

Impex HighTech GmbH  
Hovesaatstraße 6  
48432 Rheine

Fon +49 / 59 71 / 98 16 50  
Fax +49 / 59 71 / 98 16 59

sales@impex-hightech.de  
www.impex-hightech.de

Impex HighTech GmbH | Hovesaatstraße 6 | D-48432 Rheine

## General Terms and Conditions of Sale of IMPEX HighTech GmbH

### General

All performances and transactions of the company IMPEX HighTech GmbH (hereinafter referred to as "IMPEX") underlie exclusively the following conditions. The same also applies to all future business relationships. In case of diverging or amended conditions the explicit written consent of IMPEX is required for their effectiveness. A letter of confirmation of an oral agreement is only effective, if it is confirmed in writing by the receiving contracting party. All orders as well as the acceptance of a guarantee for certain attributes and possible special assurances need the written consent by IMPEX for their effectiveness. This in-writing requirement can be renounced to only by means of a written agreement. General terms and conditions of the customer do not become contents of the contract, even if they are attached to invitations of offers, orders, notices of acceptance etc. and they are not contradicted to by IMPEX.

### Offer and Conclusion

Each offer submitted by IMPEX is without engagement and not binding, unless in the offer something else is explicitly determined.

All acceptances of proposals, assignments as well as all orders need a confirmation in writing or by telex from IMPEX. In case of immediate execution of an order IMPEX can replace the confirmation of an order in a special case by drawing up an invoice.

Silence to our confirmation of an order is regarded as approval.

The customer will not make the entrusted offer available neither as a whole nor in part nor in a revised version without the prior consent of IMPEX.

For cancellations and oppositions, which we receive later than one week after conclusion of the contract, a cancellation fee becomes due. This fee amounts to seven (7) percent of the value of the order, but however at least to twenty (20) €.

### Prices and Conditions

All payments are to be made with guilt-releasing effect exclusively to the VR FACTOREM GmbH, Ludwig's Erhard Str. 30-34, 65760 Eschborn, in which we have resigned our present and future claims from our business connection. We have also transferred our reservation property on the VR FACTROEM GmbH.

The quotations of prices are net quotations of prices ex works, without the valid turnover tax as well as without the packing charges, freight costs, installation costs or assembly costs as well as without transport insurance. Unless no other currency has been agreed upon, all quotations of prices are in EURO (€).

Geschäftsführer/Manager  
Dr. Helene Dyck  
Dipl.-Ing. Norbert Munser

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Euro  
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VR Diskontbank GmbH  
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BLZ 500 902 00  
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If the buyer receives the ordered product outside the validity area of the EURO, the prices, also in the corresponding confirmations of the order, are deemed only then as fixed prices, as long as the parity of the EURO towards other currencies has not changed substantially and not more than three (3) months lie between the conclusion of the contract and the date of delivery. In case of considerable fluctuations in the exchange rate IMPEX is entitled to adjust the confirmed prices appropriately. In this case the customer is not entitled to withdraw from the contract.

In case of essential shifting of costs IMPEX reserves the right to change the prices appropriately according to the principles of bona fide. In case of a rise in prices this has to be communicated to the buyer at least one month before delivery. If an adherence to the contract is economically unacceptable to the buyer, he is entitled in this case to withdraw from the contract within one week from the receipt of the communication.

If IMPEX undertakes the installation or assembly, the customer has to bear all necessary additional expenses, such as traveling expenses, costs for the transport of the tools and of the personal luggage as well as releases in addition to the stipulated remuneration.

All payments to our claims have to be settled strictly net within thirty (30) days from the date of the invoice (due date). A separate reminder in case of non-observance of the term is not required. Cheques, bills of exchange and letters of acceptance are accepted only for the purpose of fulfillment and under a special agreement. All costs of the payment transactions have to be borne by the buyer.

Payment is deemed to have been made on that day on which IMPEX can have the amount at its disposal without deficits.

Discounts are only granted by us subject to written confirmation.

Upon initiation of the insolvency proceedings, financial difficulties or other circumstances, which question the trustworthiness of the buyer, all claims become due immediately.

The taking back or seizure of the merchandise is not to be judged as withdrawal from the contract. Under no judicial point of view is the customer entitled to a right of retention in that event.

