

General Terms and Conditions of Sale of perisens GmbH

1. Scope of Application

- 1.1 These General Terms and Conditions of Sale ("GTC") of perisens GmbH, Dornacher Str. 3d, 85622 Feldkirchen b. München, Germany, ("perisens") apply to all contracts between perisens and its customers ("Contracts") for the sale and delivery of goods ("Products") and the performance of services ("Services") if the customer is an entrepreneur in terms of Section 14 German Civil Code (*Bürgerliches Gesetzbuch - BGB*).
- 1.2 These GTC apply exclusively. The customer's general terms and conditions shall only apply if and to the extent that perisens has expressly consented to their application in writing. This requirement of consent applies in any case, for example, even if perisens carries out the delivery to the customer without reservation in the knowledge of the customer's general terms and conditions.
- 1.3 These GTC, as amended from time to time, also apply as a framework agreement to future Contracts for the sale and delivery of Products with the same customer, without perisens having to refer to them again in each individual case.
- 1.4 Insofar as individual agreements are made with the customer in individual cases, these shall take precedence over these GTC. Subject to proof to the contrary, a written agreement or the written confirmation of perisens shall be decisive for the content of such agreements.
- 1.5 Legally relevant declarations and notifications by the customer with regard to the Contract (e.g. setting of deadlines, a notice of defects, withdrawal or reduction) must be made in writing to be effective. Legal formal requirements and further proof, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.
- 1.6 References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.
- 1.7 Insofar as the written form is prescribed in these GTC, the text form as well as the application of the rule of interpretation pursuant to Section 127 para. 2 German Civil Code is excluded.

2. Product Characteristics, Intellectual Property Rights, Procurement Risk

- 2.1 The documents belonging to the offer of perisens, such as drawings, illustrations, technical data, references to standards, as well as statements in advertising material, do not constitute statements of quality, warranties of characteristics or guarantees unless they are expressly designated as such in writing.
- 2.2 perisens expressly reserves all property rights and copyrights to catalogues, technical documentation, tools, moulds and other product descriptions or documents. The customer undertakes not to make these documents available to third parties unless perisens gives its express written consent.
- 2.3 perisens is only obliged to deliver from its stock. perisens does explicitly not assume a procurement risk (*Beschaffungsrisiko*) or a guarantee that the Products are free of defects.

3. Conclusion of Contract

- 3.1 The notifications from perisens to the customer referred to as "offers" are subject to change and non-binding. They are invitations to the customer to place orders.
- 3.2 The customer's order of the Products shall be deemed a binding offer of Contract. Unless otherwise stated in the order, perisens shall be entitled to accept this contractual offer within two (2) weeks of submission.
- 3.3 A Contract shall only be concluded – even in ongoing business transactions – if perisens accepts the customer's order by means of order confirmation. The order confirmation shall be decisive for the content of the Contract.

4. Delivery Period, Delay in Delivery

- 4.1 The delivery period shall be agreed upon individually or specified by perisens upon acceptance of the order.
- 4.2 The delivery period shall be deemed to have been met if the customer has received notification that the Products are ready for dispatch at the agreed time or within the agreed period. Deliveries before the expiry of the delivery period are permissible.
- 4.3 Compliance with the delivery period is subject to the clarification of all technical issues, in particular, the timely receipt of all documents to be provided by the customer, as well as compliance with the agreed terms of payment and other obligations of the customer. If the aforementioned prerequisites are not met, the delivery period shall be extended accordingly, unless perisens is responsible for the delay.
- 4.4 If perisens and the customer have agreed that perisens shall perform development Services, the respective delivery period shall only begin with the actual completion of the development Services by perisens.
- 4.5 If the delivery or performance deadline is exceeded for reasons for which perisens is responsible, the customer shall be entitled to withdraw from the Contract with regard to the part not yet fulfilled after the expiry of a reasonable grace period. Claims for damages shall be governed by the provisions of section 10 of these GTC.
- 4.6 If perisens is unable to meet binding delivery deadlines for reasons for which it is not responsible (non-availability of the performance), it shall inform the customer of this without delay and at the same time notify the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, perisens shall be entitled to withdraw from the Contract in whole or in part. perisens will immediately refund any consideration already paid by the customer. A case of non-availability of the performance in this sense shall be deemed to be in particular the failure of a supplier to deliver on time if perisens has concluded a congruent hedging transaction, neither perisens nor its supplier is at fault, or perisens is not obliged to procure in the individual case.
- 4.7 In the event of default of payment by the customer, perisens shall be entitled to assert a right of retention to further deliveries or other Services.
- 4.8 In the event of a delay in delivery by perisens, the customer may demand lump-sum compensation for the damages caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price of the goods delivered late for each full calendar week of the delay but in total not more than 5% of the respective net price. perisens reserves the right to prove that the customer has not suffered any damage or that the damage is significantly less than the aforementioned lump sum.
- 4.9 The rights of the customer pursuant to section 10 of these GTC and the statutory rights of perisens, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

