

## **General Terms and Conditions for ICPDAS-EUROPE Online Shop (B2B)**

### **I. SCOPE, GENERAL**

1. These General Terms and Conditions of Business (hereinafter called: "Online Shop GTC") of the company ICPDAS-EUROPE GmbH & Co. KG, Mahdenstraße 3, 72768 Reutlingen, Germany (hereinafter called: "ICPDAS-EUROPE" or "We"), apply to all transactions concerning the delivery of goods to customers that the Customer has concluded using our Online Shop, accessible under <https://icpdas-europe.com> and its subdomains ([https://\\*.icpdas-europe.com](https://*.icpdas-europe.com)).
2. The scope of application of these Online Shop GTC is limited to contracts with entrepreneurs, legal entities under public law or special assets under public law. These Online Shop GTC are not applicable to transactions with consumers within the meaning of § 13 of the German Civil Code ("BGB").
3. These Online Shop GTC are exclusively applicable. The application of Customer conditions that contradict, supplement or deviate from our Online Shop GTC is herewith rejected. These shall not be applicable even if we execute the Customer delivery in the knowledge of or without expressly rejecting deviating Customer conditions.
4. Individual contracts reached with the Customer on a case-by-case basis (including collateral agreements, supplements and amendments) shall have precedence over these Online Shop GTC in every case. The content of such agreements shall be in accordance with a written contract or our written confirmation.
5. These Online Shop GTC shall also be applicable to future transactions between ICPDAS-EUROPE and the Customer, without the need to make renewed reference to these.
6. Legally significant declarations and notices that the Customer makes to us after the signing of the contract or that may need to be submitted (e.g. imposition of deadlines, defect notices, etc.), must be made in writing in order to be valid.
7. Rights that ICPDAS-EUROPE has under statutory regulations or other agreements that extend beyond these Online Shop GTC remain unaffected.
8. Insofar as provisions of these GTC conflict with our General Terms and Conditions of Sale and Delivery (national) and/or (international), the provisions of these GTC shall prevail in case of doubt.

### **II. REGISTRATION**

The Customer must register before placing an order and create a customer account by registering. Within the context of the registration, personal data of the Customer shall

be processed. The data processing can be found in our Privacy Statement for Customers. Registration is only possible if the Customer has acknowledged and accepted our Online Shop GTC and our Privacy Statement and has accepted the Online Shop GTC.

### **III. RIGHTS TO OUR DOCUMENTS, APPROVAL OF THE CUSTOMER**

1. Offers, cost estimates and other documents presented within the context of the process of establishing the contract shall remain our property and may be made available to any third party only with our prior written consent.
2. All rights, in particular patent rights, copyrights and inventor rights, to documents, samples, appliances, tools, drawings, cost estimates, drafts and plans are held exclusively by us. They may be made available to third parties only insofar as we have expressly agreed to this in writing.
3. If we make aforementioned items or documents available, this shall not entail any transfer of rights or granting of rights (utilisation licence) to the Customer.
4. The Customer issues its assurance that documents made available to us by it do not breach third-party rights. The Customer shall be responsible for ensuring that the documents made available to us by it, in particular drawings, plans, etc., are drawn to scale, are directly suitable for the purpose of determining the contractually owed performance, and correspond to the actual conditions.

### **IV. SAVING THE TEXT OF THE CONTRACT, DATA PROTECTION**

1. The text of the contract shall be saved internally by ICPDAS-EUROPE.
2. The text of the contract can no longer be retrieved by the Customer after the order process has been completed. However, the Customer may save the order data by saving and printing the data summarised on the last page of the order overview using the functions of its internet browser. In addition, the order data shall be stored in the account of the Customer.
3. Alternatively, the Customer has the option of waiting for the automated order confirmation, which ICPDAS-EUROPE shall send immediately after completion of the order by e-mail to the e-mail address provided by the Customer during the ordering process, which can then be printed out or saved with the respective e-mail programme of the Customer. The order confirmation also contains a transcript of these Online Shop GTC.
4. We process your personal data in compliance with the statutory provisions of the General Data Protection Regulation (GDPR) and the German Data Protection Act (BDSG). Details are set out in our Privacy Statement for Customers.

