

General Terms & Conditions of Sale

1. SCOPE OF APPLICATION

(1) The offers and contracts of Dexter Magnetic Technologies GmbH, Siemensstraße 4, 79108 Freiburg im Breisgau, Germany (hereinafter "DEXTER") are exclusively based on the following General Terms & Conditions of Sale ("T&C"). They apply to all future deliveries or offers to Buyer, even if they are not agreed again separately. The T&C shall only apply if Buyer is an entrepreneur (§ 14 German Civil Code), a legal entity under public law or a special fund under public law.

(2) These T&Cs apply exclusively. Deviating, conflicting or supplementary general terms and conditions of Buyer shall only become part of the contract if and to the extent that DEXTER has expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if DEXTER, being aware of Buyer's general terms and conditions, unconditionally executes the delivery to Buyer.

2. THE CONCLUSION OF THE CONTRACT

(1) The contract with the respective Buyer shall only come into effect upon written confirmation of the order by DEXTER or upon delivery initiated by Buyer. Any prior declarations by Buyer, in particular letters of acknowledgment, shall only be deemed an offer to conclude a contract. Commitments made by DEXTER prior to the conclusion of the contract are not legally binding and oral agreements of the Parties shall be replaced by the written contract unless it is expressly agreed that they shall continue to be effective.

(2) Unless otherwise agreed, all offers, the documents accompanying the offers such as product information, price lists and other documents of DEXTER are non-binding.

(3) Unless otherwise agreed, all tools used to manufacture the goods shall be and remain the sole property of DEXTER, irrespective of whether Buyer remunerates these tools or not. If DEXTER invoices engineering services on a one-off basis, this shall not entail any granting of rights to use tools, matrices, devices or similar objects or to construction work, business secrets, patents or other rights conferred by the items.

3. SUBJECT OF THE CONTRACT

(1) The subject-matter of the contract is defined by the customer's order on which the contract is based and the corresponding order confirmation by DEXTER. The duties of DEXTER may include:

(a) Sale and delivery of standardized products which do not require individual adaptation for the Buyer (hereinafter referred to as "**Standard Products**").

(b) Development, manufacture and delivery of customized products in accordance with the order and specifications of the Buyer (hereinafter referred to as "**Customized Products**").

(2) The Buyer is entitled to amend and adapt the product specifications at any time until delivery of the Customized Products. Each amendment and adaptation requires the written consent of DEXTER in order to be effective. DEXTER will inform the customer about the possible adjustment of the remuneration and the production and estimated delivery dates and will obtain the customer's consent for the adjustment of the remuneration and the estimated delivery dates. Any additional time or costs associated with the amendments and adaptations made by the Buyer will be invoiced to the Buyer. If the Buyer does not agree to the amendments, DEXTER is not obliged to implement the amendments to the product specification. DEXTER is entitled to charge the customer for the costs of verifying the feasibility of the Buyer's change requests.

(3) The suitability and use risk (in particular with regard to compliance with market standards for Customized Products) is the sole responsibility of the Buyer. In connection with the development, manufacture and delivery of Customized Products, a specific economic success is not assumed unless expressly agreed otherwise.

(4) In the event that the Buyer fails to comply with any agreed or obligations to cooperate DEXTER is entitled to terminate the contract after expiry of a reasonable grace period set by DEXTER for the fulfilment of the obligations to cooperate. In addition, DEXTER is entitled to charge the Buyer for any additional costs incurred to DEXTER.

4. DELIVERY AND DEFAULT OF DELIVERY

(1) Unless otherwise agreed, delivery shall be EXW (Incoterms 2010) Elk Grove Village, IL USA, where the place of performance and any subsequent performance will be. At the request and expense of Buyer, the goods shall be shipped to another destination (sale by delivery). Unless otherwise agreed, DEXTER shall be entitled to determine the type of dispatch (in particular transport company, dispatch route, packaging).

