

General Terms and Conditions (GTC) of Sale and Delivery of Sesotec GmbH

I. General

1. The following General Terms and Conditions (GTC) of Sesotec GmbH (hereinafter called "Sesotec") apply for all contracts to be concluded by Sesotec with customers and other clients (hereinafter called "Buyer"), especially contracts regarding to the delivery of machines and therewith connected services. Conflicting terms and conditions of the Buyer or terms and conditions of the Buyer deviating from Sesotec's GTC do not become part of the contract, unless Sesotec has expressly confirmed this in written form. This also applies for the case that Sesotec carries out the delivery in the knowledge of conflicting terms or accepts payments toward the purchase price.
2. These GTC apply - if the transaction is a trading transaction for both parties – also for all future agreements with the Buyer.
3. The assignment of rights as well as the transfer of obligations by the Buyer requires the express consent of Sesotec in written form. If a third party assumes obligations of the Buyer under the contract, the Buyer continues to be liable to us, unless Sesotec expressly consented to an assumption of debt with debt-discharging effect.

II. Offer and Conclusion of Contract

1. The order by the Buyer constitutes a binding offer. The offers of Sesotec are subject to change and non-binding with respect to price, quantity, delivery, time and possibility of delivery and are only a request for submission of an offer towards the Buyer. The Buyer is bound to his order for four weeks. The purchase agreement is concluded if Sesotec confirms the acceptance of the order within this time limit in written or in electronic form or has carried out the delivery. Sesotec is however obligated to notify any rejection of the order without delay in writing or in electronic form after clarification of the deliverability.
2. The Buyer is not entitled to cancel any binding order or to rescind the purchase agreement. Statutory rights of rescission as well as rights of rescission which are expressly mentioned in these GTC remain unaffected. If an order or a concluded contract shall nevertheless be cancelled at the request of the Buyer without a right of rescission applying, Sesotec is entitled to accept the cancellation of the agreement only in exchange for payment of damages and reimbursement of expenses. In the event of a rescission within two months prior to the agreed delivery date Sesotec can request a flat payment of damages and expenses in the amount of 15 % of the purchase price and in the event of the rescission in the third month prior to the delivery date of 5 % of the purchase price. The damage amount shall be set higher or lower if Sesotec proves higher damages or if the Buyer proves lower damages.
3. As far as not expressly agreed in a different way all agreements for the delivery of machines and other equipment of Sesotec's product portfolio are governed by German sales law. For the exceptional case that an acceptance test according to a German contract of work and labour is expressly agreed the statutory rules and laws regarding the German contract of work and labour apply unless no other rules are agreed within these GTC.
4. Supplements, changes and side agreements by phone or orally also require written or electronic confirmation by us to be valid.
5. For the scope of delivery the order confirmation of Sesotec is determinative.
6. Sesotec reserves ownership and copyrights with regards to cost proposals, offers, illustrations and documents. They must not be made accessible to third parties without prior written consent of Sesotec.
7. With regards to the delivery of software, enhancements and new developments of software are not part of the scope of delivery, as far as not expressly agreed differently.
8. Sesotec is entitled to let also third parties / sub-contractors / sub-suppliers perform services owed to the Buyer, as far as not expressly agreed differently.

III. Price and Payment

1. In the absence of a particular agreement the prices apply ex works including loading at the works premises, but excluding packaging, destination fees, freight and unloading. The prices are subject to VAT in the respective statutory amount.
2. In the absence of a particular agreement the Buyer shall pay 100% of the purchase price without any deduction after receipt of the order confirmation to the bank account given by Sesotec.
3. If the Buyer is in default of due payment obligations which at the date of default amount to at least 25 % of the total claims of Sesotec arising from the business relationship, and he does not pay such claim fully within a subsequent period to be set of at least two weeks, all claims of Sesotec arising from the business relationship shall become due for payment immediately upon

expiry of the subsequent period. Sesotec shall expressly refer to this legal consequence when setting the subsequent period. The same applies if bills of exchange or cheques of the Buyer are not redeemed. Sesotec is in such cases also entitled to undertake the further fulfillment of the contractual obligations only simultaneously and in exchange for payment of the respectively owed compensation. The statutory rights of Sesotec in the event of default of the Buyer shall remain unaffected.

4. The Buyer only has the right to withhold payments or set off counterclaims as far as his counterclaims are undisputed or have been finally adjudicated.
5. Payments are considered effected as soon as the amount of the payment has arrived on Sesotec's bank account and is fully available for Sesotec.

