USHIO GERMANY GmbH
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# General Terms and Conditions of Sales and Supply

## 1. Scope

Sales, supplies and other services of Ushio Germany GmbH (hereinafter: “Ushio”) are governed solely by the following Standard Terms of Sale and Supply (hereinafter: “Terms of Supply”) which the Customer accepts by placing an order or taking delivery of a consignment. These Terms of Supply, in their most recent version, also govern all future business transacted with the Customer. Any of the Customer’s terms of business which depart from or supplement these Terms of Supply will not be accepted, even if Ushio does not expressly countermand them.

## 2. Conclusion of a contract

Any quotations issued by Ushio are without obligation. A contract will not come into effect until Ushio has issued an order confirmation and will be based solely on the contents of the order confirmation and these Terms of Supply. Oral agreements or undertakings must be confirmed in writing by Ushio in order to be valid.

## 3. Dimensions, weights, drawings and technical data

All details of dimensions, weights and technical data in catalogues, price lists, quotations and other information material supplied to the Customer by Ushio are estimates and are only binding where this is expressly agreed with Ushio in writing. Ushio reserves all rights in drawings, models, templates, samples, similar items and all other sales literature. They must not be disclosed to third parties without prior permission in writing and must be returned to Ushio at its first request.

## 4. Delivery

Shipments within the EU will be made to the agreed place of delivery in the country of importation (DDP, Incoterms 2020). They are shipped by customary routes in customary packing material. Where products are shipped outside the EU, shipments are ex works (EXW, Incoterms 2020). Delivery dates and periods are only binding if confirmed in writing by Ushio and the Customer has provided Ushio with all the necessary information and documents in good time and has made any agreed advance payments in accordance with the Contract. In case Ushio fails to deliver within the confirmed period, Ushio is not in default until the customer has given a notice of default and a reasonable timeframe of at least 30 days. Delivery times will be extended accordingly if additional or supplementary orders are placed at a later date. In the event of a part-shipment, Ushio will be entitled to issue an invoice for that part-shipment. If the Customer delays acceptance or fails to fulfil other obligations with regard to cooperation, Ushio will be entitled to store the products at the Customer’s risk and expense. Without prejudice to other rights, Ushio will be entitled to refuse to perform, or to withdraw from, the contract if a reasonable time allowed to the Customer to accept the shipment has elapsed without result. Ushio will then be entitled to terminate all other contracts with the Customer. On each occasion when Ushio terminates a contract, the sums due from the terminated contracts will become payable with immediate effect.

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## 5. Payment terms

Where the Parties have not agreed on a specific price, the price will be determined in accordance with the Ushio price list which is valid on the date of signature of the contract. For each country, different minimum order quantities and extra charges (packaging and delivery) for small order quantities apply. Extra insurance will only be arranged at the Customer's request and expense. Each invoice must be paid according to the agreed payment condition. Payments made by the Customer will not be deemed to have been received until such time as Ushio has the amount at its disposal. Where a due date has been exceeded, Ushio will be entitled, subject to evidence from the Customer that the loss is lower, to charge interest on arrears amounting to 5% above the base rate applied by the European Central Bank per annum. This does not affect Ushio's right to claim further compensation for loss due to delay. If Ushio deems it necessary to instruct third parties to collect its debts, the costs incurred must be paid by the Customer, but at least 15% of the sum due. As soon as a court has issued a final ruling wholly or essentially against the Customer, the Customer will be obliged to reimburse Ushio with all of its court costs, including costs not awarded by the court. Ushio reserves the right to demand security at any time to guarantee prompt payment. Ushio is also entitled to insist on payment before delivery. Bills of exchange and cheques will only be accepted by special agreement and by way of provisional performance if free of costs and bank charges for Ushio. The Customer will only be entitled to offset payments if its counterclaim is uncontested or has legal force. The Customer is only entitled to assert a right of retention insofar as its counterclaim relates to the same contract and is uncontested or has legal force. If, after conclusion of the contract, Ushio becomes aware of a substantial deterioration in the Customer's financial situation, Ushio will be entitled to supply pending orders for goods or services against payment in advance or provision of security; if these are not forthcoming by the end of a reasonable additional time, Ushio will be entitled to withdraw in whole or in part from the contract without prejudice to other rights.

## 6. Compensation and limitation of liability

6.1. Ushio will be liable to pay compensation

6.1.1. For injury, loss or damage caused through the willful intent or gross negligence of Ushio or its subcontractors;

6.1.2. in the event of a slightly negligent contravention of essential contractual duties, but limited to the injury, loss or damage typically envisaged in contracts; III in accordance with the provisions of the German Product Liability Act and other mandatory statutory provisions**;**

6.1.3. For any defect losses arising from the lack of warranted properties and for any consequential losses against which some form of warranty should safeguard the Customer.

