

General Terms and Conditions

Status July 2024

1. General Scope of Application

1.1 These General Terms and Conditions (hereinafter referred to as "GTC") apply to all purchase, delivery, service, and work contracts (hereinafter referred to as "Contracts") concluded between the

VACOM Vakuum Komponenten &
Messtechnik GmbH
In den Brückenäckern 3
07751 Großlöbichau
Germany

Management:
Jens Bergner

(hereinafter referred to as "**VACOM**"),

and its contractual partners (hereinafter referred to as "**customers**")

be concluded.

1.2 All contracts are concluded exclusively with customers who are to be regarded as entrepreneurs as well as with legal entities under public law and special funds under public law. An entrepreneur is any natural or legal person, or a partnership with legal capacity, who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession. Contracts with customers who do not meet the defined requirements are expressly not concluded.

1.3 Any contracts between VACOM and the Customer shall be governed primarily by the agreements made in writing in the individual case and the information in the order confirmation. Insofar as no individual agreements have been made, these GTC shall form the exclusive basis for all contracts concluded with VACOM. Any other terms and conditions of business or purchase of the Customer shall not apply, even if they are not expressly rejected separately. VACOM hereby expressly rejects such terms and conditions. These GTC shall also apply to future contracts with the Customer, even if they are not expressly agreed upon again.

1.4 Unless otherwise agreed, the Incoterms 2020 shall apply. The respective Incoterms clauses shall be interpreted in accordance with the application notes of the International Chamber of Commerce in Paris (ICC), unless expressly amended or supplemented by provisions in these GTC.

1.5 The basis for all contracts between VACOM and the Customer is the English version of these GTC. Versions of these GTC in other languages are for information purposes only.

1.6 Depending on the business model, the following supplementary terms and conditions of these GTC shall be included in the contracts between VACOM and the Customer:

- Supplementary terms and conditions for online store orders
- Supplementary terms and conditions for cleaning services
- Supplementary terms and conditions for repairs

2. Conclusion of Contract

2.1 VACOM's offers are subject to change and non-binding. The contract shall only be concluded when VACOM has expressly confirmed the Customer's binding order in writing or has carried out the delivery and/or service.

2.2 The Customer is obliged to check the order confirmation from VACOM carefully for correctness and appropriateness and to contact VACOM immediately in the event of discrepancies. This applies to project orders based on the price calculations and service descriptions provided by VACOM. Otherwise, the provisions made in the order confirmation shall be deemed services to be rendered per the contract.

3. Nature of the Goods and Services

3.1 The information contained in catalogs, brochures, and the like as well as other written or verbal statements about the quality and characteristics, such as technical details etc., are only binding if they are expressly referred to in the order confirmation. Details in technical documents are also only binding if they are expressly referred to in the order confirmation.

3.2 Until delivery of the goods and services, VACOM reserves the right to make customary technical changes, in particular improvements, if this only results in insignificant changes to the quality and the Customer is not unreasonably impaired.

4. Prices

4.1 The prices are ex works Naples/Florida, excluding VAT/goods sales tax and packaging. The costs for transportation and insurance are based on the agreed Incoterms 2020. If VACOM incurs additional costs for unloading the goods at the place of destination when the Incoterm DAP applies, these shall be borne by the Customer. The Customer shall bear the costs for additional documents, such as certificates of origin and certifications.

4.2 An appropriate price adjustment shall be made if:

- the delivery period is subsequently extended for a reason for which the Customer is responsible, whereby the price adjustment must be made in accordance with Section 8.4 of the GTC, or
- the nature or scope of the agreed deliveries or services have changed following mutual agreement, or
- the material or the design has changed because the documents supplied by the Customer did not correspond to the actual conditions or were incomplete, and the Customer was informed of this circumstance.

4.3 Should the Customer terminate the contract as a result of the changed prices, VACOM shall be entitled to invoice the Customer for the expenses, labor, and material costs incurred up to the date of termination.

4.4 The minimum net order value for orders is \$200. If the minimum order value is not reached, VACOM shall be entitled to charge a processing fee of \$50.

