

## General Terms & Conditions of Trade

### § 1 General, Scope of Application

- (1) These General Terms and Conditions (GT&C) shall apply to all current and future business relationships with our customers (buyers). The GT&C shall only apply if the buyer is an entrepreneur (§ 14 of the German Civil Code (BGB)), merchant, legal person under public law or a special fund under public law. Separate GT&C shall apply to consumers (§ 13 BGB).
- (2) The GT&C shall particularly apply to agreements on the sale and/or delivery of movable items ("goods"), regardless of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 651 BGB). Unless otherwise agreed, the GT&C shall also apply in the version valid at the time the buyer's order is placed as a framework agreement for similar agreements or continuing obligations in the future, without our being obliged to refer to them again in each individual case.
- (3) Our GT&C shall apply exclusively. Differing, conflicting or supplementary General Terms and Conditions of the buyer shall only be incorporated into the contract if and to the extent that we have expressly consented to their application. This requirement for consent shall apply under any circumstances, for example, even if, with the knowledge of the buyer's terms and conditions, we make the delivery to the buyer without reservation.
- (4) Individual agreements made with the buyer on a case-by-case basis (including side agreements, amendments and changes) shall take precedence over these GT&C. The contents of any such agreement shall be governed by a written contract or our written confirmation.
- (5) Legally relevant declarations and notifications that are to be submitted to us by the buyer after conclusion of the contract (e.g. deadlines, notifications of defects, declarations on rescission or reduction in price), must be made in writing in order to be effective.
- (6) References to the application of statutory provisions are for the purposes of clarification only. Even without such clarification, the statutory regulations shall therefore apply unless directly amended or expressly excluded in these GT&C. § 306 BGB shall remain unaffected.

### § 2 Conclusion of the contract

- (1) Our offers are subject to change and non-binding. This shall also apply if we provide the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations and references to DIN standards), other product descriptions or documents, including in electronic form, to which we reserve ownership rights and copyrights. This shall not apply for offers at point of online auctions.
- (2) The order for the goods placed by the buyer shall be deemed a binding contract offer. Unless otherwise stated in the order we shall be entitled to accept this offer within 2 weeks after its receipt by us.
- (3) Acceptance can either be declared in writing or text form (e.g. by order confirmation), or by delivering the goods to the buyer within the same time period.
- (4) If the customer is a merchant and there are doubts regarding the content of the contract, our order confirmation shall be decisive for determining the content of the contract and the scope of supply and performance, unless the customer immediately objects to the order confirmation upon receipt or the order confirmation significantly differs from the content of the customer's order.

### § 3 Delivery deadline and delay in delivery

- (1) The delivery deadline shall be agreed individually or indicated by us when accepting the order. If this is not the case, the delivery deadline shall be 3 weeks after the conclusion of the contract.
- (2) If we are unable to meet binding delivery deadlines for any reasons for which we cannot be held responsible (non-availability of goods or services), we shall notify the buyer without undue delay and simultaneously inform them of the estimated new delivery deadline. If the goods or services are not available within the new delivery time, we shall inform the buyer of this immediately. In this case, we shall have the right to withdraw completely or partially from the contract; any consideration that may have already been provided by the buyer shall be reimbursed by us without delay. The unavailability of goods or services in this sense shall include, in particular, our suppliers failing to deliver in good time, whereby neither we nor our suppliers are at fault or we are not obliged to provide goods and services in an individual case.
- (3) The rights of the buyer in accordance with §§ 7 and 8 of these GT&C and our legal rights shall remain unaffected, in particular in the case of exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or supplementary performance).
- (4) We shall be entitled to undertake partial deliveries and performances, if this can reasonably be accepted.