## V. CONCLUSION OF THE CONTRACT

1. The presentation and marketing of items on the website does not constitute a binding offer to conclude a purchase contract.
2. The following technical steps lead to an order:
  - a. The Customer can select products from the ICPDAS-EUROPE range that are shown with a sales price and collect them in the virtual shopping cart by clicking on the "Add to cart" button.
  - b. Discounts shall be displayed directly in the shopping cart for registered Customers.
  - c. The products selected by the Customer shall be displayed in the shopping cart. The Customer can view the contents of the shopping cart at any time by clicking on the "Shopping cart" button.
  - d. The Customer can change the number of selected products in the shopping cart or can delete products. By clicking on the button marked "x" in the shopping cart, the Customer can remove individual products from its shopping cart at any time or empty the shopping cart completely.
  - e. To initiate the ordering process, the button "Proceed to checkout" must be clicked.
  - f. In the subsequent steps, the Customer shall be requested to enter its personal data. Customers with a customer account must enter their username and password to log in. For example, a different delivery address can also be specified.
  - g. At the end of the ordering process, the Customer shall be taken to an order summary ("Summary"). The Customer can then check that the order is correct. Changes and corrections are possible in the overview. If the Customer wishes to cancel the ordering process completely, it can close the browser window at any time. These procedures are non-binding.
  - h. Before sending the order, the Customer must declare that it has taken note of and agrees to our Online Shop GTC, which can be accessed and printed out via a link, by ticking the appropriate box.
  - i. Before sending the order, the Customer must moreover confirm by ticking the box that it has taken note of our linked Privacy Statement for data processing in the Online Shop.
  - j. By submitting an order via the website by clicking the button "Order with obligation to pay", the Customer shall place a legally binding order. The Customer is bound to the order for a period of two weeks after placing the order.

- k. Confirmation of receipt of the order shall follow immediately after the order has been sent ("Order confirmation"), in which the Customer's order is listed again and which the Customer can print out using the "Print" function of its e-mail programme. This automatic e-mail does not constitute a binding acceptance of the order by us.
  - l. A contract with us shall be concluded at the latest upon receipt of our order confirmation. In the order placement confirmation, but at the latest with the order receipt confirmation, the text of the contract (consisting of the order summary, Online Shop GTC) shall be sent to the Customer on a permanent data carrier (e-mail or paper printout).
3. If the Customer has a permanent establishment in Germany, only the German language shall be available for the conclusion of the contract. If the Customer does not have a permanent establishment in Germany, only the English language shall be available for the conclusion of the contract.

#### **VI. CONTRACT CONTENT, MODIFICATION OF THE CONTRACTUALLY OWED PERFORMANCE, PARTIAL DELIVERY, LEGAL DEFECTS**

1. The contractually owed performance shall be determined by the agreement reached, in particular the order confirmation.
2. The agreement of a guarantee or the assumption of a procurement risk must be made in writing in order to be valid.
3. The contractually owed performance is free of legal defects, insofar as a third party cannot in this respect assert any claims against the Customer on the territory of the Federal Republic of Germany. ICPDAS-EUROPE shall be responsible for ensuring that the performance is unencumbered by third party rights in respect of other states only if we have confirmed this in writing.
4. Retrospective amendments or modifications of the performance owed by ICPDAS-EUROPE shall be permitted, insofar as these are customary or technically necessary and do not unreasonably inconvenience the Customer.
5. We are entitled to make partial deliveries, insofar this is not unreasonable for the Customer. A partial delivery is in particular not unreasonable if the partial delivery can be used by the Customer in accordance with the intended purpose, the delivery of the remaining ordered goods is safeguarded, and the partial delivery does not cause the Customer to incur any substantially higher overheads or additional costs.

#### **VII. UTILISATION RIGHTS**

1. We grant the Customer a simple utilisation right to copyrights, commercial proprietary rights and know-how to the extent that this is necessary for the

contractually compliant utilisation. The Customer may not make copies on machines, systems and data processing units that are not specified in the contract.