5. Terms of Payment and Default of Payment

5.1 Payments shall be made in accordance with the terms of the order confirmation or invoice.

5.2 In the case of bank transfers, the timeliness of payments is determined by crediting the VACOM account. A processing fee of \$40 will be charged if checks are submitted. In the case of payment by check, payment shall only be deemed to have been made when the check amount is available as a credit on VACOM's account. Costs incurred as a result of a bounced check are passed on to the Customer.

5.3 If the Customer defaults on a payment, he shall be obliged to pay a default interest of 9 percentage points per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse VACOM for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees, court fees, costs and expenses at all levels, including appeals. In addition to all other remedies available under these GTC or at law (which VACOM does not waive by the exercise of any rights hereunder), VACOM shall be entitled to suspend the delivery of any Goods or performance of any Services [and stop Goods in transit] if Customer fails to pay any amounts when due hereunder.

6. Secrecy

6.1 VACOM and the Customer undertake to treat as strictly confidential the mutual information about the respective other contractual partners, its products, and customers (manufacturing, experience, and business secrets) (hereinafter "Confidential Information") which is made accessible to them or otherwise becomes known to them and not to make it accessible to any third parties either directly or indirectly, or to publish it in any way or use it for other purposes (in particular for the reproduction of machines, systems, and components as well as parts thereof, in particular by way of so-called "reverse engineering").

6.2 VACOM and the Customer further undertake to place all necessary subcontractors and other third parties under the same obligation by signing confidentiality agreements.

6.3 The fact that a business relationship exists between the parties (pre-contractual negotiations, conclusion of contract, etc.) also constitutes confidential information subject to this section.

6.4 This obligation of confidentiality does not apply to information,

- which were already previously known to the recipient without an obligation of confidentiality;
- which are or become generally known without the recipient being responsible for this;
- which are lawfully disclosed to the recipient by a third party without an obligation of confidentiality and which have been demonstrably developed independently by the recipient;
- which have been released in writing by the owner for publication.

6.5 If VACOM and the Customer are subject to the terms of a valid non-disclosure agreement at the time of the conclusion of the contract, the terms of the concluded non-disclosure agreement shall take precedence and shall be supplemented by this section of these GTC.

7. Reservation of Title

7.1 The reserved goods delivered by VACOM shall remain the property of VACOM until all claims against the Customer arising from the respective contractual relationship and all claims that VACOM subsequently acquires against the Customer in connection with the reserved goods, for example, due to repairs, spare parts deliveries and other services, have been fulfilled.

7.2 The Customer shall store the goods subject to retention of title free of charge for VACOM. Furthermore, the Customer undertakes to keep the goods subject to retention of title in a proper condition for the duration of the retention of title and to have all necessary maintenance work and necessary repairs carried out immediately at its expense.

7.3 The goods subject to retention of title may be resold in the ordinary course of business, provided that the Customer is not in default of payment. However, the Customer hereby assigns all claims to VACOM in the amount of the invoice amount to the third-party arising from the resale. The Customer shall remain authorized to collect this claim even after assignment. VACOM undertakes not to collect the claim itself as long as the Customer meets its payment obligations to VACOM, is not in default of payment, and no insolvency proceedings have been opened against it. The Customer is obliged to inform VACOM of the identity of the third party and notify the latter of the claim assignment to VACOM to enable VACOM to assert its rights arising from the assigned claim.

Transfer by way of security and pledging of the goods subject to retention of title are prohibited without the written consent of VACOM and are not deemed to be sales in the ordinary course of business. If third parties seize the goods subject to retention of title, in particular by attachment or in the context of the opening of insolvency proceedings, the Customer shall immediately inform the third party of VACOM's ownership of the goods subject to retention of title and inform VACOM thereof in order to enable the enforcement of VACOM's ownership rights.

7.4 If the goods subject to retention of title are combined, mixed, or processed, VACOM shall acquire co-ownership of the new in the ratio of the invoice value of the goods subject to retention of title to the other processed items at the time of processing until the invoice has been settled in full.

7.5 The Customer is only entitled to possess and use the goods subject to retention of title for the duration of the retention of title as long as it fulfills its obligations under the contract and these GTC and is not in default of payment.

