



1. **GENERAL PROVISIONS**
 - 1.1 The following general terms and conditions of sale and delivery for spare parts (General Terms of Sale-SP) shall apply to all of customer's (hereinafter referred to as "Purchaser(s)") purchases of spare parts from ALD Vacuum Technologies GmbH (ALD-VT). ALD-VT does not accept deviating, conflicting or additional general terms and conditions of the Purchaser, in particular not by silence or unconditional contract performance.
 - 1.2 These General Terms of Sale-SP shall apply only if the Purchaser is an entrepreneur (Section 14 German Civil Code (BGB)), a legal entity under public law or a special fund under public law. They shall also apply in the version in effect at the time to all future contracts regarding the sale and delivery of parts by ALD-VT with the same supplier without ALD-VT having to expressly refer to them again in each individual case. ALD-VT shall inform the Purchaser immediately of any changes to our General Terms of Sale-SP.
 - 1.3 Individual agreements with the Purchaser (including subsidiary agreements, additional agreements and modifications) shall take precedence over these General Terms of Sale-SP. The content of such agreements requires a written confirmation by ALD-VT.
 - 1.4 Legally relevant statements and notifications which the Purchaser has to submit to ALD-VT after conclusion of the contract (such as deadlines, notices of defects, letters of resignation or reduction) require the written form to be effective.
2. **CONCLUSION OF THE CONTRACT**
 - 2.1 ALD-VT's offers are subject to change without notice and non-binding and are simply a request to the Purchaser to make an offer, unless explicitly specified otherwise in the offer.
 - 2.2 The Purchaser's order for goods shall be considered a binding contract offer. Unless specified otherwise in the purchase order, ALD-VT has the right to accept this contract offer within two (2) weeks following its receipt.
 - 2.3 ALD-VT shall accept purchase orders by performing the delivery or by providing a written order confirmation. By accepting deliveries, the Purchaser agrees to these General Terms of Sale-SP of ALD-VT.
3. **DELIVERY**
 - 3.1 ALD-VT shall deliver the purchased products (EXW Incoterms® 2010) to ALD-VT's plant or warehouse specified in the respective order confirmation.
 - 3.2 ALD-VT shall have the right, within reason, to make partial deliveries, unless expressly agreed otherwise. Partial deliveries of products which do not constitute a functional unit shall always be considered reasonable.
4. **DELIVERY DATES**
 - 4.1 Delivery dates shall be agreed individually or specified by ALD-VT when accepting the purchase order. These dates are non-binding and non-compliance with them shall not constitute default. Delivery dates shall always be specified subject to the proviso that the Purchaser will cooperate in accordance with the contract (e.g. timely receipt of permits).
 - 4.2 If delivery dates cannot be met for reasons for which ALD-VT is not responsible (non-availability of the service), ALD-VT shall notify the Purchaser without delay and simultaneously advise the Purchaser of the anticipated new delivery date. If the service is still not available on the new delivery date, ALD-VT has the right to withdraw from the contract as a whole or in part; ALD-VT shall reimburse any consideration rendered by the Purchaser without delay. Non-availability of the service within the meaning of this provision shall in particular include cases of late delivery of goods to ALD-VT by its suppliers, if ALD-VT has concluded a congruent hedging transaction, neither ALD-VT nor ALD-VT's supplier is at fault, or if ALD-VT is not responsible for procurement in a given case.
 - 4.3 If, after conclusion of the contract, it becomes apparent that the Purchaser does not offer sufficient guarantee of his ability to pay and the claim to payment is at risk (e.g. through a request for the opening of insolvency proceedings), ALD-VT shall be entitled to refuse delivery until the Purchaser has rendered payment or provided security (Section 321 BGB). If the payment or security is not rendered within 12 working days following a corresponding request, ALD-VT shall have the right to withdraw from the contract.
 - 4.4 Whether ALD-VT is in default with a delivery shall otherwise be determined by statutory provisions. A reminder by the Purchaser is required in any event.
