

General Terms and Conditions of Delivery and Payment for Schaller Electronic GmbH (hereinafter referred to as “Seller”)

§ 1 Scope of Application

(1) All of the Seller's deliveries, services and offers are exclusively subject to these General Terms and Conditions of Delivery. They form an integral part of all contracts concluded by the Seller with his contracting partners (hereinafter also referred to as “Customers”) on the deliveries and services offered by the Seller. They shall also apply to all future deliveries, services or offers to the Customer, even if they are not expressly agreed upon again separately.

(2) General terms and conditions used by the Customer or a third party shall not apply, even if the Seller does not expressly object to their application in each individual case. Even if the Seller makes reference to a document containing the Customer's or a third party's general terms and conditions, or makes reference to such general terms and conditions, this shall not be construed as an approval of the application of said general terms and conditions.

§ 2 Offer and conclusion of the contract

(1) All offers submitted by the Seller are subject to confirmation and are non-binding, unless they have expressly been marked as binding or contain a defined period for the acceptance of such offer. The Seller has the right to accept orders or assignments within a period of fourteen days of their receipt.

(2) The decisive document for the legal relationship between Seller and Customer is the written purchase contract, including the present General Terms and Conditions of delivery. This contract reflects all agreements between the contracting parties with regard to the object of the contract. Oral representations given by the Seller prior to the conclusion of this contract are legally non-binding and all oral agreements between the contracting parties shall be replaced by the written contract, unless they expressly show that they shall continue in force and are binding. Amendments to, and modifications of the agreed arrangements, including the present General Terms and Conditions are only effective in written form. The Seller's employees, with the exception of executive managers and authorised representatives, are not entitled to enter into deviating oral agreements. The written form shall be deemed to have been fulfilled when a document is submitted by facsimile; other forms of transfer by telecommunication means, in particular e-mail, shall not suffice.

(3) Information provided by the Seller on the object of delivery or service (e.g. weights, dimensions, practical values, loading capacity, tolerances and technical data) as well as our representations of same (e.g. drawings and illustrations) are only decisive as approximations, unless the suitability for the intended use under the terms of the contract requires exact compliance with such information. The said information shall not represent guaranteed characteristics, i.e they are descriptions which provide a means of identification for the delivery or service only. Deviations which are customary in trade, and deviations which result from legal requirements or which represent technical improvements, as well as the replacement of components by parts of similar quality shall be admissible, unless they adversely affect the suitability for the intended use under the terms of the contract.

(4) The Seller reserves his rights of title and copyright to all offers and quotes submitted by him, as well as said rights to all drawings, illustrations, calculations, leaflets, catalogues, models, tools and other documents and auxiliary material provided to the Customer. The Customer shall not forward these objects, neither the objects themselves nor their contents, to third parties, shall not disclose them, use them himself or through third parties, or copy them, unless he has received the Seller's expressed approval to do so. Upon request by the Seller, the Customer shall completely return such objects to the Seller, and shall destroy any copies produced by him in so far as he no longer requires them for his regular course of business, or if negotiations do not lead to the conclusion of a contract.

§ 3 Prices and payment

(1) The stipulated prices are valid for the extent of delivery or service as listed in the order confirmations. Additional or special services shall be invoiced separately. The prices are in EURO ex works plus shipping, packaging, statutory value added tax, for export deliveries customs as well as duties and other public levies.

(2) If the agreed prices are based on the Seller's list prices and delivery is intended to be effected more than four months after the conclusion of the contract, the Seller's list prices applicable at the time of delivery shall apply (less any agreed percentage discount or fixed sum discount).

(3) Invoiced amounts are to be paid as follows:

a) If payment is effected within 7 days from issue of the invoice, a discount of 3% shall apply.

b) If payment is effected within 14 days from issue of the invoice, a discount of 2% shall apply.

c) If payment is effected within thirty days: without deductions.

The decisive date for payment shall be the date of receipt by the Seller. Should the Customer not provide payment by the due date, any outstanding amounts shall be subject to interest at a rate of 5% p.a., payable from the due date onwards; the Seller's right to assert higher interest payments and further damages in case of default remain unaffected.

Payments may only be made by provision of a debiting authorisation for the Seller with regard to the collection of the invoice amount by direct debit, or by bank transfer. Any other payment methods, in particular acceptances, bills of exchange and/or cheques will not be accepted as payment by the Seller.

(4) Set-offs against any counter-claims held by the Customer, or the retention of payments due to such claims, is only admissible if such counter-claims are undisputed or have been determined as legally binding.

(5) The Seller shall have the right to only execute or provide any outstanding deliveries or payments against advance payment or provision or security if, after the conclusion of the contract, he learns of circumstances which may substantially reduce the Customer's creditworthiness, and due to which payment of the Seller's open claims against the Customer from the contractual relationship concerned (including other individual orders for which the same framework contract applies) may be endangered.

