

General Conditions of Sale

Update May 2019

Art. 1 Scope of validity, form

(1) These general conditions of sale (GCS) apply to all our business relationships with our clients ("customers"). The GCS apply only if the customer is a business owner (Art. 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.

(2) The GCS apply particularly to contracts covering the sale and/or delivery of movable items ("goods"), irrespective of whether we manufacture said goods ourselves or purchase them from suppliers (Arts. 433, 650 of the German Civil Code (BGB)). Unless otherwise agreed, the version of the GCS that was valid at the time when the customer placed their order - and in all cases the version of which they were most recently given notice in writing - shall also apply as the framework agreement for similar future contracts without the need for us to refer to them again in each individual case.

(3) Our GCS apply exclusively. Different, contradictory or additional general conditions of business of the customer shall only form part of the contract when and to the extent that we expressly agree to them applying. This approval requirement applies in all cases, for example also when we execute delivery to the customer without reservation and with knowledge of their general conditions of business. Our silence regarding the customer's differing general conditions of business shall not be interpreted as our acceptance of or agreement with them, whether for present or future contracts.

(4) Individual agreements made with the customer in individual cases (including subsidiary agreements, supplements and amendments) take precedence over these GCS in all cases. In the absence of proof to the contrary, a written contract or our written confirmation is decisive for the content of such agreements.

(5) Legal declarations and notifications by the customer relating to the contract (e.g. deadlines, notification of defects, withdrawal or reduction) must be submitted in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Statutory provisions on form and other evidence, particularly in cases of doubt about the credentials of the party making the declaration, remain unaffected.

(6) References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions therefore apply unless they have been directly amended or expressly excluded in these GCS.

Art. 2 Conclusion of the contract

(1) Our quotations are subject to change and are non-binding, unless they have been expressly marked as binding. This also applies if we have provided the customer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – including in electronic form – to which we reserve ownership rights and copyright.

(2) An order placed for the goods by the customer constitutes a binding offer to enter into a contract. Unless otherwise stated in the order, we shall be entitled to accept this offer to enter into a contract within 4 weeks of receiving it.

(3) This acceptance can be declared either in writing (e.g. by an order confirmation) or by delivering the goods to the customer.

Art. 3 Delivery deadline and delayed delivery

(1) The delivery deadline shall be agreed individually and stated by the seller upon acceptance of the order.

(2) If we are unable to meet binding delivery deadlines for reasons beyond our control (unavailability), we shall inform the customer of this immediately and shall at the same time state the probable new delivery deadline. If performance remains impossible by the new delivery deadline, we shall be entitled to withdraw from the contract in whole or in part, and we shall immediately reimburse any payment already made by the customer. In particular, an example of unavailability as defined above is our supplier not delivering to us on time, if we have entered into a congruent covering transaction, if neither we nor our supplier is at fault or if we are under no obligation to purchase in an individual case.

(3) The occurrence of late delivery on our part is determined by the statutory provisions. However, a reminder from the customer is required in all cases. If we deliver late, the customer can demand a lump-sum reimbursement of the default damages incurred. The lump-sum compensation is 0.5% of the net price (delivery value) per complete calendar week's default, but no more than 5% of the delivery value of the goods delivered late. We reserve the right to prove that the customer has suffered no loss at all or only a substantially smaller loss than the above lump sum.

(4) The customer's rights according to Art. 8 of these GCS and our statutory rights, particularly if there is no performance obligation (e.g. if performance and/or subsequent performance become(s) impossible or unreasonable), remain unaffected.

Art. 4 Delivery, transfer of risk, acceptance, delay in acceptance

(1) Delivery is from stock, which is also the place of performance for the delivery and any supplementary performance. The goods will be delivered to a different destination at the customer's request and expense (sale to destination). Unless otherwise agreed, we are entitled to ourselves determine the type of shipping (particularly the transport company, method of shipping, packaging).

(2) The risk of accidental loss and of the delivery item's deterioration shall be transferred to the customer upon delivery at the latest. However, in the case of sale to destination according to the customer's instructions, the risk of accidental loss and of the delivery item's deterioration, as well as the risk of delay, shall be transferred to the customer as soon as the goods are handed over to the carrier, the forwarding agent or the person or institution tasked with performing the shipment. If an acceptance has been agreed, this is the determining factor with regard to the transfer of risk. The statutory provisions of the law governing contracts for work and services apply analogously to an agreed acceptance in other respects. Default of acceptance by the customer is equivalent to delivery or acceptance.

