

## 1. Scope

These Terms of Sale shall be the sole terms governing sales transactions between Suroflex GmbH – hereinafter referred to as Suroflex – and entrepreneurs, legal entities under public law and special funds under public law pursuant to § 310 par. 1 BGB (German Civil Code). Suroflex shall only accept contradictory terms or terms deviating from these Terms of Sales proffered by the Customer if its express consent is given in writing. These Terms of Sale shall also apply to all future transactions with the Customer insofar as they are legal transactions of a similar nature. Our Terms of Sales can be retrieved and viewed at [www.Suroflexacoustics.de](http://www.Suroflexacoustics.de).

## 2. Conclusion of contract

Our offers are subject to change. If a customer order is deemed an offer pursuant to § 145 BGB, Suroflex shall be entitled to accept it within two weeks. Orders and oral agreements shall only be binding on Suroflex if and insofar as they are confirmed in writing. The written form requirement shall also be deemed to be fulfilled if correspondence is sent in electronic form, by EDI or e-mail.

## 3. Prices and Payment Terms

Insofar as the order confirmation does not stipulate otherwise, prices are "ex works" including packaging and excluding valid added tax charged at the statutory rate. Invoices shall be issued on the dispatch date; in the event of dispatch being delayed on grounds for which we are not responsible, invoices shall be issued on the date they are made ready for dispatch as per the statutory regulations. The payment price shall only be paid to the accounts named by Suroflex for this purpose. Bank drafts and promissory notes shall only be accepted by special agreement; if accepted, they shall only be accepted on account of performance. The purchaser shall bear all collection, cheque and discounting costs together with any other expenses. Unless the order confirmation stipulates others, the purchase price shall be due (without deductions) on receipt of invoice. If the purchase price is not paid within 30 days, the debtor shall be deemed to be in default of payment as soon as the deadline expires, irrespective of whether a reminder or request for payment has been sent. Default interest shall be charged at an annual rate 8 percent above the respective base rate as per § 247 BGB. Suroflex reserves the right to claim additional compensation for damages. The Seller shall not be obligated to deliver goods pertaining to any other current contract until all outstanding invoice amounts have been paid in full. In the event of payment default or impending insolvency or any other significant deterioration in the Customer's financial situation, Suroflex may set a follow-up deadline of 12 days for cash payment of any outstanding orders before delivery thereof; any agreed payment term shall become void in such an instance. Alternatively, Suroflex may withdraw from the contract. Suroflex does not exclude any right to claim compensation in the event of a withdrawal. Insofar as no fixed price agreement has been made and in the event of changes in wage, material, energy and distribution costs, Suroflex reserves the right to amend its prices as appropriate for orders delivered three months or more after the contract is concluded.

## 4. Offsetting and rights of retention

The Customer may only offset receivables against the purchase price if his counter claims are uncontested, are recognized by Suroflex or have been established by force of law. The Customer may only exercise any right of retention if his counterclaim originates from the same contractual relationship.

## 5. Delivery period

The commencement of any delivery period specified by Suroflex presupposes that the Customer has fulfilled his obligations punctually and correctly. The clarification of all technical issues is a further condition. Suroflex reserves the right to plead non-fulfilment of the contract. If the merchandise is to be delivered on call within a certain period, the deliveries must be distributed evenly throughout the period insofar as no alternative has been agreed. The Customer has no entitlement to the subsequent delivery of quantities if he is more than 14 days behind on requesting or accepting them. Should the Customer fail to request or schedule delivery of the goods, Suroflex may undertake to schedule fixed delivery times. Once the delivery time has passed, a follow-up deadline of 12 days shall be set without notification. If the follow-up deadline expires without result, the contract shall be deemed to have been rescinded under exclusion of all compensation claims. In the instance described above, the contract shall not be revoked if the Customer notifies Suroflex of his insistence on the contract being executed before the follow-up deadline expires. However, Suroflex's delivery obligation in its capacity as the seller shall be waived if the Customer does not state whether he insists on the contract being executed before the follow-up deadline expires. Fixed transactions shall only be concluded if expressly agreed. If a fixed delivery date is agreed with no follow-up deadline, the Customer may claim reimbursement of special expenses incurred in association with the goods; however, the amount reimbursed may not exceed the purchase price of the goods which are the subject of the contract. All further claims are excluded. In cases where promotional goods turn out to be defective and if a fixed transaction has been agreed, the Customer's only options shall be to reduce the purchase price or withdraw from the contract. If the Customer wishes to claim compensation rather than performance, he must set Suroflex a 4-week deadline with the warning that he shall refuse fulfillment after the deadline expires. The deadline shall be calculated from the day on which Suroflex receives the Customer's notification. The Customer may not assert any claims on the grounds of delayed delivery before the follow-up deadline expires. In cases where the delay in delivery is not the result of wilful intent or gross neglect, Suroflex shall only be liable to pay a flat rate of compensation for each full week of delay; this shall amount to 3% of the consignment value, and in all to no more than 15% of the consignment value. Further claims and rights due to the Customer in the event of delays in delivery shall remain unaffected. Should the Customer default on acceptance, or should he culpably violate his obligation to cooperate, Suroflex shall be entitled to claim compensation for any damage thus incurred, including any additional expense. Suroflex reserves the right to assert further claims. Should the situation described above arise, the risk of accidental destruction or accidental deterioration of the item purchased shall pass to the Customer at the time he defaults on acceptance or payment.