5. Force Majeure

- 5.1 In the event of the occurrence of force majeure, the provisions under section 4.5 of these GTC shall apply accordingly. This shall apply in particular in the event that German, European or US export and customs regulations, import regulations or payment regulations (e.g. embargoes) directly or indirectly prevent the performance of the delivery or service by perisens and/or the purchase of the Products by the customer, regardless of whether this was foreseeable or not. Force majeure includes pandemics, epidemics, cyberattacks, war, riots, natural disasters, terror, industrial disputes, strikes, lockouts, official orders or measures, unavoidable shortages of energy and raw materials, transport bottlenecks for which perisens is not responsible, unforeseeable operational disruptions, e.g. due to fire, water and machine damage, and all other hindrances

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- which, viewed objectively, were not culpably caused by perisens.
- 5.2 If a delivery date or a delivery period has been bindingly agreed and if the agreed delivery date or the agreed delivery period is exceeded due to events according to section 5.1 of these GTC, the customer shall be entitled to withdraw from the Contract due to the part not yet fulfilled after the expiry of a reasonable grace period if it is objectively unreasonable for him to continue to adhere to the Contract. Further claims of the customer, in particular claims for damages, are excluded in this case.
- 6. Delivery, Transfer of Risk, Default of Acceptance, Compliance**
- 6.1 Unless otherwise agreed, delivery shall be EXW (Dornacher Str. 3d, 85622 Feldkirchen b. München, Germany) Incoterms® 2020.
- 6.2 If the customer is in default of acceptance, fails to cooperate or delays the delivery of perisens for other reasons for which the customer is responsible, perisens shall be entitled to claim compensation for the resulting damage, including additional expenses (e.g. storage costs). For this purpose, a lump-sum payment in the amount of 0.25% of the Products' net price shall be charged per started calendar week, beginning with the delivery deadline or – in the absence of a delivery deadline – with the notification that the Products are ready for shipment.
- The proof of more significant damages and the statutory claims of perisens shall remain unaffected; however, the lump sum shall be offset against further monetary claims. The customer shall be entitled to prove that perisens has incurred no damage at all or only significantly less damage than the aforementioned lump sum.
- 6.3 The customer shall comply with all national, European and US export control regulations. The direct or indirect resale of the Products in countries to which export restrictions apply is strictly prohibited. In the event of resale, the customer shall provide perisens with written proof of the final destination of the Products prior to resale in accordance with the applicable export regulations.
- 7. Prices, Terms of Payment**
- 7.1 All prices are quoted in euros plus, if applicable, value-added tax at the statutory rate.
- 7.2 Any customs duties, fees, taxes and other public charges shall be borne by the customer.
- 7.3 Unless otherwise agreed, the customer shall pay 30% of the price upon receipt of the order confirmation and the remaining 70% of the price upon receipt of the readiness for dispatch of the Products or the performance of the Services. The timeliness of payment shall be determined by the date on which the money is credited to the account of perisens.
- 7.4 Any cash discount deduction requires a written agreement with the customer. An agreed cash discount deduction is calculated on the basis of perisens' net claim and is only permissible if all other liabilities from the customer's business relationship with perisens, which are more than thirty (30) days old, have been settled.
- 7.5 The customer shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed or is reciprocal to perisens' claim in the same contractual relationship.
