

**General Conditions of Sale of BRAWO SYSTEMS GmbH,  
67659 Kaiserslautern, Deutschland  
As of November 2021**

**1. General – Scope of Application**

1.1 All deliveries and services are subject to these General Conditions of Sale. Any inconsistent conditions of a Buyer shall be valid only if these do not deviate from our General Conditions of Sale or if expressly recognized by us in writing. In particular, our General Conditions of Sale shall apply also if, being aware of Buyer's conditions inconsistent with or deviating from our General Conditions of Sale, we make delivery without a reservation.

1.2 Any and all agreements between us and the Buyer for the performance of this contract are to be stipulated in this contract in writing. Any modifications and amendments in connections with this contract and any future contracts shall only be valid if confirmed by us in writing.

1.3 Only merchants within the meaning of § 24 of the General Terms and Conditions of Business Act (AGBG – Gesetz zur Regelung des Rechts der Allgemeinen Geschäftsbedingungen) shall be subject to our General Conditions of Sale.

1.4 Our General Conditions of Sale shall also apply to all future business transactions with the Buyer.

1.5 The prices, quantities, times and possibilities of delivery set out in our offers are subject to confirmation.

**2. Prices**

2.1 Our prices are valid ex works.

2.2 Our prices are exclusive of any applicable value added tax. This tax will be charged separately at the rate in effect on the day of delivery.

2.3 All statutory taxes and increases in charges introduced after the conclusion of this contract, having a direct or indirect impact on our prices, shall be borne by the Buyer.

2.4 Packaging is calculated at cost price and will not be taken back from the buyer.

**3. Setoff/Right of Retention**

3.1 The Buyer may only offset claims that are undisputed or have been established by final court judgement.

3.2 The Buyer has neither a right to refuse performance nor a right of retention.

**4. Delivery and Shipment**

The risk of transportation for all shipments shall pass to Buyer as soon as the goods are dispatched at our works or our distribution stock. Un-less otherwise explicitly agreed, we shall be entitled to effect partial deliveries.

**5. Delivery Times**

5.1 Delivery periods stipulated by us shall begin to run as soon as all technical issues have been clarified.

5.2 Should the delivery date be exceeded by reason of our fault, claims for damages by Buyer shall be limited to a maximum of 5 % of the shipment value.

5.3 In the case of any default of delivery due to our fault, the Buyer, after expiry of a reasonable extension of the delivery period and threatening to refuse shipment, shall be entitled to withdraw from the contract. Buyer may claim damages on the grounds of non-performance and in the amount of the foreseeable damages if the delay was caused due to wilfulness or gross negligence. In this case, liability is limited to 50 % of the damages incurred.

5.4 These limitations of liability do not apply if a commercial transaction for delivery by a fixed date has been concluded; the same applies if, in the case of any default of delivery due to our fault, the Buyer can show that his interest in the performance of the contract has ceased to exist.

5.5 Compliance with our obligation to deliver is subject to the Buyer's due and proper compliance with his obligations.

5.6 If the Buyer fails to take delivery or if he violates his other obligations to cooperate, we shall be entitled to claim and damages incurred to us, including an additional expense. In this case, the risk of accidental, destruction or deterioration of the goods passes to Buyer as soon as he fails to take delivery.

**6. Limitation of Liability**

We shall be liable for any breach of contract, subject to any variations stipulated in these General Conditions of Sale, only in case of wilfulness or gross negligence and for any culpable breach of cardinal obligation.

**7. Warranties and Liability**

7.1 The Buyer must comply with his obligations to inspect the goods and report any defects in accordance with Art. 377, 378 Commercial Code (HGB – Handelsgesetzbuch) for the warranty to become effective. Visible defects are to be reported within 10 days of receipt of the goods. Minor or customary variations in length, width, colour, quality or other details of finish shall not entitle the Buyer to make a complaint.

7.2 In the case of justified complaints, we shall be entitled, at our discretion, to remedy the defect or exchange the goods objected to. If we remedy the defects, we shall be obligated to bear all necessary expenses incurring in connection herewith, in particular costs for transportation, travel, manpower and material, unless these increases are due to transportation of the goods to a place different from the place of performance.

7.3 If we fail or are not prepared to remedy the defect or exchange to goods objected to, in particular if a reasonable time to take remedial measures has expired, and if we are responsible for this delay, or if remedial measures or substitute delivery fails for any reason whatsoever, then the Buyer may, at his discretion, withdraw from the contract or request that the purchase price be reduced accordingly.