## 6. Packaging

If disposable packaging is used for deliveries within the Federal Republic of Germany, Suroflex GmbH is obliged to take it back in accordance with the Packaging Act. If this is not explicitly stated by the customer when the order is placed, pricing, delivery and fulfilment of the contract shall be deemed to have been agreed without taking back the disposable packaging.

## 7. Binding nature of call-offs

Since the suppliers of Suroflex GmbH use orders that go beyond two months only for planning, Suroflex GmbH cannot accept fixed call-offs for periods of more than two months in the future. However, all quantities submitted are used as a planning value for raw material purchases and production capacities. In the event of a possible non-delivery, customers will be informed.

## 8. Interruptions to the Seller's ability to deliver

In cases of force majeure, labour disputes and other operational disruptions for which Suroflex is not responsible and which have lasted or are likely to last for longer than one week, the deadline for delivery and/or acceptance shall be automatically extended for the duration of the disruption, however for no longer than 5 weeks plus the follow-up deadline. This extension shall only be put in place if the other contractual party is immediately notified of the reason for the delay as soon as it becomes clear that the original delivery and/or acceptance deadline cannot be complied with. If delivery or acceptance is not effected punctually, the other contractual party may withdraw from the contract. However, the party in default shall be notified of the withdrawal in writing at least 2 weeks before the withdrawal right is exercised. If the other contractual party is not immediately informed on enquiry that the consignment cannot be delivered or accepted punctually, and if the hindrance has lasted for longer than 5 weeks, the respective party may withdraw from the contract immediately. Compensation claims are excluded provided each contractual party has fulfilled its obligations as per numbers 1 – 3 above.

## 9. Transfer of risk on delivery

If the goods are sent to the Customer or a third party at the Customer's request, the risk of accidental destruction or accidental deterioration shall pass to the Customer on dispatch and no later than the time at which they leave the factory. This shall apply irrespective of whether the goods are dispatched from the place of fulfilment or who bears the freight costs. Suroflex shall obtain transport insurance for the goods if this is requested by the Customer; the Customer shall bear the costs thereof.

## 10. Complaints and liability

The Customer shall only be entitled to compensation for defects if he has correctly fulfilled his obligation to inspect the goods and lodge a complaint as per § 377 HGB (German Commercial Code). Should the item purchased be defective despite all due care, and should the defect have already been present at the time the risk was transferred, Suroflex shall repair or replace the item at its discretion provided a complaint was received in due time. Suroflex must invariably be given the opportunity to render subsequent performance within an appropriate deadline. In the event of the item being repaired or replaced, Suroflex shall bear all the associated costs, particularly transport, infrastructure, labour and material costs, insofar as these are not increased by the item purchased being located at a place other than the place of fulfilment. Should the subsequent performance be unsuccessful, the Customer shall be entitled to withdraw from the contract or request a price reduction at his discretion. The Customer shall not be entitled to claim compensation for minor deviations from the agreed properties, if the usability of the item is only slightly affected, for natural wear and tear, or for damage incurred after the transfer of risk due to erroneous or careless treatment, excessive use, unsuitable operating materials or special external influences not provided for in the contract. Compensation claims shall not be recognised in the event of the Customer or a third party performing incorrect maintenance work or modifying the item; neither may compensation be claimed for the consequences thereof. The Customer may only assert recourse claims against Suroflex if and insofar as the Customer has not concluded any agreement with his own customer that goes beyond the statutory defect claims. Par. 2 sentence 3 shall apply as appropriate with regard to the scope of any recourse claims asserted by the Customer against Suroflex. Liability for culpable injuries to life, limb or health shall remain unaffected; this shall also apply to mandatory liability as per the Product Liability Act. Insofar as no alternative is stipulated above, all liability is herewith disclaimed. Defect claims shall expire 12 months after delivery of the goods supplied by Suroflex to the Customer. The terms above shall not apply if longer limitation periods are stipulated by law. Suroflex's consent must be obtained before returning the goods.

