

EvoLogics North America LP

2024 General Terms and Conditions of Sale/Service

1. Agreement to Terms:

- 1.1 By making a purchase from EvoLogics North America LP, (hereinafter “Seller”) the customer (hereinafter the “Customer”) agrees to be bound by these Purchase Terms and Conditions. Please read these terms carefully before making any purchase. If you do not agree to these terms, please refrain from making a purchase.
- 1.2 The Customer’s general terms and conditions that are inconsistent with the Seller’s Terms and Conditions shall only be applicable to the extent the Seller has explicitly agreed to in writing.
- 1.3 If not agreed otherwise, the Terms and Conditions in the version valid at the time of an order of the Customer or the conclusion of the respective contract between the Seller and the Customer shall apply. The Terms and Conditions also apply for future orders/contracts even if the Seller does not expressly refer to them.

2. Orders and Contracts

- 2.1 All orders are subject to availability and acceptance by the Seller.
- 2.2 By placing an order, you make an offer to purchase the products/services in accordance with these terms. All orders made by a Customer shall be considered binding.
- 2.3 The Seller reserves the right to accept or reject any order in its sole discretion, within 2 weeks of receipt of Customer’s order.
- 2.4 Changes to Customer’s order require Seller’s written consent.

3. Pricing and Payment

- 3.1 All prices are listed in US dollars and are subject to change without notice. Additionally, services may be invoiced separately.
- 3.2 Payment must be made in full at the time of purchase, unless otherwise agreed upon in writing by the Seller. In the event of NET 15 or NET 30 payment terms, the Customer must provide full payment within 15 calendar days for NET15, and 30 calendar days for NET30 terms.
- 3.3 Payment shall be considered to have been made on the day the payable amount is received by the Seller.
- 3.4 Payment methods accepted include ACH/electronic transfer, wire, and in some cases if authorized by the Seller, credit card payments. Credit card payment may be subject to an additional fee.
- 3.5 Taxes and shipping fees may apply and will be added to the total purchase price where applicable.
- 3.6 In the event of a default, or late payment, a fee of 5% of the outstanding invoiced balance will be applied on a monthly basis, beginning the day following the invoice due date. This section shall not supersede any applicable regulations set forth by the governing jurisdiction of the Seller, The Commonwealth of Virginia.
- 3.7 If the Customer is in default with a payment, the Seller is entitled to perform the remaining deliveries only against advance payment or the provision of a security, and, if no such advance payment is made or security provided within a two-week time period, to cancel the contract without fixing another extension term. Further claims remain unaffected.

4. Delivery

- 4.1 Unless otherwise specified in writing, Seller’s quoted shipping terms are DDP (Delivered Duty Paid).
- 4.2 Delivery periods shall only be binding if expressly agreed in writing. Delivery periods shall begin on

the date of the order confirmation by the Seller, however, in no case prior to (i) the clarification of all details relating to an order including the furnishing of any required official certificates; and (ii) the prepayment made by the Customer in case that Seller and Customer agreed on a prepayment.

4.3 Delivery periods shall be deemed to have been met based on preparedness to ship or be picked up by the carrier. Delays by the carrier, customs, or other causes out of the control of the Seller shall not be construed as a fault of the Seller or otherwise deem the estimated delivery window to have not been met.

4.4 Without prejudicing Sellers' rights from Customer's default, delivery periods and dates shall be deemed to be extended by the period of time during which the Customer fails to comply with its obligations towards the Seller.

4.5 The Seller may perform partial deliveries if it would not unreasonably inconvenience the Customer.

4.6 The risk of loss or damage to the products/services passes to the Customer upon delivery. If the Customer is unable, or not present, to accept delivery, the associated risk of loss or accidental deterioration of the products being delivered passes to the Customer after the first delivery attempt.

4.7 Customer must inspect all products upon delivery and notify the Seller of any discrepancies or damage within 5 days of delivery.

5. Returns, Refunds and Warranties

5.1 All sales are final unless otherwise stated.

5.2 If you receive a defective or damaged product, please contact the Seller within 5 days of delivery to arrange for a replacement, repair, or refund.

5.3 The Seller is a subsidiary of EvoLogics GmbH, the manufacturer of all EvoLogics products. The Customer understands and agrees that warranty claims should be made to the Seller, who will in turn cycle the claim through EvoLogics GmbH for decision. Decisions on all warranty claims will be made within 30 days of the Seller's receipt of such claim.

5.4 Warranty conditions set forth by EvoLogics GmbH are as follows:

"9.1 The statutory rights apply with respect to Customer's warranty claims unless provided otherwise in the following paragraphs.

9.2 If applicable, all special legal provisions regarding the final supply to a customer (sections 478, 479 German Civil Code (BGB)) remain unaffected.

9.3 If the purchase is a trade transaction for the Customer and the Seller, the Customer may only claim warranty rights if it has observed the examination and notification duties pursuant to sections 377, 381 German Commercial Code (HGB). The duty to notify the Seller immediately as set out in section 377 HGB shall mean that the Customer has to notify the Seller within 2 weeks (sending of the notice is sufficient).

9.4 Provided, the requirements for a warranty claim are given, the Seller shall remedy the defects. It is at Seller's discretion whether it remedies the defect by repair or replacement.

9.5 The Customer shall be entitled to rescind the contract or reduce the contract price in accordance with its statutory rights, however, the Customer shall not be entitled to rescind the contract or to reduce the contract price unless the Customer has previously given the Seller twice a reasonable period to remedy the defect which Seller has failed to observe, unless setting of such a period to remedy defects is dispensable.

9.6 Any rights of the Customer to receive damage compensation shall be governed by the provisions in § 10 of the Terms and Conditions.

9.7 Specifications of Seller's goods, especially pictures, drawings, data about weight, measure and capacity contained in offers and brochures are to be considered as average data. Such specifications and data shall in no way constitute a quality warranty but merely a description or labelling of the goods.

9.8 Unless limits for variations have expressly been agreed in the order confirmation or the respective contract, such variations shall be admissible that are customary within the trade.

9.9 The Seller shall not accept any liability for defects in the goods supplied if they are caused by normal wear and tear.

9.10 Any warranty shall be void if operating or maintenance instructions are not observed, if changes are made to deliveries or services, if parts are replaced or materials used that are not in accordance with the original product specifications by the Seller, unless the Customer can show that the defect in question resulted from another cause.

9.11 The limitation period for claims for defects shall be 12 months (24 months in case the Customer is a consumer). This shall not apply to Customer's claims for damages based on damages of body or health caused by a defect for which the Seller is responsible or claims for damages based on intentional or grossly negligent conduct by the Seller."

** Source: <https://evologics.de/documents/GTC/GTC.pdf>*

6. Intellectual Property and Software Rights

6.1 All intellectual property rights in the products/services, including but not limited to trademarks, copyrights, and patents, are owned by EvoLogics GmbH.

6.2 You agree not to reproduce, distribute, or create derivative works based on the products/services without the prior written consent of EvoLogics GmbH or the Seller.

6.3 Any software (e.g. programs) in connection with the sold goods shall fully remain the property of the Seller. No program, documentation or subsequent upgrade thereof may be disclosed to any third party without Seller's prior written consent, nor may they be copied or otherwise duplicated, even for the

Customer's internal needs apart from a single backup copy for safety purposes. Any needed license for programs and documentation in connection with the sold goods is subject to an agreement between the Customer and the Seller under the respective contract.

7. Limitation of Liability

7.1 To the extent permitted by law, the Seller and EvoLogics GmbH shall not be liable for any direct, indirect, incidental, special, or consequential damages arising out of or in connection with your purchase or use of the products/services.

7.2 The Seller is a subsidiary of EvoLogics GmbH. All “EvoLogics” products are manufactured by EvoLogics GmbH. The purchaser understands and agrees that any product liability claims asserted by the Customer shall be asserted to the manufacturer of said products.

7.3 The Seller and EvoLogics GmbH’s total liability in connection with any purchase shall not exceed the total amount paid by you for the products/services.

7.4 Limitations of Liability set forth by EvoLogics GmbH are as follows:

“10.1 In case of a breach of contractual obligations, defective deliveries or tortuous acts, the Seller shall only be obliged to compensate damages or expenses – subject to any other contractual or statutory conditions for liability – if the Seller has acted intentionally or with gross negligence or in cases of minor negligence, if such negligence results in the breach of an essential contractual duty (a duty the breach of which puts the fulfilment of the purpose of the contract at risk). However, in case of minor negligence for essential contractual duties, Seller’s liability shall be limited to typical damages which are foreseeable at the time of the conclusion of the contract. To the extent that Seller’s liability is excluded or limited, any recourse against its employees, servants, members of staff, representatives of the Seller and those employed by the Seller in the performance of its obligations is also restricted or excluded.

10.2 The exclusions and limitations of liability in § 10.1 shall not apply in cases where the Seller has maliciously failed to disclose a defect, in case of damages resulting from death, injury to health or physical injury or where the laws on product liability impose overriding liabilities which cannot be excluded.

10.3 The limitation period for claims against the Seller – based on whatever legal ground (including competing tortious claims) – shall be 1 year (2 years in case the Customer is a consumer) from the date of delivery to the Customer, and in case of tortious claims only, 1 year (2 years in case Customer is a consumer) from the date the Customer becomes aware or could have become aware of the grounds giving rise to a claim and the liable person, had the Customer not been grossly negligent.

The provisions in this clause shall neither apply in cases of intentional or gross negligent breaches of a duty nor shall they apply in cases referred to in § 10.2 of the Terms and Conditions.

10.4 If the Customer is an intermediary seller of the goods obtained from the Seller and the final buyer of the goods is a consumer, the limitation period for any action of recourse against the Seller by the Customer shall be the period specified by the statutory law.

10.5 The liability of the Seller for software supplied by the Seller shall be limited to liability for losses or alteration of data caused by the program; however, the supplier shall not be liable for any losses or alteration of data which could have been avoided by the Customer’s compliance with its duty to secure such data at appropriate intervals and at least once per day.

10.6 Except in case of a defect of the sold good, the Customer may only rescind or terminate the contract if the Seller is liable for the violation of the respective obligation. An ordinary termination right pursuant to sections 651, 649 German Civil Code (BGB) is excluded. For the rest, the statutory provisions apply.”

** Source: <https://evologics.de/documents/GTC/GTC.pdf>*

8. Governing Law and Jurisdiction

8.1 These Purchase Terms and Conditions shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

8.2 Should individual terms of the contract comprising the Terms and Conditions be or become invalid or un-enforceable or if the respective contract contains gaps, this shall not affect the validity of the remaining terms of the contract. In place of the invalid, unenforceable or missing term, such valid term which comes closest to Seller’s and Customer’s intention or which they would have reasonably agreed in light of the purpose of the respective contract, had they been aware at the conclusion of the contract that the relevant term was invalid, unenforceable or missing, shall be deemed to have been agreed with retroactive effect. Should a term of the contract be or become invalid because of the scope or time of performance for which it provides, then the agreed scope or time of performance shall be amended to correspond with the extent legally permitted.

8.3 Any dispute arising out of or in connection with these Terms and Conditions shall be subject to the exclusive jurisdiction of the state and/or federal courts of York County, Virginia.

9. Export Control

9.1 The sale and resale of Seller’s goods including any associated technology or documentation may be governed by German, EU, US export/import control regulations as well as by the export control regulations of further countries. Any resale of goods to embargoed countries or to denied persons or persons that use or may use the goods for military purposes, ABC weapons or nuclear technology is subject to an official license. The Customer declares with its order the conformity with such statutes and

regulations and that the goods will neither directly nor indirectly be delivered into countries that prohibit or restrict the import of such goods. Customer declares to have obtained all licenses required for export and import.

10. Modifications

10.1. The Seller reserves the right to modify these Purchase Terms and Conditions at any time without prior notice. Any changes will be effective immediately upon posting on our website. It is your responsibility to review these terms periodically for changes.

11. Contact Information

11.1. If you have any questions or concerns about these Purchase Terms and Conditions, please contact us at sales-us@evologics.com.