7.4 We shall be exempt from any other further liability whatsoever, unless due to wilfulness or gross negligence or any major breach of contract. We shall, however, be liable if the Buyer claims damages on the grounds of goods which fail to meet stipulated specifications in accordance with Art. 463, 480 Subsection 2 Civil Code (BGB – Bürgerliches Gesetzbuch). Any and all further claims are excluded, this applies particularly to claims for damages not pertaining to the goods themselves and to loss of profit or any other property damage of the Buyer.

7.5 The duration of this warranty is 12 months from the time the risk passes. This term is a limitation period and applies also to claims for compensation of consequential damages, unless damages in tort are claimed.

7.6 Any recommendations for the installation of BRAWOLINER products are given to our best knowledge and belief in accordance with our technical know-how and are not binding. They shall not release the Buyer from his obligation to perform his own inspections and testing concerning suitability and functioning of the respective installation.

**8. Payment**

8.1 Checks and bills of exchange will only be accepted, at the Buyer's expense, on the basis of a separate agreement and as conditional payment, i.e. the debt shall only be completely discharged if we receive actual payment. There is no obligation to present the tender in due time nor to raise a protest.

8.2 If the Buyer fails to make any payment on the due date, we shall be entitled to claim debit interest at a rate of 5 %. If payment is not effected after our reminder, we will be entitled to charge interest at a rate of 12 %. This obligation of the Buyer to pay compensation for damages does not exist at all or only to a lesser degree if the Buyer provides evidence that no damages or only smaller damages arose, without prejudice to our right to claim higher damages than those damages resulting from a delay stipulated in clause 1. The costs for the reminder will be invoiced additionally.

8.3 Should Buyer be in arrears with payment or should there be reasonable doubts as to Buyer's solvency or credit rating, we shall be entitled to require immediate payment of all claims, without regard to the maturity dates of bills of exchange accepted by us. In this case, we shall also be entitled to require payment in advance or collateral for deliveries not yet effected, to withdraw from the contract or claim compensation for non-performance.

**9. Reservation of Title**

9.1 Property in the goods delivered by us (reserved goods) shall remain with us until Buyer has settled all his obligations arising from this mutual business relation.

9.2 This shall also apply to any and all claims arising from any other pre-sent or future contracts. Payment of any or all claims on a current account as well as balancing the account and the acknowledgment there of shall not affect the reservation of title.

9.3 The Buyer shall be at liberty to resell the products subject to the contract within the scope of his ordinary business operation. In such case, he will assign his claims to us by way of assignment of future claims, if we still had the proprietary right toward the respective Buyer at the time of sale. We shall be obliged to release this claim if it exceeds our own claims against the Buyer by 20 % or more. The Buyer shall not be entitled to pledge the reserved goods or to transfer title for the purpose of securing a debt.

9.4 Any modification or processing of the goods subject to reservation of title shall be performed by the Buyer for us without any obligations on our part resulting therefrom. If the goods under the reservation of title are processed, combined, mixed or intermingled with other goods that are not our property, we shall be entitled to become co-owner of the new object, namely in relation to the invoice value of the reserved goods to the value of the other materials of the product at the point in time when the reserved goods are processed, combined, mixed or intermingled. If the Buyer acquires sole ownership in the new object, it is agreed between the parties hereto that the Buyer shall grant to us the co-ownership in the new object, namely in relation to the invoice value of the reserved goods which have been processed, combined, mixed or intermingled, and that he shall hold the new object for us free of charge.

9.5 The Buyer shall be obliged to inform us without delay about execution measures by a third party levied upon reserved goods or upon claims assigned in advance. At the same time, the Buyer shall transfer to us all documents necessary for intervention.

9.6 The Buyer shall be obliged to insure the reserved goods at his expense and in the amount customary in this particular trade.

**10. Place of Performance and Jurisdiction**

10.1 Place of performance for all obligations under this contract is Kaiserslautern.

10.2 If any legal disputes or controversies arise with respect to this contractual relationship or the creation of this contract and its validity, the courts in Kusel shall have jurisdiction if the contracting partner is a merchant who is not a tradesman as defined by Art. 4 of the Commercial Code (HGB – Handelsgesetzbuch).

**11. Governing Law**

11.1 These General Conditions of Sale and the application or interpretation thereof shall be governed by the laws of the Federal Republic of Germany, with the exception of the UN Agreement on contracts on the international sale of goods.

**12. Find Provisions**

12.1 If any term or provision hereof is legally invalid or incomplete, such legal invalidity or incompleteness shall not affect the validity of the remainder hereof.

12.2 If any provision of this contract is or shall be held invalid, the contracting parties hereto shall be obliged to negotiate and agree in each individual case on the stipulation to be applied in place of the provision that is or has become invalid; the contracting parties hereto shall undertake to replace the ineffective provision with one that conforms to the purpose of the original provision.