- 7.6 If, after the conclusion of the Contract, it becomes apparent that perisens' claim to the price is jeopardized by the customer's lack of ability to pay (e.g. by an application to open insolvency proceedings), perisens is entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a deadline – to withdraw from the Contract (Section 321 German Civil Code). In the case of a Contract for the manufacture of custom-made Products, perisens may declare withdrawal immediately; the statutory regulations on the dispensability of setting a deadline remain unaffected.
- 8. Retention of Title**
- 8.1 Until full payment of all current and future claims of perisens arising from the Contract and an ongoing business relationship ("**Secured Claims**"), perisens shall retain title to all Products delivered by it ("**Reserved Goods**").
- 8.2 The customer shall adequately insure the Reserved Goods, in particular against fire and theft. Claims against the insurance company arising from a case of damage affecting the Reserved Goods are hereby assigned to perisens in the amount of the value of the Reserved Goods.
- 8.3 The customer may neither pledge the Reserved Goods to third parties nor assign them as security before full payment of the Secured Claims. The customer shall notify perisens in writing without delay if an application for the opening of insolvency proceedings or seizure of the Reserved Goods by third parties exists or is imminent.
- 8.4 In the event of a breach of contract by the customer, in particular, in the event of non-payment of the purchase price due, perisens shall be entitled to withdraw from the Contract in accordance with the statutory provisions and/or to demand the surrender of the Reserved Goods on the basis of the reservation of title. The demand for a return does not at the same time include the declaration of withdrawal; perisens is instead entitled to demand only the return of the Reserved Goods and to reserve the right to withdraw from the Contract. If the customer does not pay the purchase price due, perisens may only assert these rights if it has previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- 8.5 Until revoked in accordance with section 8.8 of these GTC, the customer is authorized to resell and/or process the Reserved Goods in the ordinary course of business. In this case, the following provisions shall apply in addition.
- 8.6 The retention of title extends to the total value of the products created by processing, mixing or combining the Reserved Goods, whereby perisens shall be deemed the manufacturer. If, in the event of processing, mixing or blending with products of third parties, the latter's right of ownership remains, perisens shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined products. Otherwise, the same shall apply to the resulting product as to the Reserved Goods.
- 8.7 The customer hereby assigns to perisens by way of security any claims against third parties arising from the resale of the products or the product in their entirety or in the amount of any co-ownership share of perisens pursuant to section 8.6 of these GTC. perisens accepts the assignment. The customer's obligations set forth in section 8.3 of these GTC shall also apply with regard to the assigned claims.
- 8.8 The customer remains authorized to collect the claim in addition to perisens. perisens undertakes not to collect the claim as long as the customer meets his payment obligations to perisens, is not in default of payment, no application for the opening of insolvency proceedings has been filed, and there is no other deficiency in his ability to pay, and perisens does not assert the retention of title by exercising a right pursuant to section 8.4 of these GTC. If this is the case, however, perisens may demand that the customer inform perisens of the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. Furthermore, in this case, perisens shall be entitled to revoke the customer's authorization to further sell and process the Reserved Goods.
- 8.9 If the realizable value of the securities exceeds the claims of perisens by more than 10%, perisens shall release securities of its choice at the customer's request.

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9. Customer's Claims for Defects