(2) DEXTER shall be entitled to perform partial delivery, if

- the partial delivery can be used by Buyer within the scope of the contractual purpose,
- the delivery of the remaining goods is ensured and
- Buyer does not incur any substantial additional expenses or costs (unless DEXTER agrees to bear such costs).

(3) All deadlines specified by DEXTER are only binding if they are explicitly labelled as binding deadlines. The expiry of the binding periods shall entitle Buyer to assert its statutory rights - subject to the corresponding restrictions in these T&C - but only after the unsuccessful expiry of a reasonable remedy period set by Buyer.

Compliance with agreed binding deadlines requires fulfilment of the agreed cooperation or advance performance obligations and other contractual obligations on the side of Buyer. If Buyer is in default with the performance of its obligations to cooperate or to advance performance as well as its other contractual obligations, in particular also payment obligations from previous contractual relationships, DEXTER is entitled to deny further performance.

(4) If DEXTER is unable to comply with binding deadlines for delivery for reasons for which DEXTER is not responsible (non-availability of performance), Buyer shall be informed thereof without undue delay and at the same time informed of the expected new deadline for delivery. The case of non-availability of the performance within this meaning shall in particular be deemed to be the non-timely self-delivery provided that DEXTER has concluded a congruent covering transaction, neither DEXTER nor its supplier is at fault, or DEXTER is not obliged to procure supplies in the individual case.

(5) Default in delivery shall be determined in accordance with the statutory provisions. In any case a reminder by Buyer is required. In the event of a delay in delivery, Buyer may demand lump-sum compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each completed calendar week of delay, but not more than a total of 5% of the delivery value of the delayed goods. DEXTER reserves the right to prove that Buyer has not suffered any damage or that the damage incurred is substantially less than the lump sum.

(6) Due to manufacturing and material specific characteristics, DEXTER reserves the right to over- or under-deliver the ordered quantity to the extent finally invoiced.

(7) The rights of Buyer according to Section 11 remain unaffected.

5. RESCHEDULING

Buyer shall be entitled to postpone the stated delivery date by up to thirty (30) days provided that such request by Buyer is received by DEXTER outside of quoted product lead time prior to the originally scheduled delivery date.

6. PASSING OF RISK, ACCEPTANCE

(1) The risk of accidental loss and accidental deterioration of the goods shall pass to Buyer at the latest when the goods are handed over.

(2) If the goods are shipped by parcel delivery (Section 4 (1)), the risk shall pass to Buyer at the latest when the goods are handed over to the carrier, freight forwarder or any other third party appointed to carry out the shipment.

(3) If delivery is delayed due to circumstances caused by Buyer or due to Buyer's request (e.g. Section 5), the risk shall pass to Buyer on the day of notification of readiness for dispatch (default of acceptance).

(4) Additional expenses, in particular storage costs, after passing of risk shall be borne by Buyer. The storage costs amount to 10% of the invoice amount of the goods to be stored per expired week. The right to assert and prove further or lower storage costs remains unaffected.

(5) DEXTER shall insure deliveries against theft, breakage, transport, fire and water damage or other insurable risks only at the express written request of Buyer and at Buyer's expense.

(6) If acceptance of a Customized Product within the meaning of Section 640 German Civil Code is required, the Customized Product shall be deemed to be accepted if

- delivery of the Customized Product has been completed,
- DEXTER has communicated and requested the Buyer to accept the product indicating that in case acceptance will not be rendered, the product will be deemed to be accepted according to this subsection (6),
- twelve working days have passed since delivery of the product or six working days have passed since use of the product has been started, and
- the Buyer has failed to accept the product within this period for a reason other than a defect already notified to DEXTER which significantly impairs the use of the product or which makes use impossible.

7. PRICES AND TERMS OF PAYMENT

(1) The purchase price is due and payable within the agreed payment period or, if no payment period has been agreed, within 30 days after receipt of the invoice without deduction and in accordance with DEXTER's instructions. DEXTER shall be entitled to issue the invoice electronically. DEXTER is entitled at any time, also within the framework of an ongoing business relationship, to make a delivery or performance of services in whole or in part only against advance payment or against presentation of a sufficiently secured bank guarantee. A corresponding reservation shall be declared at the latest with the order confirmation.

