's after-sales service, to the extent that these products are so-called stocks within the meaning of item 1.8.
- c) For products in line with 4.2 b), the customer will be charged a restocking fee amounting to 20 % of the order value. The customer shall also bear the costs for returning the products.
- d) In principle, the return and re-acceptance of special orders pursuant to items 1.7 and 3.13 is excluded.

#### 5. **Prices and payment**

- 5.1 Prices are understood in Euros from MISUMI's place of business in Frankfurt am Main, plus applicable value-added tax, packaging, packaging services, costs for shipment and, in case of export deliveries, plus customs duties and charges as well as other public fees. Prices are as listed at the time of the conclusion of the contract or upon sending the order confirmation, respectively. The required packaging is invoiced at cost price and will not be taken back by MISUMI. The customer shall bear the costs for shipment as well as any additional costs for overnight or express delivery effected at his request.
- 5.2 All prices are based on the cost factors (exchange rates, raw material prices, wages, etc.) applicable at the date of conclusion of the contract. Should any major changes to the cost factors occur for which MISUMI is not responsible or culpable, MISUMI shall have the right to withdraw from the contract up to the agreed delivery date or to make a new offer to the customer.
- 5.3 The customer shall be obliged to pay the respectively applicable delivery charge laid out in MISUMI's current price list. The amount of the delivery charge depends on the country of destination to which the delivery shall be effected. MISUMI will announce its current delivery charges and inform the customer accordingly upon request. In the event that the price list does not state the delivery charges for the respective country or customer, MISUMI may request reimbursement of the delivery charges actually accrued.
- 5.4 The costs for special orders pursuant to item 3.13 of these GTCs shall also become payable together with any further costs in accordance with item 5.1.



- 5.5 Payment is deemed to have been effected only after MISUMI can definitely dispose of the amount.
- 5.6 If the customer fails to meet his payment obligations or if there is a material deterioration in his financial situation, MISUMI shall be entitled to demand full payment of the remaining debt. In this case, MISUMI shall also be entitled to request advance payment or the provision of securities and to refuse fulfilment of its obligations until the advance payment has been effected or the securities have been provided. If MISUMI's request is not fulfilled within a reasonable period of time, MISUMI shall have the right to withdraw from the contract and/or demand damages for non-performance. In the event of cessation of payments by or overindebtedness of the customer, there is no need for setting any extension. Furthermore, MISUMI shall have the right to withdraw from the contract if the customer fails to pay within a reasonable extension time or if an application for the commencement of insolvency proceedings is filed.
- 5.7 Should the customer default on payment, he shall owe default interest amounting to 8 percentage points above the respectively applicable base interest rate.
- 5.8 MISUMI may fix ceilings on the amounts for the purchase of products without advance payments or securities. In the event that the overall price of the products ordered by the customer reaches or exceeds this ceiling, MISUMI may at its sole discretion react as follows:
- a) The customer may be requested to pay the amount due, in whole or in part, prior to the delivery of the products ordered.
  - b) MISUMI may refuse, revoke or cancel the order(s); and/or
  - c) take any other measures or actions (e.g. ask for securities) MISUMI shall deem necessary to safeguard its own interests.

At the customer's request, MISUMI will inform the latter on such maximum amount for the order.

## 6. **Use of MISUMI products, administrative regulations**

- 6.1 MISUMI products are laid out to be used in general production equipment for automatic assembly machines, devices for machine processing, inspection equipment and devices, and plant automation machines. The customer shall

inform MISUMI on any legal provisions and administrative regulations with regard to the delivery, equipment or use of the products enquired or ordered for any other purposes. This duty to provide information shall include in particular any provisions regarding the nature and use of the products to be supplied, any safety regulations, decrees and specifications on prohibited substances, import regulations, etc.

MISUMI shall take no responsibility in the event of an infringement of said duties to provide information. In this case, the customer undertakes to fully indemnify MISUMI for or against all claims for damages resulting thereof.

MISUMI products are not suitable for the following range of uses so that, in principle, the company objects to the use of its products for the following types of equipment:

- a) transportation equipment including trucks, ships, vessels, etc.
- b) all types of medical devices or equipment;
- c) all types of commercial goods that are or will be sold to consumers (including prior sale);
- d) aviation and aeronautics, aerospace equipment;
- e) equipment for use in nuclear energy production;
- f) military products (including weapons);
- g) installation and use in public areas.

- 6.2 Furthermore, it shall be prohibited to order any products purchased from MISUMI to be further processed to goods constituting an infringement against Council Regulation (EC) No. 428/2009 („EC Dual Use Regulation“) or against national or European obligations to obtain permits within the meaning of the lists of the German Federal Office of Economics and Export Control (BAFA) or national or international embargo decisions, or to use them in such way.
- 6.3 In all other respects, all information listed in the catalog or in the printed or electronic overviews on the product range with regard to the products shall be observed; this shall include product specifications, the intended use of the products, conditions of use or drawings specifications as well as all information or descriptions in the written material sent with the products or accessories thereto.
- 6.4 Warranted product characteristics shall only be deemed to be the suitability of the products for the purposes listed under 6.1 above within the scope of the

technical specifications warranted by MISUMI or confirmed as warranted characteristics. MISUMI's liability shall be restricted to this extent. Any information contained in overviews on the product range or advertisements, either by MISUMI or by third parties shall not constitute any binding representation as to the characteristic features of MISUMI products.

The granting of a guarantee or any covenant beyond MISUMI's technical specifications must be made in writing and requires the company's consent. A guarantee shall only be effectively agreed if it describes the contents, the term and the territory covered by such guarantee with sufficient precision.

In accordance with item 6.5 below, MISUMI shall provide technical consultation as well as recommendations for the use or processing of products, whether by words, in writing or in the form of illustrations, to the best of its knowledge and belief and based on existing regulations and its experience.

- 6.5. All details and information by MISUMI staff about the suitability and use of these products shall not be binding and shall not release the customer from carrying out his own tests and trials with regard to the suitability of the products for the intended procedures, uses, or applications.

The use, application and processing of the products purchased from MISUMI are beyond MISUMI's control and thus solely in the responsibility of the customer.

- 6.6 The specified product characteristics can only be warranted when the products are used and stored properly and according to the product specifications.

## 7. **Delivery period and delivery**

- 7.1 The delivery period shall begin with the sending of the order confirmation, but not before submission of all documents, licenses, permits, approvals and authorizations to be provided by the customer, or before receipt of any agreed advance payment.

- 7.2 It is a prerequisite for a tax-exempt delivery within the EU that the customer has notified a valid VAT number. Any entitlements the customer may possibly have for a VAT refund cannot be recognised if MISUMI did not have a valid VAT number when the order was placed (see also 2.1 and 3.4).

- 7.3 A delivery date confirmed by us shall be deemed to have been met if the contractual item has left the factory or the MISUMI warehouse in Frankfurt am Main or when the customer has been notified about readiness for shipment.
- 7.4 MISUMI shall not be liable for the inability to deliver or delays in delivery to the extent that these are caused by Acts of God or any other events that were unforeseeable at the date of conclusion of the contract (e.g. all forms of disruption in operations, difficulties in obtaining material and energy, delays caused by transit problems, strikes or lawful lockouts, shortage of labour, energy or raw materials, difficulties in obtaining the required administrative permits, administrative measures - also affecting our suppliers - as well as the non-timely delivery by the suppliers) when MISUMI has not caused and is not responsible for such circumstances. To the extent that these events considerably impair or make the delivery or performance impossible for MISUMI and if such impairment is not just temporary, MISUMI shall be entitled to rescind from the contract. If, due to the delay, the customer may no longer be reasonably expected to accept delivery or performance, he may withdraw from the contract giving prompt written notice thereof to MISUMI. In the event of temporary impairments, the delivery and performance periods shall be extended accordingly.
- 7.5 MISUMI shall be entitled to effect partial deliveries so far as this is reasonable for the customer.
- 7.6 If MISUMI defaults in delivery or performance or if delivery or performance become impossible, the liability for damages shall be limited in line with item 10 of the present GTCs.
- 7.7 If the number of products delivered to the customer exceeds the number ordered by him, and if the responsibility therefore lies with MISUMI, the customer will inform MISUMI thereof in writing within five working days after receipt of the delivery. MISUMI will collect any excess products at its own expense by commissioning a freight carrier. Until the products are collected by the freight carrier, the customer shall handle the products with due care. The customer's liability shall end when the excess products are handed over to the forwarder, carrier, or any other third party designated to perform the shipment.
8. **Shipment and transfer of risk**
- 8.1 At the customer's choice, delivery will be effected ex works or ex warehouse if the customer takes over the products, or by shipping.