- 9.1 The statutory provisions shall apply to the customer's rights in the event of material defects and defects of title unless otherwise stipulated in these GTC.
- 9.2 The basis of perisens' liability for defects is the Products' specifications agreed in the Contract. The Products' descriptions designated as such, which were provided to the customer prior to his order or which were included in the Contract in the same way as these GTC, shall be deemed to be an agreement on the quality of the Products. However, public statements by the manufacturer or other third parties (e.g. advertising statements) shall not be deemed to constitute an agreement as to quality. A specific application or use by the customer shall only be the subject of a quality agreement with the express written consent of perisens. Unless otherwise agreed, compliance with any public law requirements for the Products shall not be the subject of a quality agreement between the parties.
- 9.3 The customer shall inspect the delivered Products immediately after delivery to the customer or to the third party designated by the customer. The inspection shall be carried out professionally and in detail. Insofar as the customer does not have sufficient technical knowledge to fulfil his inspection obligations, he shall be obliged to make use of the services of competent third parties. In the case of products intended for installation or other further processing, an inspection must, in any case, be carried out immediately before installation or other processing. The customer loses the right to rely on a lack of conformity of the Products if he does not give notice to perisens specifying the distinct lack of conformity within two (2) working days after he has discovered it or ought to have discovered it. In any event, the customer loses the right to rely on a lack of conformity of the Products if he does not give the seller notice thereof at the latest within a period of three (3) months from the date on which the Products were actually handed over to the customer.
- 9.4 If the delivered Products are defective, perisens may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by providing Products free of defects (replacement delivery). perisens' right to refuse the chosen type of subsequent performance under the statutory conditions shall remain unaffected.
- 9.5 perisens is entitled to make the subsequent performance owed dependent on the customer paying the purchase price due. However, the customer shall be entitled to retain a part of the purchase price that is reasonable in relation to the defect.
- 9.6 The customer shall give perisens the time and opportunity required for the subsequent performance owed, in particular to hand over the Products complained about unchanged and unprocessed for inspection purposes. In the event of a replacement delivery, the customer shall return the defective Products to perisens in accordance with the statutory provisions.
- 9.7 Subsequent performance shall neither include the removal of the defective Products nor its re-installation if perisens was not initially obliged to install it.
- 9.8 perisens shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, if a defect actually exists. However, if a request by the customer to remedy a defect turns out to be unjustified, perisens may demand reimbursement of the resulting costs from the customer unless the lack of defectiveness was not apparent to the customer.
- 9.9 The customer's right of recourse pursuant to Sections 445a, 445b of the German Civil Code ("supplier recourse") is excluded. The rights of the customer under section 10 of these GTC shall remain unaffected.
- 9.10 If the subsequent performance has failed or a reasonable deadline to be set by the customer for the subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the customer may withdraw from the purchase Contract or reduce the purchase

price. In the event of an insignificant defect, however, there shall be no right of withdrawal.

- 9.11 Claims of the customer for damages or reimbursement of futile expenses exist only under section 10 of these GTC and are otherwise excluded.
- 9.12 The place of subsequent performance is the place of business of perisens. perisens may also provide subsequent performance at its discretion at the location of the defective Product.

10. Limitation of Liability

- 10.1 In no event and irrespective of the legal basis (contract, tort (including negligence), statutory liability, misrepresentation, indemnity or any other area of law) shall perisens be liable for loss of profit or revenue, loss of use or loss of production, loss of data, cost of capital, cost of substitute goods or services, property damage external to the Products and any damage, expenditure, or loss arising out of such damage, any incidental or consequential damages or any of the foregoing suffered by any third party.
- 10.2 Furthermore, but without prejudice to the limitation of liability in section 10.1, perisens' total cumulative liability, irrespective of its legal basis, shall not exceed the purchase price paid by [the customer.
- 10.3 The limitations of liability in sections 10.1 and 10.2 shall not apply in the event of either
- gross negligence or intentional misconduct attributable to perisens. They do, however (to the sole exclusion of gross negligence attributable to perisens' directors and an executive staff) apply in case of gross negligence of any other party acting for perisens, including without limitation perisens' subcontractors, affiliates, agents, advisors and employees and such other persons acting on behalf of perisens with regard to the performance of the Contract;
 - bodily injury or death culpably caused by an act or omission attributable to perisens; or
 - insofar as mandatory laws provide otherwise.
- 10.4 The limitations of liability in sections 10.1 and 10.2 shall also apply for the benefit of perisens' subcontractors, affiliates, agents, advisors, directors and employees.
- 10.5 The burden of proof with regard to the occurrence of any of the exemptions in section 10.3 rests with the customer.

11. Limitation

- 11.1 Notwithstanding Section 438 para. 1 no. 3 German Civil Code, the general limitation period for claims arising from material defects and defects of title shall be one (1) year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.
- 11.2 If the Product is a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be five (5) years from delivery in accordance with the statutory regulation (Section 438 para. 1 no. 2 German Civil Code). Other special statutory provisions on the limitation period shall also remain unaffected, in particular in the case of claims for restitution in rem of third parties (Section 438 para. 1 no. 1 German Civil Code), in the case of fraudulent intent on the part of the seller (Section 438 para. 3 German Civil Code) and for claims in supplier recourse (Sections 445b, 479 German Civil Code).
- 11.3 The above limitation periods of the law on sales also apply to contractual and non-contractual customer's claims for damages based on a defect of the Products, unless the application of the regular statutory limitation period (Sections 195, 199 German Civil Code) would lead to a shorter limitation period in the individual case. Claims for damages by the customer pursuant to section 10.2 sentence 1 and sentence 2 a) of these GTC as well as pursuant to the German Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

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12. Confidentiality

12.1 "Confidential Information" means all information (regardless of its form) disclosed by perisens to the customer when such information is

- a) expressly marked as "confidential", described as such, or otherwise made identifiable as such; or
- b) is to be regarded as confidential by its content.