(2) If Buyer fails to meet the payment deadline pursuant to Section 7 (1), Buyer shall be in default. During the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable from time to time. The assertion of further damage caused by default remains unaffected. The claim to the commercial due interest (Section 353 German Commercial Code) remains unaffected.

(3) A set-off or retention on the part of Buyer is only permissible due to formally accepted or legally established counterclaims of Buyer.

(4) In case of Customized Products the Buyer makes use of his right of termination according to Section 648 of the German Civil Code, DEXTER is entitled to charge Buyer for activities performed up to the time of termination and to additionally demand a lump sum of 10% of the remuneration for activities not yet performed as compensation for expenses and loss of profit. The right of the Buyer remains unaffected to prove that DEXTER has incurred considerably less damage than the lump sum or no damage at all.

8. RETENTION OF TITLE, CESSION

(1) DEXTER retains title to the sold products until complete receipt of the contractually agreed payments for claims of DEXTER arising from the underlying contract and from contracts for similar products in an ongoing business relationship, including statutory claims. Buyer shall be obliged to mark the goods which are not yet in its ownership correspondingly.

(2) Buyer may use the products subject to retention of title and resell them in the ordinary course of business as long as it is not in default of payment. However, Buyer may not pledge or assign by way of security the products subject to retention of title. Buyer assigns to DEXTER by way of security Buyer's claims for payment against its customers arising from the resale of the products subject to retention of title as well as Buyer's claims against its customers or third parties in respect of the products arising from any other legal grounds (in particular claims arising from tortious acts and claims for insurance benefits), including all current account balance claims, in their entirety.

(3) Buyer may collect these claims assigned to DEXTER on his own account and in his own name for DEXTER unless DEXTER withdraws this authorization. DEXTER's right to collect these claims itself shall not be affected thereby; however, DEXTER shall not enforce the claims itself and shall not revoke the direct debit authorization provided that Buyer duly meets its payment obligations.

(4) If, however, Buyer is in breach of contract - in particular if Buyer is in default with its payment of a claim - DEXTER is entitled to request Buyer to notify DEXTER of the assigned claims and the respective debtors, to notify the respective debtors of the assignment and to hand over to DEXTER all documents and information required by DEXTER to assert the claims.

(5) The retention of title extends to the full value of the products resulting from the processing, mixing or combining of the products, whereby DEXTER shall be deemed the manufacturer. If the ownership rights of third parties remain in force during processing, mixing or combining with goods of third parties, DEXTER shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined products. The same shall apply to the new product.

(6) If DEXTER withdraws from the contract in case of breach of contract by Buyer, in particular in case of default of payment, DEXTER shall be entitled to take back the products not yet owned by Buyer at Buyer's expense and/or to claim damages from Buyer. Further claims of DEXTER shall remain unaffected.

(7) In the event of seizures, confiscations or enforcement measures by third parties, Buyer must notify DEXTER immediately in writing. The costs of asserting and enforcing DEXTER's claims in respect of the products not yet owned by Buyer shall be borne by Buyer.

(8) To the extent that the value of the existing securities exceeds DEXTER's claims against Buyer arising from the underlying contract and any business relations between DEXTER and Buyer preceding this contract relating to similar goods by more than 10%, DEXTER shall be obliged, at Buyer's request and at DEXTER's discretion, to release corresponding securities.

9. INTELLECTUAL PROPERTY RIGHTS

(1) Neither these T&C nor the contractual relationship between DEXTER and Buyer shall be deemed to constitute a transfer of rights or the granting of rights to use the Intellectual Property of DEXTER and/or its licensors, who shall at all times remain owners of all rights to the Intellectual Property. This applies in particular to (a) trademarks, trade names, logos, packaging or other designations and (b) copyrights, patent rights, trade secrets and other industrial property rights in connection with the products, including but not limited to specifications, drawings, plans and technical data. Buyer shall indemnify DEXTER against all damages resulting from claims of third parties against DEXTER due to (i) infringement of Intellectual Property Rights or (ii) unfair acts by Buyer.