- 8.2 If the product is taken over by the customer, the risk of loss or damage to the contractual item shall pass on to him; this shall also apply if the products are taken over by a freight carrier commissioned by the customer. In the event that the freight is transported by a carrier selected by MISUMI, the risk of loss or damage to the product is transferred to the customer at such point in time when the product is handed over to the forwarder, carrier, or any other third party designated by MISUMI to perform the shipment. The provisions in item 8.2 above shall also apply to partial deliveries.
- 8.3 If the product is ready for shipment and the shipment or acceptance are delayed for reasons for which MISUMI is not responsible, the risk passes to the customer upon receipt of the advice of shipment.
- 8.4 If it has been agreed that the delivery will be effected carriage paid, the customer shall bear any additional costs accruing if he has any special shipment requirements, if there is any delay in delivering the freight for which he is responsible, or if the freight must be delivered to him repeatedly for reasons for which he is responsible, or for any other complications with regard to the shipment.
- 8.5 MISUMI shall not be subject to a legal obligation to issue certificates of origin for the importation of its products into the EU's trading bloc. If the customer needs a certificate of origin for a country outside the EU's trading bloc, MISUMI must have been advised thereof at the time the purchase contract was concluded and a corresponding written agreement must have been concluded between the parties.
- 8.6 MISUMI shall not be subject to a legal obligation to issue a supplier's declaration under the 2015/2447 Implementing Regulation. Long-term supplier's declarations are issued for goods without preferential origin status. For this purpose MISUMI uses its own form, which corresponds to that of the 2015/2447 Implementing Regulation. The period of validity is limited to 24 months.
- 8.7 The European Packaging Directive is not applicable, as sales are made exclusively to commercial customers. As of the purchase of the products, the customer itself becomes responsible for the due and proper disposal of any resulting packaging waste. MISUMI is under no obligation to accept the return of empty packaging and dispose of any associated packaging waste.

8.8 Notwithstanding any further rights pursuant to these GTCs, the products delivered have to be received and accepted by the customer even if they have slight defects.

9. **Defects and warranty**

9.1 Irrespective of the type of shipment and the provisions on commercial transactions in accordance with sections 377 et seq. HGB (German Commercial Code) or the duty of notification in line with the present GTCs, the customer must inspect the products delivered without delay for integrity and have any damage thereto confirmed in writing by the forwarder, carrier, or any other third party or institution designated to perform the shipment. MISUMI must be notified without delay after detection of the defects about any transport damage which is noticed only after the products were unpacked. After receipt of the customer's notification, MISUMI shall have the right to have a third party inspect the notified damage. Any damage accruing to MISUMI due to a lack of or delay in notification shall be borne by the customer. If the notification of the defect is unjustified, the customer shall assume the costs incurred through the inspection and, if applicable, separate transport of the products.

9.2 The product forming the subject of the complaint will be picked up at MISUMI's expense by a freight carrier commissioned by MISUMI. This shall not apply if there is an increase in the costs, because the products are located at another place than the one agreed.

9.3 Any visible defects shall be deemed to be approved if no written notification about defects has been received within seven working days.

9.4 In the event of a material defect of the product delivered, MISUMI may, at its discretion, remedy the defect either by subsequent improvement or delivery of a replacement. If such subsequent performance fails, the customer may either withdraw from the contract within a reasonable period of time or reduce the purchase price appropriately.

9.5 The statute of limitations for defect claims by the customer shall be one year. It shall start when the product is handed over to the forwarder, carrier, or any other third party designated to perform the shipment or, at the latest, upon handing it over to the customer.

- 9.6 Unless specified otherwise below, further claims on the part of the customer, on any legal grounds whatsoever, shall be excluded. MISUMI shall therefore not be liable for any damages beyond direct damages to the delivered product. In particular, MISUMI shall not be liable for any of the customer's lost profit or property damage. Furthermore, MISUMI's warranty obligation shall no longer apply:
- a) when the customer modifies or repairs the product without MISUMI's prior written consent;
  - b) in the event of careless or improper handling or use of the product by the customer;
  - c) in the event of natural wear and tear of the product or such other circumstances for which MISUMI is not responsible;
  - d) if the customer does not allow MISUMI sufficient time or give MISUMI the opportunity to remedy defects or for a replacement delivery.
- 9.7 If the defect is attributable to MISUMI, the customer may demand damages only under the preconditions laid out in item 10 below.

