

## **General Terms and Conditions of Delivery and Sale evoviu.de**

(as at: March 2024)

for the online shop at the URL <https://www.evoviu.de/en/>

operated by

evopro systems engineering AG  
In the A52 business park  
93059 Regensburg  
E-mail: [info@evoviu.de](mailto:info@evoviu.de)  
Telephone number: 09418996450

- in the following: Provider -

### **1. Scope of application**

**1.1** These General Terms and Conditions (GTC) apply to all contracts for the purchase of products and other goods (hereinafter referred to as "goods") in the online shop at the above URL in the version valid at the time the contract is concluded. These GTC apply exclusively. Deviating general terms and conditions of the customer shall not become part of the contract unless the provider expressly agrees to them. Deviating general terms and conditions of the customer shall also not become part of the contract if the provider fulfils an order without reservation in the knowledge of the customer's deviating general terms and conditions.

**1.2** The provider's offer is aimed exclusively at entrepreneurs, traders, freelancers and legal entities under private or public law or special funds under public law.

**1.3** The customer assures that he is an entrepreneur according to §14 BGB, i.e. a natural or legal person or a partnership with legal capacity, which acts in the exercise of its commercial or independent professional activity when concluding the legal transaction.

**1.4** With regard to the information obligations under the EU GDPR, the provider refers to its privacy policy, which is available at <https://www.evoviu.de/en/general-terms/>

### **2. Conclusion of contract**

**2.1** The offers in the online shop represent a non-binding invitation by the provider to online shop visitors to submit an offer to purchase the goods offered in the shop.

**2.2** The goods are ordered via the provider's online order form. After selecting the desired product(s), entering all mandatory information requested and completing all other mandatory steps in the ordering process, the selected goods can be ordered by clicking the order button at the bottom of the checkout page (order). By placing an order, the customer submits a binding contractual offer to purchase the selected product(s). The contract is concluded when the supplier accepts the customer's offer. Acceptance takes place when the provider confirms the conclusion of the contract in writing or text form (e.g. by e-mail) (order confirmation) and this order confirmation is received by the customer or by delivering the ordered goods and these goods are received by the customer or by requesting payment from the customer (e.g. invoice or credit card payment in the order process) and the payment request is received by the customer; the time at which one of the alternatives mentioned in the first half-sentence occurs for the first time is decisive for the time of conclusion of the contract.

**2.3** Before binding submission of the order via the provider's online order form, the customer can check his entries and correct them at any time using the usual keyboard, mouse, touch or other input functions available. In addition,

all entries are displayed again in a confirmation window before the binding submission of the order and can also be corrected there using the usual keyboard, mouse, touch or other input functions available.

**2.4** The provider will save the text of the contract after the conclusion of the contract and send it to the customer in text form (e.g. by e-mail). The provider will not make the text of the contract available beyond this.

**2.5** The following languages are available for the conclusion of the contract: German, English

### **3. subject matter of the contract**

**3.1** The customer can purchase goods via the online shop. The goods are selected via the online shop, added to the shopping basket and then purchased.

**3.2** Insofar as software is included in the scope of delivery, the customer shall be granted a non-exclusive right to use the delivered software, including its documentation, in accordance with the provider's current licence and terms of use. It is provided for use on the contractual object intended for this purpose. Use of the software on more than one system is prohibited. The customer shall not acquire any intellectual property rights to any software provided for the use of the goods.

**3.3** The respective product description in the supplier's online shop is decisive for the quality of the goods. The supplier does not owe any further quality.

### **4. payment, default**

**4.1** The prices listed in the online shop at the time of ordering shall apply. There is therefore no entitlement to receive goods at earlier or later more favourable prices.

**4.2** All prices are inclusive of statutory VAT and plus any shipping costs listed. The customer will be informed about the available payment options in the provider's online shop.

**4.3** If "purchase on invoice/purchase on account" has been agreed, payment is due immediately after conclusion of the contract, unless a different payment term has been specified in the invoice or in the purchase process.

**4.4** The Provider is authorised to assign its claim to payment of the purchase price to third parties. The customer may only assign claims against the provider to third parties with the provider's written consent.

### **5. retention of title/offsetting and right of retention**

**5.1** The purchased goods remain the property of the supplier until the purchase price has been paid in full.

**5.2** The customer is only permitted to offset against the provider's claim for payment of the purchase price if his counterclaims are legally established, undisputed or recognised by the provider, with the exception of counterclaims of the customer which are based on a defective delivery of the goods by the provider. Furthermore, the customer is only authorised to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

## **6. delivery and self-supply reservation / export control**

**6.1** The Supplier shall fulfil its performance obligations arising from the purchase contracts concluded with it by delivering the goods ex warehouse.

**6.2** Unless otherwise agreed, delivery shall be made within the period specified in the online shop. specified delivery time to the delivery address specified by the customer. The applicable delivery times can be found in the online shop. The stated delivery times only begin to run once the supplier has accepted the customer's offer and confirmed it at least in text form.

**6.3** If non-compliance with delivery deadlines is due to force majeure, e.g. mobilisation, war, riots, pandemics and epidemics and the resulting disruptions to supply chains or similar events, e.g. strikes, lockouts, etc., the deadlines shall be extended accordingly. If the aforementioned events significantly change the economic significance or the content of the delivery and have a significant impact on the supplier's operations, the contract shall be adapted appropriately in good faith. If the adjustment of the contract is not possible or not reasonable for one party, the supplier has the right to withdraw from the contract. If the supplier wishes to exercise this right of withdrawal, it must inform the customer immediately after realising the consequences of the event, even if an extension of the delivery time has initially been agreed with the customer.

