

§ 1 General Information, Scope of Application

- (1) The present General Sales Conditions (GSC) apply to all our business relationships with our customers (hereinafter: "Customer"). The GSC only apply if the Customer is a businessperson (§ 14 BGB (Bürgerliches Gesetzbuch [German Civil Code]), a legal entity under public law or a special fund under public law.
- (2) The GSC apply especially to contracts governing the purchase and/or the delivery of moveable goods (hereinafter also referred to as: the "goods"), regardless of whether we produce the goods ourselves or purchase it from suppliers (§§ 433, 651 BGB). The GSC apply in their respectively valid version as a framework agreement for future contracts governing the purchase and/or delivery of moveable goods with the same Customer without our having to make reference to them in each individual case, but we will inform the Customer promptly of changes to our GSC as they arise.
- (3) Our GSC apply exclusively. Differing, conflicting or supplementary General Sales Conditions of the Customer shall become a contract component only if and insofar as we have explicitly agreed to their application. This consent requirement applies in every case, for example even if, in the Customer's knowledge of the GSC, we render delivery to him without reservation.
- (4) Individual agreements reached with the Customer (including side agreements, supplements and amendments) take precedence over these GSC in each case. A contract in written form or our written confirmation shall be authoritative for the contents of such agreements.
- (5) Legally significant declarations and notifications that must be submitted to us by the Customer after the conclusion of the contract (e.g. the setting of deadlines, notifications of defects, declaration of cancellation or reduction) require the written form in order to be valid.
- (6) References to the validity of statutory regulations are only of explanatory significance. Therefore, the statutory regulations apply even without such clarification unless they are directly amended or explicitly excluded in these GSC.

§ 2 Contract Conclusion

- (1) Our offers are subject to change and are non-binding. This applies even if we have granted the Customer catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – for which we reserve property and intellectual property rights.
- (2) The ordering of the goods on the part of the Customer shall represent a binding contractual offer. Unless otherwise indicated in the order, we are entitled to accept this contractual offer within two weeks after our receipt thereof.
- (3) Acceptance can be declared either in written form (e.g. by means of order confirmation) or through the delivery of the goods to the Customer.

§ 3 Delivery Time and Delivery Delay

- (1) The delivery time shall be individually agreed upon or specified by us upon acceptance of the order.
- (2) Insofar as we cannot comply with binding delivery times for reasons not attributable to us (non-availability of the service), we shall promptly inform the Customer of this and simultaneously communicate the expected new delivery time. If the service is also not available within the new delivery time, we are entitled to cancel the contract partially or as a whole; we shall promptly refund any counter-performance already rendered on the part of the Customer. The unavailability of goods or services in this sense particularly includes late delivery on the part of our suppliers if we have concluded a congruent hedging transaction, if neither we nor our suppliers are at fault or if we are not obligated to deliver in the individual case.

- (3) The occurrence of a delay in delivery shall be determined according to the statutory regulations. In each case, however, a reminder from the Customer is required. If we are in default of delivery, the Customer can demand flat-rate compensation for damage arising for him due to the delay. The flat-rate damage compensation amounts to 0.5% of the net price (delivery value) for each completed calendar week of default, but in total a maximum of 5% of the delivery value of the goods delivered late. We reserve the right to prove that no damage has arisen for the Customer at all or only an amount of damage significantly smaller than the above flat-rate.
- (4) The rights of the Customer in accordance with § 8 of these GSC and our statutory rights, particularly in the case of an exclusion of the obligation to perform (e.g. on account of the impossibility or unreasonableness of the performance and/or of the supplementary performance) remain unaffected.