(3) If the customer defaults on acceptance, omits to carry out an act of cooperation or causes the delivery to be delayed for other reasons, we shall be entitled to demand compensation for the resulting damages, including additional expenses (e.g. storage costs). For this we charge a lump compensation sum amounting to 1.50 EUR net per pallet storage space (approx. 1 square metre) EXW and per calendar day, commencing at the delivery deadline or – if there is no delivery deadline – when notification is given that the goods are ready for dispatch. Proof of higher damages and our statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) remain unaffected. However,

the lump sum shall be offset against further monetary claims. The customer retains the right to prove that we have suffered no loss at all or only a substantially smaller loss than the above lump sum.

Art. 5 Prices and payment conditions

(1) Unless otherwise agreed in an individual case, our respective net prices in Euros that applied at the time when the contract was concluded shall apply, said prices being EXW as per the current version of INCOTERMS, plus statutory VAT (domestic).

(2) In the case of sale to destination (Art. 4 para. 1), the customer shall pay the transport costs EXW as per the current version of INCOTERMS and the costs of any transport insurance desired by the customer. The customer shall pay any customs duty, fees, taxes and other official levies.

(3) If the due date for the purchase price has not been agreed in an individual case and unless otherwise stated in the order confirmation, the net purchase price is payable (with no deduction) within 30 days of the invoice date. The statutory provisions covering the consequences of default apply.

(4) If the above payment deadline expires, the customer will be in default. Interest shall be applied to the purchase price while the customer is in default at the respective applicable statutory default interest rate. We reserve the right to claim for any further damages caused by the delay. Our claim for the commercial maturity interest against merchants (Art. 353 of the German Commercial Code (HGB)) remains unaffected.

(5) The customer shall only be entitled to offset or retention rights to the extent that such a claim has been legally recognised or is undisputed. Furthermore, the customer shall be entitled to enforce a right of retention only insofar as his counter-claim is based upon the same contractual relationship. If there are defects in the delivery, the customer's adverse rights, particularly as per Art. 7 para. 6 clause 2 of these general conditions of sale, remain unaffected.

(6) If it becomes apparent after conclusion of the contract (e.g. from an application to open insolvency proceedings) that our claim to the purchase price is jeopardised due to the customer'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 (Art. 321 of the German Civil Code (BGB)). In the case of contracts for the manufacture of single items (custom-made products), we may withdraw from the contract immediately. The statutory provisions governing the lack of necessity to set a deadline remain unaffected.

Art. 6 Reservation of ownership

(1) We reserve the right of ownership on the sold goods until we have received full payment of all of our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims).

(2) The goods that are subject to reservation of ownership may not be pledged or assigned as security to third parties before full payment of the secured claims. The customer must inform us immediately in writing if an application has been made to open insolvency

proceedings or if third parties attempt to take possession of goods owned by us (e.g. seizure).

(3) In the event of breach of contract by the customer, in particular in the event of non-payment of the due purchase price, 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 reservation of ownership. Any demand for the return of goods shall not also be deemed to be a simultaneous declaration of withdrawal from the contract. Rather, we are entitled to merely demand the return of the goods and reserve the right to withdraw from the contract. If the customer does not pay the due purchase price, we may only exercise these rights if we have already unsuccessfully set an appropriate payment deadline for the customer, or if setting such a period of grace is not required according to the law.

(4) Until this right is revoked pursuant to (c) below, the customer is entitled to resell and/or process in the course of ordinary business the goods that are under reservation of our ownership. In this case, the following provisions shall additionally apply.

(a) The reservation of ownership extends to the products resulting from the processing, mixing or combining of our goods up to their full value, with us being considered to be the manufacturer. If the ownership rights of third parties remain in existence from the processing, mixing or combination with their goods, we shall acquire joint ownership in proportion to the invoiced value of the goods processed, mixed or combined. Furthermore, the same applies to the resulting product as applies to the supplied goods that are subject to the reservation of ownership.