2. The Customer is permitted to exercise any possible further use only after we have agreed to this in writing.

#### **VIII. PERFORMANCE PERIOD, SELF-SUPPLY RESERVATION, FORCE MAJEURE AND RIGHT OF WITHDRAWAL**

1. Unless otherwise agreed on a case-by-case basis, any possible reported performance periods and deadlines represent merely approximate details.
2. The start of an agreed performance rendering period shall be subject to clarification of all technical questions. The performance rendering period shall not begin before the Customer has completed its associated duties of cooperation.
3. If an advance payment obligation of the Customer is agreed, such as for example the performance of a down-payment, an agreed performance rendering period shall not commence before the Customer has fulfilled its respective advance payment obligation.
4. ICPDAS-EUROPE shall be entitled to assert the plea of an unfulfilled contract.
5. An agreed deadline or an agreed performance rendering period shall be subject to the condition of complete and punctual delivery by our contracting partner (self-supply reservation). This shall not apply if the contractual agreement clearly indicates that we have assumed the procurement risk or in a case of unlimited indeterminate obligation. Our performance obligation shall also not be waived by the self-supply reservation if we have not concluded a congruent hedging transaction with our suppliers or culpably caused the non-fulfilment of this congruent hedging transaction in respect of the performance to be rendered for the Customer. ICPDAS-EUROPE shall inform the Customer without delay, insofar as the performance of the congruent hedging transaction is not available.
6. The performance rendering period shall be reasonably extended in the event of force majeure. Excluded from this are those cases in which an instance of force majeure as well as the duration thereof does not have any impact on the performance rendering period. When quantifying the reasonable extension of the performance rendering period, the duration of the obstruction and a reasonable start-up period must also be taken into account. Instances of force majeure also constitute events that were unforeseeable at the time of the signing of the contract, such as energy or raw material shortages, strikes, lockouts, official measures, terrorist attacks and war. ICPDAS-EUROPE shall inform the Customer without delay about the existence of force majeure as well as the anticipated end of this circumstance. If the force majeure continues without interruption for more

than three months, or if the delivery deadline is extended by more than four months due to several instances of force majeure, then both the Customer as well as ICPDAS-EUROPE shall be entitled to withdraw from the contract. In the event of force majeure, the assertion of compensation claims and further claims shall be excluded. The counter-performance obligation shall be waived, and already-performed down-payments shall be reimbursed. The provisions of this Fig. shall be correspondingly applicable insofar as the circumstances occur at a sub-supplier and impact the delivery to ICPDAS-EUROPE.

7. Compensation claims brought on the grounds of failure to adhere to the performance rendering period shall be based on XIII. Liability.

#### **IX. TRANSFER OF RISK**

The risk of accidental loss shall pass to ICPDAS-EUROPE, Reutlingen, when the goods are handed over to the carrier (Incoterms 2020 FCA, ICPDAS-EUROPE, Reutlingen).

#### **X. ACCEPTANCE DEFAULT, DELAY DAMAGES**

1. If the Customer does not accept the goods in good time, or if it otherwise defaults on the acceptance, then for each commenced working day it shall owe ICPDAS-EUROPE a sum amounting to 0.1 % of the respective order value, although not exceeding 5 % of the respective order value.
2. The onus shall be on the Customer to demonstrate that lower or no damage was caused, while ICPDAS-EUROPE reserves the right to demonstrate that the damage was higher.

#### **XI. PRICES, TERMS AND CONDITIONS OF PAYMENT**

1. Our prices are free carrier ICPDAS-EUROPE, Reutlingen (Incoterms 2020 FCA, ICPDAS-EUROPE, Reutlingen). If we select the carrier on behalf of the Customer, the Customer shall reimburse us for the carrier's costs.
2. All prices are net prices and are payable together with the respective value added tax applicable upon performance.
3. All possible other incurred costs, in particular for the settlement of payments, transport, import and export customs duties, fees, shall be borne by the Customer.
4. The Customer may choose between payment by invoice, prepayment or PayPal.
5. Unless otherwise agreed, payments are due net within ten calendar days from the transfer of risk. Payments must be made at the business domicile of ICPDAS-EUROPE in Reutlingen. Payment costs and risks shall be borne by the Customer.
6. A cash discount shall be subject to a separate agreement on a case-by-case basis.

7. The acceptance of cheques and bills of exchange shall be subject to an express written agreement.

## **XII. NOTICE OF DEFECTS**

1. The Customer shall be responsible for examining whether the received goods are free of defects within ten working days from the transfer of risk.
2. If a defect is apparent, this must be reported within five working days of its actual discovery. This shall apply irrespective of whether the defect was discovered within the context of the examination pursuant to Fig. 1 or at a later date.
3. Any possible discovered defects must be reported to us at least in text form. The complaint must include a detailed description, enabling the presumed cause as well as the consequences to be identified. Upon request, suitable documentary material, in particular in the form of photographs, must be made available to us.
4. If the Customer fails to fulfil its obligations to examine the goods and to issue a complaint, the performance shall be deemed to have been accepted and it shall not be entitled to warranty rights. This shall not be applicable, insofar as we maliciously concealed the defect or if the exclusion would be incompatible with the provisions of a guarantee.
5. The Customer shall be obliged to cover the costs incurred by ICPDAS-EUROPE in conjunction with a culpably issued unjustified complaint.
6. The deadlines pursuant to Fig. 1 and 2 shall commence, insofar as ICPDAS-EUROPE is required to provide documentation, only once the Customer has received the documentation.

## **XIII. WARRANTY**

1. If ICPDAS-EUROPE renders a defective performance, that is to say if the actual performance rendered falls short of the contractually owed performance (defectiveness), the claims of the Customer shall be based on the following provisions.
2. The Customer shall initially only be entitled to demand that ICPDAS-EUROPE rectifies the poor fulfilment (defect rectification) within a reasonable period. ICPDAS-EUROPE shall be entitled to choose of the manner of the defect rectification that ICPDAS-EUROPE uses to rectify the poor fulfilment, essentially either rectification or replacement delivery. For the purpose of rectifying the defect, the Customer shall grant ICPDAS-EUROPE or third parties commissioned by ICPDAS-EUROPE access to the goods as well as necessary and appropriate support measures. ICPDAS-EUROPE shall cover the necessary cost of the defect rectification. ICPDAS-EUROPE shall not cover additional expenditure incurred

because the goods had been brought to a destination other than the original destination.

3. If ICPDAS-EUROPE does not rectify the defect within the reasonable period, or if the manner of the defect rectification selected by ICPDAS-EUROPE does not eliminate the defect, the Customer shall be entitled to reduce the purchase price.
4. The Customer shall essentially be entitled to withdraw from the contract only
  - a. in the event of a material contractual breach, and
  - b. if the defect rectification was not performed within the reasonable period or did not eliminate the defect.

Lit. b. does not have to be fulfilled for withdrawal from the contract if the defect rectification is unreasonable for the Customer on account of the circumstances of the particular case, or if this will clearly remain unsuccessful.
5. The Customer shall also be entitled to withdraw from the contract if ICPDAS-EUROPE, in the event of non-compliance with a delivery period or delivery date agreed as binding, fails to render the performance despite setting a further reasonable period of time which, as a rule, shall not be less than two weeks.
6. The Customer is obliged to assert the claims pursuant to Fig. 2 – 5 within a reasonable period. The Customer must call upon ICPDAS-EUROPE to perform the actions in writing.
7. If the non-performance or poor performance relates only to a part of the delivery, the claims pursuant to Fig. 2 and 3 shall be applicable only to the respective part that is affected by the non-performance or poor performance. In a case of this nature, the withdrawal from the entire contract (Fig. 4 and 5) may be declared only if the incomplete nature of the delivery or only partially contractually-compliant delivery individually represents a material contractual breach.
8. In derogation of § 438 Para. 1 No. 3 BGB, warranty claims – with the exception of claims for compensation – shall be statute-barred within twelve months from the date of the transfer of risk. This shall not apply in the event of maliciously concealed defects or other mandatory statutory regulations.
9. Aforementioned claims brought on the grounds of poor fulfilment that are attributable to improper handling by the Customer or the failure to comply with instructions for use are excluded.
10. XIII is additionally applicable to the assertion of compensation on the grounds of defectiveness. Liability.
11. The provisions on supplier recourse pursuant to §§ 445a, 445b of the German Civil Code (“BGB”) remain unaffected.