5. **CLAIMS FOR DEFECTS OF THE PURCHASER**
 - 5.1 The Purchaser's rights in case of material defects and defects in title are covered by statutory provisions, unless otherwise specified below.
 - 5.2 ALD-VT warrants that the goods are free from defects in material and workmanship and comply with applicable legal requirements in Germany. ALD-VT warrants further that the spare parts are suitable for their intended use as outlined in their description.
 - 5.3 Warranty claims by the Purchaser shall be excluded for material defects which do not or only insignificantly impair the value and suitability of the goods for the use specified by ALD-VT.
 - 5.4 With regard to material defects, the Purchaser shall be required to examine and give notice of defects as required by law (Section 377 German Commercial Code (HGB)). If a defect is discovered during examination or at a later date, ALD-VT shall be notified thereof without delay and in writing. A notification is made without delay if it is made within one week after discovery of the defect, whereby the timely sending of the notification is sufficient for meeting the deadline. Regardless of this duty to examine and notify, the Purchaser shall indicate obvious defects (including incorrect delivery and shortfall in delivery) within one week after delivery. In this case, timely sending of the notification shall also be sufficient for meeting the deadline. If the Purchaser fails to perform the proper examination and/or notification of defect, ALD-VT's liability for the unreported defect shall be excluded. Notification by e-mail or fax shall be sufficient.
 - 5.5 ALD-VT shall have the right to make the subsequent performance owed conditional on the Purchaser paying the purchase price due. However, the Purchaser shall have the right to withhold part of the purchase price which is reasonable in proportion to the defect.
 - 5.6 If the delivery item is defective, ALD-VT may, at its discretion, deliver another product which is free from defects or correct the defect. If such subsequent performance fails twice, the Purchaser may, at his discretion, demand a decrease in the purchase price (reduction) or cancel the contract (withdrawal). Claims for damages are subject to Section 7. However, the right to withdraw does not apply if the defect is minor. Removal of the defective item, reinstallation or compensation of costs thus incurred shall not be included in the subsequent performance.
 - 5.7 The purchaser shall grant ALD-VT the time and opportunity required for the subsequent performance owed; in particular to provide a sample of the rejected goods for inspection purposes, if requested by ALD-VT. If a replacement delivery is made, the Purchaser shall return the defective goods to ALD-VT to the place of fulfillment.
 - 5.8 The cost required for inspection and subsequent performance shall be borne by ALD-VT only if there is an actual defect. If, however, the Purchaser's request for correction of a defect turns out to be unjustified, ALD-VT may require the Purchaser to reimburse the cost incurred.
 - 5.9 Claims of the Purchaser for damages or reimbursement of wasted expenses are only valid subject to Section 7 and are otherwise excluded.
 - 5.10 In urgent cases, if, for instance, operational safety is at risk or to prevent disproportionate damage, the Purchaser shall have the right to correct the defect on his own and demand reimbursement of the objectively required costs from ALD-VT. If the Purchaser performs the correction himself, ALD-VT shall be notified promptly, if possible in advance. The right to perform the correction himself does not apply if ALD-VT would have the right under statutory provisions to refuse such subsequent performance.
6. **OTHER LIABILITY**
 - 6.1 Unless specified otherwise in these General Conditions of Sale including the following provisions, ALD-VT shall be liable for a breach of contractual and non-contractual obligations in accordance with statutory regulations.
 - 6.2 ALD-VT shall be liable for damages – regardless of the legal basis – in the event of intent or gross negligence. In the event of ordinary negligence, ALD-VT shall only be liable for
 - (a) damage resulting from injury to life, body or health,
 - (b) damage from a breach of a material contractual obligation (an obligation the fulfilment of which is essential for the proper implementation of the contract and on the fulfilment of which the contractual partner regularly relies and may rely); in this case, however, ALD-VT's liability shall be limited to foreseeable, typically occurring damages.
