

## General Terms and Conditions of Sale of New and Used Products

(valid from December 1, 2017)

### 1. Application/Incorporation

- 1.1 These terms and conditions of sale shall govern all expressions of intent and all legal declarations that refer to entering or executing any kind of sales or service agreement between eZono AG and its purchasers.
- 1.2 These terms and conditions of sale will be incorporated (i) by an explicit agreement or, (ii) if such an explicit agreement is, due to the nature of sales or service agreement, difficult to enter in and the purchasers accepts these terms and conditions, by entering into the sales or service agreement. If the purchaser is an entrepreneur under sec. 14 German Civil Code (*BGB*) these terms and conditions of sale shall also govern all future transactions between the parties without any further incorporation agreement.
- 1.3 Differing or contrary terms of purchaser shall not apply except if expressly agreed by eZono AG upon in writing.
- 1.4 These terms and conditions apply on all deliveries which have been ordered on the validity of these terms and conditions.

### 2. Conclusion of Contracts

- 2.1 All public or published offers of eZono AG do not legally bind eZono AG. Offers made to individual purchasers will bind eZono AG for a 30-days-period.
- 2.2 The legal binding provisions of contract are defined in eZono's purchase order confirmation unless purchaser contradicts immediately.
- 2.3 Purchaser undertakes to fulfil all legal requirements for product's application outside the European Union.
- 2.4 eZono AG is entitled to cancel the contract by withdrawal in the event that (i) purchaser has stated in lieu of an oath under sec. 807 German Code of Civil Procedure (*ZPO*), or (ii) an insolvency procedure regarding purchaser has been applied for.

### 3. Prices/Payment

- 3.1 All agreed prices are fix prices. Prices are ex works, exclusive of the respective statutory VAT and exclusive of costs for packaging, insurance, sending, except as otherwise expressly agreed upon.
- 3.2 Additional service which is not included in the sales price (e.g. starting up works or software installation) will be charged separately. Such an additional charge will be due and payable upon finishing the additional service.
- 3.3 eZono AG is entitled to charge the purchaser with cost increases arising in the meantime if the period between order and proper delivery exceeds four months. If such a cost increase charged to the purchasers exceeds 5 per cent of the agreed original price the purchaser is entitled to cancel his purchase order within one week from receiving the message about the surcharge.

- 3.4 Unless otherwise agreed upon the agreed purchase price becomes due and payable within two weeks from receiving the invoice without any further note by eZono AG. The purchase price has to be paid by bank account transfer. The payment is duly executed when the remittance account is received by eZono's bank. Any bank fees arising from the transfer have to be paid by purchaser.
- 3.5 Unless otherwise expressly defined by the purchasers all payments of the purchaser will be regarded as made to the elder claims of eZono AG at first. Sec. 367 of German Civil Code (*BGB*) shall, however, prevail.
- 3.6 In case of delay by purchaser's payments eZono AG is entitled to collect due date interest in the amount of 5 per cent (if the purchaser is an entrepreneur: 9 per cent) above the respective base interest rate p. a. eZono AG reserves all rights to claim further damages for delay.
- 3.7 The purchaser shall be entitled to offset only insofar as the purchaser's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement. The purchaser is entitled to claim retainer rights only to the extent such rights are based on the same transaction.

### 4. Reservation of Right of Modification

- 4.1 eZono AG is entitled to make its own choice between several products equal to the sold product until the product will be delivered at the purchaser.
- 4.2 eZono AG is entitled to deliver another product than the ordered product if (i) the delivered product is of similar quality and value and (ii) the purchaser will not be unreasonably interfered with such a switch.

### 5. Delivery/Default of Delivery

- 5.1 Part-deliveries by eZono AG are hereby agreed upon. As far as such part-deliveries concern a separate position of purchaser's order the part-deliveries shall be deemed separate delivery.
- 5.2 Unless otherwise agreed in a written way eZono AG shall deliver its products within 30 days from receiving the order. In the event that a pre-payment by the purchaser has been agreed the 30-days-period shall start from receiving the full pre-payment. In case of default of delivery the purchaser has to grant a reasonable extension. If eZono AG does not deliver within such an extension the purchaser may cancel the sale's contract and may collect all his pre-payments. Any further claims against eZono AG shall be excluded unless intent or gross negligence have governed the delay.
- 5.3 eZono AG shall be released from its delivery obligations if (i) a supplier of eZono AG is not able to supply eZono AG or (ii) eZono AG can not be supplied due to any kind of force majeure unless these circumstances have occurred prior to entering into the sale's contract. If such circumstances occur eZono AG will inform the purchaser

