

# General Terms and Conditions for Online Sales including Customer Information



Last updated: 7/2022

## 1. Scope

MOTOMETER GmbH, Hanauer Straße 15 75181 Pforzheim, fills orders from customers of its online shop at <http://www.motometer.shop/en/> subject to the following terms and conditions. Insofar as the customer is not a consumer within the meaning of Section 13 of the German Civil Code (BGB), those provisions of the following General Terms and Conditions the application of which is limited expressly to consumers, shall not apply. In such cases, the provisions expressly intended for customers who are not consumers shall also apply. The customer shall be deemed a consumer if the purpose of the deliveries and services ordered cannot be attributed to his commercial or self-employed professional activity. On the other hand, an entrepreneur shall be deemed to be any natural person or legal entity or partnership with legal capacity that, when concluding the contract, acts in the performance of their commercial or self-employed professional activity.

## 2. Contracting Party, Customer Service

The purchase contract is concluded with the company MO-TOMETER GmbH. For further information about us, please refer to our Company Details. You can contact our customer service for queries, complaints and objections from Monday to Thursday from 8:00 am until 3:00 pm, Friday 8:00 am until 12:00 pm, at +49 (0) 7231 - 4707 - 500 and by email at [verkauf@motometer.de](mailto:verkauf@motometer.de).

## 3. Ordering Process and Conclusion of Contract

The product presentation in our online shop is a non-binding invitation for a customer to place an order. The purchase contract is not concluded until you place an item specifying the required quantity and size in the virtual shopping cart and complete the order there and we accept your order by sending our acknowledgement of order or invoice. The order process comprises several steps: First, add the desired product to the shopping cart using the "Add to Shopping Cart" button on the respective item page. By clicking on the "Show Shopping Cart" button or on the "Shop-ping Cart" icon you will now be directed to your shopping cart. Here you can view your selected products and, if necessary, change the quantity or delete a product altogether by clicking on "X". To do this, please click on the "EDIT CART" button before proceeding with the ordering process. If you now wish to purchase the products, click on "CHECKOUT". You will then be transferred to the "Invoice Address" page, where you must

enter your name, address, email address and phone number as mandatory information. If necessary, you can provide further voluntary information, for example, if you want your tax number to appear on our invoice. You can use the data that you have entered to create a customer account, so that you do not need to enter the data again in the event of future purchases, in which case you can just shop using your customer account.

By clicking on the "CONTINUE" button you will be transferred to the "Delivery Address" page. If necessary, you can specify a delivery address other than the invoice address or can add instructions regarding the delivery.

After clicking on the "CONTINUE" button you will access the page "Overview & Payment". Here you must select one of the different payment methods available. After you have selected a payment method, you click on the "CONTINUE" button to return to the overview page. On this page you can once again check all details of your order. You must also click on the corresponding fields to confirm that you have read and accepted the General Terms and Conditions and the Cancellation Policy. Once you have clicked on the button "PLACE YOUR ORDER" you have placed a binding order (subject to payment).

If you still wish to correct or change details in your order, click instead on the "Return" button, which will take you back to the "Invoice Address" page (see above). If you click on "SHOPPING CART" there, you can also change the quantity of the selected items, delete items altogether or cancel your order. As long as you have not clicked on the binding "PLACE YOUR ORDER" button you can terminate the ordering process at any time by closing the browser or leaving our online shop or website.

After you have clicked on the binding "PLACE YOUR ORDER" button, the contract is not yet concluded just because we have received your order. Immediately after sending the order, you will receive from us an acknowledgement of receipt of your order by email, in which all details of the purchase are listed once again. A contract is only concluded with full force and effect if our acknowledgement of receipt email is followed by a separate acknowledgement of order or invoice from us.

## 4. Shipping, Shipping Costs

We only ship our goods to delivery addresses within Germany and the following EU countries: Belgium, Bulgaria, Denmark, Estonia, Finland, France, Greece, Ireland, Italy, Croatia, Latvia, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, Austria, Poland, Portugal, Romania, Sweden, Slovakia, Slovenia, Spain, Czech Republic and Hungary.