§ 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance

- (1) The delivery is made ex works, which shall also be the place of performance. Upon the request and at the expense of the Customer, the goods can be sent to another destination (sales shipment). Insofar as not otherwise agreed, we are entitled to determine the type of shipment (in particular the transport company, shipment route and packaging).
- (2) The risk of accidental loss and of the accidental deterioration of the goods shall pass to the Customer at the latest at the moment of delivery. In case of a sales shipment, however, the risk of accidental loss and of accidental deterioration of the goods, as well as the risk of delay is already transferred to the forwarder, carrier or any other person or institution charged with the performance of the shipment at the moment of dispatch of the goods. Insofar as an acceptance has been agreed, this is definitive for the transfer of risk. The statutory regulations of work and services contract law shall apply accordingly to an agreed acceptance in other respects, as well. It is deemed equivalent to delivery or acceptance if the Customer is in default of acceptance.
- (3) If the Customer is in default of acceptance, if he fails to perform an act of cooperation or if our delivery is delayed for other reasons attributable to the Customer, we are entitled to demand compensation for the damages thus arising including additional expenses (e.g. storage costs). For this purpose, we shall charge a flat-rate compensation in the amount of 0.5% of the net price (delivery value) per calendar week, beginning from the delivery time or – in the absence of a delivery time – from the notification that the goods are ready for dispatch.

Proof of a higher amount of damages and our statutory claims (particularly compensation for additional expenses, adequate compensation, cancellation) remain unaffected; the flat-rate is, however, to be offset against further monetary claims. The Customer is entitled to prove that no damage has arisen for us at all or only an amount of damage significantly smaller than the above flat-rate.

§ 5 Prices and Terms of Payment

- (1) Insofar as not otherwise agreed in the individual case, our prices valid at the time of contract conclusion apply, namely ex works, plus statutory value-added tax.
- (2) In the case of a sales shipment (§ 4 Para. 1), the customer shall bear the transport costs ex works as well as the costs of any possible transport insurance requested by the Customer. Any customs duties, fees, taxes and other public levies shall be borne by the Customer. Transport packaging and all other packaging in compliance with the German Packaging Ordinance is non-returnable and becomes the Customer's property, with the exception of pallets.
- (3) Insofar as not otherwise agreed in the individual case, the purchase price shall be due and payable within 10 days with a 2% discount or within 30 days without deduction from the date of invoicing and delivery or acceptance of the goods.

- (4) The Customer shall be in default upon the expiration of the above payment deadline. During the payment default, interest is to be paid on the purchase price at the statutory interest rate applicable in each case. We reserve the right to claim further damages caused by the default. Our entitlement to commercial maturity interest (§ 353 HGB (Handelsgesetzbuch [German Commercial Code]) vis-à-vis merchants remains unaffected.
- (5) The Customer is only entitled to rights to offset or retention insofar as his claim has been determined legally valid or is undisputed. In case of defects in the delivery, the opposing rights of the Customer, particularly in accordance with § 7 Para. 6 Sentence 2 of these GSC, remain unaffected.
- (6) If, after conclusion of the contract, it should become evident that our claim to the purchase price is at risk due to a lack of solvency on the part of the Customer (e.g. through an application to open insolvency proceedings), we shall be entitled in accordance with the statutory regulations to refuse to perform and – if necessary, after having set a deadline – to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of non-fungible goods (custom-made products), we may withdraw immediately; this shall not affect the legal provisions concerning the dispensability of setting a deadline.

