

### § 1 Scope of application

1. These General Terms and Conditions of Sale apply to all our business relations with our customers ("Purchaser"). The General Terms and Conditions of Sale shall only apply if the Purchaser is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
2. The provisions of the following "General Terms and Conditions of Sale" shall become an integral part of the contract concluded between us and the Purchaser, in particular in the case of contracts for the sale and/or delivery of movable items ("goods"), irrespective of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Our Terms and Conditions of Sale shall apply exclusively; we do not recognise any terms and conditions of the Purchaser that conflict with, supplement or deviate from our Terms and Conditions of Sale unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Sale shall also apply if we carry out the deliveries of the Purchaser without objections in the knowledge of terms and conditions of the Purchaser that are contrary to, supplementary to or deviate from our Terms and Conditions of Sale.
3. Individual agreements made with the Purchaser in specific cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these General Terms and Conditions of Sale. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.
4. Unless otherwise agreed, the General Terms and Conditions of Sale in the version valid at the time of the Purchaser's order or, in any case, in the version last notified to the Purchaser in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.
5. Legally relevant declarations and notifications of the Purchaser with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) shall be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declarant, remain unaffected.
6. References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these General Terms and Conditions of Sale.

### § 2 Conclusion of contract

1. Our offer is subject to change and non-binding until the order confirmation. This shall also apply if we have provided the Purchaser with catalogues, technical documentation (e.g., drawings, plans, calculations, references to DIN standards), other product descriptions or documents - also in electronic form - to which we reserve ownership rights and copyrights.
2. The order of the goods by the Purchaser shall be deemed to be a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within 3 weeks of its receipt by us.
3. Acceptance can be declared either in writing (e.g., by order confirmation) or by delivery of the goods to the Purchaser.

### § 3 Prices, Terms of Payment, Value Added Tax

1. Unless otherwise stated in the order confirmation, our prices are quoted in € (Euros) plus statutory VAT, ex works and plus packaging costs.
2. Packaging costs and freight charges and other ancillary costs (e.g. transport insurance, customs duties, fees, public charges) incurred in the case of sale by dispatch (§ 5.1) shall be invoiced separately.
3. We reserve the right to increase our prices to a reasonable extent if, after the conclusion of the contract, unforeseen cost increases occur, in particular due to collective wage agreements or material price increases for which we are not responsible. We shall provide evidence of these to the Purchaser on request.
4. The purchase price is due from the date of invoice and delivery or acceptance of the goods and is payable net within 30 days at the latest after deduction of the agreed cash discounts. Freight charges and other ancillary costs are not discountable, neither is wage expenses of contract work. We are entitled, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment at any time. We declare a corresponding reservation at the latest with the order confirmation.
5. Upon expiry of the aforementioned payment deadline, the Purchaser shall be in default. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate. We reserve the right to assert further damage caused

- by the default. With respect to merchants, our claim to the commercial due date interest rate (§ 353 HGB) remains unaffected.
6. The Purchaser shall only be entitled to rights of set-off or retention if his counterclaims have been legally established, are undisputed or have been recognised by us. In the event of delivery defects, the counter rights of the Purchaser shall remain unaffected.
7. If it becomes apparent after the conclusion of the contract (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardised by the purchaser's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of goods that cannot be traded (customised products), we may declare withdrawal immediately; the statutory regulations on the dispensability of setting a deadline remain unaffected.
8. Insofar as a VAT-exempt delivery or service comes into consideration, the Purchaser is obliged to provide the necessary evidence or to cooperate in the provision of such evidence. For services in the European Single Market, the Purchaser shall provide its VAT identification number, prove its entrepreneurial status and cooperate in the provision of export evidence in the form of bookkeeping and supporting documents. If the exemption from turnover tax is not recognised by the tax office, the Purchaser shall indemnify us against turnover tax, interest, late payment surcharges and other ancillary costs or pay them to us, unless we are responsible for the non-recognition. At the request of the Purchaser, we shall not be obliged to file an appeal if, in addition to the indemnification pursuant to the preceding paragraph, the Purchaser pays an appropriate advance on costs for the appeal proceedings.

### § 4 Delivery period and delay in delivery

1. Delivery periods are non-binding unless expressly agreed otherwise in writing. Delivery periods shall commence on the date of acceptance of the order. Expressly guaranteed periods shall commence on the date of acceptance of the order. Expressly guaranteed periods and dates refer only to the date of dispatch. They shall be deemed to have been met when we have notified readiness for dispatch. The start of the delivery period stated by us presupposes the clarification of all technical questions with the purchaser.
2. Compliance with our delivery obligation presupposes the timely and proper fulfilment of the purchaser's obligations, in particular the agreed terms of payment and the non-exceeding of the delivery credit limit granted to him.
3. If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the Purchaser of this without delay and at the same time inform him of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the Purchaser. A case of non-availability of the service in this sense shall be deemed to be, in particular, the failure of our supplier to deliver on time if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case.
4. The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, an overdue notice by the purchaser is required. If we are in default of delivery, the Purchaser may demand lump-sum compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each full calendar week of the delay, but in total not more than 5% of the delivery value of the goods delivered late. We reserve the right to prove that the Purchaser has suffered no damage at all or only significantly less damage than the aforementioned lump sum.
5. The rights of the Purchaser under these General Terms and Conditions of Sale and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g., due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

