

## General Terms and Conditions of Sale and Delivery (GTC)

(3 pages)

### Sect. 1 General information/Scope of application

(1) Our General Conditions of Sale apply exclusively; we do not accept conflicting terms and conditions on the part of customer or customer's term and conditions which deviate from our General Conditions of Sale. Similarly, the customer's terms and conditions shall not apply if they differ from the statutory provisions. The customer's terms and conditions shall also not apply even if we do not contradict them, implicitly provide services or implicitly accept the customer's services/work.

(2) All agreements which are made between us and the customer for executing of a contract are laid down in writing in the contract as well as these General Conditions of Sale.

(3) These General Conditions of Sale also shall not apply if the customer is a consumer within the meaning of sect. 13 German Civil Code.

### Sect. 2 Quotation/Quotation documents

(1) Our offer is non-binding unless the order confirmation clearly states otherwise. Unless agreed otherwise in writing, the written agreement between us and the customer is decisive for the scope of the contractually owed services/work.

(2) We reserve ownership rights and copyright of illustrations, drawings, calculations and other documents. This also applies to written documents which are designated 'confidential'. Before transfer takes place to third parties, the customer requires our express written consent.

### Sect. 3 Prices/Payment conditions

(1) Unless the order confirmation states otherwise, our prices are EXW Incoterms 2010, excluding the cost of packaging. Packaging will be invoiced separately. The deduction of a discount requires special written agreement.

(2) The customer is obliged to pay the purchase price by the date indicated in the written order confirmation or, where this is not referred to, to pay the amount stated on the invoice that is issued into the account indicated by us, free of costs and expenses. For timely payment, the date the payment is received in our account shall be decisive. The services/work incumbent upon us are paid with the agreed price, excluding packaging. Statutory VAT will be charged separately and is additionally payable by the customer.

(3) The customer is only entitled to offset and only has rights of retention if his counterclaims have been legally determined, are undisputed or have been acknowledged by us or based on the same contractual relationship.

### Sect. 4 Delivery / Delivery time / Withdrawal in the case of default / Compensation in the case of default

(1) Delivery takes place EXW Incoterms 2010 at the delivery address designated in our order confirmation. If no delivery address is cited in the order confirmation, the delivery takes place EXW Tenge-Rietberg-Strasse 104, 33758 Schloss Holte-Stukenbrock Incoterms 2010.

(2) The start of the delivery period stated by us presupposes the clarification of all technical questions. Compliance with our delivery obligation requires the timely and proper fulfilment of all obligations on the part of the customer. We reserve the right to object on the basis of an unfulfilled contract.

(3) Agreed delivery periods shall not establish a forward transaction.

(4) If the customer still wants changes to be made to the goods after signing the contract, this leads to an extension of the delivery deadline. Depending on the order situation, the period of extension may represent a longer period of time than would be required for just implementing the desired changes.

(5) If the customer is in default of acceptance or culpably violates other cooperation obligations, we shall be entitled to demand compensation for damages incurred by us, including any additional expenses. We reserve the right to make further claims. In the event of operational faults as a result of force majeure (strike, lockout, natural disasters etc.) affecting the customer, the customer is entitled to agree to a new delivery date with us in writing, without any cost implications.

(6) If the conditions of para. (5) apply, the risk of accidental loss or accidental deterioration of the goods is transferred to the customer at the time he enters into acceptance or debtor's default.

(7) The customer is only entitled to withdraw from the contract on account of late delivery and/or non-delivery if we are in default in fulfilling the principal duties incumbent on us or through the duties which the contract gives grounds to, have significantly breached the contract in some other way and we are responsible for the default or the breach of duty. Without forgoing other legislation, a written request for us to provide our services/work within a reasonable time is needed in order to bring about default, even if the date of the performance is determined by the calendar.

(8) In the event of a delivery default, for each completed week of delay, our liability is limited to 0.5% of the agreed price of the product which is not delivered or delivered late. However, this is subject to a maximum of 5% of the price of the goods which are not delivered or delivered late. This does not affect claims for fraudulent breach of contract, intentional breach of contract or grossly negligent breach of contract, nor claims on account of death, physical injury or a risk to health, nor in the case of liability under the Product Liability Act.

#### **Sect. 5 Liability for defects**

(1) Goods are considered defective if they are noticeably different from the specifications referred to in the order confirmation at the time risk is transferred. If no specifications are listed in the order confirmation, the goods are considered defective if they deviate from the qualities which are usual in Germany. The goods only have legal defects if, at the time risk is transferred, they are not free from rights which are enforceable in Germany.

(2) Warranty claims made by the customer presuppose that the customer has properly fulfilled his inspection and complaint obligations in accordance with sect. 377 German Commercial Code. The customer is also obliged to examine the goods and notify defects if the contract concluded between us and the customer is a contract for work and labour.

(3) The customer is obliged to inspect the goods immediately after delivery. If the inspection reveals that the goods are defective, the customer must let us know the exact complaint immediately in writing, however no later than seven (7) calendar days following the delivery of the goods. Hidden defects must be reported immediately after their discovery, however before the expiry of the warranty period at the latest.

(4) The notice must be sent to us immediately and in writing. It must be accurately worded in such a way that we will be able to take corrective measures and secure rights of recourse against our suppliers without the need to make further enquiries with the customer. Moreover, the complaint must comply with the statutory provisions. Our staff are not authorised to accept notices of defects outside our premises or make statements concerning the warranty.

