## 1. Scope of Application

1.1. These General Terms and Conditions of Delivery shall apply exclusively to all deliveries, sales, and other services **("Deliveries")** of Caramba GmbH **(the "Seller")**, unless otherwise expressly agreed in writing. They shall apply only to entrepreneurs, legal entities under public law, or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB) **(each a "Buyer")**; these terms shall not apply to legal transactions with consumers.

1.2. Deviating or conflicting terms and conditions of the Buyer (e.g. contained in offers or declarations of acceptance) shall apply only if expressly approved by the Seller in writing. Unconditional delivery – even with knowledge of conflicting or deviating terms and conditions of the Buyer – shall not constitute acceptance of such terms by the Seller.

## 2. Offers – Orders – Offer Documents – Conclusion of Contract

2.1. The Seller's offers are non-binding and subject to change. An obligation of the Seller to deliver shall arise only upon acceptance of the individual order and only with respect to that order. This shall also apply, in particular, to framework agreements, successive delivery agreements, and call-off contracts. Performance of the order shall constitute acceptance.

2.2. Documents forming part of an offer, such as drawings, illustrations, technical data, references to standards, and statements made in promotional materials, shall not constitute descriptions of quality, assurances of characteristics, or guarantees, unless expressly designated as such in writing. Agreements and other statements, in particular oral ancillary agreements, commitments, guarantees, and other statements regarding the characteristics and suitability of the goods to be delivered, shall become binding only upon written confirmation by the Seller.

## 3. Prices

3.1. The respective agreed price list (customer purchase price list) shall apply. All prices are exclusive of customs duties and ancillary import charges and shall be subject to the applicable statutory value-added tax at the legally applicable rate.

3.2. Unless otherwise agreed, all prices are net prices and are exclusive of packaging, means of transport, freight charges, and insurance.

3.3. Special prices, such as volume discounts, early booking discounts, introductory discounts, or seasonal discounts, shall apply solely and exclusively to the specified promotion or the specified period.

3.4. Any special terms and conditions shall apply only to the specific order concerned and must be confirmed in writing.

## 4. Purchasing Conditions and Minimum Order Quantities

**4.1.** The minimum order value for individual orders is EUR 1,200 (net), unless otherwise agreed.

or

**4.2.** Products shall be ordered in homogeneous pallets of a single product type.

**4.3.** Mixed orders shall be permitted only in exceptional cases and subject to prior agreement and written approval. Any additional costs incurred shall be borne by the Buyer. Other mixed orders shall not be accepted.

## 5. Shipping and Deliver

5.1. Deliveries shall be made in accordance with EXW (Ex Works) or FCA (Free Carrier) Incoterms. The specific terms shall be determined on a case-by-case basis and confirmed in writing.

5.2. The costs of packaging and shipping shall be borne by the Buyer, unless otherwise agreed in writing.

5.3. Shipping costs shall be shown separately and invoiced to the Buyer, unless otherwise agreed.

**6. Delivery Terms, Acceptance, Delay in Acceptance**

6.1. The delivery periods stated in our order confirmation shall apply. The agreed delivery period shall commence upon dispatch of the order confirmation by the Seller, but not before the Buyer has fulfilled its obligations and any advance performance requirements.

6.2. Any default by the Seller shall in all cases require a prior reminder setting a reasonable deadline.

6.3. The agreed delivery period shall be reasonably extended in the event of measures arising from labor disputes, in particular strikes and lockouts, as well as upon the occurrence of unforeseen obstacles beyond the Seller's will and/or control (e.g. difficulties in procuring materials, other supply shortages, lack of transport capacity, or governmental measures, insofar as such obstacles do not affect only the Seller), provided that such obstacles delay or prevent the completion or delivery of the delivery item.

6.4. If the Buyer suffers damage as a result of a delay caused by fault on the part of the Seller, the Buyer shall be entitled, to the exclusion of any further claims, to demand liquidated damages for delay. Such liquidated damages shall amount to 0.5% for each full week of delay, but in total no more than 5% of the value of that part of the total delivery which, as a result of the delay, cannot be used in a timely manner or in accordance with the contract. In all other respects, the Seller's liability for damages due to delay in delivery shall be governed exclusively by the provisions set out in Clause 9. The Seller reserves the right to prove that the Buyer has suffered no damage or substantially less damage than the aforementioned lump-sum amount.