### MOTOMETER GmbH

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IBAN DE86 6665 0085 0000 6902 60 | Sparkasse Pforzheim Calw | Geschäftsleitung Lilia Litau, Stefan Schüller | USt-IdNr. DE811188293  
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Unless otherwise stipulated in the item description, the goods will be dispatched within 2 working days following receipt of payment (unless you have selected cash on delivery as payment method, in which case the goods will be shipped immediately). The corresponding item description will inform you whether the respective product is currently in stock and indicates the anticipated delivery time. We will charge additional shipping costs in accordance with the weight of the goods and the delivery address. For information on shipping costs see the "Shipment" link below the price quoted on the respective product page and under the "Shipment and Delivery" link in the footer of the online shop under "Service". In the shopping cart you can calculate the exact shipping costs by entering the country of destination. In the subsequent ordering process the delivery costs are also specified on the "Overview & Payment" page.

Delivery is by dispatch only. Upon agreement, the goods can be picked up by the customer.

## 5. Prices

All prices include the statutory value-added-tax and other price components but are exclusive of shipping costs. All prices relate to the indicated number or quantity of items. Customs duties and similar charges must be borne by the customer.

## 6. Terms of Payment

Payment can be made by PayPal, credit card via PayPal-Plus, direct debit via PayPal-Plus or purchase on account via PayPal-Plus.

When PayPal, credit card via PayPal-Plus, direct debit via PayPal-Plus or purchase on account via PayPal-Plus is used, payment is made at the same time as the order is placed. If you use the "PayPal" payment system, payment will be processed via PayPal (Europe) S.à.r.l. et Cie, S.C.A., 22-24 Boulevard Royal, L-2449 Luxembourg, subject to the PayPal terms of use available at [www.paypal.com](http://www.paypal.com). This requires, among other things, that the customer opens a PayPal account or already has such an account.

In the event of advance payment, the amount is due for payment immediately upon conclusion of the contract and payable within 14 days. Our bank details are included in our acknowledgement of order / invoice; the goods will be delivered upon receipt of payment. Cash on delivery payments shall be due upon receipt of the goods.

## 7. Retention of Title

We reserve title to the goods until full payment has been received.

In the event of any third-party intervention, in particular in the event of seizure or attachment, the customer must notify us thereof immediately. The third party must be advised of the retention of title without delay.

If the customer is not a consumer but an entrepreneur, the following shall apply: the customer shall be entitled to resell the goods subject to retention of title in the ordinary course of business. In this case, however, as early as with the present, the customer shall assign to us all and any claims arising from such resale, irrespective of whether the resale is effected before or after any such processing of the goods delivered and subject to retention of title. Without prejudice to our right to collect the claim ourselves, the customer will still be entitled to collect the claim himself, even after the assignment. In this context, we undertake to refrain from collecting claims for as long as and to the extent the customer fulfils his payment obligations, no application for the initiation of insolvency proceedings or similar proceedings has been filed and the customer has not suspended his payments.

Furthermore, the following shall apply if the customer is not a consumer but an entrepreneur: to secure all and any of our existing and future claims that we may have against the customer arising out of the delivery relationship between us and the customer we reserve title to the goods until all and any secured claims have been paid in their entirety (hereinafter referred to as "goods subject to retention of title" – German "Vorbehaltsware"). The customer undertakes to handle the goods subject to retention of title with care and to insure them against fire, water and theft at his own expense in the amount of their replacement value. If the goods subject to retention of title are seized by any third party, the customer undertakes to point out that we hold title to the goods and must inform us immediately in writing about the seizure. If the customer is in default of payment of a claim, we shall have the right to withdraw from the purchase contract and to demand the surrender of the goods subject to retention of title from the customer.

## 8. Warranty

If the customer is a consumer, the following shall apply: warranty shall be subject to the provisions laid down by law. The limitation period for statutory claims for defects shall be two years and shall commence with the delivery of the goods.

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Any sellers' guarantees given by us for specific items or any manufacturers' guarantees given by the manufacturers of specific items shall be in addition to the claims for material defects or defects of title within the meaning of the preceding paragraph. Details on the scope of such guarantees are specified in the guarantee conditions that (if applicable) are enclosed with the goods.