7.6 If the Customer is in default of payment or does not fulfill its obligations arising from the retention of title, VACOM is entitled to withdraw from the contract. VACOM may demand the return of the goods subject to retention of title from the Customer and realize them by private sale after setting a reasonable deadline.

7.7 The Customer shall bear all costs of taking back and utilizing the reserved goods.

7.8 VACOM undertakes to release the securities to which it is entitled if the value of the claims to be secured, which have not yet been settled, is over-secured by more than 110% with the aforementioned security interest.

8. Delivery Period

8.1 The delivery period shall be agreed upon individually between the parties. It shall commence with the dispatch of the order confirmation, but not before the Customer has provided the documents, approvals, and releases to be procured and not before receipt of an agreed down payment.

8.2 Compliance with the delivery period requires the fulfillment of the contractual obligations by the Customer. In particular, in the case of payment in advance, the delivery period shall only commence upon receipt of payment.

8.3 The delivery period shall be extended appropriately if obstacles occur that VACOM cannot avert despite exercising due care, irrespective of whether they occur at VACOM, at the Customer, or at a third party. The Customer shall be informed immediately of the delay in delivery. As soon as the circumstance preventing delivery no longer exists, the delivery date

shall be rescheduled in writing. If VACOM fails to provide the service even after a new deadline has been set, the Customer may withdraw from the contract in accordance with the general rules.

8.4 The Customer is obliged to accept the delivery item. If dispatch is delayed at the request of the Customer or for reasons for which the Customer is responsible and which lie within its sphere of influence, the Customer shall be charged the costs incurred for storage for each month one month after notification of readiness for dispatch (at least 0.5% of the invoice amount for each month, unless VACOM has incurred higher costs, whereby the Customer is entitled to provide evidence of lower damages). However, VACOM shall be entitled to dispose of the delivery item otherwise after setting and fruitless expiry of a reasonable deadline for acceptance.

9. Transfer of Risk and Acceptance

9.1 The transfer of risk, i.e., the risk of accidental deterioration or accidental loss of the delivery item, shall be governed by the agreed Incoterms 2020.

9.2 A transfer of risk to the Customer shall also take place in the event of default of acceptance by the Customer. A delay in acceptance exists if the shipment of the delivery item is delayed or does not take place due to circumstances that are not attributable to VACOM and lie within the sphere of the Customer.

9.3 If acceptance is required for services under a contract for work and services), this shall be decisive for the transfer of risk. It must be carried out immediately on the acceptance date, alternatively after VACOM's notification of readiness for acceptance within 14 days or immediately after the agreed delivery of the work. The Customer may not refuse acceptance in the event of an insignificant defect.

9.4 VACOM's liability for recognizable defects shall also lapse upon acceptance unless the Customer has reserved the right to assert a specific defect.

9.5 If the client defaults to acceptance, this shall be deemed equivalent to acceptance. Default of acceptance shall be deemed to exist if the Customer does not accept the work within the acceptance period without indicating a significant defect. The use of the work in live operation shall also be deemed acceptance.

9.6 VACOM undertakes to take out the insurance requested by the Customer in writing at the Customer's expense.

9.7 Partial deliveries are permissible insofar as reasonable for the Customer.

9.8 VACOM shall inspect the deliveries and services, as far as usual, before dispatch. If the Customer requests further inspections, these shall be agreed separately and paid for by the Customer.

10. Warranty

VACOM provides the following warranty for material and work defects:

10.1 The Customer is obliged to inspect the goods immediately and with due care for deviations in quality and quantity and to notify VACOM in writing of any obvious defects within seven (7) days of receipt of the goods. Timely dispatch is sufficient to meet the deadline. This shall also apply to hidden defects discovered later from the time of discovery of the defect. The assertion of warranty claims shall be excluded if the obligation to inspect and give notice of defects is breached.

10.2 If defects become apparent during the acceptance of work services, these must also be reported to VACOM immediately in writing or by Email during acceptance in accordance with Clause 9.3 of the GTC. The same applies to hidden defects at the time of their discovery. In the event of a breach of the above obligation to inspect and give notice of defects, the work shall be deemed approved with regard to the defect notified; the assertion of warranty claims shall be excluded.

10.3 Unless otherwise agreed, the Customer shall make the goods available to VACOM for inspection of the defect and for subsequent performance at the registered office in Großlöbichau.