In case of a withdrawal from the contract the delivered merchandise has to be returned to IMPEX within seven (7) days at the expenses of its contracting party.

When enforcing damages because of non-fulfillment, the damage to be indemnified is twenty (20) percent of the purchase price, subject to a proof of a higher damage provided by IMPEX or a lower damage by the customer.

In view of the decline in value of merchandise that has already been used, when taken back by IMPEX, IMPEX is entitled to charge an appropriate amount for this.

The buyer is only insofar entitled to setting-off, retention or reduction, if the enforced counterclaims have been ascertained undisputedly or legally binding.

## Default

If the buyer is us towards with some bills of debt in the delay, all existing demands become due immediately.

A compensation by the buyer with counterclaims is excluded, unless, the counterclaims are indisputable or ascertained legally. The assertion of a retention right by the buyer is excluded, unless, it is based on the same contractual relationship or the counterclaims are indisputable or ascertained legally.

If the customer falls into arrears with its payment obligation, an interest of eight percent (8%) above the base rate (replacement of the discount rate owing to the introduction of the EURO) of the European Central Bank has to be paid annually on the late payment, subject to IMPEX's enforcement of further damages.

If the customer falls behind with his stipulated performance, IMPEX is entitled either to demand the immediate return of the delivered merchandise or to withdraw from the contract or to claim damages due to non-fulfillment.

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If IMPEX culpably falls behind with the keeping of a stipulated date of delivery or of performance, the contracting party has to set in writing a reasonable period of grace – at least ten (10) weeks – for the fulfillment of the performance. Only after unsuccessful expiration of that term the customer can withdraw from the contract. However, this does only apply to those quantities that until expiration of the period of grace were not declared as ready for dispatch, unless the partial performances are of no interest to him.

If IMPEX culpably falls behind with the delivery the customer can claim as a general compensation for the period of the default per completed week 0,4% of the value of the delivery or of the performance, with which IMPEX has fallen behind with, however a maximum of 4% of that value, unless IMPEX can prove a lower damage. Hereby all claims for damages resulting from default are settled. IMPEX does not assume any further liability in case of default; by no means does IMPEX assume liability for damages exceeding the limits stipulated in the provision "liability". This does not apply as far as in cases of intent or gross negligence liability compellingly has to be assumed.

### Reservation of Title

We have the right to assign the claims arising from our business relationships.

To assert the rights of ownership of title is a cancellation of the contract is not required, unless the debtor is a consumer. The goods remain our property until complete payment of all claims no matter on what legal grounds (also from previous transactions) has been made. In case of account current the retained property is deemed as security for the accounts payable to IMPEX. In case of acceptance of cheques, bills of exchange or letters of acceptance by IMPEX, the property of the merchandise shall only pass over with their cashing in.

During the duration of the reservation of title the buyer is not entitled to put the delivered goods in pawn nor to assign them as security. Should the buyer become owner of the goods due to connection to movable objects, processing or modification, then he shall subject to other agreements, already now transfer the title to the resultant objects as security for the above-mentioned outstanding accounts. In this case the buyer further agrees to keep such objects in custody for IMPEX free of charge. The buyer is entitled to sell the goods or the manufactured product in the course of his ordinary business.

The claims against third parties resulting from the resale are assigned to IMPEX for security reason in the height of the original invoice amounts, without the need of a special agreement in the individual case.

The buyer – as long as he fulfils his payment obligations - shall be entitled to collect these outstanding debts for our account. However, IMPEX is entitled to notify the third parties, who are to be named on demand, of the assignment of the claims and to give them directions. In the event of default, IMPEX shall be entitled to reclaim the goods due to reservation of title, and to dispose of them otherwise. In doubt, the exercise of this right shall not be deemed as withdrawal from the contract.

After payment has been effected, delivery to the buyer will be carried out within a new reasonable delivery time.

In case the value of the securities exceeds the unpaid claims by more than 20%, IMPEX will release the excess amount of such security at the buyer's request.

Seizures, confiscations or other dispositions or interferences of third parties with regard to the delivered goods have to be communicated to IMPEX immediately.

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## Delivery Time and Delivery

IMPEX reserves the right to improve or modify its products without prior notice, provided that such modifications do not affect the form or function of the merchandise.

All dates of delivery given by us are approximate terms and shall not be binding as long as they have not been separately agreed upon in writing. We are allowed to remain under the deliver time.

The observation of all binding terms is under the prerequisite that IMPEX itself is being supplied completely and correctly by its suppliers, provided, however, that the failure to supply or postponement is not caused by culpable behavior on the part of IMPEX, as well as of the timely receipt of IMPEX of the complete records, permissions and releases the buyer is under the obligation to provide IMPEX with, as well as of the observance of the terms of payment and all other obligations of the buyer. The non-fulfilment or delayed fulfilment of these prerequisites extends the terms correspondingly.

Force majeure, business disruptions or similar incidents of any kind, which hinder the execution of the contract, shall extend the delivery time beyond the duration of the hindrance for a reasonable time period. Should it become subsequently unreasonable for one of the parties to adhere to the contract, they shall be entitled to withdraw from the contract. IMPEX can only refer to these circumstances, if it immediately informs the customer.

In case of delayed deliveries or non-deliveries, which do not lie in a behavior of IMPEX or for which IMPEX cannot assume responsibility in some other way, claims of whatever kind cannot be enforced against IMPEX.

## Receipt of the Goods

Deliveries have to be accepted by the customer. This also applies to defective consignments as long as the deficiencies are negligible.

In case the customer does not accept the performance, IMPEX is entitled to withdraw from the contract and to further dispose of the delivered merchandise, after expiration of a 14-days period of acceptance to be set by IMPEX.

If the delivery is delayed on request of the buyer for more than one (1) month after IMPEX has given notice of the readiness of the consignment, IMPEX shall be entitled to charge the customer with a storage charge amounting to 0.5 % of the amount of the invoice for each month commenced, however a maximum of 5% of the specific amount. This upper-limit is valid only as far as IMPEX cannot prove higher expenses or further damages caused by the delay.

## Part Deliveries and Passing of Risk

Part deliveries are admissible. Invoices consistent with these shipments are admissible as long as they are reasonable. The risk of loss or damage passes to the buyer upon handing over the goods to the shipping agent / carrier, at the latest however, when leaving the factory site or the warehouse.

In the event of other agreements IMPEX will incorporate the Incoterms 2000 into the contract.

In case IMPEX should install or assemble the products at the buyer's premises, the risk of loss and damage shall pass to the buyer after installation or assembly.

IMPEX reserves the right, unless otherwise agreed upon, to determine the shipping route, packing and transport means. Shipping expenses are to be borne by the buyer.

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IMPEX insures its deliveries against damages in transit only on the buyer's expressed wish and expenses. The customer will examine the goods immediately upon receipt, reproach possible transport damages towards the carrier, secure the corresponding evidences as well as immediately inform IMPEX by telephone and after that in writing.

### Disruption of the Performance

If it has been agreed in writing that IMPEX is to carry out installation or assembly work, the following directions with regard to possible disruptions of the performance shall apply, unless no other different written agreements were made: As far as a cause – also disturbances and force majeure – for which IMPEX is not responsible, including strike or lockout, harms the observance of the term, the term is postponed by the duration of the disruption including an appropriate starting phase. The customer has to inform IMPEX immediately of the cause and the duration of the postponement.

In case the expenditure increases due to the disruption, IMPEX can also claim the remuneration of the additional expenditure, except if the client is not responsible for the disruption and the cause lies beyond the client's responsibility. If the customer can withdraw from the contract due to incorrect performance of IMPEX and/ or can claim damages instead of performances and declares such, the customer will explain in writing on IMPEX's demand in an appropriate term, if he enforces these rights or further insists on performance. A withdrawal from the contract within the scope of the provisions of law is only then possible, if IMPEX is responsible for the delay of the performance.

### Material Defect

If a delivery from IMPEX has a defect, the customer can upon IMPEX's choice either demand the repair or a subsequent delivery, whereas exchanged parts pass over to IMPEX's property.

In the event that the customer has set an appropriate term without result after a first request and IMPEX has refused the subsequent fulfillment or two subsequent fulfillments fail, the client is entitled to demand either the annulment of the contract or the reduction of the remuneration in cases of a considerable breach of contract, provided that from the manner of the matter or the defect or other circumstances nothing else results. The same applies when the subsequent fulfillment cannot reasonably be expected of IMPEX. In case of a breach of duty the customer can only demand the reduction of the remuneration.