§ 4 Delivery and delivery period

(1) Deliveries shall be effected ex works.

(2) Any deadlines and dates indicated by the Seller for deliveries and services are always approximations only, unless a fixed period or a fixed date has been expressly committed to or agreed. If shipment has been agreed, delivery periods and delivery dates shall refer to the time of handing-over the goods to the forwarding agent, the carrier or other third parties assigned with such transport.

(3) The Seller may – notwithstanding his rights based on the Customer's default – request extension of delivery and service periods, or postponement of delivery or service dates by the period during which the Customer does not fulfil his contractual obligations towards the Seller.

(4) The Seller shall not be liable if it is impossible to provide delivery or if deliveries are delayed due to force majeure or other events which had been unforeseeable at the time of the conclusion of the contract (e.g. disruptions of operations of all kinds; difficulties in the procurement of material or energy; delays in transport; strikes; lawful lock-outs; lack of workforce, energy or raw materials; difficulties in obtaining necessary official licences; official measures; or if Seller's suppliers fail to provide delivery, do so incorrectly or not in a timely manner) and for which the Seller is not responsible. Whereby such events substantially impede delivery or service for the Seller, or make delivery or service impossible, and if such impediment is of more than temporary duration, the Seller shall have the right to withdraw from the contract. If an impediment is of temporary duration, delivery or service periods shall be extended, or delivery or service dates shall be postponed, by the period of impediment

plus an adequate re-start period. Insofar as acceptance of the delivery or the service is unreasonable for the Customer due to the delay, he shall have the right to withdraw from the contract by immediately submitting a written declaration to the Seller.

(5) The Seller may only effect partial deliveries if

- the partial delivery can be used by the Customer within the framework of the intended use under the terms of the contract,
- the delivery of the rest of the ordered goods is ensured and
- the Customer does not incur substantial additional expenses or additional costs (unless the Seller declares that he is prepared to bear such costs).

(6) Notwithstanding the provisions in § 4 (5) above, the Customer shall set the Seller an adequate period of grace in case of non-compliance with a delivery date, which shall be a minimum of two weeks.

(7) Should the Seller be in default with a delivery or service, or if a delivery or service becomes impossible for the Seller, irrespective of the reasons thereof, the Seller's liability shall be limited to damages under § 8 below.

§ 5 Place of performance, shipment, packaging, passing of risk, acceptance

(1) The place of performance for all duties under the contractual relationship shall be Postbauer-Heng, unless agreed otherwise. Should the Seller also have assumed the obligation of installation, the place of performance shall be the place where installation is to be carried out.

(2) The method of shipment and packaging is subject to the Seller's reasonable discretion.

(3) The risk shall pass to the Customer at the latest upon handing over of the delivery object to the forwarding agent, carrier or other third party assigned with the shipment (whereby the decisive time shall be the commencement of the loading process). This shall apply even if partial payments have been made, or if the Seller has been assigned with the performance of other services (e.g. shipment or installation). Should shipment or handing over be delayed due to circumstances lying in the Customer's area of responsibility, the risk shall pass to the Customer as of the day on which the Seller is ready to effect shipment and has notified the Customer thereof.

(4) Storage costs after passing of the risk shall be borne by the Customer. If goods are stored by the Seller, storage costs shall amount to 0.25% of the invoice amount for the goods to be stored per full week. The rights to assert and provide proof of further or lower storage costs are reserved.

(5) The Seller shall insure shipments against theft, damage due to breakages, transport, fire and water and other insurable risks only upon the Customer's expressed request and at the Customer's cost.

(6) If acceptance is necessary, the purchased goods shall be deemed to have been accepted when

- delivery and – insofar as the Seller also owes installation – installation have been completed,
- the Seller has informed the Customer thereof, making reference to the implied acceptance under this § 5 (6), and has requested that the Customer accept the goods,
- twelve working days have passed since the delivery or installation, or if the Customer has commenced utilisation of the purchased goods (for instance if he has put into service the delivered parts) and six working days have passed since the date of delivery or installation, and
- the Customer has failed to accept the goods within this period of time for reasons other than a defect notified to the Seller which makes utilisation of the purchased goods impossible or substantially impedes such utilisation.

§ 6 Warranty

(1) The warranty period shall be one year from delivery or, insofar as acceptance is necessary, from the time of acceptance.