If the customer is not a consumer but an entrepreneur, the following shall apply: if the item delivered is defective, we shall first of all have the right to select whether we will provide supplementary performance either by remedying the defect (repair) or by delivering an item free from defect (replacement delivery). Our right to refuse supplementary performance if the respective conditions under statutory law are met shall be unaffected hereby. We shall be entitled to make supplementary performance conditional upon payment of the purchase price due by the customer. The customer must grant us the necessary time and opportunity for the supplementary performance owed by us and must, in particular, provide us with the rejected goods for inspection or verification purposes. In the case of replacement delivery, the customer must return the defective goods to us in accordance with the provisions laid down by law. If we were not originally under the obligation to incorporate the goods, supplementary performance shall include neither the disassembly of the defective item nor its re-incorporation. The expenditure required for inspection and supplementary performance, including but not limited to transport, travel, labour and material costs as well as costs of assembly and disassembly, if applicable, shall be borne or refunded by us in accordance with the statutory provisions, if a defect actually exists. Otherwise we can demand compensation from the customer for the costs incurred as a result of the unjustified request for rectification of defects (in particular inspection and transport costs), unless the lack of defectiveness was not discernible for the customer. If these costs are increased by taking the delivery item to a place other than the place of delivery the customer shall bear these costs. In the absence of a defect we can demand compensation from the customer for the costs incurred by us as a result of the unjustified request for rectification of defects (in particular inspection and transport costs), unless the lack of defectiveness was not discernible for the customer.

If the customer is not a consumer but an entrepreneur, the following shall apply: unless otherwise stipulated in the following, the general limitation period for claims of the customer due to material defects and defects of title shall be one year from delivery. This limitation period shall also apply to the contractual and non-contractual claims for damages of the

customer that are based on a defect of the goods. The statutory limitation periods shall apply

- to claims for damages arising from injury to life, limb or health;
- to liability under the Product Liability Act;
- if we have fraudulently concealed a defect;
- if we have furnished a guarantee;
- if the goods are a building or an object that, in conformity with its customary manner of

utilization, has been used for a building and has caused its defectiveness;

- to claims from supplier recourse for final deliveries to consumers (Section 445b BGB).

## 9. Damages

The provisions laid down by law shall apply to all customers who are consumers.

If the customer is not a consumer but an entrepreneur, the following shall apply: we shall be liable for damages in the event of intent and gross negligence, irrespective of the legal grounds on which such claims are based. In the event of slight negligence, we shall only be liable for -damage resulting from injury to life, limb or health; - for damage resulting from the breach of essential contractual obligations (fundamental obligations going to the root of the contract the fulfilment of which is essential for the proper execution of the contract in the first place and the observance of which the customer regularly relies on and may rely on); in this case, however, our liability shall be limited to the compensation of the foreseeable damage that typically occurs. These limitations of liability shall not apply if we have fraudulently concealed a defect or have furnished a guarantee for the quality of the goods and for a liability under the Product Liability Act. Any fault on the part of our legal representatives and auxiliary agents shall be assigned to us. The legal provisions on burden of proof shall be unaffected by the aforesaid provisions.

## 10. Obligations of the Customer on Receiving the Goods

If the customer is a consumer the following shall apply: if goods are delivered with obvious transport damage please inform the forwarding agent thereof at the earliest possible opportunity and contact us without delay. If you fail to notify the defect or to contact us, such will not affect your legal claims and their enforcement, in particular warranty rights. However, in doing so, you help us to be able to assert our own claims against the carrier and/or transport insurance company.

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If the customer is not a consumer but an entrepreneur, the following shall apply: the customer undertakes to inspect each consignment immediately upon acceptance or receipt and to notify us in writing of any apparent defects without delay. Any hidden defects must be notified in writing as soon as they are detected. Otherwise, the delivery shall be deemed accepted.

## 11. Right of Withdrawal

If the customer is a consumer, he has a statutory right of withdrawal in accordance with the following cancellation policy. The customer shall be deemed a consumer if the purpose of the deliveries and services ordered cannot be attributed to his commercial or self-employed professional activity. On the other hand, an entrepreneur shall be deemed to be any natural person or legal entity or partnership with legal capacity that, when concluding the contract, acts in the performance of their commercial or self-employed professional activity.