### § 4 Delivery, transfer of risk, acceptance and delay of acceptance

- (1) The place of performance for all obligations arising from the contractual relationship, including supplementary performance, shall be our premises (seller). At the request and expense of the buyer, the goods shall be sent to another destination (sales shipment). Unless agreed otherwise, we shall be entitled to decide on the manner of shipping (in particular the carrier, routing and packaging).
  - (2) The risk of accidental loss or accidental deterioration of the goods shall be passed to the buyer at the latest with handing over of the delivery items. In the event of sales shipment, however, the risk of accidental loss and accidental deterioration of goods as well as risk of delay shall be transferred as soon as the goods are handed to the carrier, freight forwarder or the person or organization charged with carriage of the goods. If the buyer delays in accepting the goods, the transfer shall still be deemed to have taken place.
  - (3) If the buyer delays acceptance, fails to provide active co-operation or if delivery by us is delayed for any other reason for which the purchaser is responsible, we shall be entitled to claim damages for any losses caused by such delay or failure, including additional expenditures (e.g. storage costs). For this purpose, we shall calculate a flat rate of compensation in the amount of 0.5% of the net price per calendar week up to a maximum of 5% of the net price in the event of final non-acceptance, starting with the delivery period or - in the absence of a delivery period - with the announcement that the goods are ready for dispatch.
- The proof of higher damages and our statutory claims (in particular, reimbursement of additional expenses, reasonable compensation, termination) shall remain unaffected; the flat rate shall be offset against further monetary claims, however. The buyer shall be authorized to provide evidence that we have not incurred any or have incurred significantly fewer damages than the abovementioned flat rate.
- If the buyer is a merchant, the provision under § 373 of the German Commercial Code (HGB) shall also remain unaffected.

### § 5 Prices and terms of payment

- (1) Unless otherwise agreed in an individual case, our prices valid at the time of the conclusion of the contract shall apply ex warehouse plus VAT at the statutory rate.
- (2) Price changes by the seller shall be permitted if there is an interval of more than 4 months between the conclusion of the contract and the agreed delivery date. In this case, we shall inform the buyer in writing of any price adjustments. In the event of a price increase, the buyer shall be entitled to withdraw from the contract up to 14 days after receiving information on the price adjustment.
- (3) In the event of sales shipment (§ 4 paragraph 1), the buyer shall bear the cost of transport ex warehouse and the cost of any transport insurance requested by the buyer. Any customs duties, fees, taxes and any other public levies shall be borne by the buyer.
- (4) The purchase price shall be due and payable according to the terms written in the order confirmation/invoice. In the context of an ongoing business relationship, we shall be entitled at any time to make a delivery only in return for advance payment. We shall make a corresponding statement of reservation upon order confirmation at the latest.
- (5) Upon expiration of the payment deadline in accordance with paragraph 3, the buyer shall be in default. During the period of default, interest is to be paid on the purchase price at the respective applicable statutory default interest rate. We shall reserve the right to claim further damages from default. Our claim for commercial maturity interest (§ 353 HGB) against merchants shall remain unaffected.
- (6) The buyer shall only be entitled to offset or to exercise any rights of lien or retention to the extent its claim is legal and undisputed. In the event of defects in the delivery, the buyer's rights in accordance with §§ 273, 320 shall remain unaffected.
- (7) If there are indications after conclusion of the contract that our entitlement to the purchase price is at risk through insufficient ability of the buyer to pay (e.g. by an application to open insolvency proceedings), in accordance with the statutory regulations, we shall be entitled to refuse service and - if applicable after setting a deadline - to rescind the contract (§ 321 BGB). In the case of contracts for the manufacture of non-fungible items (items made to specification), we can declare a rescission immediately; the statutory provisions concerning the dispensability of deadlines shall remain unaffected.
- (8) A freight/minimum quantity lump sum of € 20,- is payable on all deliveries under € 200,-. Costs will be calculated separately for customers with special wishes (e.g. express deliveries, shipment by air freight).