IV. Delivery Time, Delayed Delivery

1. Delivery dates or delivery periods are non-binding unless they are expressly stated by Sesotec to be binding. If subsequent contract changes are agreed, if necessary a new delivery date or delivery period shall be stipulated. The compliance with binding delivery periods by Sesotec requires that all commercial and technical questions between the parties have been clarified and the Buyer has fulfilled all his obligations e.g. provision of the necessary public authority certificates or permits or making a down-payment. If this is not the case the delivery period shall be reasonably extended. This does not apply as far as Sesotec is responsible for the delay.
2. The compliance with the delivery period is subject to the condition that Sesotec itself receives proper and timely deliveries as far as Sesotec is not responsible for deliveries not properly and timely carried out by Sesotec's suppliers. Sesotec shall notify the Buyer about expected delivery delays as soon as possible.
3. The delivery period has been complied if the delivery item has left the works of Sesotec or if Sesotec has declared readiness for shipment. If an acceptance must be made the acceptance date shall be determinative – except in the case of a justified refusal – or alternatively the notification of the readiness for acceptance.
4. The Buyer can - four weeks after exceeding a non-binding delivery date or a nonbinding delivery period - request Sesotec in writing to deliver within a reasonable period. Through this request Sesotec shall be in default. In the event of default the Buyer can also set Sesotec a reasonable subsequent period in writing indicating that after the expiry of the time limit he will reject the acceptance of the article of sale. After an unsuccessful expiry of the subsequent period the Buyer is entitled to rescind the purchase agreement by written notice.
5. If a binding delivery date or a binding delivery period is exceeded, Sesotec shall be in default already with the passing of the delivery date or the delivery period. The rights of the purchaser shall then be governed by section 4 sentence 3 and 4.
6. If the non-compliance with the delivery period is due to force majeure, labor disputes or other events outside the scope of influence of Sesotec, the delivery period shall be reasonably extended. Sesotec shall inform the Buyer of the start and the end of such circumstances as soon as possible.

V. Transfer of Risk, Acceptance, Right of Rescission Sesotec

1. The risk shall pass to the Buyer once the delivery item has left the works, in particular also if partial deliveries are made or Sesotec has assumed other services, e.g. the shipping costs or delivery and set-up. As far as an acceptance must be made, it shall be determinative for the transfer of risk. It must be carried out without delay on the acceptance date, in the alternative after notification by Sesotec of the readiness for acceptance. The Buyer may not refuse the acceptance in the event of a non-material defect.
2. If the shipment resp. the acceptance is delayed or not made as a result of circumstances which are not attributable to Sesotec the risk shall pass to the Buyer starting from the date of notification of the readiness for shipping resp. acceptance. Sesotec agrees to obtain the insurance requested by the Buyer at his expense.
3. The Buyer has the right to inspect the article of sale at the agreed place of acceptance within eight working days after receipt of the notification of availability and has the duty to accept the article of sale within that time limit. If the offered article of sale has defects which are not completely eliminated after an objection within the above mentioned time limit and a further time limit of ten working days, the Buyer can reject the acceptance as far as the remaining defects are not unimportant.
4. As far as not stipulated differently in these GTC the statutory rules apply for the objection obligations of the Buyer. Objections have to be made in any case within the specific description of the claimed defects and the defect symptoms proved by written documentation or other documents describing the defects.

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5. If the Buyer remains in default of acceptance of the article of sale for longer than ten working days after the receipt of the notice of availability due to fault, after the setting of a subsequent period of a further ten working days Sesotec is entitled to rescind the contract. No setting of a subsequent period is required if the Buyer earnestly or definitively refuses the acceptance or clearly is also not able to pay the purchase price within such period.
6. Under the conditions of the above para. 5 Sesotec is entitled to claim additional damages of 15 % of the purchase price. The damage amount shall be set higher or lower if Sesotec proves higher damages or the Buyer proves lower damages.
7. If Sesotec does not make use of the rights set forth in para. 5 and 6, he can fully dispose of the article of sale and in its place deliver under the terms of the contract within a reasonable period an article of sale of an equivalent type.
8. The statutory rights of Sesotec in the event of default of acceptance of the Buyer shall remain unaffected.
9. Partial deliveries are permissible as far as this is reasonable for the Buyer.