#### **XIV. LIABILITY**

1. ICPDAS-EUROPE shall be liable in accordance with the statutory provisions in the event of a culpable breach of duty for all damages arising out of mortal injuries, physical injuries or health impairment.
2. ICPDAS-EUROPE shall be liable in accordance with the statutory provisions in the event of a culpable breach of material contractual obligations. Liability shall, however, be limited to the foreseeable, contractually typical damage if ICPDAS-EUROPE did not breach material contractual obligations wilfully or with gross negligence. Material contractual obligations mean those that are absolutely essential to achieve the purpose associated with the contract, and that the Customer is entitled to expect are being adhered to.
3. In cases of grossly negligent breach of duty, liability pursuant to Fig. 2 is limited to three times the respective order value. If three times the respective order values however amounts to less than the sum of EUR 2,500.00, the maximum liability sum of ICPDAS-EUROPE shall be EUR 2,500.00. In respect of the aforementioned provision, ICPDAS-EUROPE recommends that an additional insurance policy should be taken out.
4. ICPDAS-EUROPE shall be liable for the grossly negligent and wilful breach of non-material contractual obligations.
5. ICPDAS-EUROPE shall be liable in accordance with the provisions of the applicable product liability act.
6. If a contractual guarantee has been agreed, ICPDAS-EUROPE shall be liable in accordance with the guarantee declaration.
7. In other respects, liability shall be excluded.
8. To the extent that our liability is limited or excluded on the basis of the above Figs., this shall also apply to the liability of our statutory representatives and vicarious agents, including our workers and employees.

#### **XV. SUPPORT IN PRODUCT LIABILITY CASES**

1. The Customer shall not alter safety-relevant aspects of the products. The Customer shall in particular not amend or remove existing warnings about the danger of improper use. If this obligation is breached, the Customer shall indemnify ICPDAS-EUROPE internally in respect of third-party product liability claims, unless the Customer was not responsible for the fault that triggered the liability.
2. If ICPDAS-EUROPE is obliged to introduce measures, in particular product warnings or product recalls, then the Customer shall support ICPDAS-EUROPE in such endeavours to the best of its ability.

3. The Customer shall inform ICPDAS-EUROPE in writing without delay about any risks that become known to it.

**XVI. OFFSETTING, RIGHT OF RETENTION**

1. The Customer may only offset claims that are uncontested or have become res judicata.
2. Fig. 1 applies correspondingly to the exercise of a right of retention.
3. Fig. 1 and 2 shall not apply if the Customer would thereby be prevented from asserting a claim which is closely synallagmatically linked to the claim asserted by us.

**XVII. PROHIBITION OF ASSIGNMENT**

1. The Customer may assign rights and obligations arising out of this contract to third parties wholly or in part only with our prior written consent.
2. Fig. 1 does not apply to the assignment of a payment claim within the meaning of § 354a of the German Commercial Code ("HGB").

**XVIII. RESERVATION OF TITLE**

1. If the Customer has its registered office or a permanent establishment in Germany, the following provisions shall apply to the reservation of title:
  - a. Goods delivered by us remain our property until all claims arising out of the business relationship have been paid in full (goods subject to reservation of title). The Customer is entitled to dispose of the goods that are subject to reservation of title within the context of its ordinary business transactions. In the case of open invoices, the reservation of title shall serve to secure the resulting balance of the claim to which ICPDAS-EUROPE is entitled.
  - b. The Customer is obliged to insure goods that are subject to reservation of title sufficiently against fire, water and theft at its own expense.
  - c. The processing or modification of the goods that are subject to reservation of title shall in all cases be performed for ICPDAS-EUROPE. If goods that are subject to reservation of title are processed into a new item with items that do not belong to ICPDAS-EUROPE, then ICPDAS-EUROPE shall acquire co-ownership of the new item. The co-ownership share shall be determined in accordance with the value of the goods that are subject to reservation of title relative to the value of the other processed or modified items at the time of processing or modification.
  - d. If the Customer causes the goods that are subject to a reservation of title to be combined or mixed to form a uniform item, and if one of the other items may

be considered the principal item, then ICPDAS-EUROPE shall be entitled to the proportionate ownership of the resulting item. The co-ownership share shall be determined in accordance with the value of the goods that are subject to reservation of title relative to the value of the other combined or mixed items at the time of combination or mixing. The Customer hereby assigns this co-ownership to ICPDAS-EUROPE, granting co-ownership, whereby ICPDAS-EUROPE hereby accepts the assignment.