12.2 Confidential Information is, in particular, information which

- a) relates to technologies, software (including source code), technical documents, services, prices, calculations and Product and Service specifications of perisens;
- b) constitutes a trade secret within the meaning of Section 2 no. 1 German Trade Secrets Protection Act (*Gesetz zum Schutz von Geschäftsgeheimnissen - GeschGehG*), even if perisens has not taken appropriate confidentiality measures in the individual case;
- c) is protected by intellectual property rights;
- d) is within the scope of banking or tax secrecy;
- e) constitutes personal data within the meaning of Article 4 no. 1 EU General Data Protection Regulation (GDPR); or
- f) is, by its nature, subject to the confidentiality interests of perisens.

12.3 Confidential information does not include information that is

- a) in the public domain before disclosure to the customer;
- b) in the public domain after disclosure to the customer not by breach of this obligation of confidentiality;
- c) known by the customer at the time of disclosure;
- d) lawfully disclosed or made available to the customer by a third party without breach of contractual or statutory confidentiality obligations; or
- e) was developed by an employee of the customer without knowledge of the information.

12.4 The customer shall bear the burden of proving in each case that an exception to the existence of Confidential Information and its obligation of confidentiality exists.

12.5 The customer undertakes to

- a) keep Confidential Information strictly confidential and not use it for purposes other than the agreed purpose;
- b) use Confidential Information only to the extent and in the manner necessary to achieve the agreed purpose;
- c) disclose Confidential Information only to such employees and vicarious agents who need to know such information for the agreed purpose ("need to know"), provided that customer ensures that they are subject to a corresponding non-disclosure agreement;
- d) secure Confidential Information against unauthorized access by third parties using suitable state of the art protective measures; and
- e) inform perisens immediately of any existing or impending security breaches. This shall also apply if the customer becomes aware that its directors, employees, vicarious agents or third parties have disclosed or used Confidential Information unlawfully.

12.6 Customer may disclose Confidential Information to third parties only with the prior written consent of perisens and only in strict

compliance with section 6.3 of these GTC. Before disclosing Confidential Information, the customer shall also impose its obligations under section 12 of these GTC on the (third party) recipient of the Confidential Information in the form of a written non-disclosure agreement.

12.7 Furthermore, the customer undertakes to make copies of the Confidential Information only to the extent necessary, particularly for data backup purposes.

12.8 The customer undertakes not to

- d) obtain Confidential Information by reverse engineering;
- e) exploit the Confidential Information commercially beyond the agreed purpose or have it copied or imitated by third parties; or
- f) apply for intellectual property rights, particularly trademarks, designs, patents, or utility models, based on the Confidential Information.

12.9 Confidential Information disclosed by perisens shall remain the intellectual property of perisens. Perisens does not grant any rights of use or license.

12.10 The confidentiality obligation shall continue to apply for the duration of the business relationship with the customer as well as for five (5) years after the termination of the business relationship, at the longest until the respective information has become generally known without a confidentiality agreement, statutory provisions or official orders having been violated.

13. Applicable Law

All contractual relations shall be governed by the law of the Federal Republic of Germany, including the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).

14. Arbitration

14.1 All disputes arising out of or in connection with the respective Contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts of law.

14.2 The number of arbitrators shall be three (3) unless the amount in dispute is less than EUR 100,000.00, in which case the matter shall be decided by a sole arbitrator.

14.3 The seat of the arbitration shall be Munich (Germany).

14.4 The language of the arbitral shall be English.

14.5 The arbitration shall be confidential. Also, the mere existence of an arbitral proceeding shall be kept confidential except to the extent disclosure is required by law, regulation or an order of a competent court.

14.6 The rules of law applicable to the merits shall be the law of the Federal Republic of Germany, including the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).