6.2. If none of the cases listed in Section 6.1 applies, Ushio will not be liable to pay compensation.

6.3. Sections 6.1 and 6.2 apply to all compensation claims which may be raised on any legal ground whatsoever and in particular also to liability for an unlawful act, positive breach of contract and negligence in contract negotiations.

6.4. The Customer is required to take reasonable measures to avert or minimise claims. Compensation claims made by the Customer for a defect will expire by limitation one year after delivery of the product, unless specified otherwise in other statutory regulations.

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## 7. Reservation of title

7.1. The products supplied will remain the property of Ushio (“goods subject to retention of title”) until all sums due to Ushio arising from its business relationship with the Customer have been paid in full.

7.2. 7.2. In the case of current account operations, the reserved title will serve as security for the payment of any balance due to Ushio.

7.3. The Customer may not sell the goods subject to retention of title except in the course of its normal business activities. The Customer will not have the right to pledge the goods subject to retention of title, to assign them by way of security or to make other dispositions that jeopardise Ushio’s title. The Customer hereby assigns to Ushio any receivables arising from resale; Ushio hereby accepts this assignment. If the Customer sells the goods subject to retention of title after processing them or after combining, mixing or blending them with other products or together with other products, the assignment of receivables will only apply to the extent of the portion as agreed, which is equal to the price agreed between Ushio and the Customer plus a safety margin of 10% of this price. The Customer is revocably authorized to collect the receivables assigned to Ushio in its own name, as a trustee, on behalf of Ushio. Ushio may revoke this authoritsation and the right to resell if the Customer is in default with essential obligations, e.g. in making payment to Ushio.

7.4. Any processing or use of the goods subject to retention of title by the Customer will at all times be on behalf of Ushio. If the goods subject to retention of title are processed with other items to form a new product, Ushio will acquire joint title to the new product in proportion to the value of the goods subject to retention of title in relation to the other processed items at the time of processing. The new product created by the processing will be governed in all other respects by the same terms as the products supplied under reservation of title.

7.5. If the goods subject to retention of title are combined, mixed or blended with other items to form a standard product, Ushio will acquire joint title to the standard product in proportion to the value of the goods subject to retention of title in relation to the other processed items at the time of combination, mixing or blending. If the product is combined, mixed or blended in such a way that the Customers product must be regarded as its principal product, it is deemed to be agreed that the Customer will assign joint title to Ushio. The Customer will hold the resulting joint title for Ushio.

7.6. The Customer will provide Ushio at any time with all the information that it requires on the goods subject to retention of title or rights that have been assigned to Ushio accordingly. Any seizure or claims by third parties in respect of goods subject to retention of title must be notified to Ushio without delay by the Customer, who will also hand over the necessary documents. At the same time, the Customer will inform third parties of Ushio's reservation of title. The costs incurred in refuting such seizures and claims will be borne by the Customer.

7.7. The Customer is required to handle the goods subject to retention of title with care for the duration of the reservation of title.

7.8. If the realizable value of the securities exceeds the total of Ushio’s receivables to be secured by more than 10%, the Customer will be entitled to demand release of the products to this extent.

7.9. If the Customer is in default with essential obligations, e.g. with making payment to Ushio, Ushio will be entitled without prejudice to other rights to take back the goods subject to retention of title and employ them elsewhere to settle outstanding sums due by the Customer. In this case, the Customer will grant Ushio or its representative’s immediate access to the goods subject to retention of title and surrender them. Where Ushio requires surrender on the basis of this provision, this will not be considered withdrawal from the Contract, except in cases where the German Consumer Credit Act applies.

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7.10. In the case of shipments to countries with legal systems in which the above reservation of titles does not provide the same level of security as under German law, the Customer will make every effort to grant Ushio the equivalent security interests without delay. The Customer will engage in all measures, e.g. registration, publication, etc. which are necessary for and conducive to the effectiveness and enforceability of such security interests.

7.11. At Ushio's request, the Customer will be required to insure the goods subject to retention of title for an appropriate sum, forward the relevant insurance certificate to Ushio, and assign any claims arising from the insurance to Ushio.

## 8. Product liability

If the Customer sells the items of supply unchanged, after processing or after combining, mixing or blending them with other products, it will indemnify Ushio in the internal relationship between the parties against product liability claims from third parties, where it is responsible for the faults giving rise to the liability claims.

