

General Terms and Conditions of Sale

Art. 1 Application of these General Terms and Conditions of Sale, Quotation and Conclusion of Contract, Subject Matter of Contract

1.

All quotations and all supplies and services from evoxx technologies GmbH shall be provided exclusively on the basis of these General Terms and Conditions of Sale. They shall be an integral part of all of the contracts that evoxx technologies GmbH concludes with the customer concerning the supplies and services offered by evoxx technologies GmbH. They shall also apply to all future quotations, supplies and services, even if their application is not once again separately agreed upon. The customer's general terms and conditions of business or those of a third party shall not be applied, even if evoxx technologies GmbH does not separately object to their application in individual cases.

2.

All of evoxx technologies GmbH's quotations shall be subject to confirmation and without obligation, unless they are expressly designated as binding or a certain time limit for acceptance is contained therein. The contract concluded between evoxx technologies GmbH and the customer in writing, by email or by fax completely reproduces all of the agreements between the parties to the contract regarding the subject matter of the contract. Verbal agreements between the parties to the contract shall only apply if this is expressly determined therein.

3.

The subject matter of the contract shall be exclusively the product as declared in the contract. At the same time details of the subject matter of the contract such as weights, dimensions or data on physical and technical characteristics as well as technical data are only approximately authoritative, unless the usability for the purpose provided for in the contract necessitates exact congruence. The details are not quality statements but solely a description or characterisation of the supply or service.

4.

The supply of a product or the provision of a service by evoxx technologies GmbH shall only comprise consent to the use of evoxx technologies GmbH's intellectual property embodied in them or related to them (in particular of evoxx technologies GmbH's patents), if this is expressly agreed upon with the customer.

Art. 2 Prices, Payment

1.

The prices are to be understood as being ex works (place of the registered head office of evoxx technologies GmbH in 40789 Monheim am Rhein). Added to the prices shall be – unless expressly stated otherwise in the contract – the cost of packaging, transport and, if necessary, – if agreed – the transport insurance. The agreed prices shall be net prices, on which statutory VAT is additionally payable.

2.

Invoice amounts are to be paid within 14 days without deduction. If the customer does not pay by the due date, default interest in the amount of 10 percentage points above the base interest rate per annum shall be incurred; the claiming of higher interest and further losses in the event of default shall remain unaffected.

evoxx technologies GmbH

Monheim

Alfred-Nobel-Str. 10, 40789 Monheim am Rhein, Germany
fon +49 2173 40994-0, fax +49 2173 40994-40
contact@evoxx.com
www.evoxx.com

Amtsgericht Düsseldorf

HRB 56230, UST-ID DE 250606415
Bank Kreissparkasse Düsseldorf
IBAN DE21 3015 0200 0002 0303 44
BIC WELADED1KSD

Geschäftsführung

Dr. Thorsten Eggert
Martina Döring
Dr. Volker Landschütze
Jürgen Weißer

3.

Offsetting with any of the customer's counterclaims and the withholding of payments because of such counterclaims shall only be admissible if the customer's counterclaims are undisputed or have been established by a final and non-appealable legally effective court decision.

4.

evoxx technologies GmbH shall be entitled to execute or to perform any still outstanding supplies or services only on the terms of cash in advance or the provision of security, if after the conclusion of a contract circumstances become known which are liable to significantly reduce the customer's creditworthiness and by means of which the payment of the outstanding accounts due to evoxx technologies GmbH regarding the outstanding supply or service is endangered.

Art. 3 Delivery, Delivery Time

1.

All deliveries shall be made ex works (place of the registered head office of GmbH in 40789 Monheim am Rhein), unless agreed otherwise in the contract.

2.

Delivery dates or dates for the provision of services proposed by evoxx technologies GmbH shall be without engagement unless a fixed time or a fixed date has been expressly agreed upon in the contract. If forwarding was agreed upon in the contract, the delivery periods and the delivery dates shall refer to the point in time of handover to the third party entrusted with transportation.

3.

evoxx technologies GmbH shall be entitled to make part deliveries, if the part delivery is useable for the customer in accordance with the contractually assumed purpose, delivery of the remaining goods has been ensured and the customer does not have any significant additional work as a result of the part delivery.

4.