(b) In accordance with the paragraph above, the customer at this stage shall assign to us as security and either in total or proportional to our joint ownership share all claims against third parties arising from the resale of the goods or product. We accept the assignment. The customer's obligations stated in para. 2 also apply with regard to the assigned claims.

(c) We and the buyer are authorised to collect any claim. We undertake not to collect the claim provided that the customer meets his payment obligations towards us, there is no deficiency in the customer's ability to perform and we do not invoke reservation of ownership by exercising a right in accordance with para. 3. In this eventuality however, we can demand that the customer notifies us of the assigned claims and the respective debtors, provides us with all the information and relevant documents necessary for collection, and notifies the debtors (third parties) of the assignment. In this case we shall also be entitled to revoke the customer's authorisation to resell and process the goods that are subject to the reservation of ownership.

(d) If the realisable value of the securities exceeds our claims by more than 10%, we shall at the customer's request release part of the securities of our own choice.

Art. 7 Deficiency claims by the customer

(1) Unless otherwise stated below, the customer's rights in the event of defects in goods and title (including wrong and short shipments and improper installation or incorrect installation instructions) are governed by the statutory provisions. The special statutory provisions governing the final delivery of unprocessed goods to a consumer remain unaffected in all cases, even if the consumer has further processed them (recourse against a supplier in accordance with Arts. 478 of the German Civil Code (BGB)). There shall be no possibility of claims for recourse against a supplier if the defective goods have been further processed by the customer or another contractor, e.g. resulting from their installation in another product.

(2) The primary basis of our liability for defects is the agreement made concerning the quality of the goods. All product descriptions and manufacturers' information that constitute the subject of the individual contract or that we had publicly disclosed at the time when the contract was concluded (particularly in catalogues or on our web site) are considered to be an agreement about the quality of the goods.

(3) If the quality was not agreed, the relevant statutory provision must be applied in order to assess whether or not there is a defect (Art. 434 para. 1 S. 2 and 3 of the German Civil Code (BGB)). However, we accept no liability for public statements by the manufacturer or other third parties (e.g. advertising claims) that the customer did not indicate to us was a critical factor in his purchasing decision.

(4) The validity of the customer's deficiency claims is conditional on him having fulfilled his legal duty to inspect the goods and give notice of defects (Arts. 377, 381 of the German Commercial Code (HGB)). In the case of building materials and other goods intended for installation or further processing, an inspection must be performed in all cases immediately before processing. If a defect is found upon delivery, during the inspection or at a later time, we must be notified of this in writing immediately. In all cases, we must be notified in writing of obvious defects within 3 working days after delivery, and within the same period after discovery when concealed defects are found during the inspection. If the customer fails to perform a proper inspection and/or give proper notification of a defect, in accordance with the statutory provisions we shall not be liable for the defect of which we were not notified or of which we were not notified on time or properly.

(5) If the delivered item is defective, we can in the first instance choose whether to provide subsequent performance by either eliminating the defect (rectification) or delivering a defect-free item (replacement delivery). Our right to refuse subsequent performance under the statutory provisions remains unaffected.

(6) We are entitled to make the owed subsequent performance conditional on the customer paying the due purchase price. However, the customer shall be entitled to withhold a part of the purchase price that is reasonably proportional to the defect.

(7) The customer must allow us the necessary time and opportunity for the owed subsequent performance, and in particular must hand over the goods concerned for inspection. In the case of a replacement delivery, the statutory provisions state that the customer must return the defective item to us. Subsequent performance includes neither the removal of the defective item nor its re-installation if we were not originally obligated to install it.

(8) The costs incurred for the purpose of the inspection and subsequent performance, particularly transport, travel, labour and material costs and also any necessary removal and installation costs, will be met or reimbursed by us in accordance with the relevant statutory provisions. Otherwise, we shall be entitled to demand that the customer reimburses us for the costs arising from the unjustified request for rectification (particularly inspection and transport costs), unless it was not possible for the customer to recognise the absence of a defect.

(9) In urgent cases, e.g. a risk to operational safety or in order to prevent disproportionate damage, the customer has the right to remedy the defect himself and demand that we reimburse the objectively necessary costs of this. In such instances of the customer remedying the defect himself, we must be informed immediately, if possible in advance. The customer shall not have the right to remedy defects himself if we would have been entitled to refuse the respective subsequent performance in accordance with the statutory provisions.