10.4 If a contractual item is defective at the time of transfer of risk, VACOM shall have the right to repair or replace it free of charge at its discretion.

10.5 The Customer shall not have the right to remedy the defect itself or have it remedied by third parties without prior notification of the defect to VACOM and the request to remedy the defect. If a notification of defects is omitted or VACOM is not provided the opportunity to rectify the defect, the costs or other expenses for rectifying defects by third parties shall not be borne or reimbursed by VACOM. If the Customer or a third party rectifies defects improperly, VACOM shall not be liable for the resulting consequences.

10.6 VACOM shall bear the direct costs arising from the repair or replacement delivery - insofar as the complaint proves to be justified - all necessary expenses incurred, including transport, travel, labor, and material costs, as well as the costs for dismantling and installation and the restoration costs, provided that the delivery item was installed in another item before the defect became apparent. Costs and expenses for the inspection of the delivery item, including transportation costs, shall not be borne if no defect in the delivery item can be established.

10.7 In the event of rectification of defects, VACOM shall not bear the increased costs arising from the transportation of the goods to a place other than the place of performance or destination. Replaced parts shall become the property of VACOM.

10.8 The warranty is excluded in the following cases: Unsuitable or improper use; unauthorized or faulty assembly or commissioning by the Customer or third parties; subsequent modification work by the Customer or third parties; natural wear and tear, negligent or faulty handling, maintenance or servicing, violations of the operating instructions, use of unsuitable operating materials, defective construction work by the Customer, unsuitable building ground, chemical, electrochemical or electrical influences for which VACOM is not responsible as well as exceptional temperature and weather influences.

10.9 The guarantee of surface cleanliness properties expires if the primary packaging is opened in an environment that is unsuitable in terms of technical cleanliness.

10.10 Warranty claims shall expire one year after the expiry of the inspection period in accordance with Section 10.1 of these GTC. This shall not apply to separate statutory limitation provisions, and for guarantees assumed. Insofar as acceptance has been agreed upon or is provided for by law, the limitation period shall commence upon acceptance or a constellation equivalent to acceptance pursuant to clause 9.4 in accordance with clause 9.5.

Claims for damages and reimbursement of expenses by the Customer under clause 11 and under the Product Liability Act shall lapse exclusively in accordance with the statutory limitation periods.

10.11 VACOM shall not be liable for defects caused by items and/or materials provided by the Customer or by design determined or specified by the Customer. VACOM shall only be liable for defects caused by goods provided by the Customer if these defects can be proven to have been caused by VACOM during processing and finishing by VACOM. The Customer must prove that the defect's cause lies within VACOM's area of responsibility.

11. Liability

11.1 VACOM shall be liable without limitation for damages that are not based on a defect, irrespective of the legal grounds

- a. in the event of intent and gross negligence,
- b. in the event of culpable injury to life, limb or health,
- c. in the event of defects that have been fraudulently concealed,
- d. within the scope of a guarantee promise,
- e. in the event of defects in the subject matter of the contract, liability exists under the Product Liability Act for personal injury or property damage to privately used objects.

11.2 Liability for default always requires a prior reminder from the Customer.

11.3 The above limitations of liability shall also apply to the employees, vicarious agents, representatives, and bodies of VACOM.

11.4 In the event of culpable breach of material contractual obligations, VACOM shall also be liable for simple negligence but limited to the damage typical for the contract and reasonably foreseeable at the time of conclusion of the contract. Material contractual obligations are those obligations that protect the legal positions of the contractual partner, which are material to the contract and which the contract is intended to grant according to its content and purpose. Material contractual obligations are also those contractual obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner has regularly relied on and may rely on.

11.5 Further claims, whether for damages or reimbursement of expenses, are excluded.

11.6 Point 8.4 for cleaning services and points 14.6 and 14.7 for services must be observed.

12. Use of Software

12.1 If the software is included in the scope of delivery, the Customer shall be granted a simple, non-exclusive right, unlimited in time and place, to use the delivered software, including its documentation. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited.