 Liability according to item (b) above shall be limited to the net order value of the respective delivery item unless ALD-VT is guilty of gross negligence according to 7.2 Sentence 1 or if the damage falls under (a).
 - 6.3 The limitations of liability arising from 6.2 do not apply if ALD-VT has fraudulently concealed a defect or accepted a warranty specifying the quality of performance. The same shall be true of claims of the Purchaser under the Product Liability Act.
 - 6.4 The Purchaser may withdraw from or terminate the contract because of a breach of duty which does not constitute a defect only if ALD-VT is



- responsible for the breach of duty. In all other aspects, the statutory requirements and legal consequences shall apply.
- 6.5 If ALD-VT's liability is excluded or limited, this shall also apply to the personal liability of its staff, employees, associates, agents and vicarious agents.
7. **RESERVATION OF TITLE**
- 7.1 The goods shall remain the property of ALD-VT until full payment of all claims in effect upon billing.
- 7.2 The goods subject to reservation of title may not be pledged to third parties nor transferred as security until the secured claim is paid in full. The Purchaser shall notify ALD-VT promptly and in writing, if and to the extent there are seizures by third parties of ALD-VT's goods.
- 7.3 If the Purchaser acts contrary to the terms of this contract including, without limitation, failure to pay the purchase price due, ALD-VT shall, after a reasonable deadline for performance set for the customer has expired to no avail, have the right to withdraw from the contract and reclaim the goods; the statutory regulations concerning the dispensability of setting a deadline shall remain unaffected.
- 7.4 The Buyer shall be entitled to process and/or sell the goods subject to retention of title within the scope of normal business activities taking into consideration the following provisions:
- (a) The retention of title shall extend to the full value of products generated by processing, mixing or combining ALD-VT's goods, whereby ALD-VT shall be deemed to be the manufacturer. If the ownership right of third parties remains in force in the event of processing, mixing or combination with their goods, ALD-VT shall acquire co-ownership in proportion to the invoice value of the processed, mixed or combined goods. In all other respects, the same provisions shall apply to the resulting product as they apply to the goods delivered subject to retention of title.
- (b) The Purchaser shall assign to ALD-VT at this time any claims against third parties arising from reselling the goods or product to ALD-VT by way of security, in full or to the extent of ALD-VT's possible share of co-ownership in accordance with the preceding paragraph. ALD-VT shall accept this assignment. The Purchaser's obligations referred to under 7.2. shall also apply with respect to the assigned claims.
- (c) The Purchaser shall remain authorized to collect the debt in addition to ALD-VT as long as ALD-VT does not revoke this authorization. ALD-VT shall refrain from collecting the debt and revoking the Purchaser's authorization as long as the Purchaser meets his payment obligations towards ALD-VT, is not in default in payment, and as long as there is no request for opening insolvency proceedings or any other lack of his ability to perform. If this is the case, however, ALD-VT shall be entitled to demand that the Purchaser provides ALD-VT with a list of existing goods still subject to retention of title, and, if these goods have been processed, provides information about the assigned claims and their debtors, provides all information and documents necessary to collect the debts, hands over the related documentation and notifies the debtor of the assignment.
- (d) If the realizable value of the securities exceeds ALD-VT's claims by more than 10%, ALD-VT shall, upon request of the Purchaser, release securities of ALD-VT's choice.
- (e) ALD-VT shall be entitled to revoke the Purchaser's authorization to process and/or sell goods within the scope of regular business activities subject to retention of title in case of a default in payment or if the opening of insolvency proceedings regarding his assets has been requested.
- 7.5 The Purchaser shall store the goods subject to retention of title and insure them against fire, theft, water and other hazards at his own expense. The Purchaser hereby assigns his claims for compensation to which he is entitled from damage of the type outlined in sentence 2 against insurance companies or other parties liable for compensation to ALD-VT in the amount of ALD-VT's claim. ALD-VT shall accept this assignment.