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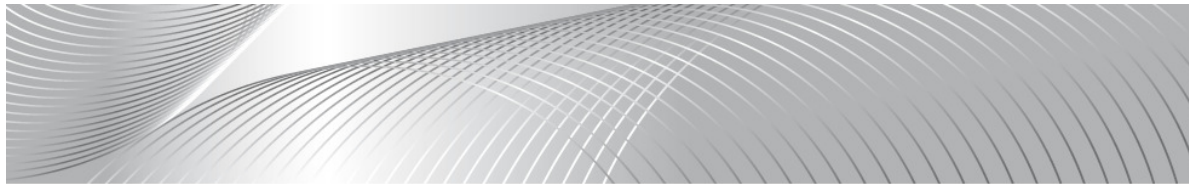
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immediately and will repay any pre-payments to the purchaser; all further claims of the purchaser shall be excluded.

## 6. Passing of Risk

- 6.1 The risk of loss or damage to the goods passes to the purchaser upon dispatch unless a consumer business under sec. 474 German Civil Code (*BGB*) can be assumed.
- 6.2 In case of default in acceptance or other breach of duties to cooperate by the purchaser the risk of loss or damage to the goods passes to the purchaser when entering the default.

## 7. Default in Acceptance

- 7.1 In case of default in acceptance or other breach of duties to cooperate by the purchaser eZono AG is entitled to claim any resulting damage.
- 7.2 As a damage compensation eZono AG is entitled to claim a lump-sum compensation of 20 per cent of the agreed purchase price unless the purchaser gives evidence that the damage of eZono AG is lower. Further damages are reserved in the event that eZono AG can state a damage exceeding the 20 per cent of the purchase price.
- 7.3 In case of default in acceptance for a period longer than 30 days eZono AG may claim from 0.5 per cent up to 15 per cent of the purchase price per month as a storage charge, at minimum however 40.00 EURO, unless the purchaser gives evidence that the damage of eZono AG is lower.

## 8. Warranty

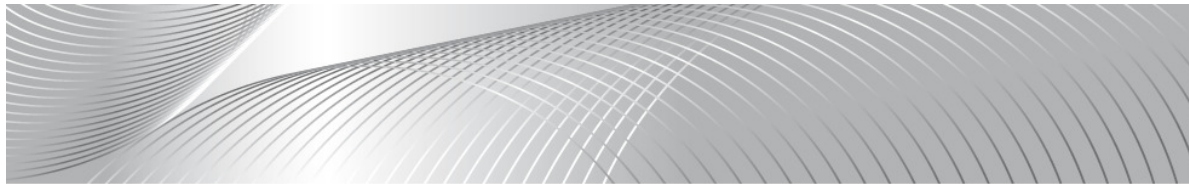
- 8.1 The warranty of eZono AG shall be governed by the following terms exclusively.
- 8.2 Precondition for any warranty claim of the purchaser is the purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 German Commercial Code (*HGB*).
- 8.3 Common Terms for warranty
- 8.3.1 In case of non-conformity of the product the purchaser is entitled, but also limited, to alternative performance in the form of remedy of the defect unless a consumer business under sec. 474 German Civil Code (*BGB*) can be assumed. In this case eZono AG may, at its sole discretion, select between repair or delivery of conforming goods. Both have to be completed within two weeks after receipt of purchaser's written claim. If such alternative performance has failed, the purchaser is entitled to reduce the purchase price or to withdraw from the contract. If eZono AG spends spare parts or complete goods eZono AG becomes owner of the replaced parts and goods. Furthermore, the purchaser has to pay eZono AG reasonably for the period of use.
- 8.3.2 In case of remedy a defect the purchaser is obliged to keep the product ready at his location for remedy the defect. If such a remedy of defect is impossible the purchaser is obliged, according to request of eZono AG, to let the product be re-delivered to eZono AG.
- 8.3.3 Warranty claims arise upon purchaser's receipt of the goods and shall be time-barred after (i) two years (aa) in the event that a consumer business under sec. 474 German Civil Code (*BGB*) can be assumed, or (bb) for all deliveries of the eZono's 4000-generation including probes

sold with the the eZono 4000 product, or (ii) one year for all other deliveries.