(2) DEXTER grants Buyer a non-exclusive, non-transferable, non-sublicensable, revocable, limited to the contractual use of the products right to use the software and the documentation - in the case of the latter also a right to reproduce for internal use.

(3) Subject to express contractual or legal permission, Buyer shall not (a) reproduce the Software, (b) modify, integrate, or create derivative works of the Software or any part thereof, or (c) reverse engineer the Products or recompile the source code of the Software, disassemble or otherwise attempt (d) to distribute, sublicense, rent, loan, or otherwise make available the software or documentation, or (e) to remove or modify any trademarks, trade names, logos, patent or copyright notices or other markings contained in the software or on the product or documentation.

(4) In case of Customized Products, the Buyer warrants that provided specifications do not infringe any intellectual property rights of third parties. Should DEXTER be held liable by third parties in this regard, the Buyer is required to indemnify DEXTER from any claims of third parties due to infringements of industrial property rights, insofar as such claims of third parties result from the Buyer's specifications.

10. WARRANTIES

(1) The basis of the warranty is the quality agreed in the individual contract as well as the standard for workmanship to which the respective contract refers to. If the quality has not been agreed, assessment as to whether a defect exists or not shall be made in accordance with the statutory provisions (Section 434 (1) s 2 and 3 German Civil Code). DEXTER accepts no liability for public statements made by third parties (e.g. advertising statements). Unless otherwise contractually agreed between DEXTER and Buyer, enclosed product descriptions and the quality agreed in the individual contract do not constitute a guarantee of quality or durability within the meaning of Section 443 German Civil Code.

(2) The statutory provisions shall apply to Buyer's rights in the event of material defects and defects of title, unless otherwise specified below. In all cases, the specific statutory provisions concerning the final delivery of the unprocessed products to a consumer (supplier recourse) shall remain unaffected.

(3) Buyer shall carefully inspect the delivered products immediately upon receipt by Buyer or by a third party designated by Buyer. With regard to obvious defects or other defects which would have been recognizable in an immediate, careful inspection, the products shall be deemed to have been approved by Buyer if DEXTER does not receive a written notice of defect within five (5) working days after delivery. With respect to other defects, the goods shall be deemed to have been approved by Buyer if the notice of defect is not received by DEXTER within five (5) working days upon discovery of the defect; however, if Buyer was already aware of the defect at an earlier stage during normal use, this earlier stage shall be decisive for the commencement of the notice period.

(4) In the event of material defects, DEXTER shall initially be obliged and entitled to remedy the defect or deliver a replacement at its discretion within a reasonable period of time. The right of choice shall be restricted in cases where Buyer is subject to the statutory right of choice of his customers. In the event of failure, i.e. impossibility, unreasonability, refusal or unreasonable delay of the repair or replacement delivery, Buyer may withdraw from the contract or reasonably reduce the purchase price. In case of an insignificant defect, however, there is no right of withdrawal.

(5) At DEXTER's request, the rejected products shall be returned to DEXTER free of freight charges. In the event of a justified complaint, DEXTER shall reimburse the costs of the most economical shipping route.

(6) DEXTER shall be entitled to refuse subsequent performance in its entirety if it only involves disproportionate costs or is impossible for other reasons. Further rights of Buyer remain unaffected.

(7) The warranty period is one year and begins with the handover to Buyer or another recipient designated by Buyer. The statutory special provisions on limitation (in particular Section 438 (3), Sections 444, 445b German Civil Code) shall remain unaffected. The reduced limitation period shall not apply to claims for damages by Buyer arising from injury to life, limb or health or from intentional or grossly negligent breaches of duty by DEXTER or its vicarious agents as well as to claims under the Product Liability Act, which shall become statute-barred in each case in accordance with the statutory provisions.

(8) To the extent that DEXTER provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services to be rendered by DEXTER, this is done free of charge and to the exclusion of all liability.