## 10. **Limitation of liability**

- 10.1 Irrespective of the legal grounds thereof, MISUMI's liability for damages shall be limited in accordance with the present provisions.
- 10.2 In case of slight negligence in performance, MISUMI shall only be liable for foreseeable, direct, average damages typical for the contract in consideration of the nature of the product. This shall also apply to slight negligence in performance on the part of MISUMI's legal representatives, entities, employees or other assistants. Furthermore, MISUMI's liability shall be excluded in the event of any negligent violations of minor contractual obligations.
- 10.3 Any claims for damages on the part of the customer for defects in line with section 434 BGB (German Civil Code) as well as the legal consequences in line with section 437 no. 1 BGB shall expire one year after the product has been handed over to the forwarder, carrier, or any other third party designated to perform the shipment, or to the customer.
- 10.4 Any restrictions in accordance with this item 10 shall not apply to MISUMI's liability for wilful or intentional behaviour, for warranted characteristic features, loss of life, physical injury or impairment of health, or under the German Product Liability Act (ProdHaftG).

**11. Samples, trademarks and reproductions**

- 11.1 Any samples made available to the customer by MISUMI during, in the course of or prior to the conclusion of the contract are merely representative samples. No "purchase according to sample" or representations or assured qualities shall be agreed based on the provision of samples prior to or on the occasion of the conclusion of the contract. The provision of samples does not mean that any specific characteristics of the products are agreed.
- 11.2 Reprints and any type of reproductions - in whole or in part - including but not limited to MISUMI brochures, catalogs, promotional materials, etc. shall only be permissible upon MISUMI's prior written consent.
- 11.3 Without MISUMI's prior written consent, the customer may not use MISUMI's trademarks or use them on products or their packaging, or in the related printed matter and advertising material as information on the components. Furthermore, the customer may not refer to or promote his own products referring to MISUMI products or MISUMI trademarks.

**12. Retention of title**

- 12.1 Until payment has been made in full in respect of all claims arising from the business relationship with the customer, MISUMI shall retain the title to the product or object of purchase.
- 12.2 The customer undertakes to treat the objects purchased with care.
- 12.3 In the case of attachments or other access by third parties to the retained goods (i.e. goods subject to retention of title), the customer shall inform MISUMI thereon without delay.
- 12.4 The customer may further dispose of the products within the proper course of business. No further disposal shall be permitted, however, to end customers who have excluded or limited any assignments of claims for payment against them. Other dispositions, especially pledges or the creation of security interests with regard to the retained goods are not admissible without MISUMI's prior consent.

The customer shall hereby assign to MISUMI any and all claims accruing to him from the resale of the retained goods against his buyers or to any third party in



the amount of MISUMI's final invoice (including value-added tax) and MISUMI herewith accepts such assignment (extended retention of title).

In the case of joint ownership of the retained goods, the assignment in advance shall be valid only for such part of the claim corresponding to MISUMI's joint ownership share (based on the amount of the invoice ).

The customer shall, until further notice, remain entitled to collect the claim also after the assignment. MISUMI's right to collect the claim shall not be affected thereby. However, MISUMI undertakes not to collect such claim as long as the customer fulfils his payment obligations, if he is not in default of payment and, in particular, if no application for the institution of insolvency proceedings has been filed and no cessation of payments has been declared. Should this however be the case, MISUMI may require the customer to inform the company about the assigned claims and their debtors, to provide all information needed for the collection thereof, to hand over all related documents, and to inform all debtors of such assignment.