(5) In the event of a defect notified within the time limit, we are entitled, at our discretion, to make a supplementary performance by making a repair or delivering a new item which is free of defects. In the case of a repair, we only bear costs up to the amount of the purchase price. We do not assume expenses arising from the fact that the goods have to be transported to a place other than the customer's office unless, before signing the contract, the customer has specified in writing in his order that the goods have to be brought to a different location than his office.

(6) If the supplementary performance fails, after setting an appropriate period of grace whilst otherwise threatening to refuse acceptance of performance, the customer is entitled to demand withdrawal or a reduction. Rectification of a defect will only be considered as failed (based on the specific individual defect) after the third unsuccessful attempt, unless there is something particular about the nature of the defect or other circumstances indicate otherwise.

(7) Subject to sect. 4 para. (8) and sect. 5 para. (8) we shall only be liable for damages in the event of a culpable violation or a material and intentional breach or a grossly negligent breach of other existing contractual obligations towards the customer. In such cases, without prejudice to the statutory requirements, compensation is limited to twice the agreed price for the defective goods.

(8) The limitation in accordance with sect. 5 para. (7) does not apply to any liability under the Product Liability Act, fraudulent concealment of a defect, assumption of a guarantee, damages arising from culpable death, injury to body and health, or in the event of an intentional or grossly negligent breach of duty.

(9) Subject to sects. 478, 479 German Civil Code, any claims made by the customer due to the delivery of defective goods expire one (1) year after the commencement of the statutory limitation period. This does not affect claims for a fraudulent, intentional or a grossly negligent breach of contract nor claims as a result of death or injury of body and health. Replacement or supplementary performance does not lead to a recommencement of the limitation period.

**Sect. 6 Joint and several liability**

(1) Subject to sect. 5 (8), other than that provided for in sect. 5, further liability for damages is excluded, regardless of the legal nature of the asserted claim. This particularly applies to claims for damages from fault in the conclusion of a contract (culpa in contrahendo), other breaches of duty or tort claims for compensation of material damage in accordance with sect. 823 German Civil Code.

(2) The limitation in accordance with para. (1) also applies if the customer, instead of claiming for damages in place of the services/work, claims compensation for wasted expenses. Insofar as the liability for damages towards us is excluded or limited, this also applies with regard to the personal liability for damages of our employees, workers, staff, representatives and agents.

**Sect. 7 Retention of title**

(1) We reserve title to the goods until receipt of all payments from the delivery contract. In the case of non-contractual behaviour of the customer, especially payment default, we are entitled to take back the goods. Taking back the goods on our part constitutes a withdrawal from the contract. After taking back the goods, we are entitled to recover their value; the proceeds of sale will be credited against the customer's liabilities, less reasonable costs.

(2) The customer is obliged to treat the goods with care; he is especially obliged to insure them at his own expense against fire damage, water damage and theft at replacement value. If maintenance and inspection work is necessary, the customer must carry these out in good time at his own expense. In the event of seizures or other interventions by third parties, the customer must inform us immediately in writing so that we can bring an action in accordance with sect. 771 German Civil Procedure Code.

(3) The customer is entitled to resell the goods in the ordinary course of business; however, he hereby assigns us all receivables amounting to the final invoice amount (including VAT) of our claim, which he accrues from reselling to his customers or third parties, irrespective of whether the goods have been resold without being processed or after processing. The customer also remains authorised to collect these receivables following this assignment. Our authority to collect the receivables ourselves remains unaffected. However, we shall not collect the receivables as long as the customer meets his payment obligations from the collected proceeds, does not fall into arrears and, in particular, does not apply to open composition or insolvency proceedings or suspends payments. If this is the case, we can demand that the customer discloses all assigned claims and the respective debtors to us, provides all the information that is necessary for us to make a collection, hands over the relevant documents and informs his debtors (third parties) of the assignment.

(4) The processing or transformation of the goods by the customer is always done for us. If the goods are processed with other items not belonging to us, we shall acquire joint ownership of the new item in proportion of the value of the goods (final invoice amount, including VAT) to the other processed items at the time of processing. Moreover, the same applies for the item created through processing as for the goods delivered subject to reservation.

(5) If the goods are inseparably mixed with other items not belonging to us, we shall acquire joint ownership of the new item in proportion of the value of the goods (final invoice amount including VAT) to the other mixed objects at the time of mixing. If the mixing is such that the customer's item is regarded as the main item, it shall be agreed that the customer transfers proportional joint ownership to us. The customer shall retain sole ownership or co-ownership for us.

(6) The customer also assigns claims to us for securing our claims against him, which accrue against a third party by combining the goods with a property.

(7) We shall release the securities owed to us at the customer's request insofar as the realisable value of our securities exceeds the value of the claims to be secured by more than 10%; the selection of securities to be released lies with us.

**Sect. 8 Place of jurisdiction / Applicable law / Place of delivery and performance**

(1) The place of jurisdiction for all disputes arising from the contract is the court responsible for our place of business 33758 Schloss Holte-Stukenbrock, Germany. We are however also entitled to take legal action against the customer at the court of its place of residence.

(2) The law of the Federal Republic of Germany shall apply; the provisions of the CISG and the UN Sales Convention do not apply.

(3) The place of delivery follows from sect. 4 para. (1). The place of payment and fulfilment for all other obligations arising from the contract is 33758 Schloss Holte-Stukenbrock, Germany. This also applies if payments have to be returned.

(4) If any provisions of these Terms and Conditions of Sale and Delivery should be or become unenforceable in whole or in part, the validity of the further terms and conditions will remain unaffected.

Date: September 2018