(2) The delivered goods are to be examined thoroughly immediately after their delivery to the Customer or to a third party named by the Customer. They shall be deemed to have been approved unless the Seller receives a notification of defects, in compliance with the form stipulated in § 2 (2) sentence 6, within seven working days from delivery of the goods regarding obvious defects or other defects which would have been perceptible during an immediate, thorough examination, or otherwise within seven working days after detection of the defect or after the date on which the defect was perceptible for the Customer during normal utilisation of the goods, without a more detailed examination. Upon the Seller's request, the rejected goods are to be returned to the Seller – carriage prepaid. If such a notice of defect(s) is justified, the Seller shall reimburse the Customer for the costs of the cheapest way of shipment; this shall not apply if such costs are increased by the fact that the goods are located at a place other than the place of their intended utilisation.

(3) Should the delivered goods have defects in quality, the Seller shall, at his discretion, to be exercised within an adequate period of time, initially have the duty and the right to provide subsequent performance or a replacement delivery. Should this fail, i.e. should subsequent performance or replacement delivery be made impossible, unreasonable, refused or inappropriately delayed, the Customer shall have the right to withdraw from the contract or to reduce the purchase price accordingly.

(4) If a defect is caused by a fault of the Seller, the Customer shall have the right to request payment of damages subject to the prerequisites provided for in § 8 below.

(5) In case of defects in components produced by other manufacturers which the Seller cannot eliminate himself due to licence rights or factual reasons, the Seller shall, at his discretion, either assert his warranty claims against the manufacturers and suppliers for the Customer's account, or assign such claims to the Customer. For such defects, warranty claims against the Seller shall only exist subject to the other prerequisites of, and in compliance with, these General Terms and Conditions of Delivery, and only if the judicial assertion of the aforementioned claims against the manufacturer and supplier was not successful or, for instance due to insolvency, has no prospect of success. During the litigation period, the running of the period of limitation with regard to the Customer's warranty claims against the Seller shall be suspended.

(6) Warranty shall no longer apply whereby the Customer modifies the delivery object or has third parties modify the object without the Seller's approval, rendering the elimination of a defect impossible or complicating it unreasonably. The Customer shall in any case bear the additional costs for the elimination of a defect incurred due to such modifications.

(7) If delivery of used objects has been agreed with the Customer in an individual case, this shall be effected excluding all warranties for defects.

§ 7 Property rights

(1) Subject to the provisions of this § 7, the Seller guarantees that the delivered objects are free of third party industrial property rights or third party copyrights. Both contracting partners shall immediately inform the other contracting partner in writing if claims based on the violation of such rights are asserted against them.

(2) Should the delivered object infringe upon a third party's industrial property right or copyright, the Seller shall, at his discretion and cost, modify or exchange the delivered object in such a way as to avoid infringements of third party rights, while the delivered object shall continue to fulfil the contractually agreed functions, or shall procure for the Customer the utilisation rights by means of the conclusion of a licence contract. If he fails to succeed in doing so within an adequate period of time, the Customer shall have the right to withdraw from the contract or to adequately reduce the purchase price. Any damage claims by the Customer shall be subject to the restrictions under § 8 below.

(3) If products from other manufacturers delivered by the Seller infringe upon rights, the Seller shall, at his discretion, assert his claims against the manufacturers and sub-suppliers for the Customer's account, or assign such claims to the Customer. Claims against the Seller under this § 7 shall in such cases only exist if the judicial enforcement of the above claims

against the manufacturers and sub-suppliers was not successful or, for instance in the case of insolvency, has no prospect of success.

§ 8 Liability for payment of damages for fault

(1) The Seller's liability for payment of damages, irrespective of the legal basis of such liability, in particular due to impossibility of performance, default, faulty or incorrect delivery, violation of the contract, violation of obligations during contract negotiations or tort shall, as far as such liability depends on proof of fault, be restricted in accordance with this § 8.

(2) The Seller shall not be liable

a) in case of simple negligence by its bodies, legal representatives, employees or other vicarious agents;

b) in case of gross negligence of his non-executive employees and other vicarious agents, unless such violations relate to an obligation which is essential for the contract. The following obligations shall be deemed to be essential for the contract: timely and faultless delivery and installation as well as duties of consultation, care and custody which are designed to enable the Customer to utilise the delivered object in accordance with the contract, or the purpose of which is to protect the life and health of the Customer's personnel or of third parties or to prevent substantial damage to the Customer's property.

(3) Insofar as the Seller is liable for damages under § 8 (2), such liability shall be limited to the damage that the Seller foresaw at the time of the conclusion of the contract as a possible consequence of a violation of the contract, or that, applying due care and diligence, he could have foreseen taking into consideration the circumstances he was aware of or had to be aware of. Indirect damage and consequential damage which results from defects in the delivered object shall in addition only be reimbursable if such damage is typically to be expected if the delivered object is used as intended.