11. LIABILITY

(1) In case of intent and gross negligence, DEXTER shall be liable without limitation.

(2) In case of simple negligence DEXTER shall be liable

a) for damages resulting from an injury to life, limb or health

b) for damages resulting from the breach of an essential contractual obligation (i.e. an obligation the fulfilment of which is essential for the proper execution of the contract and the observance of which the contractual partner regularly relies on and may rely on); in this case, however, liability is limited to compensation for the foreseeable, typically occurring damage.

The limitations of liability resulting from the preceding sentence shall not apply if DEXTER fraudulently concealed a defect or assumed a guarantee for the quality of the goods. The same shall apply to Buyer's claims under the Product Liability Act.

Any further liability of DEXTER is excluded.

(3) When using the goods, the special instructions for handling and use must always be observed. DEXTER accepts no liability for misuse.

12. FORCE MAJEUR

DEXTER shall not be liable for the inability to deliver or for delays in delivery caused by force majeure or other events unforeseeable at the time of the conclusion of the contract (e.g. breakdowns of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labor, energy or raw materials, difficulties in obtaining necessary official permits, official measures) for which DEXTER is not responsible. To the extent that such events make delivery substantially more difficult or impossible for DEXTER and the hindrance is not only of a temporary nature, DEXTER shall be entitled to withdraw from the contract. In the event of hindrances of a temporary nature, delivery or performance deadlines shall be extended or delivery dates postponed by the period of the hindrance plus a reasonable start-up period. To the extent that Buyer cannot reasonably be expected to accept the delivery as a result of the delay, Buyer may rescind the contract by immediate written declaration to DEXTER.

13. CONFIDENTIALITY

All drafts, offers, specifications, drawings, marketing plans, reports and photographs in connection with the goods or their functionalities, which are not generally known, are confidential information of DEXTER and may not be disclosed to third parties or used for other purposes without the prior written consent of DEXTER. Such information shall remain the sole property of DEXTER and shall be returned or destroyed at DEXTER's request. Buyer may not create or publish any press releases or advertising in connection with DEXTER without the express prior consent of DEXTER.

14. EXPORT AND IMPORT CONTROL

(1) The performance of the contract is subject to the provision that the performance is not hindered by any national or international regulations of export and import law or any other statutory provisions.

(2) Buyer warrants to comply with all applicable export and import control regulations. In particular, there may be licensing obligations and/or the use of the software or associated technologies may be subject to restrictions abroad. Buyer shall comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America as well as all other relevant regulations.

(3) Buyer represents and warrants that it is not designated on, or associated with, any party designated on any of the U.S. government restricted parties lists, including without limitation, OFAC; the U.S. Commerce Department Bureau of Industry and Security ("BIS") Denied Persons List; Entity List or Unverified List; Specially Designated Nationals and Blocked Persons List; or the U.S. State Department Directorate of Defense Trade Controls ("DDTC") Debarred Parties List.

(4) Buyer will indemnify, defend, and hold harmless to the fullest extent permitted by law, Dexter from and against any fines or penalties that may arise as a result of Buyer's breach of this Section 14.

15. FINAL PROVISIONS

(1) Parties shall co-operate. Buyer shall provide timely responses to Dexter's inquiries and requests for information. Buyer acknowledges and agrees that DEXTER's performance under the contract is dependent upon the completeness and accuracy of information provided by Buyer.

(2) In case of any doubt, the provisions of these T&C shall remain binding in their remaining parts even if individual provisions are legally invalid. Parties undertake to replace ineffective provisions with provisions that come as close as possible to the intended economic success. The same shall apply to any loopholes in the contract.

(3) Amendments or supplements to these T&C as well as confirmed orders must be made in writing. This also applies to any changes to the written form requirement. Individual agreements always have priority.

(4) The contract concluded between the Parties is subject exclusively to the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

(5) In case of disputes in connection with the contract concluded between the Parties, the District Court of Frankfurt am Main is exclusively competent. Irrespective of this, DEXTER remains entitled to bring an action at the general place of jurisdiction of Buyer.

End of T&C