## 11. Retention of title

The goods shall remain Suroflex's property until all receivables pertaining to deliveries of goods made throughout the business relationship including ancillary receivables and compensation claims have been paid in full, and until all cheques and drafts have been redeemed. Suroflex shall also retain the title to the goods if individual receivables due to the Seller are added to an ongoing account and the balance is drawn and recognised. Should the Customer bond, combine or process the reserved goods to form a new movable object, this shall be effected on Suroflex's behalf without placing Suroflex under any obligation. The Customer shall not acquire property rights to the new object formed by bonding, mixing or processing as per §§ 947 ff. BGB. When bonding, mixing or processing an object which does not belong to him, the Seller shall acquire co-property rights in the new object proportionate to the invoice value of his reserved goods expressed as a percentage of the total value. If a central regulatory authority is invoked to assume del credere liability in the business relationship between the Seller and the Customer, the Seller shall transfer the title to the goods to the central regulatory authority on dispatch on condition precedent that the central regulatory authority pays the purchase price. The Customer shall only be freed when payment is received from the central regulatory authority. The Customer may only process or sell on the goods under the following conditions. The Customer may only process or sell on the goods as part of a correct business transaction, and only provided his financial situation is not declining in the long term. The Customer herewith assigns the receivable and all ancillary rights associated with the sale of the reserved goods – including any outstanding balances – to Suroflex. If the goods have been bonded, mixed or processed and if the Seller has acquired property rights therein proportionate to the value of his invoice, he shall be entitled to part of the purchase price receivable proportionate to the value of his rights in the goods. If the Customer sells the receivable as part

of a real factoring transaction, he shall assign the factoring receivable which takes its place to the Seller and forward a percentage of his sales income from the goods to the Seller proportionate to the Seller's right in the goods. The Customer shall undertake to disclose this assignment to the factor if he is more than 10 days overdue in settling his invoice or if his financial situation deteriorates significantly. The Seller shall accept this assignment. The Customer shall be entitled to collect the assigned receivables provided he fulfils his payment obligations. This collection authorisation shall expire if the Customer defaults on payment or if his financial situation deteriorates significantly. In such an instance, the Customer herewith authorises the Seller to notify the Customer's client of the assignment and to collect the receivable himself. The Customer must disclose the information required to collect the assigned receivables and permit this information to be examined. In particular and if so requested, he shall provide the Seller with a precise list of the receivables due to him with the names and addresses of his clients, the amount of each receivable, the invoice date etc. Should the value of the security provided for Suroflex exceed the value of all its receivables by more than 10%, Suroflex shall undertake to release part of the security at its discretion if so requested by the Customer. The reserved goods and/or assigned receivables may not be pledged or transferred as security. Suroflex shall be notified immediately if the goods are distrained; this notification must include the creditor's information. Should Suroflex reclaim the reserved goods in exercise of its property rights, a withdrawal from the contract shall only be deemed to have taken place if this is expressly declared by Suroflex. Suroflex may also sell the reclaimed goods privately by way of satisfaction. The Customer shall store the reserved goods for Suroflex free of charge. He shall insure them for the customary amount against common risks such as fire, flooding and theft. The Customer herewith assigns any compensation claims due from insurance companies or other parties obliged to pay compensation in the event of the damage described above to Suroflex; these claims shall be equivalent to the invoice value of the goods. Suroflex herewith accepts this assignment. All rights and receivables pertaining to the Seller's property rights and all special forms stipulated in these Terms shall continue until all contingent liabilities (cheques, drafts) entered into by Suroflex in the Customer's interest have been redeemed in full. In the event of sentence 1, the Customer shall essentially be entitled to enter into factoring transactions to cover his outstanding debts. However, he shall notify Suroflex before assuming any such contingent liabilities.

## 12. Data Protection

13. As part of a business relationship, we store necessary data of our business partners for proper transactions, such as: Address, telephone and telefax numbers, tax numbers, and data arising in course of business relationship like inquiries, offers, orders, bank details, orders, delivery notes, invoices, etc.. We collect personal data from contact persons of our business partners like names, associated, possibly personalized corporate e-mail addresses and position in the company, as far as it is necessary for the proper initiation, justification and execution of a contractual relationship. Personal data are collected, stored and processed by us according to provisions of the General Data Protection Regulation and the Federal Data Protection Act. Storage time of these data depends on duration of the contract and legal requirements for retention periods. Transfer of personal data to suppliers, service providers or customers takes place, if the necessity arises for the justification and execution of a contractual relationship. In accordance with Article 15 of the GDPR you are entitled to ask Suroflex GmbH for comprehensive information of the data, which are stored about your company. According to the articles 16 and 17 GDPR you can request correction, completion, blocking or, as far as they are not necessary for fulfilment of contract or processing, deletion of some or all your personal data. In addition, according to Article 21 of the GDPR you can exercise your right of objection and, if necessary, amend or revoke a declaration of consent with effect for the future. This cancellation can be sent by post or email (datenschutz@suroflex.de) to Suroflex GmbH.

## 14. Place of jurisdiction and place of fulfilment

The place of fulfilment for all obligations originating from this sales contract is Sulzbach-Rosenberg. The sole place of jurisdiction for all disputes arising in connection with this sales contract is Suroflex's headquarters insofar as the order confirmation does not stipulate otherwise; however, Suroflex shall also be entitled to file a lawsuit against the Customer at his competent court.

## 15. Miscellaneous

This contract and the entire legal relationship between the contractual parties is subject to the law of the Federal Republic of Germany; the United Nations Convention on the International Sale of Goods (CISG) is herewith excluded. Should any term in this agreement be or become invalid or contain a loophole, the validity of the other terms shall remain unaffected.