## 9. Warranty and warranty rights

9.1. The Customer's warranty rights presuppose that the Customer will inspect the item of supply on delivery and notify Ushio in writing of any defects without delay, but not later than two weeks after delivery; hidden defects must be reported to Ushio in writing within two weeks after their discovery. Claims for breakages must be reported to Ushio within 24 hours after delivery.

9.2. In any claim, Ushio will have the right to inspect and test the item of supply that is the subject of the claim. The Customer will allow Ushio the necessary time to do so. Ushio can also request the Customer to return the item of supply the subject of the claim to Ushio at Ushio's expense. If a claim by the Customer is found to be unjustified, the Customer will be required to reimburse Ushio with all of the costs incurred in this connection, e.g. travel and assembly costs or shipping costs.

9.3. Ushio will remedy the defect giving rise to the warranty liability at its discretion by carrying out a repair or supplying a replacement free of charge for the Customer.

9.4. The Customer will allow Ushio the necessary time to carry out the repair or supply the replacement. Only in urgent cases (danger to operational safety) or in order to avert disproportionately serious damage or if Ushio is in default with remedying the defect, will the Customer have the right, after notifying Ushio without delay, to remedy the defect itself or have it remedied by third parties and demand that Ushio reimburse it with the cost incurred.

9.5. Ushio does not provide any warranty for injury, loss or damage caused by inappropriate or improper use, defective assembly, defective commissioning, defective modifications or maintenance work by the Customer or third parties, natural wear and tear, defective handling, defective installation, unsuitable equipment, substitute materials used by the Customer or third parties or defective electromechanical or electrical impact, where the injury, loss or damage cannot be attributed to Ushio. The warranty obligation does not cover defects which can be attributed to improper handling, storage, etc. on the Customer's premises.

9.6. Any material, shipping and labour costs incurred for the purpose of effecting a repair or providing a replacement will be borne by Ushio, provided that the defects claimed by the Customer are acknowledged.

9.7. If it is not possible to remedy the defect by repair or replacement, the Customer will be entitled at its discretion to withdraw from the Contract or demand a reasonable reduction in the price.

9.8. The period of limitation for warranty claims in respect of the item of supply will be 1 year from the date of the shipment. The date of the shipment will also be a determining factor for

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warranty claims arising from repair work which was not carried out until after the items were supplied. Where delays in shipping, installing or commissioning the item of supply occur which are not the fault of Ushio, warranty claims will lapse not later than twelve months after transfer of risk.

9.9. All further claims by the Customer will be excluded.

## 10. Return of products

Claims for the return or exchange of ordered products will be excluded. If nevertheless Ushio agrees to a return, subject to prior confirmation in writing, the products must be shipped freight forward and at the Customer's risk to our warehouse. In general, only products packed in their original, undamaged and unmarked packaging will be credited. The Customer will be responsible for disposing of lamps. The return of gas-discharge lamps supplied after 1 July 2006 will be accepted for disposal under WEEE legislation.

## 11. Force majeure

Unforeseeable events such as force majeure, war, natural disasters and other unavoidable events outside Ushio's control and not attributable to Ushio –including any non-delivery caused by an act or omission of one of Ushio's suppliers –will release Ushio from its duty to supply products or provide services on time for the duration of such events. Agreed deadlines will be extended by the duration of the failure; the Customer will be informed of the commencement of the failure in an appropriate manner. If the end of the failure is not foreseeable or if it lasts for more than three months, each Party will be entitled to withdraw from the Contract.

## 12. Place of jurisdiction

If the Customer is a fully qualified merchant, a legal person under public law or a special fund under public law, the sole place of jurisdiction for all disputes arising from the contractual relationship will be Munich (Munich Regional Court I). This also applies if the Customer has no general place of jurisdiction in the Federal Republic of Germany or its usual place of residence is relocated to another country after the Contract is signed. However, Ushio is entitled to bring legal actions against the Customer at any other statutory place of jurisdiction. The laws of the Federal Republic of Germany will apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

## 13. General provisions

13.1. Amendments and additions to the Contract and/or the Terms of Supply and subsidiary agreements must be in writing. This also applies to any change to this requirement for amendments to be in writing.

13.2. Where a provision of the Contract and/or these Terms of Supply is ineffective in whole or in part, this will not affect the effectiveness of the remaining provisions thereof. In this case, the Parties will undertake to replace the ineffective provision with an effective provision which approximates most closely to the economic purpose of the ineffective provision.

13.3. In case of discrepancies between the English and the German form of the Terms of Supply the German version is binding.

As of: August 2024