(10) If the subsequent performance is unsuccessful or if an appropriate period of grace set by the customer for subsequent performance has lapsed without success or is not required

by the statutory provisions, the customer can withdraw from the purchase contract or reduce the purchase price. However, there is no right of withdrawal if the defect is negligible.

(11) Even in the case of defects, claims by the customer for damages or the reimbursement of fruitless expenses are valid only in accordance with Art. 8 and are otherwise not possible.

Art. 8 Other liability

(1) Unless otherwise stated in these GCS, including the terms below, we shall be liable in accordance with the statutory provisions if we breach contractual or extracontractual obligations.

(2) We shall be liable for damages - irrespective of the legal grounds - in cases of wilful intent and gross negligence on our part when fault-based liability is involved. In cases of simple negligence and subject to statutory liability limitations (e.g. diligence in our own affairs; insignificant breach of an obligation on our part), we shall be liable only

a) for damages resulting from death, injury or health problems,

b) for damages arising from the breach of an important contractual obligation (obligation whose fulfilment is crucial to the proper implementation of the contract and the observance of which the contractual partner regularly relies upon and may rely upon). In this case however, our liability is limited to reimbursement of the foreseeable, typically occurring damage.

(3) The liability limitations stated in para. 2 also apply in the case of breaches of obligations by or to the benefit of persons for whose culpability we are responsible according to the statutory provisions. They do not apply if we have fraudulently concealed a defect or if we have guaranteed the quality of the goods, and to claims by the customer in accordance with product liability law.

(4) The customer may withdraw or give notice of termination due to the breach of an obligation only if we are responsible for the breach of the obligation. A free right of termination by the customer (particularly in accordance with Arts. 650, 648 of the German Civil Code (BGB)) is excluded. The statutory requirements and legal consequences apply otherwise.

Art. 9 Limitation

(1) Contrary to Art. 438 para. 1 No. 3 of the German Civil Code (BGB), the general limitation period for claims from defects of quality and title is one year, commencing upon delivery. If an acceptance has been agreed, the limitation period commences upon acceptance.

(2) However, if the goods involved either are a structure or are - based on their normal purpose - used as a structure and have caused the defect (building material), the limitation period is 5 years commencing upon delivery in accordance with the statutory provision (Art. 438 para. 1 No. 2 of the German Civil Code (BGB)). Other special statutory provisions governing limitation periods also remain unaffected (particularly Art. 438 para. 1 No. 1, para. 3, Arts. 444, 445b of the German Civil Code (BGB)).

(3) The aforementioned limitation periods of commercial law also apply to the customer's contractual and extracontractual claims for damages that are based on defective goods, unless application of the regular statutory limitation period (Arts. 195, 199 of the German Civil Code (BGB)) would result in a shorter limitation period in an individual case. However, claims for damages by the customer in accordance with Art. 8 para. 2 clause 1 and clause 2(a) and

on the basis of product liability law become time-barred only in accordance with the statutory limitation periods.

Art. 10 Applicable law and place of jurisdiction

(1) The law of the Federal Republic of Germany applies to these GCS and to the contractual relationship between us and the customer, to the exclusion of international uniform law and particularly the UN convention on the international sale of goods. It is expressly pointed out that this choice of law is also to be regarded as such within the meaning of Art. 14 para.1 b.) Regulation (EC) No. 864/2007, and should thus also apply to extracontractual claims within the meaning of this regulation. If the application of foreign law is mandatory in an individual case, our GCS must be interpreted so that their commercial purpose is fulfilled as much as possible.

(2) If the customer 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 sole – including international – place of jurisdiction for all disputes arising either directly or indirectly from the contractual relationship shall be our domicile in 69427 Mudau, Germany. The same shall apply if the customer is a business owner within the meaning of Art. 14 of the German Civil Code (BGB). However, in all cases we are also entitled to bring an action in the place of fulfilment for the delivery commitment in accordance with these GCS and/or an overriding individual agreement, or at the customer's general place of jurisdiction. Overriding statutory provisions, particularly governing exclusive jurisdictions, remain unaffected.

(3) In case of differences between the German and English versions or in other cases of doubt, the German version applies.