12.2 The Customer may only reproduce, revise, translate, or convert the software from the object code into the source code to the extent permitted by law. The Customer undertakes not to remove the manufacturer's details - in particular copyright notices - or not to change them without the prior express consent of VACOM. All other rights to the software and the documentation, including copies, shall remain with VACOM or the software supplier. The granting of sublicenses is not permitted unless otherwise agreed upon with VACOM.

13. Right of Return

The Customer is not entitled to a contractual right of return or a right of withdrawal. Returns of goods will be refused without exception. Excluded from this are returns due to withdrawal within the scope of the warranty for defects.

14. Services

14.1 VACOM's services include cleaning, measurement, project, and consulting services.

14.2 The order for a service must be placed at least three working days before delivery of any parts to be provided. If a delivery is made at an earlier time than the order is received, VACOM reserves the right to return the corresponding parts to the Customer and to charge a processing fee of \$250 per order item (max. \$2,500 per process) or to store the parts at the expense of the Customer (\$250 per order item per day).

14.3 The parts provided to us for the provision of a service shall be delivered with a delivery bill (stating VACOM offer number, VACOM order confirmation number, material number, and quantity). Missing parts shall only be replaced if their delivery is documented by a delivery bill signed by VACOM and the risk for the missing parts has passed to VACOM.

14.4 In the case of small and mass-produced parts, rejects and shortfalls of up to 3% each of the total quantity delivered may result from deviations in counting and weighing processes from the total quantities specified by the Customer. VACOM accepts no liability for this difference. This shall not apply if other reasons culpably caused the rejection or shortfall quantity.

14.5 The parts provided for service provision must be in the delivery condition agreed with the Customer. If the parts deviate from the agreed delivery condition, VACOM reserves the right to return the corresponding parts to the Customer ("uncleaned return") and to charge a processing fee of \$250 per order item (max. \$2,500 per process) for small components and up to \$5,000 per order item (at cost) for large components.

14.6 If the value of the parts provided to VACOM for the provision of service exceeds \$10,000 (per individual part) or \$50,000 (per order item), the Customer shall notify VACOM of this in writing or in text form (by email) at the time of the first inquiry or when placing the order. The notification informs the insurance company and creates special protective measures to preserve the intrinsic value and integrity of the parts. There shall also be an obligation to provide information about circumstances requiring special attention with regard to the parts, such as the need for special storage or treatment of the parts. If the Customer fails to notify VACOM or provides incomplete information, VACOM shall only be liable to the extent of its care in its affairs.

14.7 In the case of particularly valuable parts within the meaning of clause 14.6, the liability insurance shall be claimed against first. Should the latter refuse liability on the merits, VACOM shall be liable in accordance with Clause 11 of these GTC, unless the liability insurance refuses liability as a result of failure to inform the Customer of the special value of the parts and of circumstances requiring special attention within the meaning of Clause 14.6, as VACOM was not enabled to report the insured event in good time or to create the conditions for the insurance company's liability. In this case, VACOM's liability is excluded.

14.8 The results achieved by VACOM within the scope of service are recorded in internal databases. This data serves as a basis for analysis purposes and can be published anonymously by VACOM, provided that this does not violate confidentiality agreements.

14.9 If the subject matter of the contract is a consultancy service to be provided by VACOM, the Customer expressly acknowledges that VACOM is not obliged to bring about a specific success with its consultancy.

15. Export

15.1 The Customer and VACOM are mutually aware that European, German, American, or any other third-country foreign trade law may apply to the export of goods, software, or technology as well as to the provision of services with a cross-border connection. In addition, there are European, German, American, or other third-country embargo regulations against certain countries or persons, companies, and organizations, which may prohibit the delivery, provision, transfer, export, or sale of goods as well as the provision of services or make them subject to approval.

15.2 The Customer is solely responsible for compliance with national and international export regulations and undertakes to fully acknowledge and comply with the regulations and laws mentioned under 15.1 and not to sell or provide, export, re-export, pass on or otherwise make available any deliveries and services either directly or indirectly, indirectly or directly to individuals, companies, institutions, organizations or in countries if the delivery or service violates export regulations or embargo regulations. The fulfillment of the contract by VACOM is subject to the proviso that there are no obstacles to performance due to national and international export, embargo, or other legal provisions or regulations.