- e. The Customer shall assign the claims against third parties arising from the resale of the goods subject to retention of title, together with all ancillary rights, in total or in the amount of our possible co-ownership share in accordance with Lit. b. and c. to ICPDAS-EUROPE already at the present time as security. ICPDAS-EUROPE accepts this assignment. The Customer undertakes to retain the title to the goods relative to its own customers until the purchase price has been paid in full. The Customer is entitled to collect the resulting purchase price claims until revocation or suspension of payment to ICPDAS-EUROPE on the account of ICPDAS-EUROPE. ICPDAS-EUROPE shall revoke the collection authorisation only if the customer is in default of payment or if an application has been made for the initiation of insolvency proceedings against the assets of the Customer. In the event of the revocation of the collection authorisation, the Customer must provide ICPDAS-EUROPE with the information necessary to collect the claim, presenting the corresponding supply contracts with its own customers, the invoices and an overview of the payments made by the consumers to the Customer.
  - f. The Customer must inform ICPDAS-EUROPE immediately in writing if a third party accesses goods to which ICPDAS-EUROPE holds the title, in particular including about enforcement measures pertaining to the reserved goods and the claims of ICPDAS-EUROPE, and must provide the information and documents required to conduct a defence.
  - g. Insofar as the realisable value of the security rights to which ICPDAS-EUROPE is entitled exceeds all outstanding claims of ICPDAS-EUROPE against the Customer by more than ten percent, ICPDAS-EUROPE shall be obliged to release the security rights at the request of the Customer. ICPDAS-EUROPE is entitled to choose which security interests are to be released.
2. If the Customer has neither its registered office nor a permanent establishment in Germany, the following provisions shall apply to the reservation of title:
- a. Goods delivered by us shall remain our property until the payment has been made in full (goods subject to reservation of title).

- b. The Customer is obliged to insure goods that are subject to reservation of title sufficiently against fire, water and theft at its own expense.

**XIX. SETTLEMENT OF DISPUTES, APPLICABLE LAW**

1. The exclusive place of jurisdiction is the court with competence for the registered domicile of ICPDAS-EUROPE in Reutlingen, Germany.
2. ICPDAS-EUROPE shall furthermore be entitled to take legal action against the Customer at its general place of jurisdiction.
3. If the relevant permanent establishment of the Customer for the rendering of the respective performance is located outside the European Union as well as outside the states of Switzerland, Norway and Iceland, then all disputes between ICPDAS-EUROPE and the Customer shall be definitively decided in accordance with the Rules of Arbitration of the German Institute of Arbitration, whereby recourse to ordinary legal channels shall be excluded. The place of the arbitration proceedings is Stuttgart. The number of arbitrators is three. The language of the arbitration proceedings is German.
4. The law of the Federal Republic of Germany is applicable, whereby the UN Sales Convention (CISG) is excluded.

**XX. WRITTEN FORM REQUIREMENT**

All amendments and supplements to these Online Shop GTC as well as the waiver of its assertion must be made in writing in order to be valid. This also applies in respect of a possible waiver of the written form requirement.

**XXI. SEVERABILITY CLAUSE**

1. Should one or more provisions or parts of a provision of these Online Shop GTC be or become invalid, this shall not affect the validity of the remainder of the contract.
2. Invalid or unenforceable provisions shall be replaced with a valid and effective provision that approximates legally and economically as closely as possible to the invalid or unenforceable provision that would have reasonably been agreed if the invalidity or non-enforceable nature of the respective provision had been considered when concluding this contract.
3. The aforementioned provisions shall apply accordingly in the event of a regulatory omission.