If evoxx technologies GmbH defaults on supply or service or if supply or service – no matter for what reason – becomes impossible for it, its liability for damages shall be restricted in accordance with Art. 5 of these General Terms and Conditions of Sale.

Art. 4 Warranty

1.

The warranty period shall be one year from delivery or – as far as an acceptance inspection is necessary in the individual case – from acceptance. If attention is drawn in the contract to the fact that the subject matter of the contract shall show stability or a minimum durability over a period of less than one year, a warranty shall only be assumed for this stability period stated or minimum durability period.

2.

The product supplied is to be examined carefully for any defects. The product shall be deemed to have been approved when evoxx technologies GmbH has, with regard to obvious defects or defects which were recognisable during careful examination without undue delay, no notice of defect has been received in writing or by fax or e-mail within seven days of the delivery and/or acceptance or otherwise within seven days after the point in time, at which

the defect was recognisable for the customer during normal use of the subject matter of the contract without any closer examination.

3.

The customer must give evoxx technologies GmbH the opportunity to examine the subject matter of the contract at the place where it is located, therefore, if necessary, on the customers' premises, if the customer claims that there is a material defect.

4.

If a product supplied shows a defect of title in the form of a third-party right, the customer shall give evoxx technologies GmbH, at its option, the opportunity to either deliver an item free from defects or to remove the defects within a reasonable period of time by obtaining approval of the holder of the right. If the form of subsequent performance chosen by evoxx technologies proves abortive, the customer shall, at its option, have the right to reduce the price or withdraw from the contract.

5.

If a defect is based on a fault on the part of evoxx technologies GmbH, the customer can demand damages on the conditions defined in Art.

Art. 5 Liability for Damages due to Culpability

1.

The liability of evoxx technologies GmbH for damages, no matter for what legal reason, in particular due to default, impossibility, defective or incorrect supply, breach of contract, breach of duties at contract negotiations or from a tortious act, is – to the extent that in each case it is dependent upon fault – restricted in accordance with this provision in Art. 5:

The company evoxx technologies GmbH shall not be liable in the case

- a) of slight negligence of its organs, statutory representatives, employees or other vicarious agents;
- b) gross negligence of its non-executive employees or other vicarious agents, unless the breach of duties essential to the contract is involved.

Essential to the contract are the obligations relating to timely delivery free of defects as well as consulting, protection and order duties, which are meant to make contractual use of the subject matter of the contract possible for the customer, or the purpose of which is the protection of life and limb of the customer or third party or of the customer's property from considerable damage/loss.

To the extent that evoxx technologies GmbH shall be liable for damages on the merits in accordance with this provision, this liability shall be limited to that damage/loss which evoxx technologies GmbH, at the time of the conclusion of the contract and with the exercising of ordinary care, foresaw as the possible consequence of a breach of contract or, taking into account the circumstances of which it was aware or should have been aware, it would have had to foresee. Indirect damage/loss and consequential damage which is the consequence of defects of the subject matter of the contract, shall, moreover, only be recoverable if such damage/loss is typically to be expected in the case of use of the subject matter of the contract for the intended purpose.

2.

In the case of liability for slight negligence, the liability for damages of evoxx technologies GmbH for damage/loss of every kind shall be restricted to an amount of € 5,000,000.00 per case of damage even if a breach of duties not in conformity with the contract is involved. The above mentioned exclusions from liability and restrictions shall apply to the full extent also in favour of the organs, statutory representatives, employees and other vicarious agents of evoxx

technologies GmbH. To the extent that evoxx technologies GmbH provides technical or physical information or becomes active in an advisory capacity and this information or these advisory services are not part of the scope of services owed by evoxx technologies and contractually agreed upon, this shall be done free of charge and to the exclusion of all liability. The restrictions in accordance with this Art. 5 shall not apply to the liability on the part of evoxx technologies GmbH for intentional behaviour, for statements of warranted nature and quality, for harm to life and limb or health impairment or in accordance with the Product Liability Act.

Art. 6 Choice of Law, Place of Jurisdiction

1.

The exclusive place of jurisdiction shall be Düsseldorf.

2.

The contractual relations between evoxx technologies GmbH and the customer shall be subject to the law of the Federal Republic of Germany to the exclusion of the provisions of private international law. The provisions of the UNCITRAL law on the sale of goods shall not apply, either.