8. **PRICES, INVOICE, INSURANCE**
- 8.1 Unless otherwise agreed in a given case, ALD-VT's prices in effect at the time the contract is concluded shall apply. The prices are net prices excluding packaging, transport, setup and commissioning. ALD-VT shall additionally bill for transaction taxes (VAT, etc.) according to the legal requirements in effect at the time of contract fulfillment.
- 8.2 If, by way of exception based on an individual agreement, ALD-VT undertakes to send the delivery item to a place of delivery specified by the Purchaser, the Purchaser shall assume all incidental expenses for the delivery, transport, any customs duties, fees, taxes and other public charges, if applicable, in accordance with separately agreed terms of delivery under Incoterms® 2010. ALD-VT shall also bill the Purchaser for reasonable costs of packaging without surcharge.
- 8.3 Upon delivery of the products, ALD-VT shall send the Purchaser an invoice which complies with the requirements under tax law by mail, in advance by fax or e-mail. In case of eligible partial deliveries, ALD-VT may bill for these separately.
- 8.4 Unless expressly specified otherwise by the customer, ALD-VT shall insure the ordered goods against common transport risks including breakage at the customer's expense.
9. **TRANSFER OF RISK**
- 9.1 The risk shall transfer to the customer in accordance with the agreed Incoterms clause (Incoterms® 2010).r. Absent such agreement, the risk shall transfer to the first carrier upon delivery of the delivery item. This shall also apply to partial deliveries or if ALD-VT has also assumed other services such as the cost of shipping, drop-off or setup.
- 9.2 If shipment is delayed for reasons for which the customer is not responsible, the risk shall transfer to the customer upon notification that the goods are ready for shipment. The risk shall also transfer to the customer if the customer is in default of acceptance.
10. **PAYMENT**
- 10.1 In the absence of a special agreement, payment shall be made within 30 days from the invoice date in euros without any deductions to the account specified by ALD-VT in the order confirmation. Any fees, expenses or other costs which ALD-VT incurs from the payment shall be borne by the Purchaser.
- 10.2 If the Purchaser exceeds this payment deadline he shall be in default even without a reminder. Interest shall be paid on the purchase price at the applicable legal default rate of interest for the duration of the default. ALD-VT reserves the right to assert further damage from default. The claim for commercial interest on arrears against merchants (Section 353 HGB) shall remain unaffected.
- 10.3 The Purchaser shall only be entitled to offset or withhold amounts insofar as his claim has been confirmed by a final judgment or is undisputed.
11. **STATUTE OF LIMITATIONS**
- 11.1 Notwithstanding Section 438 Paragraph 1 No. 3 BGB, the general statute of limitation for claims based on defects in material and title shall be one year from transfer of risk.
- 11.2 The aforementioned statute of limitation periods under the law of purchase shall also apply to contractual and non-contractual claims for damages by the Purchaser which are based on a defect of the goods unless application of the standard statutory statute of limitation would result in a shorter statute of limitation period in a given case. The statute of limitation periods under the Product Liability Act shall remain unaffected in any case. In all other respects, the Purchaser's claims for damages under Section 6 shall be exclusively subject to the legal statute of limitation periods.
12. **SEVERABILITY CLAUSE**
- If individual provisions of this contract are invalid or void, this shall not affect the validity of the remaining provisions. The parties agree to replace the faulty provision by a provision whose economic purpose and intent is as close as possible to the provision to be replaced. Sentences 1 and 2 shall apply accordingly to any omissions in this contract.
13. **JURISDICTION AND APPLICABLE LAW**
- 13.1 All legal relationships between ALD-VT and the Purchaser shall be governed exclusively by the laws of the Federal Republic of Germany to the exclusion of international uniform law including, without limitation, the United Nations Convention on Contracts for the International Sale of Goods.
- 13.2 The exclusive place of jurisdiction for all disputes arising from and in connection with the relationship between the parties under this contract shall be Frankfurt am Main. However, ALD-VT shall have the right to file suit at the Purchaser's principal place of business.