VI. Retention of Title

1. Sesotec reserves the ownership of the delivery item until receipt of all payments under the supply agreement. If the Buyer is a legal person under public law, a special public law fund or a merchant where the contract belongs to the operation of his business, the retention of title applies for all claims of Sesotec from the ongoing business relationship against the Buyer. Sesotec agrees upon request of the Buyer to release security which he has provided as far as it is not only temporarily no longer required to secure the existing claims, in particular as far as they exceed the value of the secured claims and unpaid claims by more than 10 %. The selection of the security is the responsibility of Sesotec.
2. In the event of default on payment Sesotec is entitled to take back the delivery item after an unsuccessful dunning and rescind the purchase agreement. The Buyer is obligated to return the delivery item. The Buyer cannot assert a right of retention unless it is based on the purchase agreement. This also applies in the event of other conduct of the Buyer in breach of contract. All costs related to taking back the item and the realization of the article of sale shall be borne by the Buyer. The realization costs shall without proof amount to 10 % of the realization proceeds including VAT. They shall be set higher or lower if Sesotec proves higher or the Buyer lower costs. The proceeds shall be credited to the Buyer after deduction of the costs and other claims of Sesotec related to the purchase agreement.
3. On the basis of the retention of title Sesotec can only request return of the delivery item if Sesotec has rescinded the agreement. In the case of seizures or other impairment of rights by third parties the Buyer shall inform Sesotec without delay and refer the third party to the right of retention of Sesotec without delay. The buyer has to take all necessary measures to protect Sesotec's property. The Buyer bears all costs which must be paid to eliminate the impairment of rights and to obtain the article of sale again as far as they cannot be collected from third parties.
4. An application for opening an insolvency proceeding concerning the assets of the Buyer entitles Sesotec to rescind the agreement with immediate effect and to request the immediate return of the delivery item.
5. The Buyer is entitled to resell the delivered item in the ordinary course of business. He however hereby assigns to Sesotec in advance all claims which arise from the resale against the customer or third parties. Sesotec accepts the assignment. The Buyer is authorized to collect such claims also after the assignment. The right of Sesotec to itself collect claims shall not be affected thereby. Sesotec however agrees not to collect the claim as long as the Buyer properly complies with his payment obligations or the collection authorization is not revoked or no application for an opening of an insolvency proceeding is made. Sesotec can otherwise request that the Buyer disclose the assigned claims and the debtors thereof, provide all information necessary for the collection, hand over the documents and inform the debtors of the assignment as far as not already done by Sesotec. In such case, the Buyer's right to collect the receivables expires.
6. The Buyer has the duty to keep the article of sale in proper condition during the duration of the retention of title and have all maintenance work specified by the manufacturer and necessary repairs carried out without delay – apart from emergencies - by Sesotec or a workshop recognized by the manufacturer for the handling of the article of sale.
7. If the delivery item is resold together with other goods which do not belong to Sesotec the claim of the Buyer against the

customer in the amount of the delivery price stipulated between Sesotec and the Buyer is deemed to be assigned.

8. The adaptation or re-forming of items which are subject to a retention of title by the Buyer shall always be made on behalf of Sesotec. If the item subject to a retention of title is adapted with other objects not belonging to Sesotec, Sesotec shall acquire the co-ownership of the new object in the ratio of final invoice amount of the item subject to a retention of title in relation to the procurement price of the other adapted objects at the time of adaptation. If goods of Sesotec are bound together with other movable objects into a single object or are inseparably mixed together and if the other object is to be considered as the main object, the Buyer shall transfer to Sesotec pro rata the co-ownership as far as the main object belongs to him. The Buyer shall keep the owned or co-owned item without charge for Sesotec. In other respects the same applies for the object created through the adaptation, re-forming, binding together or mixing as for the items subject to a retention of title.

VII. Warranty Claims of the Buyer

1. Documents belonging to the offer such as illustrations, drawings, weight and measurement information are only approximately determinative if they have not been expressly designated as binding or Sesotec expressly makes a guarantee for certain qualities. Values indicated in the documents and operating instructions are non-binding estimated values. The specifically attainable values can deviate therefrom and are dependent on the quality of the used products as well as the external influences and conditions on site.
2. Sesotec is not liable on the basis of public statements by Sesotec, the manufacturer /importer or his agents if Sesotec was not aware of the statement and did not reasonably have to be aware thereof, the statement was already corrected at the date of the purchase decision or if and to the extent the Buyer cannot prove that the statements influenced his purchase decision.
3. Sesotec is not liable for defects which insignificantly reduce the value or the functionality of the object. An insignificant defect exists in particular if the defect disappears by itself within a short time or can be eliminated by the Buyer with insignificant expense.
4. A warranty is excluded for defects or damages arising due to the following grounds and as far as Sesotec is not responsible for them:
 - Designation of design or material by the Buyer
 - Defective assembly or putting into operation by the Buyer or third parties
 - Defective operation or use of inappropriate operating materials
 - Non-compliance with operating instructions and maintenance requirements
 - Improper use or overuse of the device
 - Ordinary wear and tear
 - Installation of parts from third parties (products of other manufacturers) which are not approved in the operating manual or by express written declaration of Sesotec
 - Assembly or change of the subject matter of the contract by the Buyer or a third party without consent of Sesotec
 - Defective installation and improper use of the delivery item
5. Claims of the Buyer due to a defect in the case of a commercial sale require that he inspects the delivered products without delay after transfer of risk and that he has notified outstanding defects to Sesotec without delay.
6. For the settlement of claims due to defects the following applies:
 - a) The Buyer shall notify the claims to Sesotec without delay.
 - b) The replacement performance shall at the option of Sesotec occur through repair or replacement delivery.
 - c) Replaced parts shall become the property of Sesotec. In settling warranty cases with foreign customers Sesotec shall in general not assume any customs duties and other special costs relating to the place of use resp. country to which the articles of sale are exported.
 - d) If the Buyer is a business enterprise, Sesotec shall in the event of replacement delivery owe the delivery of a defect-free item but not the deinstallation of the defective and the installation of the defect-free item or the indemnification of the costs incurred therefore.
 - e) Sesotec shall be given time and opportunity to carry out the necessary replacement work after agreement on the date. Sesotec reserves the right to have the replacement work carried out in a workshop which appears appropriate to it.
 - f) For the repair, supplementing or exchange of delivered parts the warranty period amounts to one year starting from the date of replacement performance.
 - g) For parts supplied by third parties which are the subject matter of the purchase agreement the Buyer shall initially approach the respective supplier regarding repair. The