**6.4** If the supplier is unable to deliver the ordered goods because it has not been supplied itself through no fault of its own, although it has concluded a congruent contract with a reliable supplier in good time, the supplier shall be entitled to cancel the contract.

If the provider has concluded a hedging transaction, the provider is released from its obligation to perform and can be cancelled by the

withdraw from the contract. The provider is obliged to inform the customer immediately of the impossibility of performance. Any payments already made by the contractual partner shall be reimbursed immediately. Mandatory consumer law remains unaffected by this paragraph.

**6.5** All deliveries and services of the supplier are subject to the proviso that there are no obstacles to fulfilment due to national or international regulations, in particular export control regulations, embargoes or other sanctions. The contracting parties undertake to provide all information and documents required for the export, shipment or import (e.g. end-use declarations). This also applies to the customer in the event of any transfer of the goods in connection with an export, shipment or import. Delays due to export inspections or authorisation procedures shall suspend deadlines and delivery times. If necessary authorisations are not granted or if the customer does not provide the supplier with the necessary documents or information after setting a reasonable deadline, the supplier shall be entitled to withdraw from the contract with regard to the parts concerned. Claims for damages by the customer are excluded in this respect and due to the aforementioned failure to meet the deadline. In the event of export or shipment of the goods by the customer, the customer undertakes to comply with all German and European regulations and all other applicable national or international export control regulations as well as embargoes and other sanctions.

## **7. transfer of risk**

**7.1** The risk of accidental loss and accidental deterioration of the subject matter of the contract shall pass to the customer when the goods have left the supplier's works, even if partial deliveries are made or the supplier has assumed other services, e.g. shipping costs or delivery and installation.

**7.2** If dispatch or acceptance is delayed or does not take place as a result of circumstances for which the supplier is not responsible, the risk shall pass to the customer from the day of notification of readiness for dispatch or acceptance.

**7.3** If the customer is in default of acceptance, this shall be deemed equivalent to handover.

## 8. warranty

**8.1** The customer's claims in the event of defects are limited to the elimination of the defect or the delivery of a defect-free item (subsequent fulfilment) at the provider's discretion. The provider is entitled to rectify the defect twice. If the subsequent fulfilment fails, the customer has the right, at his discretion, to reduce the price or withdraw from the contract.

**8.2** The customer must inspect the goods immediately upon receipt, insofar as this is feasible in the ordinary course of business, and, if a defect is found, notify the provider immediately in writing. If the customer fails to do so, the goods shall be deemed to have been approved, unless the defect was not recognisable during the inspection. Otherwise, §§ 377 ff. HGB APPLY.

**8.3** The customer shall grant the provider the necessary time and opportunity to rectify the defect, to be determined at the provider's reasonable discretion. If the defect is not remedied within a reasonable period of time, the customer shall have the right to reduce the price or withdraw from the contract at his discretion.

**8.4** The limitation period for warranty claims is 1 year, calculated from the date of the transfer of risk to the customer. This does not apply in cases of § 438 para. 1 no. 2 BGB, § 634 a para. 1 no. 2 BGB and § 479 para. 1 BGB and insofar as liability is mandatory in cases of intent, gross negligence, breach of essential contractual obligations or injury to life, limb or health or under the Product Liability Act or other regulations.

**8.5** The place of fulfilment for subsequent performance is the registered office of the supplier.

## 9. liability

**9.1** The provider shall be liable without limitation:

- The provider is not liable for damages resulting from injury to life, body or health that are based on an intentional or negligent breach of duty by the provider or an intentional or negligent breach of duty by a legal representative or vicarious agent of the provider;
- for damages caused by an intentional or grossly negligent breach of duty by the provider or by an intentional or grossly negligent breach of duty on the part of a legal representative or vicarious agents of the provider;
- on the basis of a guarantee promise, unless otherwise agreed;
- due to mandatory liability (e.g. under the Product Liability Act).

**9.2** If the Provider negligently breaches a material contractual obligation, its liability shall be limited to the foreseeable damage typical for this type of contract, unless the damage is limited in accordance with the above paragraph

unlimited liability. Essential contractual obligations are obligations which the contract imposes on the provider according to its content in order to achieve the purpose of the contract, the fulfilment of which is essential for the proper execution of the contract and on the observance of which the customer may regularly rely.

**9.3** In all other respects, liability of the provider as well as the liability of its vicarious agents and legal representatives is excluded.

## 10. data protection

The provider treats the personal data of its customers confidentially and in accordance with the statutory data protection regulations. Further details can be found in the provider's privacy policy at <https://www.evoviu.de/en/general-terms/>

## **11. final provisions**

**11.1** The law of the Federal Republic of Germany shall apply, excluding its conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.

**11.2** The place of fulfilment is the registered office of the provider,

**11.3** If the customer is a merchant, a legal entity under public law or a public law organisation, **the** the court at the registered office of the provider shall have jurisdiction, unless the dispute is to be settled by a court of competent jurisdiction.

exclusive place of jurisdiction is established. This also applies if the customer is not domiciled within the European Union. The registered office of the provider's company can be found in the heading of these GTC.

**11.4** If any provision of this contract is or becomes invalid or unenforceable, the remaining provisions shall remain in full force and effect.

other provisions of this contract shall remain unaffected by this.