6.5. If goods reported as ready for shipment are not called off by the Buyer in due time, the Seller shall be entitled, after issuing a reminder and setting a deadline, to ship or store the goods at the Buyer's expense and to invoice them immediately. The Seller shall also be entitled, at its own discretion, to otherwise dispose of the goods and/or, insofar as possible and reasonable, to supply the Buyer with other goods within a reasonably extended period. If the Seller disposes of the goods and delivery of other goods to the Buyer is not possible or reasonable, the Seller shall be released from its contractual obligations with respect to the goods disposed of; in such case, the Buyer shall have no claims for damages or comparable claims against the Seller. If shipment is delayed at the Buyer's request, the Buyer shall be charged, starting one month after notification of readiness for shipment, the storage costs incurred, but at least 1% of the invoice amount for each month. The Buyer shall be entitled to prove that no damage or a lesser amount of damage than the stated lump sum has been incurred.

6.6. Partial deliveries shall be permitted insofar as they are reasonable for the Buyer; partial deliveries shall in any event be permissible without restriction in the case of successive delivery agreements. Customary industry over- or under-deliveries of up to a maximum of ±10% shall be permitted.

6.7. If the quantities of goods available to the Seller (e.g. due to failure of self-supply, necessary production restrictions, or breakdowns of production facilities, in each case for reasons not attributable to the Seller, such as events of force majeure) are insufficient to satisfy all creditors entitled to delivery, the Seller shall be entitled to make proportionate reductions to all delivery obligations; beyond this, the Seller shall be released from its delivery obligations.

**7. Shipment – Transfer of Risk**

7.1. Risk shall pass to the Buyer at the latest upon handover. In the case of a sale involving shipment, risk shall pass to the Buyer upon delivery of the goods to the person designated to carry out the shipment, even in the case of partial deliveries.

7.2. If shipment is delayed due to circumstances for which the Buyer is responsible, risk shall pass to the Buyer as of the date on which the goods are ready for shipment.

**8. Warranty for Defects**

8.1. The Seller does not assume any guarantees as to the quality or characteristics of the goods. In particular, information contained in catalogs, price lists, or other informational material provided to the Buyer shall in no event be deemed to constitute guarantees of quality or characteristics.

8.2. Unless otherwise agreed, quality, dimensions, equipment, and presentation shall be determined in accordance with the DIN/EN standards or material data sheets applicable at the time of conclusion of the contract, or, in the absence of such standards, in accordance with customary trade practice.

8.3. In the case of building materials and other goods intended for installation or further processing, an inspection shall in any event be carried out immediately prior to processing.

8.4. In the case of goods which, within 12 months from delivery, prove to be defective due to a circumstance existing prior to delivery, subsequent performance (cure) shall be carried out at the Seller's discretion. The aforementioned period shall be shortened to the date of the expiry or best-before date stated on the packaging, or to a corresponding date stated in the safety data sheet or other product description. Any deadline set for subsequent performance by the Buyer must be at least 15 working days. The Seller shall be entitled to make two attempts at subsequent performance. If subsequent performance is deemed to have failed after the second attempt, the Buyer may, unless otherwise indicated by the nature of the goods, the defect, or other circumstances, reduce the purchase price or withdraw from the contract. However, there shall be no right of withdrawal in the case of an insignificant defect.

8.5. Deviating from Section 438 (1) No. 3 of the German Civil Code (BGB), the Buyer's claims arising from material defects and defects of title shall become time-barred after one year, commencing upon delivery of the goods. This shall not apply in cases of (1) intent or fraudulent concealment of a defect, (2) deviation from the content of a guarantee assumed by the Seller pursuant to Section 443 BGB, or (3) goods which have been used for a building in accordance with their customary use and have caused the defectiveness of the building. The one-year limitation period shall also not apply to claims for damages arising from defects where the damage is based on gross negligence on the part of the Seller's legal representatives or executive employees, or where personal injury is involved. Furthermore, it shall not apply to defects consisting in a third party's right in rem or other rights entered in the land register; in such cases, the limitation period shall be three years. The statutory provisions on the limitation of any recourse claims pursuant to Section 479 BGB, as well as the provisions on limitation and exclusion periods under the Product Liability Act, shall remain unaffected.

8.6. In all other respects, the Seller shall be liable for damages arising from a defect only in accordance with the provisions set out in Clause 9.