### § 6 Retention of title

- (1) We shall reserve the right to the property of the sold goods until the full payment of all of our current and future claims from the purchase contract and a current business relationship (secured claims).
- (2) The buyer shall be obliged to treat any goods subject to retention of title with due care and insure them against fire, water damage and theft at its own expense.
- (3) The goods subject to reservation of title may neither be pledged to third parties, nor assigned as collateral before the full payment of the secured claims. The buyer must inform us in writing immediately if a decree of insolvency has been applied for or when third parties exercise rights over the goods that belong to us (e.g. seizures).
- (4) In the event of action by the buyer in breach of the terms of the contract, in particular in the event of non-payment of the due purchase price, we shall be entitled to rescind the contract in accordance with the statutory regulations and demand that the goods be returned on the basis of the reservation of title and the rescission. If the buyer does not pay the due purchase price, we shall only be able to assert these rights if we have unsuccessfully set the buyer a reasonable deadline for payment in advance or where the setting of any such period is not required in accordance with the statutory regulations.
- (5) Until revocation, the buyer shall be authorized, in accordance with (c) below, to sell and/or process the goods under retention of title in the ordinary course of business. In this case the following provisions shall apply in addition.
  - (a) The retention of title shall cover the full value of the products produced as a result of processing, mixing and combining our goods, whereby we shall be regarded as the manufacturer. If during the processing, mixing or combination with goods of third parties their property right should persist, we shall thus acquire joint title to the goods in relation to the invoiced value of the processed, mixed or combined goods. In all other cases the same shall apply to the ensuing products as applies to the goods delivered subject to retention of title.
  - (b) The buyer hereby assigns to us now and immediately all claims against third parties arising from the resale of the goods in total or in the amount of our possible co-ownership share as collateral according to the preceding paragraph. If in accordance with the preceding sentence only a partial claim is assigned, the subject matter of the assignment shall be the first part of the overall claim. We shall accept the assignment. The obligations of the buyer stated in paragraph 3 shall also apply in view of the assigned claims.
  - (c) Beside ourselves, the buyer shall remain entitled to collect the claim. We agree not to collect claims ourselves as long as the buyer complies with its payment obligations to us, there is no deficiency of its capacity and we do not assert the retention of title by exercising a right in accordance with paragraph 4. However, if this is the case we shall be entitled to request that the buyer informs us of the assigned claims and their debtors, provides all information necessary for the collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In addition, we shall be entitled to revoke the buyer's entitlement to sell and process goods subject to reservation of title.
  - (d) If the realizable value of the collateral exceeds our claims by more than 10%, we shall release the collateral items of our choice at the buyer's request.

### § 7 Claims for defects by the buyer

- (1) The statutory regulations shall apply to the rights of the buyer in case of defects of quality and title (including incorrect and short deliveries as well as improper assembly or faulty assembly instructions) unless otherwise provided for below. The special statutory regulations in the case of final delivery of the goods to a consumer (suppliers' recourse according to §§ 478, 479 BGB) shall be unaffected in all cases.
- (2) The primary basis of our liability for defects shall be the agreement made concerning the quality of the goods. Agreements as to the quality of the goods shall include any product descriptions so designated (including those of the manufacturer) which were provided to the buyer before placing its order or incorporated into the contract in the same way as these GT&C. Apart from this, no other documents shall constitute a quality agreement, particularly catalogues and technical documentation (e.g. drawings, plans, computations, calculations and referrals to DIN standards).
- (3) In the absence of any quality agreement, the existence or non-existence of a defect shall be assessed according to the statutory provision (§ 434 (1) paragraphs 2 and 3 BGB). We shall not be held liable, however, for any public statements by the manufacturer or other third parties (e.g. advertising messages).
- (4) The buyer's claims arising from a defect require that the buyer inspects the goods sold immediately after delivery by the seller. Should any defect be found