Furthermore, the customer can claim damages or restitution of its vain expenses provided the legal prerequisites are given. By no means does IMPEX assume liability for damages exceeding the limits stipulated in the provision "liability". Further claims for material defect are excluded; these limitations of liability do not apply for intent or gross negligence.

For only an insignificant deviation of the performance of IMPEX from the stipulated condition or usefulness, no claims because of material defect exist.

In case IMPEX has furnished performance for a search for a mistake upon report of a defect and no material defect is given, the customer has to bear the resulting costs. The liability for material defects expires for those deliveries furnished by IMPEX, which the customer changes or in any other way interferes with, unless the customer proves in connection with the report of the defect that the interference is not causal for the defect. For an exact correction of the mistake it is necessary that the customer describes the mistake sufficiently so that it becomes determinable for IMPEX.

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If the defect bases on the faultiness of a performance of a subcontractor, the liability of IMPEX in case of a material defect is limited first of all to the assignment of the claim for defect to which IMPEX is entitled to towards the subcontractor. In the event the subcontractor refuses the subsequent fulfillment or in the event that the subcontractor is not in the position of the subsequent fulfillment for other reasons, the claim for defect of the customer is directed against IMPEX according to the liability for material defects. The period of limitation is barred for the duration of claiming the subcontractor.

Natural wastage is excluded from warranty in any case.

Claims of the customer due to expenses, which are necessary for the subsequent fulfillment, especially ways of transport, work and material costs, are excluded insofar that the expenses increase because the object of the performance was subsequently taken to a different place of fulfillment other than the stipulated.

Claims for material defect come under the statute of limitation within one year after handing over the delivery.

#### Defect in Title

In case rights of third parties are infringed in connection with the delivery and corresponding claims are enforced by the owner of the rights against customers, the customer has to inform IMPEX immediately after receipt of the report of the claim.

All illustrations, drawings etc. enclosed to IMPEX's offers and deliveries remain the property of IMPEX and no copies shall be made nor shall the material be made admissible to any third party in any form without prior written permission by IMPEX. Products of IMPEX are legally protected. Without the prior written permission by IMPEX it is not allowed to copy, to multiply or to reproduce products of IMPEX in any form.

Provided a third party rightfully claims the infringement of an intellectual property right or copyright ("protective right") through the customer by his using products supplied by IMPEX in accordance with the contract, IMPEX shall be held liable towards the buyer as follows: Alternatively IMPEX will at its expense acquire either a right of use for the product, change the product in such a way that it no longer infringes the protective right, or exchange the product if necessary. If this is not possible on reasonable conditions, IMPEX will take the product back against refund of the purchase price.

The above obligation is only then valid, if IMPEX is informed by the buyer immediately in writing by registered mail return receipt requested, however at the latest within five (5) working days, about the enforced claims by third parties, if an infringement is not acknowledged by the buyer and if all measures of defence and negotiations for compromise are reserved for IMPEX. If the buyer ceases the use of the product due to reasons in order to reduce the damage or due to other important reasons, the buyer is obliged to point out to the third party that the cessation of use is not connected to an acknowledgement of an infringement of a protective right.

Claims of the buyer are excluded as far as he can be held responsible for the infringement of the protective rights. Furthermore, any claims of the buyer are excluded as far as the infringement is based upon specifications given by the buyer, is caused by a use not intended by IMPEX, is caused by product modification undertaken by the buyer, or is caused by the combination with products not supplied by IMPEX.

Further claims are excluded subject to the right of the withdrawal from the contract.

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## Liability

IMPEX is unlimitedly liable for a damage, which is attributed to an intentional or grossly negligent breach of duty. Independent from the degree of the fault IMPEX is liable for damages resulting from injury of life, body or health as well as independent from the fault for damages resulting from the taking over a guarantee according to § 276 section 1 BGB (civil code). In case IMPEX takes over a guarantee for certain features of the stipulated due delivery, the guarantee is only then binding for IMPEX if this was declared in writing by IMPEX.

At the most IMPEX is liable for ordinarily negligent damages only in those cases of violation of the so-called major obligations (Kardinalspflichten). The major obligations (Kardinalspflichten) are those obligations, which were substantial for the conclusion of the contract of the customer and on the fulfilment of which he could rely on. In cases of ordinarily negligent breach of a major obligation (Kardinalspflicht) the liability per case of damage is limited to € 500.000,- and in case of other damages to € 250.000,-; for all damages within one calendar year however to twice these amounts at the most. In case the total remuneration of a contract is less than € 250.000,- IMPEX, however, is liable for other damages only up to the amount of the total remuneration.

The liability for the cases of violation of the major obligations (Kardinalspflichten) is limited to the contractually typical, foreseeable damage; the liability for profit lost is excluded. The limitation of liability contained in these conditions is not applied to claims according to the product liability law.

As far as the liability is excluded or limited according to these conditions, the same applies to the personal liability of the organs of IMPEX, of the clerks, employees, staff member, sales representatives and subcontractors of IMPEX.

## Breach of Duty

Considerable breaches of duty are those, which violate a principal obligation of performance. A breach of duty in the sense of § 241 section 2 BGB (civil code) is only then given, if IMPEX is to be blamed for a fault, which exceeds the ordinary negligence.

## Statute of Limitation

All contractual claims for damages as well as claims because of faultiness of the delivery fall under the statute of limitation with the expiration of one year after commencement of the legal statutory period of limitation.

## Data Protection and Secrecy

The processing of personal data is only then admissible if a law or another rule of law permits the processing or orders it or as far as the person concerned agrees or respectively has agreed in the form of a contract. Personal data, which IMPEX receives from the customer, are only used within the scope of the agreed purposes and also then only in the necessary extent for each specific case. Towards official authorities the data are only then disclosed, if this is prescribed by law. All staff members are bound to the data secrecy. IMPEX binds itself to handle the operating data strictly

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confidential and to use them exclusively within the scope of the purpose defined for the fulfilment of the order. The staff members are bound to the observance of confidentiality.

### Place of Fulfilment and Jurisdiction

The contract respect is defeated exclusively by the German right, in particular to the civil law code and code of commercial law.

The place of fulfilment for all obligations resulting from contractual relationships is Frankfurt am Main. The place of jurisdiction for all legal actions resulting from the contractual relationship as well as from its origination and its effects is Frankfurt am Main with respect to full merchants. However, IMPEX is also entitled to take legal actions against the customer at his place of jurisdiction. The whole contractual relationship is governed by the laws of the Federal Republic of Germany, excluding provisions governed by the UN Purchase Law Convention (CISG).

### Partial Invalidity

In case of the invalidity of a single or of several provisions of these terms and conditions and/ or of a single or of several provisions within the scope of other agreements, it is (they are) replaced by a valid provision or operation, which comes closest and also economically closest to the one(s) actually agreed upon. The validity of the remaining provisions remains untouched. The same shall apply in case of an omission.

Rheine, Februar 2011

### Disclaimer

### Content

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Impex HighTech GmbH | Hovesaatstraße 6 | D-48432 Rheine

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Geschäftsführer/Manager  
Dr. Helene Dyck  
Dipl.-Ing. Norbert Munser

VR Diskontbank GmbH  
Euro  
BLZ 500 902 00  
Konto-Nr.: 7405161006  
BIC/SWIFT-Code: VRDIDEFF  
IBAN: DE74500902007405161006

VR Diskontbank GmbH  
US-Dollar  
BLZ 500 902 00  
Konto-Nr.: 61014630  
BIC/SWIFT-Code: VRDIDEFF  
IBAN: DE5750060400006101463

Amtsgericht Steinfurt HRB 7151  
Steuer-Nr.: 311/5831/1051  
USt-ID-Nr.: DE 814541503  
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Impex HighTech GmbH  
 Hovesaatstraße 6  
 48432 Rheine

Impex HighTech GmbH | Hovesaatstraße 6 | D-48432 Rheine

Fon +49 / 59 71 / 98 16 50  
 Fax +49 / 59 71 / 98 16 59

sales@impex-hightech.de  
 www.impex-hightech.de

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Group D <i>Ankunftsklauseln</i>	DAF DES DEQ DDU DDP	geliefert Grenze geliefert ab Schiff geliefert ab Kai geliefert unverzollt geliefert verzollt	Delivered At Frontier Delivered Ex Ship Delivered Ex Quai Delivered Duty Unpaid Delivered Duty Paid

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