8.7. Replaced goods shall become the property of the Seller. The costs of subsequent performance, including transport costs, shall be borne by the Seller if and insofar as the notice of defect is justified. The Seller shall bear the costs of subsequent performance only to the extent that such costs are not increased as a result of the goods having been taken to a place other than the place of performance.

**9. Payment Terms**

9.1. The purchase price shall be due and payable without deduction within 30 days from the invoice date and delivery or acceptance of the goods.

9.2. The Seller shall be entitled to charge a fee of EUR 25 per reminder, plus value-added tax at the applicable statutory rate.

9.3. If, after conclusion of the contract, it becomes apparent that the Seller's claim for payment is jeopardized by the Buyer's lack of ability to perform, the Seller shall be entitled to declare all claims arising from the ongoing business

relationship with the Buyer that are not yet time-barred to be immediately due and payable, and to revoke the authorization pursuant to Clause 8.4 to resell the goods in the ordinary course of business and to collect the purchase price claims. Any further statutory rights of the Seller shall remain unaffected.

9.4. Set-off against the Seller's payment claims with counterclaims shall be excluded unless such counterclaims have been acknowledged by the Seller, are undisputed, or have been finally adjudicated. The Buyer shall be entitled to exercise a right of retention only insofar as its counterclaim arises from the same contractual relationship.

**10. Retention of Title**

10.1. All deliveries by the Seller shall be made exclusively subject to retention of title (goods subject to retention of title). Ownership of the goods shall pass to the Buyer only once the Buyer has fulfilled all obligations arising from all business relationships existing between the Seller and the Buyer. The inclusion of a claim against the Buyer in a current account and the acknowledgment of a balance shall not affect the retention of title.

10.2. If the Buyer is in default with respect to material obligations, such as payment, the Seller may, without prejudice to any other rights, repossess the goods subject to retention of title after expiry of a reasonable period. Such repossession shall not constitute a withdrawal from the contract.

10.3. The Buyer shall not be entitled to pledge or assign by way of security the goods owned by the Seller. However, subject to the following provisions, the Buyer shall be entitled to resell the delivered goods in the ordinary course of business under agreement of a retention of title. The aforementioned authorization shall not apply if the Buyer has validly assigned or pledged in advance to a third party the claim arising from the resale of the goods against its contractual partner, or has agreed with such partner on a prohibition of assignment, or if the Buyer ceases payments, files an application for the opening of insolvency proceedings over its assets, insolvency proceedings are opened over its assets, the opening of such proceedings is rejected due to lack of assets, or if other circumstances indicate that the Buyer is not meeting its payment obligations.

10.4. As security for the fulfillment of all claims of the Seller against the Buyer, the Buyer hereby assigns to the Seller, in advance, all claims arising from the resale of the goods delivered by the Seller, including all ancillary rights, whether existing now or arising in the future and whether conditional or unconditional, up to the value of the delivered goods and with priority over the remaining portion of its claims. The Seller hereby accepts this assignment. As long as and insofar as the Buyer duly meets its payment obligations toward the Seller, the Buyer shall be authorized to collect the claims assigned to the Seller from its customers in the ordinary course of business. However, the Buyer shall not be entitled to agree on a current account relationship or a prohibition of assignment with respect to such claims, nor to assign or pledge them to third parties. Upon request, the Buyer shall provide the Seller with all information and hand over all documents required to assert the Seller's rights against the Buyer's customers. Furthermore, upon request, the Buyer shall inform its customers of the assignment and request them to make payments directly to the Seller up to the amount of the Seller's claims against the Buyer. The Seller shall also be entitled at any time to notify the Buyer's customers of the assignment itself and to collect the claims directly.

10.5. In the event of seizure or other interventions by third parties, the Buyer shall notify the Seller in writing without undue delay. Any intervention costs arising therefrom shall in all cases be borne by the Buyer, insofar as they are not borne by third parties.

10.6. Any processing or treatment of the goods delivered by the Seller subject to retention of title shall always be carried out by the Buyer on behalf of the Seller, without any obligations arising for the Seller therefrom. In proportion to the ratio of the net invoice value of the Seller's goods to the net invoice value of the processed or treated goods, the Seller shall acquire co-ownership of the resulting product, which shall serve as goods subject to retention of title to secure all claims. In the event of processing, treatment, combination, or mixing with other goods not owned by the Seller, Sections 947 and 948 of the German Civil Code (BGB) shall apply, with the result that the co-ownership share in the new product shall be deemed goods subject to retention of title within the meaning of these terms. If the goods subject to retention of title are resold by the Buyer after processing, treatment, combination, or mixing in accordance with the foregoing provisions together with other goods not owned by the Seller, the assignment of the purchase price claim shall apply only up to the invoice value of the goods subject to retention of title.

10.7. Upon the Buyer's request, the Seller shall be obliged to release securities to which it is entitled to the extent that the realizable value of the Seller's securities exceeds the Seller's claims to be secured against the Buyer by more than 10%. The selection of the securities to be released shall be at the Seller's discretion.

**11. Damages**

11.1. The Seller shall be liable in accordance with the statutory provisions if the Buyer asserts claims for damages that are based on intent or gross negligence on the part of the Seller's legal representatives or executive employees. However, except in cases of intentional breach of contract, liability for damages shall be limited to the foreseeable damage typically incurred. In the event of a culpable breach of a material contractual obligation, the Seller shall be liable in accordance with the statutory provisions, subject to the proviso that liability for damages shall be limited to the foreseeable damage typically incurred. The Seller shall further be liable in accordance with the statutory provisions for defects fraudulently concealed and for guarantees as to quality or characteristics expressly assumed.

11.2. Liability for culpable injury to life, body, or health shall remain unaffected; this shall also apply to mandatory liability under the Product Liability Act. If the Buyer resells the delivered goods unchanged or after processing, mixing, or combining them with other goods, the Buyer shall indemnify the Seller internally against third-party product liability claims to the extent that the Buyer is responsible for the defect giving rise to liability.

11.3. Unless otherwise provided above, liability shall be excluded.

11.4. The limitations of liability set out in this Clause 11 shall also apply to any liability of the Seller's legal representatives, executive employees, and other vicarious agents vis-à-vis the Buyer.

**12. Export Regulations**

12.1. The products are not intended for resale, transfer, or any other form of supply to a country other than the destination country to which the goods were delivered by the Seller. The Buyer is aware of this restriction and shall inform its own customers accordingly. The Seller shall assume no liability vis-à-vis the Buyer for any non-compliance with this restriction.

12.2. If a country other than the destination country is supplied, the exporter of the goods shall be fully responsible for ensuring that the products are marketable in the respective country. In this case, the name, address, logo, and all other references to the manufacturer Caramba shall be replaced by the corresponding details of the exporter. The same shall apply to the address stated in accompanying documents, in particular the safety data sheet and technical information. In addition, the exporter shall independently comply with all necessary customs and transport regulations and shall observe all laws, regulations, rules, and other provisions applicable to import, sale, and delivery.

**13. Datenschutz**

13.1. The Seller is responsible for the processing of personal data within the meaning of the GDPR. The Seller processes personal data (such as name, address, telephone number, email address, IP address when visiting our website) insofar as this is necessary for pre-contractual measures (initiation of business), for the performance of a contract, and for the protection of legitimate interests. If data are processed on the basis of a declaration of consent, such consent may be revoked at any time with effect for the future. If data are processed on the basis of Article 6 (1) (f) GDPR, an objection to such processing may be lodged in accordance with Article 21 GDPR; this applies in particular where personal data are processed for the purpose of direct marketing. Detailed information pursuant to Article 13 GDPR, including, inter alia, the contact details of our data protection officer, the legal bases for processing, the categories of recipients of the data, and the rights of data subjects pursuant to Articles 15 et seq. GDPR, can be found under the "Data Protection" section on the website www.caramba.eu.

**14. Place of Performance – Place of Jurisdiction – Applicable Law – Miscellaneous**

14.1. The place of performance and the place of subsequent performance shall be Duisburg. German law shall apply exclusively. The application of the Uniform Laws of 17 July 1973 on the International Sale of Movable Goods and on the Formation of Contracts for the International Sale of Movable Goods is excluded.

14.2. The place of jurisdiction shall, at the Seller's option, be Duisburg or the Buyer's registered office.

14.3. Should any provision of these General Terms and Conditions be invalid or unenforceable, the validity of the remaining provisions shall remain unaffected. The parties shall be obliged to replace the invalid or unenforceable provision, upon the Seller's proposal, with a provision that comes closest to the economic purpose of the invalid or unenforceable provision.

**In case of discrepancies, the German version shall be authoritative.**