### § 5 Delivery, transfer of risk, Acceptance, Default of Acceptance

1. Delivery shall be ex works, which is also the place of performance for the delivery and any subsequent performance. At the request and expense of the Purchaser, the goods shall be shipped to another destination (shipment purchase). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport

company, shipping route, packaging) ourselves. Transport insurance shall only be taken out on the instruction and at the expense of the purchaser.

2. The risk of accidental loss and accidental deterioration of the goods shall pass to the Purchaser at the latest upon handover. In the case of sale by delivery to a place other than the place of performance, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the transfer of risk. In all other cases, the statutory provisions of the law on contracts for work and services shall also apply *mutatis mutandis* to an agreed acceptance. The handover or acceptance shall be deemed equivalent if the Purchaser is in default of acceptance.
3. If the Purchaser is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Purchaser is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge a lump sum compensation in the amount of 0.5% of the order value. In this case, we shall charge a lump sum compensation of 0.5% of the net price (delivery value) per calendar week, but no more than a total of 5% of the delivery value or 10% in the case of final non-acceptance, beginning with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for dispatch. The proof of higher damages and our legal claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum shall be set off against further monetary claims. The Purchaser shall be entitled to prove that we have not incurred any damage at all or only significantly less damage than the aforementioned lump sum.

#### **§ 6 Retention of title, security interests**

1. We retain title to the goods until full payment of all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims) with the purchaser.
2. The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Purchaser must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g., seizures) have access to the goods belonging to us. Insofar as third parties are not able to reimburse us for the court and out-of-court costs of a third-party action, the Purchaser shall be liable for the loss incurred by us.
3. In the event of breach of contract by the Purchaser, in particular in the event of non-payment, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the Purchaser does not pay the purchase price due, we may only assert these rights if we have previously set the Purchaser a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
4. The Purchaser is obliged to treat the goods with care until the purchase price has been paid in full.
5. Until revoked in accordance with (c) below, the Purchaser is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.
  - a. The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
  - b. The Purchaser hereby assigns to us by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment. The obligations of the purchaser stated in paragraph 6.2 shall also apply with regard to the assigned claims.
  - c. The Purchaser remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the Purchaser meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to para. 6.3. If this is the case, however, we may demand that the Purchaser informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we shall be entitled to

revoke the authorisation of the Purchaser to further sell and process the goods subject to retention of title.

- d. If the achievable value of the securities exceeds our claims by more than 20%, we shall release securities of our choice at the request of the Purchaser.

#### **§ 7 Third party rights**

1. Any investigation or responsibility as to whether technical documents supplied to us by or on behalf of the Purchaser infringe existing copyright or other rights of third parties, in particular trademark, design, and patent rights, shall be rejected.
2. If claims are asserted against us by a third party in this respect, the Purchaser shall be obliged to indemnify us against such claims upon first written request; we shall not be entitled - without the Purchaser's consent - to make any agreements, in particular to conclude a settlement.
3. The Purchaser's obligation to indemnify refers to all expenses, including costs of legal defence, which we necessarily incur from or in connection with the claim by a third party.

#### **§ 8 Correction proofs and release samples**

1. The inspection and release of proofs, films, drawings and samples by the Purchaser shall be deemed an agreement on the quality of the goods. In this case, warranty claims and liability shall be governed by §§ 10-13.
2. No responsibility is assumed for errors in the order or documents sent in due to unclear or incomplete information. The Purchaser shall bear the additional costs caused by this.

#### **§ 9 Facilities**

1. The costs for tools, devices and other equipment (facilities) which are manufactured or procured for the production of the Purchaser's order shall be charged to the Purchaser with cost shares. They shall remain our property during and after execution of the contract, unless otherwise stipulated by special agreement.
2. We undertake to manufacture the equipment in accordance with production requirements and to use it properly, to store it properly and to insure it against fire and to maintain and care for it until it is used up. Our liability in all other cases shall be governed by § 11 paras. 2 - 4.
3. Natural wear and tear of the equipment during the execution of the contract shall be borne by the Purchaser. In this case, the costs for any necessary new production of a replacement device shall be borne by the Purchaser.
4. During the performance of the contract, the equipment shall be used exclusively for contract manufacturing for the Purchaser; the express approval of the Purchaser shall be required for production and delivery to third parties during the performance of the contract.
5. The Purchaser must be notified in writing before the equipment is scrapped during the performance of the contract. If the Purchaser does not collect the equipment within two weeks of its dispatch despite a written request to do so, we shall be entitled to scrap the equipment.

