

General Terms and Conditions of PartikelART Solution GmbH for the use of hardware and software solutions for the analysis of technical cleanliness

§ 1 Scope

- Our General Terms and Conditions (hereinafter referred to as GTC) apply to all contracts between PartikelART Solution GmbH (hereinafter referred to as PartikelART or we/us) and the contractual partner for the provision of the PartikelART particle monitoring solution for the analysis of particles and associated services such as support, maintenance and analysis, insofar as the contractual partner is an entrepreneur within the meaning of § 14 BGB (German Civil Code).
- Our GTC apply to all our offers and the execution of the respective contract, in particular to our subsequent deliveries and services, unless otherwise agreed in writing. By placing an order, the validity of our GTC is expressly acknowledged. Conflicting or deviating terms and conditions of the contractual partner are not recognised unless PartikelART has expressly agreed to them in writing.
- Our General Terms and Conditions also apply to all future business relationships with the contractual partner, even if this has not been expressly agreed again in writing. We only recognise terms and conditions of the contractual partner that conflict with or deviate from our General Terms and Conditions if we expressly agree to their validity in writing. The acceptance of deviations shall only apply to the respective contract. They shall also apply if we carry out the delivery and service to the contracting party without reservation, despite being aware of terms and conditions of the contracting party that conflict with or deviate from our General Terms and Conditions.
- Individual agreements made with the contractual partner in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these General Terms and Conditions. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements. The recognition of deviations shall in principle only apply to the respective contract.

§ 2 Offer, subject matter of the contract and scope of services

- All offers, prices, cost estimates and other commitments made by us are subject to change and non-binding, unless we have expressly designated them as binding in writing. All agreements and orders are only accepted upon our written order confirmation or upon delivery and performance. If our order confirmation deviates from the order, the confirmation shall apply.
- PartikelART offers a solution for particle analysis based on mobile devices (smartphones), including AI-supported evaluation.
- The scope of services is set out in the applicable contract or written order confirmation.

- The particle monitoring solution is used for particle monitoring (measurement, counting, classification into metallic shiny/non-metallic shiny and fibres) and does not replace a complete laboratory analysis in accordance with VDA 19.1.
- Analysis results may be subject to certain tolerances due to environmental factors and software limitations, with measurement uncertainties regularly being < 10%. No guarantee is given for the complete detection of all critical particles.
- The smallest particle size that can be evaluated depends on the PartikelART TracePad used and follows the criterion of permissible resolution according to VDA 19.1.

§ 3 Rights of use and hardware and software maintenance

- The contractual partner receives a non-exclusive and non-transferable right of use to any hardware and software for the duration of the contract.
- Software maintenance includes regular updates and patches for the current and previous major versions. To ensure that the software is up to date, the smartphone must have access to the internet at least once a week.
- Our support team is available during normal local business hours, by email at support@partikel-art.de and by telephone on +49 (0)231/58682490.

§ 4 Obligations of the contractual partner to cooperate

- The contractual partner is obliged to use suitable hardware (smartphones, etc.) in accordance with the system requirements. Otherwise, the proper functioning of the software and the use of a contractual service cannot be guaranteed.

§ 5 Liability and warranty

- The contractual partner's warranty rights presuppose that they have duly fulfilled their obligations to inspect and give notice of defects in accordance with § 377 HGB (German Commercial Code). This also applies if the contractual partner is not a merchant within the meaning of the German Commercial Code but is an entrepreneur within the meaning of § 14 BGB (German Civil Code). The warranty for defects resulting from the contractual partner's failure to observe manuals or technical or other explanations is excluded.
- PartikelART shall only be liable for damages in cases of intent and gross negligence. In the event of injury to life, limb or health, PartikelART shall also be liable in cases of simple negligence.
- In the event of a slightly negligent breach of essential contractual obligations, liability shall be limited to the foreseeable damage typical for this type of contract.
- PartikelART shall not be liable for indirect damage (e.g. loss of production, loss of profit) except in cases of intent and gross negligence.
- Warranty claims expire 12 months after delivery. The statutory limitation period applies to claims for damages in cases of intent and gross negligence as well as in cases of injury to life, limb or health based on an intentional or negligent breach of duty by the user.

- If, despite all due care, the delivered hardware or software has a defect that already existed at the time of transfer of risk, we shall, subject to timely notification of defects, either repair or replace it at our discretion. We must always be given the opportunity to remedy the defect within a reasonable period of time. If the remedy fails, the contractual partner shall be entitled – without prejudice to any claims for damages – to demand remedy by delivery of new hardware or software. Only after unsuccessful remedy shall the contractual partner be entitled, at its discretion, to withdraw from the contract or reduce the remuneration.

§ 6 Data protection and confidentiality

- The analysed data will not be transferred to PartikelART without the express consent of the contractual partner. The contractual partner is also responsible for backing up the analysed data. PartikelART accepts no liability for data lost due to loss or damage to the smartphone.
- We collect, process and use personal data exclusively within the framework of the statutory provisions, in particular the General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG). For the purpose of contract processing, we store personal data such as company name, name, address, email address, payment details and other information necessary for the execution of the contract. Processing is carried out on the basis of Art. 6 (1) lit. b GDPR for the fulfilment of contractual obligations.
- Personal data is only passed on to third parties if this is necessary for the fulfilment of the contract (e.g. to payment service providers, shipping companies or IT service providers). The data will not be used or passed on in any other way unless the contractual partner has expressly consented to this or we are legally obliged to do so.
- The contractual partner has the right to obtain information at any time about the personal data stored by us, its origin and recipients, and the purpose of data processing. The contractual partner also has the right to have the data corrected, blocked or deleted, provided that this does not conflict with any legal retention obligations.
- Image data and analysis results will only be used for analysis and improvement of the software if the contractual partner expressly consents to extended use.

§ 7 Remuneration and terms of payment

- Remuneration is based on the price specified in the contract. Unless otherwise stated in the order confirmation, our prices are quoted in EURO (€) plus any applicable value added tax at the respective statutory rate.
- Payment is due within 14 days of the invoice date without deduction.
- If the contractual partner defaults on a payment, we are entitled to charge interest at a rate of 9 percentage points above the respective base rate from the relevant date. We reserve the right to claim higher damages for late payment, whereby the contractual partner is entitled to prove to us that we have incurred no or significantly less damage as a result of the late payment. In addition, PartikelART is entitled to block the use of the software in the event of late payment.

§ 8 Contract term and termination

- The contract is initially concluded for 12 months and is automatically extended for a further 12 months unless it is terminated with one month's notice to the end of the term.
- The right to extraordinary termination for good cause remains unaffected.
- After the end of the contract, the right of use expires and stored data will be deleted or made available to the contractual partner at their discretion.

§ 9 Final provisions

- This contract and all legal relationships between the contracting parties are governed exclusively by the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- If the contractual partner is a merchant, a legal entity under public law or a special fund under public law, the court responsible for the registered office of PartikelART shall have exclusive jurisdiction. In addition, however, we are entitled to sue the contractual partner at the court responsible for its registered office.
- Should any provision of our General Terms and Conditions be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions.