

# General Terms and Conditions of Sale and Delivery

## Section 1 Scope, Form

(1) These General Terms and Conditions of Sale and Delivery (GTCS D) apply to all of our business relationships with our customers ("Buyers"). The GTC apply only if the Buyer is a business owner (Section 14 German Civil Code (BGB)), a legal entity under public law or a special fund under public law.

(2) The GTCS D apply in particular to agreements relating to the sale and/or delivery of movable items ("goods"), irrespective of whether we produce the goods ourselves, or purchase them from suppliers (Sections 433, 650 BGB). Unless otherwise agreed, the GTCS D apply in the version that was valid at the time when the Buyer placed the order, or in any case, in the last version that was submitted to the Buyer in writing as a framework agreement also for similar future agreements, without us having to refer to it again in each individual case.

(3) Our GTCS D apply exclusively. Different, conflicting or supplementary General Terms and Conditions of the Buyer will become an integral part of the agreement only if and to the extent that we have expressly consented to their validity. This approval requirement applies in any case, for example even if we execute the delivery to the Buyer without reservation in compliance with the Buyer's GTC.

(4) Individual agreements that are made with the Buyer on an individual basis (including ancillary agreements, additions and changes) take priority over these GTCS D in any case. For the content of such types of agreements, subject to evidence to the contrary, a written agreement or written confirmation from us is decisive.

(5) Legally-relevant declarations and notifications by the Buyer with regard to the agreement (such as deadlines, notification of defects, withdrawal or reduction) must be submitted in writing, that is, in written or text form (such as a letter, e-mail or fax). Statutory form requirements and additional evidence, especially in cases of doubt as to the legitimation of the person making the declaration, remain unaffected.

(6) References to the validity of statutory provisions are for clarification purposes only. Even without such a clarification, the statutory provisions therefore apply insofar as they are not directly changed or expressly excluded in these GTCS D.

## Section 2 Conclusion of the Agreement

(1) Our offers are subject to change and non-binding in terms of price, quantity, size indication, delivery time and deliverability. This also applies if we have provided the Buyer with catalogues, technical documentation (such as drawings, plans, calculations, references to DIN standards), other product descriptions or documents – also in electronic format – in which we reserve rights to ownership and copyright. Verbal agreements will take effect only if they were confirmed by us in writing.

(2) The Buyer placing an order for the goods is deemed a binding offer of a contract. Unless indicated otherwise in the order, we are entitled to accept this offer of a contract within three weeks after its receipt.

(3) The acceptance can be made either in writing (by means of an order confirmation for example) or by delivering the goods to the Buyer.

## Section 3 Delivery Times and Delivery Delay

(1) The delivery time is agreed individually or specified by us when we accept the order. If this is not the case, the delivery time is approximately 6 weeks from when the agreement was concluded.

(2) If we are not able to comply with binding delivery times for reasons beyond our control (non-availability of the service), we will notify the Buyer about this immediately and specify the anticipated new delivery time at the same time. Call-off orders can be executed only within the scope of production capabilities. If the service is not available within the new delivery time, we are entitled to withdraw from the agreement, either wholly or in part; we will immediately refund any payments already made by the Buyer. In the event of the service not being available in this sense, late delivery by our supplier applies, especially if we have concluded a congruent hedging transaction, neither we nor our supplier was at fault, or we are not obligated to provide the service in individual cases.

(3) The occurrence of our delivery delay is determined by statutory provisions. However, dunning by the buyer is required. If we default in delivery, the Buyer can claim flat-rate compensation for the damage caused by the delay. The flat-rate compensation is 0.5% of the net price (delivery value) for each full calendar week of the delay, but limited to a maximum of 5% of the delivery value of the goods that are delivered behind schedule. We reserve the right to prove to the Buyer that no damage whatsoever was incurred, or that significantly smaller damage was incurred, than the above lump sum.

(4) The rights of the Buyer according to Section 9 of these GTCS D and our statutory rights, especially with the exclusion of the obligation to perform (for example due to the impossibility or unreasonableness of the service and/or subsequent performance) remain unaffected.

## Section 4 Delivery; Transfer of Risk; Acceptance, Default of Acceptance

(1) The delivery takes place ex warehouse, which is also the delivery place for the delivery and any subsequent delivery. At the Buyer's request and cost, the goods are sent to a different place of destination (sales shipment). Unless otherwise agreed, we are entitled to determine the type of shipment (especially the transport company, transport route, and packaging).

(2) The risk of accidental loss and accidental deterioration of the goods is passed to the Buyer at the time when the goods are handed over. With a sales shipment, however, the risk of accidental loss and accidental deterioration of the goods and the risk of delay passes when the goods are delivered to the carrier, the freight carrier or the other person or company nominated to execute the shipment. If an acceptance is agreed, this is decisive for the transfer of risk. In all other respects, the statutory provisions of the contract for work and services apply accordingly. The handover or acceptance is not influenced by any delay in acceptance by the Buyer.

(3) If the Buyer is in default of acceptance, fails to perform an act of cooperation, or if our delivery is delayed for other reasons for which the Buyer is responsible, we are entitled to claim compensation for the damage incurred by this, including additional expenses (such as storage costs). Here we will calculate the damage that was incurred (especially compensation for additional expenses, reasonable compensation, termination) starting with the delivery time or – in the absence of a delivery time – with the notification that the goods are ready for dispatch.

The Buyer is at liberty to prove that we have not incurred any damages whatsoever, or that the damages incurred by us were significantly lower than calculated.

(4) The INCOTERMs as amended apply, provided they do not contradict these GTCS D.

(5) The minimum invoice value for made-to-order goods is €500.00, or €250.00 for stock goods. We reserve the right to produce minimum quantities subject to a defined surcharge.

## Section 5 Prices and Payment Terms

(1) Unless agreed otherwise in individual cases, our prices that are current at the time when the agreement was concluded, that is, ex warehouse plus statutory VAT, are applicable.

(2) With a sales shipment (Section 4 Par. 1), the Buyer is responsible for the transport costs ex warehouse and the costs of any transport insurance that may be requested by the Buyer. If, in individual cases, we do not invoice the transport costs that were actually incurred, a transport cost flat-rate (excluding transport insurance) to the amount of €0.50/kg is deemed to be agreed. The Buyer is responsible for paying any customs duties, fees, taxes and other public charges.

(3) The purchase price is due and must be paid within 14 days from the date of the invoice and delivery or acceptance of the goods. However, we are entitled at all times, even within the scope of an ongoing business relationship, to execute a delivery wholly or in part against prepayment only. We will declare a corresponding reservation with the order confirmation at the latest.

(4) The Buyer is in arrears when the above payment term expires. Interest is to be paid on the purchase price at the respective applicable statutory interest rate during the default period. We reserve the right to assert further claims for damages. With regard to merchants, our

## General Terms and Conditions of Sale and Delivery

claim to commercial maturity interest (Section 353 HGB) remains unaffected.

(5) The Buyer is entitled to offset or to exercise any rights of lien or retention only to the extent that the Buyer's claim is undisputed or has been finally adjudicated upon by the courts. In the event of defects in the delivery, the Buyer's opposing rights particularly pursuant to Section 8 Par. 6 Sentence 2 of these GTCSD remain unaffected.

(6) If, after the execution of the agreement, it should become apparent (e.g. by means of an application to initiate insolvency proceedings) that our entitlement to the purchase price is endangered by the Buyer's inability to honour his commitments, then according to statutory provisions, we are entitled to refuse the service and – if applicable, after setting a deadline – to withdraw from the agreement (Section 321 BGB). In the case of agreements on the manufacture of single items (one-off products), we can declare our withdrawal immediately; statutory regulations regarding the dispensability of setting a deadline remain unaffected.

(7) Payments to employees of the Selling Party are legally valid only if they are entitled to collect payments with a written power of attorney. With regard to any annual sales premiums, the principle applies that these are only due once they have been announced by us and are not distributed or credited before 1st March in the following year. It is not possible to offset the anticipated annual sales premium against receivables from sales or other claims by our customers. Otherwise, the annual sales premium is granted only on the condition that the Buyer has completely fulfilled his payment obligations to us as of 31st December of the relevant calendar year. Moreover, we reserve the right to change scales and billing periods if this should become necessary due to special circumstances.

### Section 6 Deliveries to Member States of the European Union and Third Country

(1) Deliveries to another member state of the European Union are exempt from value-added tax according to Section 4 No. 1 Letter b in conjunction with Section 6a VAT Act (UStG) (intra-Community supply). The prerequisite for this is that

(a) A valid VAT identification number is specified by the Buyer that was provided to him by a different member state than the Federal Republic of Germany and

(b) A written confirmation of receipt is provided by the Buyer that the Buyer has received the subject matter of the agreement from another EU country as the customer; this confirmation of receipt meets the requirements of Section 17b Par. 3 VAT Implementation Order (UStDV) (as amended from 1/1/20).

If we do not receive the written confirmation of receipt in accordance with Par. 1 lit. b) within 4 weeks, or if the VAT identification number provided by the Buyer turns out to be invalid, we reserve the right to handle the delivery as being liable to tax, and to issue the Buyer with an amended invoice plus the statutory value-added tax that is owed.

(2) Deliveries to the third country are exempt from VAT according to the prerequisites of Section 4 No. 1 letter a in conjunction with Section 6 UStG (export delivery). The prerequisite for this is the submission of an export declaration (Section 10 UStDV). If we do not receive an export declaration for reasons for which the Buyer is responsible, we reserve the right to handle the delivery as being liable to tax, and to issue the Buyer with an amended invoice plus the statutory value-added tax that is owed.

(3) The Buyer must pay the relevant VAT to us immediately. In addition, we reserve the right to claim from the Buyer any exemption with regard to any interest or fines issued to us in accordance with Section 233a AO (Section 26a UStG), that are due to the invalidity of the VAT identification number or a missing or defective written confirmation of receipt or export certificate. The Buyer can request a corrected invoice that does not state German VAT as soon as the conditions set out above have been met.

### Section 7 Retention of Title

(1) We reserve ownership of the goods sold until all of our present and future receivables from the purchase agreement and an ongoing business relationship (secured receivables) have been paid in full.

(2) The goods that are under retention of title must not be pledged

nor assigned by way of security to third parties before full payment is made. The Buyer must notify us immediately in writing if an application to initiate insolvency proceedings has been made, or if there are any third party accesses (such as attachments) to the goods belonging to us.

(3) In the event of behaviour by the Buyer that breaches the agreement, especially if the due purchase price is not paid, we are entitled to withdraw from the agreement in accordance with statutory provisions and/or to demand the return of the goods on the basis of retention of title. The request for the return of the goods does not simultaneously include the declaration of withdrawal; rather, we are entitled merely to demand the return of the goods and reserve the right to withdraw from the agreement. If the Buyer does not pay the due purchase price, we may assert these rights only if we have unsuccessfully set the Buyer an appropriate deadline to pay beforehand, or if the setting of such a deadline is unnecessary according to statutory provisions.

(4) Up to the withdrawal set out below in point (c), the Buyer is entitled to continue to sell and/or to process the goods subject to retention of title during the normal course of business. In this case, the following provisions also apply.

(a) The retention of title extends to the products that are created from processing, mixing or combining our goods at their full value, whereby we are considered their manufacturer. If their retention of title remains when they are processed, mixed or combined with third-party products, we will acquire co-ownership in the ratio of the invoiced values of the processed, mixed or combined goods. In all other cases, the same applies to the resulting products as to the goods delivered under retention of title.

(b) The amounts owed by third parties due to the resale of the goods or products are assigned to us as security by the Buyer as of now in total or to the extent of our possible co-ownership share pursuant to the above paragraph. We do herewith accept the assignment. The obligations of the Buyer named in Par. 2 also apply in view of the assigned claims.

(c) Besides ourselves, the Buyer is authorised to collect the claims. We undertake not to collect the claim for so long as the Buyer fulfils his obligations of payment to us, there is no deficiency in his performance capability and we do not assert retention of title by exercising a right according to Par. 3. However, if this is the case, then we can demand that the Buyer informs us of the assigned claims and the debtors, gives us all of the information and relevant documents necessary to assert our rights, and that the Buyer informs the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the Buyer's right to the further sale and processing of the goods under the retention of title.

(d) If the realisable value of the securities exceeds our claims by over 10%, at the Buyer's request, we will release securities of our choice.

### Section 8 Buyer's Claims for Defects

(1) Statutory provisions apply to the Buyer's rights in the event of material defects and defects of title (including incorrect or short deliveries as well as incorrect assembly or faulty assembly instructions), unless agreed otherwise below. In all cases, the statutory special provisions on final delivery of the unprocessed goods to a consumer remain unaffected, even if they have processed them (supplier regress according to Sections 478 BGB). Claims arising from supplier regress are excluded if the defective goods were processed by the Buyer or a different contractor, for example if they were installed in another product.

(2) The basis for our liability of defects is above all the agreement made regarding the condition of the goods. As an agreement on the condition of the goods, all product descriptions and manufacturer specifications apply that are the subject matter of the individual agreement or that we have publicly announced (particularly in catalogues or on our internet website) at the time when the agreement was concluded.

(3) If the condition was not agreed, statutory regulation must be used to assess whether a defect exists or not (Section 434 Par. 1 P. 2 and 3 BGB). We do not assume any liability for public statements made by the manufacturer or other third parties (such as advertising statements) that the Buyer has not pointed out to us as being a critical factor in their purchase decision.

(4) We are not liable for defects that the Buyer was aware of when the agreement was concluded or was grossly negligent in not knowing

## General Terms and Conditions of Sale and Delivery

them (Section 442 BGB). Furthermore, the Buyer's claims for defects require that the Buyer has fulfilled his statutory duties of examination and complaint notification (Sections 377, 381 HGB). With building materials and other goods that are intended for installation or other further processing, these must be examined in any case immediately before they are processed. If a defect should become apparent during the delivery, the examination, or at a later point in time, then we must be notified of this immediately in writing. In any case, obvious defects must be notified in writing within 8 working days from delivery, and defects that are not recognisable during examination must be reported within the same time frame after their detection. If the Buyer fails to carry out the proper examination and/or provide the notice of defects, our liability for the defect that was not notified, or that was not notified in time or was not notified properly, is excluded according to statutory provisions.

(5) If the item supplied is defective, we can initially choose whether we provide the subsequent performance by eliminating the defect (rectification) or by delivering a fault-free item (supply of a replacement). Our right to reject the subsequent performance according to statutory provisions remains unaffected.

(6) We are entitled to make the subsequent performance that is owed dependent on the fact that the Buyer pays the due purchase price. However, the Buyer is entitled to retain a part of the purchase price that is appropriate in relation to the defect.

(7) The Buyer must provide us with the necessary time and opportunity to provide the subsequent performance owed, especially to hand over the disputed goods for the purpose of examination. In the event of a replacement, the Buyer has to return to us the disputed item in accordance with statutory provisions. The subsequent performance includes neither the dismantling of the defective item nor its subsequent installation if we were not originally obliged to install it.

(8) The expenses that are necessary for the purpose of examination and the subsequent performance, especially transport, road, labour and material costs, as well as the costs for dismantling and re-installation, will be paid or reimbursed by us according to the statutory regulation if a defect actually exists. Otherwise, we can demand reimbursement from the Buyer for the costs that were incurred from the unjustified request for the rectification of a defect (particularly examination and transport costs), unless the lack of deficiency was not apparent to the Buyer.

(9) In urgent cases, for example in the event of a risk to operational reliability or to avoid disproportionate damage, the Buyer has the right to rectify the defect himself and to claim compensation from us for the expenses that were objectively necessary for this. We must be notified immediately, where possible beforehand, about such remedial action. The right to carry out the rectification oneself does not exist if we were entitled to refuse a corresponding subsequent performance in accordance with statutory provisions.

(10) If the subsequent performance failed, or if an appropriate deadline to be set for the subsequent performance by the Buyer expired without success, or is unnecessary according to statutory provisions, the Buyer can withdraw from the purchase agreement or reduce the purchase price. However, there is no right of withdrawal in the event of a minor defect.

(11) The Buyer's claims to compensation or reimbursement of expenses incurred in vain exist in the event of defects only in accordance with the provision of Section 9 and are otherwise excluded.

### Section 9 Other Liability

(1) Unless stated otherwise in these GTCs, including the following provisions, we are liable in accordance with statutory provisions in the event that contractual and non-contractual obligations are breached.

(2) We are liable for compensation – for whatever legal grounds – within the scope of fault-based liability in the event of intent and gross negligence. In the event of simple negligence, we are liable subject to statutory liability restrictions (such as the level of care exercised in our own business; negligible breach of duty), only

(a) for damages resulting from any injury to life, limb or health,

(b) for damages resulting from the breach of an essential contractual obligation (obligation whose fulfilment makes the due performance of the contract possible in the first place on the fulfilment of which the customer regularly relies and may rely); in this case, our liability is

limited to the reimbursement of the foreseeable, typically occurring damages.

(3) The liability restrictions resulting from Par. 2 also apply to third parties and in the event of breaches of obligations by people (also to their advantage) if we are responsible for them according to statutory provisions. They do not apply if a defect was fraudulently concealed or a warranty for the condition of the goods was assumed and for the Buyer's claims under the German Product Liability Act.

(4) Due to a breach of obligation, which does not consist of a defect, the Buyer may withdraw from or terminate the agreement only if we are responsible for the breach of obligation. A free right of termination of the Buyer (especially in accordance with Sections 650, 648 BGB) is excluded. In all other respects, the statutory provisions and legal consequences apply.

### Section 10 Limitation Period

(1) Contrary to Section 438 Par. 1 No. 3 BGB, the general limitation period for claims arising from material defects and defects of title is one year from delivery. If an acceptance is agreed, the limitation period begins with the acceptance.

(2) If the goods are a building structure or an object which, according to its normal use, is used as a building and, as a result, causes the defectiveness of such (construction material), the limitation period according to the statutory regulation is 5 years from delivery (Section 438 Par. 1 No. 2 BGB). Additional statutory special regulations on limitation (especially Section 438 Par. 1 No. 1, Par. 3, Section 444, 445b BGB) also remain unaffected.

(3) The above limitation periods of the purchase right also apply to contractual and non-contractual claims for damages by the Buyer that are based on a defect of the goods, unless the application of the normal statutory limitation period (Sections 195, 199 BGB) would, in the individual case, lead to a shorter limitation period. Claims for damages by the Buyer in accordance with Section 9 Par. 2 Sentence 1 and Sentence 2 (a) and according to the product Liability Act exclusively become time-barred according to the statutory limitation periods.

### Section 11 Applicable Law and Place of Jurisdiction

(1) The law of the Federal Republic of Germany applies to these GTCSD and the contractual relationship between us and the Buyer, excluding international uniform law, especially the UN Sales Convention.

(2) If the Buyer is a merchant in the sense of the German commercial code, a legal entity under public law, or a special asset under public law, the exclusive and also international place of jurisdiction for all disputes arising either directly or indirectly from the contractual relationship is our registered office in Henstedt-Ulzburg. This also applies if the Buyer is a business owner in the sense of Section 14 BGB. However, in all cases, we are also entitled to take legal action at the place of performance for the delivery obligation in accordance with these GTCSD or a preferential individual agreement, or at the Buyer's general place of jurisdiction. Preferential legal provisions, especially for exclusive authority, remain unaffected.