- 8.3.4 Deviant from clause no. 8.3.3 above the limitation period for used products shall be (i) one year from delivery.
- 8.4 Purchaser's duties to cooperate
- 8.4.1 In case of perceptible damages the purchaser has to stop all kind of resale and/or processing immediately.
- 8.4.2 The purchaser has to inform eZono AG by written note about perceptible damages immediately after receipt of the goods. In case of neglect such duty all kind of claims shall be excluded. Unless agreed upon purchaser has to give evidence, about the damage and about his duly information to eZono AG under this clause no. 8.4.2.
- 8.4.3 Regardless of all other duties under this clause no. 8.4 the purchaser has to inform eZono AG by written note within 14 days from receipt of the goods in case of perceptible damages. Perceptible damages of the packaging have to be mentioned on the shipment documents and to be announced within 48 hours to eZono AG by the purchaser. If the purchaser fails with these obligations his warranty claims will be forfeited.
- 8.4.4 Precondition for any warranty claim of the purchaser is the purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 German Commercial Code (*HGB*). The announcement of any defect by the purchaser has to be made within 48 hours from discovery of the defect.
- 8.4.5 The warranty of eZono AG does not cover those defects which occur after delivery by wear and tear, humidity, unreasonable heat, influences of weather, missing maintenance or unreasonable treatment. Interferences into the product or the software by the purchaser himself or by other unauthorized persons shall be deemed unreasonable treatment under this clause. Furthermore, the warranty of eZono AG does not cover defects caused by use of unauthorized accessories unless eZono AG has released these accessories. Finally, eZono AG does not guarantee for compatibility with products of other suppliers.

## 9. Retention of Title

- 9.1 eZono AG retains title to the goods until receipt of all payments owed by the purchaser to eZono AG in full. Any kind of resale, pledge or encumbrances shall be legally invalid unless eZono AG has given its prior consent by written note.
- 9.2 The purchaser may, however, resell goods subject to the above retention of title only in the course of his regular business without the consent of eZono AG. For this case, the purchaser hereby assigns all claims arising out of such resale to eZono AG.
- 9.3 In case of levy of execution purchaser has to inform eZono AG immediately to enable eZono AG to intervene against such a levy of execution. The costs of such intervention have to be born by the purchaser.
- 9.4 The purchaser shall handle the goods with due care as long as eZono AG retains title to the goods. Costs of any kind of service if needed have to be born by the purchaser.



- 9.5 eZono AG is entitled to assign its retention of title and its claim from sales and services (including the pre-assigned claims according to clause no. 9.2) to third parties.
- 9.6 The purchaser shall maintain suitable insurance for the goods covering damages by theft, by fire and by water on his own cost. In case of an event insured purchaser hereby assigns his claims against the insurance to eZono AG.

#### 10. Liability

- 10.1 All kind of damage claims of the purchaser, regardless of the legal construction, shall be excluded unless
- 10.1.1 the damages arise from injuries of life, body or health if such damages have been caused by intent or negligence of eZono AG or by agents or assistants in performance of eZono AG, or
- 10.1.2 the damages have been caused by intent or gross negligence of eZono AG or by agents or assistants in performance of eZono AG, or
- 10.1.3 the damages have been caused by intent or gross negligence of eZono AG or by agents or assistants in performance of eZono AG regarding the breach of a main obligation of eZono AG out of the contract.
- 10.2 If eZono AG is liable under these terms the liability shall be limited to those damages that typically occur. As far as the liability of eZono AG is excluded under these terms the exclusion shall also be valid on behalf of directors, employees, agents and assistants in performance of eZono AG. In the event that purchaser does not claim for his damages, but for the expenses he made by trust in the sales and service performance of eZono AG, such expenses will be reimbursed in a reasonable volume.

#### 11. Place of Performance/Applicable Law/Jurisdiction

- 11.1 Place of performance shall be Jena/Germany. All legal regulations about the risk of loss or damage to the goods passes to the purchaser in the event that a consumer business under sec. 474 German Civil Code (*BGB*) can be assumed shall prevail.
- 11.2 Independent of purchaser's nationality and residence this contract shall be governed by the laws of the Federal Republic of Germany (excluding the Convention on Contracts for the International Sale of Goods) unless consumer protection regulations under domestic law of purchaser are in favour of purchaser under Article 6 EU-VO 593/2008
- 11.3 If purchaser is a salesman (*Kaufmann*) under German Commercial Law (*HGB*) exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Jena/Germany.

#### 12. Data Protection

eZono AG will make use from all personal data of purchaser, such as name, address, phone number, for delivery and service purposes only. Any disclosure of these personal data towards third parties shall only happen with purchaser's express consent.

#### 13. Copyrights

The copyright of all kind of documentation delivered to purchaser in executing a purchase contract (i.e. for software) shall remain at eZono AG. Purchaser,

however, may use the copyright as a licensee with the non-exclusive and the non-transferable right to use the products of eZono AG.

#### 14. Amendments/Written Note

Additional terms and conditions, supplementing or amending these terms and conditions have to be agreed by written note. This request of written note can only be amended by written note.

#### 15. Collision Clauses

- 15.1 Differing or contrary terms of purchaser shall not apply except if expressly agreed by eZono AG upon in writing.
- 15.2 In the event that differing terms cause the application of optional legal rules sec. 9.1 shall remain valid in each case.
- 15.3 The German version of these terms and conditions shall prevail all other versions in case of collision.

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