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purchaser only has repair claims against Sesotec if the manufacturer / importer or supplier does not provide repair within a reasonable period.

- h) The Buyer shall provide Sesotec with all necessary information to determine and eliminate the defect. As long as the Buyer does not comply with this duty of cooperation, Sesotec can refuse replacement performance.
- i) If the replacement performance is not successful, the right of the Buyer remains unaffected to rescind the agreement or request a reduction in price (reduction of the compensation).
- j) The Buyer bears all reasonable costs of an unjustified enforcement of rights arising from defects (e.g. if the delivered item does not have a defect)

- 7. All claims due to a defect, except to §§ 438 (1) No. 2 and 479 German Civil Code, are subject to a limitation period of one year after delivery or acceptance if Sesotec does not guarantee for a longer period of time due to mandatory statutory rights. For defects asserted but not eliminated within the warranty period the warranty shall apply until the elimination of the defect. For that period the limitation period is suspended for such defect. It however ends in such cases three months after notice by Sesotec that the defect is eliminated or that no defect exists however not before the end of the period mentioned in sentence 1 of this paragraph. The rule in No. VII 6 f) remains unaffected.

As far as not expressly agreed, the warranty is excluded for the delivery of used machines as well as for machines and spare parts that have not been part of Sesotec's delivery portfolio for more than one year.

- 8. Claims for damages and reimbursement of expenses shall remain unaffected as far as they are not excluded under section VIII. Any statutory indemnification claims of the Buyer also remain unaffected.

VIII. Liability

- 1. Damage claims, regardless of the legal ground, are excluded unless wilful actions or gross negligence of Sesotec are involved or Sesotec is liable for wilful actions or gross negligence of its legal representatives or agents.
- 2. The above release from liability does not apply if the damage claim results from the violation of material contractual obligations. Material contractual obligations are only those obligations whose completion only enable the proper fulfilment of the respective contract and whose completion the Buyer could particularly trust. As far as Sesotec negligently violates a material contractual obligation, its duty of indemnification is limited to the reimbursement of the typically foreseeable damages.
- 3. Liability for damages due to injury for life, body or health as well as liability under statutory product liability regulations shall remain unaffected.
- 4. As far as the liability of Sesotec is excluded or limited, this also applies for the personal liability of its employees, staff, representatives and agents.
- 5. The Buyer shall notify damages and losses for which Sesotec is responsible to Sesotec without delay in writing or have them recorded by Sesotec.

IX. Use of software

- 1. As far as software is included in the scope of delivery, the Buyer is granted a non-exclusive right to use the delivered software including its documentation. It shall be provided for use on the delivery item designated for such purpose. Use of the software on more than one system is prohibited.
- 2. All other rights to the software and documentation including the copies shall remain with Sesotec or respectively the software supplier. The granting of sublicenses is not permissible.

X. Miscellaneous, Applicable Law, Place of Jurisdiction

- 1. If one or more of the above conditions are invalid, the remaining conditions remain unaffected thereby. Sesotec and the Buyer are in such a case obligated to replace an invalid condition with a valid one which comes as close as possible to the commercial purpose of the invalid condition. The same applies for a missing condition.
- 2. The place of performance for all liabilities under the supply agreement is Schönberg, Germany, as far as no different place of performance is agreed.
- 3. The law of the Federal Republic of Germany - excluding the UN sale of goods law and all other conflicting rules and norms - exclusively applies for all legal relationships between Sesotec and the Buyer.
- 4. As far as the Buyer is a merchant and the supply agreement belongs to the operation of his commercial business, the

exclusive place of jurisdiction for disputes arising from the supply agreement is the court of jurisdiction at the seat of Sesotec. Sesotec is however also entitled to file a claim at the seat of the Buyer.