- 12.5 Processing or modification of the retained goods by the customer is always performed on behalf of MISUMI. If the object of purchase is processed by means of other objects not belonging to MISUMI, MISUMI shall acquire co-ownership in the new object in the ratio of the value of the object of purchase to the other processed objects at the moment of processing.
- 12.6 If the object of purchase (retained goods) is inseparably mixed with other goods not belonging to MISUMI, then MISUMI acquires joint ownership of the new object in proportion to the invoice value of the object of purchase to the invoice value for such other object at the time of mixing. If the mixing is performed in such a way that the customer's object must be considered as principal object, it shall be understood and agreed that the customer assigns MISUMI a co-ownership in the appropriate ratio. The customer shall keep the sole ownership or co-ownership on goods generated in such way in safe custody on behalf of MISUMI.
- 12.7 For the goods or co-ownership shares owned by MISUMI in line with items 12.5 and 12.6 above, the same shall be applicable as for the goods subject to retention of title.
- 12.8 MISUMI undertakes to release the securities due to it at the customer's request to the extent that the value of the securities exceeds the value of the receivable

accounts to be secured on behalf of MISUMI by more than 20 percent. MISUMI shall decide to release whichever parts of the securities it deems suitable.

12.9 If the customer fails to fulfil his performance obligations, MISUMI shall be entitled to withdraw from the contract (enforcement event). MISUMI shall then be entitled to demand the return of the retained goods and to exploit them.

13. Export/import regulations

The orderer has taken note of the possibility that the goods supplied by MISUMI may be subject to export or import regulations and hereby undertakes to comply with such regulations.

13.1. All products and technical know-how are supplied by MISUMI in compliance with the AWG/AWV/EG Dual Use Regulation and US export regulations, as most recently amended, and are intended to be used and to remain in the country of delivery agreed with the orderer. If the orderer intends to re-export products, it shall be obliged to abide by US American, European and national export regulations. The re-export of products – whether individual or in system-integrated form – in contravention of these regulations is prohibited.

13.2. The orderer must of its own accord obtain information on the currently valid rules and Regulations, e.g. from the relevant export authorities (Bundesausfuhramt, 65760 Eschborn/Taunus or US Department of Commerce, Office of Export Administration, Washington D.C. 20230). Irrespective of whether the orderer states the final destination of the goods to be delivered, the orderer shall itself be responsible for obtaining any permit that may be necessary from the responsible foreign trade authority before it exports such products. MISUMI here has no obligation to provide information.

13.3. Any onward supply of products by the orderer to third parties, whether with or without the knowledge of MISUMI, requires the simultaneous transfer of the relevant export permit conditions. The orderer shall be liable in full in case of non-compliance with the pertinent regulations.

13.4. The orderer is not permitted, without official approval, to deliver products, directly or indirectly, to countries which are subject to a US embargo, or to natural or legal persons in such countries and to natural or legal persons whose names are on US American, European or national prohibited entity lists (e.g. Entity list, Denied Persons List, Specifically Designated Nationals and Blocked Persons).

It is also prohibited to deliver products to natural or legal persons who are connected in any manner with the support, development, production or use of chemical, biological or nuclear weapons of mass destruction.

#### **14. Privacy**

MISUMI shall ensure confidential treatment of the data collected in accordance with the relevant statutory provisions on data protection of the Federal Republic of Germany as well as in line with MISUMI's privacy policy.

#### **15. Place of performance, choice of law, jurisdiction**

15.1 The place of performance for ex works deliveries shall be the factory; for all other deliveries, the place of performance shall be MISUMI's place of business in Frankfurt am Main/Germany.

15.2 The law of the Federal Republic of Germany shall apply. The Convention relating to a Uniform Law on the International Sale of Goods of The Hague dated 01 July 1964 and the provisions of the UN Convention on Contracts for the International Sale of Goods dated 11 April 1980 shall not apply.

15.3 The exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be MISUMI's place of business in Frankfurt am Main/Germany. The same applies if the customer does not have a general place of jurisdiction in Germany or where the customer's place of business is not known at the time the complaint is filed. MISUMI shall also be entitled to sue the customer at the court of his place of residence.

#### **16. Final provisions**

16.1 In the event that one or more provisions of these GTCs and of the further agreements concluded herein shall be, fully or partly, invalid or unenforceable or subsequently lose their validity or enforceability, the validity of the other provisions shall not be affected thereby. An invalid provision will be replaced by the contract parties with a provision which comes as close as possible to fulfilling the purpose which was intended with the invalid provisions. The same shall apply for a gap in the contract. Section 139 BGB (German Civil Code) shall not apply.