The right of withdrawal shall not apply to the delivery of goods that are not prefabricated and for the manufacture of which the consumer has made a specific choice or specified a specific purpose or which are clearly tailored to the personal requirements of the consumer.

In the following you find information on the prerequisites for and consequences of the statutory right of withdrawal for mail orders.

### Cancellation Policy

#### Right of Withdrawal

You have the right to withdraw from this contract within 14 days without giving any reason.

The withdrawal period is fourteen days from the day on which you or a third party named by you who is not the carrier, has taken possession of the last goods. In order to exercise your right of withdrawal, you must inform us (MOTOMETER GmbH, Hanauer Straße 15, 75181 Pforzheim, email: [verkauf@motometer.de](mailto:verkauf@motometer.de), phone: +49 (0) 7231-4707-500) of your decision to withdraw from this contract by means of an unequivocal statement (e.g. by sending a letter by mail, fax or email). You may use the attached sample order cancellation form for this – but this is not mandatory.

In order to comply with the withdrawal period, all you need to do is to send us the statement that you wish to exercise your right of withdrawal before the withdrawal period expires.

## Consequences of Withdrawal

If you withdraw from this contract, we are obliged to refund to you all payments we have received from you without delay, including delivery costs (with the exception of any additional costs incurred because you selected a delivery method other than the most inexpensive standard delivery offered by us), within fourteen days from the day on which we received notification of your withdrawal from this contract at the latest. Unless otherwise expressly agreed with you, we will use the same means of payment that you used for the original transaction also for the refund; under no circumstances will you be charged any fees for the repayment. We are entitled to refuse the refund until the goods have been returned to us or until you have provided proof that you have returned the goods, whichever is earlier.

You must return or hand over the goods to us without delay, in any case no later than fourteen days from the day on which you informed us of your withdrawal from the contract. The deadline shall be deemed met if you dispatch the goods before the fourteen-day deadline expires. You shall bear the direct costs for the return of the goods.

You only have to reimburse any depreciation of the goods, if applicable, if such depreciation is due to the fact that the goods were handled in a way that was not necessary for inspecting the quality, properties and functioning of the goods.

## 12. Storage of Contract Text

We save the contract text and send you the order data as well as our General Terms and Conditions by email. You can also view and download our General Terms and Conditions here at our website at any time. For security reasons, your past orders can no longer be accessed via the Internet.

## 13. Contractual Language

The language available for the conclusion of the contract is German.

## 14. Online Dispute Resolution Platform

The European Commission provides a platform for online dispute resolution (ODR) which you will find at <http://ec.europa.eu/consumers/odr/>. Our e-mail address is [verkauf@motometer.de](mailto:verkauf@motometer.de). Consumers can use this platform to resolve their disputes.

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## 15. Applicable Law, Place of Jurisdiction, Place of Performance

The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods. If the customer has placed the order as a consumer and has his usual place of residence in another country at the time the order is placed, the application of mandatory legislation of that country shall remain unaffected by the choice of law made in the preceding sentence.

If the customer is a consumer, the statutory provisions shall apply to place of jurisdiction and place performance.

If the customer is not a consumer but an entrepreneur, place of performance for delivery and payment for both parties shall be the seat of our company. If the customer is also a merchant, the following agreement on the legal venue shall apply: for merchants, place of jurisdiction for all and any disputes arising out of the contractual relationship as well as its creation and effectiveness shall for both parties be the seat of our company. At our discretion, we may also bring an action at the seat of the customer.

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### Sample Order Cancellation Form

(If you wish to withdraw from the contract, please complete and return this form.)

to: MOTOMETER GmbH, Hanauer Straße 15, 75181 Pforzheim, Germany

email: [verkauf@motometer.de](mailto:verkauf@motometer.de), phone: +49 (0) 7231-4707-500

I/we (\*) hereby cancel the contract concluded by me/us (\*) relating to the purchase of the following goods (\*) / the provision of the following service (\*)

Ordered on (\*) / received on (\*)

Name of the consumer(s)

Address of the consumer(s)

Signature of the consumer(s) (only for hardcopy notifications)

Date:

*(\*) delete as appropriate*

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