#### **§ 10 Warranty**

1. The statutory provisions shall apply to the rights of the purchaser in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly or defective assembly instructions), unless otherwise stipulated below. In all cases, the special statutory provisions remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier's recourse pursuant to §§ 478 BGB). Claims from supplier recourse are excluded if the defective goods have been further processed by the purchaser or another business, e.g., by incorporation into another product.
2. The basis of our liability for defects is above all the agreement reached on the quality of the goods. All product descriptions and manufacturer's specifications which are the subject of the individual contract, or which were publicly announced by us (in particular in catalogues or on our Internet homepage) at the time of the conclusion of the contract shall be deemed to be an agreement on the quality of the goods.
3. Insofar as the quality has not been agreed, it is to be assessed according to the statutory regulation whether a defect is present or not (§ 434 para. 1 p. 2 and 3 BGB). However, we accept no liability for public statements made by the manufacturer or other third parties (e.g., advertising statements) to which the purchaser has not drawn our attention as being decisive for his purchase. Production-related minor deviations in quantity are possible and do not constitute a defect.
4. As a matter of principle, we shall not be liable for defects of which the Purchaser is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the purchaser's claims for defects presuppose that he has fulfilled his statutory obligations to inspect and give notice of defects (§§ 377, 381 HGB). In the case of goods intended for installation or other further processing, an inspection must in any case be carried out

immediately before processing. If a defect becomes apparent upon delivery, inspection or at any later time, we must be notified thereof in writing without delay. In any case, obvious defects must be notified to us in writing within 5 working days of delivery and defects which are not recognisable during the inspection must be notified to us within the same period of time after discovery. If the purchaser fails to carry out the proper inspection and/or give notice of defects, our liability for the defect not reported or not reported in time or not reported properly shall be excluded in accordance with the statutory provisions.

5. If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). Our right to refuse subsequent performance under the statutory conditions remains unaffected.
6. We are entitled to make the subsequent performance owed dependent on the Purchaser paying the purchase price due. However, the Purchaser is entitled to retain a reasonable part of the purchase price in relation to the defect.
7. The purchaser must give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the Purchaser shall return the defective item to us in accordance with the statutory provisions. The supplementary performance shall neither include the removal of the defective item nor the renewed installation if we were not originally obliged to install it.
8. We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions if there is actually a defect. Otherwise, we may demand reimbursement from the Purchaser of the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognisable to the Purchaser.
9. In urgent cases, e.g., if operational safety is endangered or to prevent disproportionate damage, the Purchaser has the right to remedy the defect himself and to demand reimbursement from us of the expenses objectively necessary for this. We must be informed immediately of any such self-remedy, if possible, in advance. The right of self-execution does not exist if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
10. If the supplementary performance has failed or if a reasonable period to be set by the Purchaser for the supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the Purchaser may withdraw from the purchase contract or reduce the purchase price. The statutory periods for subsequent performance shall apply. In the case of an insignificant defect, however, there is no right of withdrawal.
11. Claims of the Purchaser for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with § 11 and are otherwise excluded.

#### **§ 11 Liability**

1. Insofar as nothing to the contrary arises from these General Terms and Conditions of Sale, including the following provisions, we shall be liable in accordance with the statutory provisions in the event of a breach of contractual and non-contractual obligations.
2. We shall be liable for damages - irrespective of the legal grounds - within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g., care in own affairs; insignificant breach of duty), for
  - a. for damages arising from injury to life, limb, or health,
  - b. for damages arising from the breach of an essential contractual obligation (obligation, the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the contractual partner regularly relies on and may rely); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.
3. The limitations of liability resulting from para. 2 shall also apply to third parties as well as to breaches of duty by persons (also in their favour) whose fault we are responsible for according to statutory provisions. They do not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the Purchaser under the Product Liability Act.
4. The purchaser may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. A free right of termination of the Purchaser (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

#### **§ 12 Limitation**

1. Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence with the acceptance or with the notified completion.
2. If the goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory regulation (§ 438 para. 1 no. 2 BGB). Other special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) shall also remain unaffected.
3. The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages of the Purchaser based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in the individual case. Claims for damages of the Purchaser pursuant to § 11 para. 2 sentence 1 and sentence 2(a) as well as pursuant to the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

#### **§ 13 Choice of law, place of jurisdiction**

1. These Terms and Conditions of Purchase and the contractual relationship between us and the Purchaser shall be governed by the laws of the Federal Republic of Germany, excluding the conflict of laws rules of private international law and the international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the Purchaser is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising from the contractual relationship shall be our registered office in Bad Berka. The same shall apply if the Purchaser is an entrepreneur as defined by § 14 BGB (German Civil Code). However, in all cases we are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these General Terms and Conditions of Sale or a prior individual agreement or at the general place of jurisdiction of the Purchaser. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.