- upon inspection or later, we must be notified of this immediately in writing. The notification shall be deemed immediate if it is made within two weeks, whereby the timely dispatch of the report shall be sufficient for compliance with the deadline. Irrespective of this obligation for inspection and reporting of complaints, the buyer must report obvious defects (including incorrect and short deliveries) in writing within two weeks from delivery, whereby the timely dispatch of the report shall be sufficient for compliance with the deadline. If the buyer fails to carry out the proper inspection and/or report of defects, we shall accept no liability for the unreported defect.
- (5) If the buyer is a merchant, claims for defects on the part of the buyer shall require that the buyer has fulfilled its legal duty to examine the goods and to give notice of defects (§§ 377, 381 HGB). § 377 HGB shall apply with the proviso that notification of defects must take place in writing.
  - (6) If the delivered item is faulty, the customer shall be entitled to demand either repair of the fault (rectification) or delivery of an item which is free from defects (replacement) as a supplementary performance. Our right to refuse the chosen type of supplementary performance under the statutory requirements shall remain unaffected.
  - (7) We shall be entitled to make the owed subsequent performance conditional upon the buyer paying the purchase price due. The buyer, however, shall be entitled to retain a portion of the purchase price appropriate in relation to the defect.
  - (8) The buyer shall allow us the necessary time and opportunity for due subsequent performance and shall in particular hand over the goods concerned for inspection. The burden of demonstration and proof shall not be reversed as a result (§ 363 BGB). In the event of the replacement delivery, the buyer must return the defective item to us in accordance with the statutory regulations. The subsequent performance shall not include removal of the defective item or installation of a new item if we were not obliged to carry out the original installation.
  - (9) We shall bear the expenses required for the purpose of inspection and subsequent performance, in particular, transport, travel, work and material costs (not installation costs) when a defect actually exists. Otherwise we shall be able to demand reimbursement by the buyer of the costs arising from the unjustified demand for the rectification of a defect (particularly inspection and transport costs), unless the lack of a defect could not be detected by the buyer.
  - (10) If the subsequent performance has failed or a reasonable deadline which is to be set by the buyer for the subsequent performance has expired unsuccessfully or it is not required in accordance with the statutory regulations, the buyer shall be entitled to cancel the purchase contract or reduce the purchase price. This right of withdrawal shall not exist with an insignificant defect.
  - (11) Claims of the buyer for damages or reimbursement of expenses incurred in vain shall only exist as provided in § 8, even in the event of defects, and shall otherwise be excluded.
  - (12) Warranty period for new sales products is 2 years within the EEA and 1 year outside the EEA, calculated from the transfer of risk. These periods shall also apply to claims for compensation for consequential harm caused by a defect, unless claims arising from unauthorized use are asserted. Warranty rights of the purchaser presuppose that the purchaser has duly fulfilled his obligations to inspect the goods and to give notice of defects in accordance with Section 377 of the German Commercial Code (HGB).

### § 8 Other liability

- (1) Unless otherwise stated in these GT&C including the provisions set out below, we shall be liable, in accordance with the respective statutory provisions, for the infringement of contractual and non-contractual obligations.
- (2) We shall be liable for compensation - for any legal ground - within the scope of fault-based liability due to wilful intent and gross negligence. In cases of ordinary negligence we shall be held liable to a milder degree, in accordance with statutory provisions (e.g. the due care we apply in our own affairs) only in the following cases:
  - a) for damages arising from injury to life, body or health,
  - b) for damages arising from the significant breach of a material contractual obligation (obligations the proper fulfilment of which constitutes a condition sine qua non and on the fulfilment of which the customer regularly relies and may rely); in this case, however, our liability shall be limited to the reimbursement of the foreseeable, typically occurring damages.
- (3) The liability limitations which can be derived from paragraph 2 shall also apply in the event of any violation of duties by or on behalf of persons whose culpability shall be ascribed to us, in accordance with statutory provisions. They shall not apply insofar as we have maliciously failed to disclose a defect or have assumed a guarantee for the condition of the goods, or for claims of the buyer according to the German Product Liability Act.
- (4) Due to a breach of duty which is not based on a defect of the goods, the buyer may only withdraw from or terminate the contract if we are responsible for the breach of duty. A free right of termination of the buyer (in particular in accordance with §§ 651, 649 BGB) shall be excluded. Otherwise the statutory requirements and legal consequences shall apply.

### § 9 Statute of limitations

- (1) Notwithstanding § 438 paragraph 1 (3) BGB, the general limitation period for claims for material defects and defects of title shall be one year from delivery. If acceptance has been agreed, the limitation period shall begin with the acceptance. § 438 paragraph 3 BGB shall remain unaffected.
- (2) The above limitation periods shall also apply to contractual and non-contractual damages claims by the buyer based on a defect in the goods, unless application of the normal statutory limitation period (§§ 195, 199 BGB) would, in the individual case, lead to a shorter limitation period. However, claims for damages by the buyer in accordance with § 8 paragraph 2 (2) and the German Product Liability Act shall become time-barred exclusively according to the statutory limitation periods.

### § 10 Applicable law and place of jurisdiction

- (1) These GT&C and the contractual relationship between us and the buyer shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, particularly the UN Sales Convention.
- (2) If the buyer is a merchant, legal person under public law or a special fund under public law, the exclusive - and also international - place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship shall be Karlsruhe. However, we shall be entitled in all cases to raise a complaint at specific places of jurisdiction, particularly the place of fulfilment for the delivery commitment in accordance with these GT&C or an overriding individual agreement, or at the general place of jurisdiction of the buyer. Overriding statutory provisions, particularly regarding exclusive competence, shall remain unaffected.