15.3 Upon request, the Customer shall provide appropriate and complete information on the end use of the goods and services to be delivered, in particular so-called end-use documents, in order to verify the end use and the intended purpose of the delivery or service and to be able to prove this to the competent export control authorities. A military end use of the subject matter of the contract by the Customer or a third party in the event of resale must be reported immediately before the conclusion of the contract, at the latest, upon knowledge of this circumstance.

15.4 A breach of the obligation set out in § 15.2 constitutes a serious breach of the Customer's obligations and entitles VACOM to extraordinary termination or withdrawal without prior notice. The Customer shall indemnify VACOM against all claims for damages by third parties or penalties and fines and shall compensate VACOM for all expenses and damages incurred by VACOM as a result of a breach of the obligations set out in 15.2 and 15.3.

15.5 Claims for damages or reimbursement of expenses by the Customer arising from delays in performance or impediments to performance due to customs, embargo, export, or import control regulations are excluded.

16. No-Russia-Clause

16.1 The Customer shall not sell, supply, transfer or export, directly or indirectly, any goods, equipment and merchandise purchased from VACOM which fall within the scope of Article 12g of Council Regulation (EU) No 833/2014 to any natural or legal person, entity or body in the Russian Federation or Belarus or for use in the Russian Federation or Belarus.

16.2 The Customer shall use its best endeavors to ensure that the purpose of paragraph (1) is not frustrated by third parties in the wider chain of commerce, including potential resellers. The customer shall ensure through contractual agreements with its contractual partners, in particular in a third country, that they

- a. do not re-export the purchased goods, merchandise and equipment to the Russian Federation or Belarus, or
- b. re-export the purchased goods, commodities and equipment for use in the Russian Federation or Belarus, or
- c. import the purchased goods, commodities and equipment from third countries that are not subject to restrictions on the import of goods, commodities or equipment from the Russian Federation or Belarus.

The customer shall ensure by contractual obligation of its contractual partners that the goods, commodities and equipment are also not resold to a third party that has not committed itself to the export restrictions in this paragraph. The contracts to be concluded shall contain appropriate sanctions and remedial measures.

16.3 The Customer shall establish and maintain an appropriate monitoring mechanism to detect any behavior by third parties in the downstream chain, including potential resellers, that would defeat the purpose of paragraph (1).

16.4 Any violation of paragraphs 1-3 shall constitute a material breach of contract which entitles VACOM to take defensive and countermeasures and to claim damages and reimbursement of expenses. The measures include in particular

- a. Extraordinary termination of the contractual relationship
- b. Imposing a contractual penalty in the amount of 300% of the agreed scope of the contract or the price of the goods, equipment and merchandise, whichever is higher.

16.5 The Customer shall notify VACOM without delay of any actual and legal obstacles and behavior that threaten to prevent compliance with paragraphs 1-3. This shall also apply to conduct of third parties which threatens to frustrate the contractual purpose of paragraph 1. The notification period of the Customer regarding such obstacles and behavior shall be 2 weeks from the date of knowledge or knowledge of such obstacles or behavior or from a corresponding request by VACOM.

17. Applicable Law, Place of Jurisdiction, Contract Language

16.1 All contracts between VACOM and the Customer shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG, UN Sales Convention).

16.2 The place of jurisdiction is the court responsible for the registered office of VACOM. However, VACOM shall be entitled to take action at the Customer's headquarters.

16.3 The contract language is English.

18. Final Provisions

18.1 Should one or more provisions of these GTC be or become invalid, this shall not affect the validity of the remaining provisions.

18.2 The Customer shall only be entitled to set-off if its counterclaim has been legally established or recognized by VACOM in writing. The withholding of payments due to any counterclaims of the Customer disputed by VACOM is not permitted.

18.3 VACOM reserves the property rights and copyrights to all documents provided to the Customer, in particular data carriers, documentation, illustrations, drawings, and calculations; these may not be used for purposes other than those stipulated in the contract and may not be made accessible to third parties and must be returned to VACOM immediately free of charge when the delivery and/or service contract is terminated or if the contractual purpose of use has been fulfilled. This applies in particular to documents and information marked as "confidential". VACOM is entitled to demand the return of documents at any time if confidentiality is not ensured.