(4) In case of liability for simple negligence, the Seller's reimbursement duty for damage to property or persons shall be limited to a sum of € 2,500,000.00 EUR per incident (corresponding to the present cover of his product liability insurance or third party liability insurance), even if the violation concerns obligations which are essential for the contract.

(5) The above disclaimers and restrictions of liability shall similarly apply in favour of the Seller's company bodies, legal representatives, employees and other vicarious agents.

(6) Insofar as the Seller provides technical information or acts as a consultant, and such information or consultation is not a part of the scope of performance owed by him under the contract, this shall be done free of charge and shall be excluded from any liability.

(7) The restrictions of this § 8 shall not apply to the Seller's liability due to intentional acts, his liability for guaranteed characteristics, due to death or injury or under the Produkthaftungsgesetz (German Product Liability Act).

§ 9 Reservation of title

1) The reservation of title agreed hereinafter serves to safeguard all of the Seller's current and future claims against the Customer from the delivery relationship between the contracting partners regarding guitar parts, including outstanding balance claims from a current account agreement restricted to this delivery relationship.

(2) The goods delivered by the Seller to the Customer shall remain the Seller's property up until complete payment has been effected for all secured claims. The goods as well as goods replacing them and which also are subject to the reservation of title, shall hereinafter be referred to as "reserved title goods".

(3) The Customer shall keep the reserved title goods for the Seller, free of charge.

(4) The Customer shall have the right to process and sell the reserved title goods during the normal course of business, up until the occurrence of a case of liquidation (subsection 9). It is not permitted to pledge goods or transfer them by way of security.

(5) Should the Customer process the reserved title goods, it is hereby agreed that such processing shall be carried out on behalf of, and for the account of, the Seller as the manufacturer, and that the Seller shall directly obtain ownership or – should the processing

be carried out using materials from several owners, or should the value of the processed goods be higher than the value of the reserved title goods – co-ownership (partial ownership) in the newly created goods, in the relation of the value of the reserved title goods compared with the value of the newly produced goods. Should the Seller not obtain such ownership, the Customer hereby transfers his future title to, or – in the aforementioned relation – co-ownership in, the newly created goods to the Seller by way of security. Should the reserved title goods be combined with other goods to form a uniform object, or should it be compounded inseparably, and should one of the other goods have to be regarded as the main object, the Seller, insofar as he is the owner of the main object, hereby transfers co-ownership in the uniform object to the Customer on a pro rata basis, in the relation stipulated in sentence 1.

(6) Should the reserved title goods be re-sold, the Customer now already transfers to the Seller by way of security the claims arising from this against the purchaser – in case of the Seller's co-ownership in the reserved title goods on a pro rata basis in accordance with the co-ownership share. The same shall apply for other claims which may replace the reserved title goods or may otherwise arise in connection with the reserved title goods, such as insurance claims or claims based on tort in case of loss or destruction. The Seller revocably authorises the Customer to collect the claims assigned to the Seller, in his own name and for the Seller's account. The Seller may only revoke this collection authorisation in the case of liquidation.

(7) Should third parties take hold of the reserved title goods, in particular by means of a seizure, the Customer shall immediately inform them of the Seller's title, and shall inform the Seller thereof, in order to enable him to enforce his title rights. Insofar as the third party is unable to reimburse the Seller for the judicial and extra-judicial costs, the Customer shall be liable towards the Seller in this respect.

(8) Upon request, the Seller shall release the reserved title goods as well as all goods or claims replacing them, at his discretion, if their value exceeds the amount of the secured claims by more than 50%.

(9) Should the Seller withdraw from the contract due to a violation of the contract – in particular default in payment – by the Customer (case of liquidation), he shall have the right to demand return of the reserved title goods.

§ 10 Final provisions

(1) The place of jurisdiction for all disputes which may arise from the business relationship between the Seller and the Customer shall at our choice be Nuremberg, Germany. Nuremberg shall be the exclusive place of jurisdiction for all law suits submitted against the Seller. Compelling statutory regulations regarding exclusive places of jurisdiction shall not be affected by this regulation.

(2) The relationship between the Seller and the Customer shall exclusively be subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) shall not apply.

(3) Should any provision of this agreement become invalid or unenforceable or should the contract contain an omission, the remaining provisions shall be valid and enforceable. In the event of an invalid provision, a valid provision is presumed to be agreed upon by the parties, which comes economically closest to the one actually agreed upon; the same shall apply in the case of an omission.

Note:

The Customer is aware that the Seller will store data relating to the contractual relationship in accordance with section 28 Bundesdatenschutzgesetz (German Data Protection Act) for the purposes of data processing, and that the Seller reserves the right to transfer such data (e.g. insurance companies) to third parties insofar as this is necessary for the fulfilment of the contract.