§ 6 Retention of Title

- (1) We reserve property rights to the sold goods until the full payment of all of our current and future claims arising from the purchase agreement and from a current business relationship (secured claims).
- (2) The goods to which title is reserved may neither be pledged to third parties nor assigned as collateral prior to complete payment of the secured claims. The Customer must inform us immediately in writing if and insofar as third parties exercise rights over the goods belonging to us.
- (3) In the event of action by the Customer contrary to the contract, in particular in the event of non-payment of the purchase price, we are entitled according to the statutory provisions to withdraw from the contract and to demand the return of the goods on grounds of the retention of title and of the withdrawal. If the Customer does not pay the purchase price due, we are entitled to assert these rights only if we have unsuccessfully set the Customer a reasonable deadline for payment or if the setting of such a deadline may be dispensed with according to the legal provisions.
- (4) The Customer is authorised to resell and/or process the goods under retention of title in the framework of proper business procedures. In this case, the following additional provisions shall apply.
 - (a) The retention of title shall cover the products resulting from the processing, mixing or combination of our goods to their full value, whereby we are deemed the manufacturer. If the ownership rights of third parties exist in the case of a processing, mixing or combination with their goods, we shall obtain joint ownership in the ratio of the amounts invoiced for the processed, mixed or combined goods. In all other cases, the same applies to the produced product as to the goods delivered under retention of title.
 - (b) The Customer shall already assign the claims against third parties arising from the resale of the goods or of the product to us completely or in the amount of any co-ownership share in accordance with the preceding paragraph as collateral. We accept the assignment. The obligations of the Customer listed in Para. 2 shall also apply to the claims assigned.
 - (c) In addition to ourselves, the Customer shall also remain authorised to collect the claims. We undertake not to collect the claims as long as the Customer fulfils his payment obligations with respect to us, does not fall into arrears and does not file a petition to open an insolvency proceedings, and no other deficiency in his financial capacity exists. However, if this is the case, we can request that the Customer inform us of the assigned claims and their debtors, give us all information necessary for collection, surrender the relevant documents and inform the debtors (third parties) of the assignment.
 - (d) Should the realisable value of the securities exceed that of our claims by more than 10%, upon the demand of the Customer, we shall release collateral items at our discretion.

§ 7 Defect Claims on the Part of the Customer

- (1) The statutory regulations shall apply to the rights of the Customer in the event of defects of quality or title (including incorrect and short deliveries as well as improper assembly or faulty assembly instructions), insofar as not otherwise defined below. The special statutory provisions on final delivery of the goods to a consumer remain unaffected in all cases (supplier recourse according to §§ 478, 479 BGB).
- (2) The primary basis of our liability for defects shall be the agreement governing the quality of the goods. All product descriptions (including the manufacturer's) designated as such that were granted to the Customer before his order or that were included in the contract in a way similar to that of these GSC are considered agreements as to the quality of the goods.
- (3) Insofar as the quality was not agreed upon, it shall be determined in accordance with the statutory provisions whether a defect exists (§ 434 Para. 1 Sentence 2 and 3 BGB). However, we accept no liability for statements made in public by the manufacturer or other third parties (e.g. advertising statements).
- (4) Claims for defects on the part of the Customer are valid only if he has fulfilled his legal duty to examine goods and to give notice of defects (§§ 377, 381 HGB). In the event that a defect is revealed during the inspection or later, we must be notified in writing promptly. Such notification is made promptly if it takes place within two weeks, whereby the timely dispatch of the notification is sufficient in order to safeguard the deadline. Regardless of these obligations of inspection and notification, the Customer must report obvious defects (including incorrect and short deliveries) in writing within two weeks of delivery, whereby here, as well, the timely dispatch of the notification is sufficient in order to safeguard the deadline. Should the Customer fail to carry out the proper inspection and/or notification of defects, our liability for the defect not reported is excluded.
- (5) If the delivered object is defective, the Customer may initially demand a subsequent performance at his own discretion in the form either of a repair of the defect (subsequent improvement) or of the delivery of an object free from defects (replacement). Should the customer fail to state his preference as to which of the two rights he chooses, we can set an appropriate deadline for him in this regard. If the Customer does not make a choice within the deadline, the right to choose is transferred to us upon the expiry of the deadline.
- (6) We are entitled to make the subsequent performance owed conditional on the fact that the Customer pays the purchase price due. The Customer is, however, entitled to retain a share of the purchase price appropriate in relation to the defect.
- (7) The Customer is obligated to communicate to us the time and occasion necessary for the subsequent performance owed, and must in particular hand over the goods concerned for inspection. In the event of a replacement, the Customer must return the defective object in accordance with the legal provisions. The subsequent performance includes neither the disassembly of the defective object nor the new mounting, if we were not originally obligated to carry out the assembly.
- (8) The expenses necessary for the purpose of inspection and subsequent performance, particularly the transport, route, work and material costs (not: removal and installation costs), shall be borne by us if a defect actually exists. However, should a Customer's demand for removal of a defect be found unjustified, we can demand that the Customer reimburse the costs arising from this.
- (9) In urgent cases, e.g. in the event that the safety of operations is at stake or in order to avoid disproportionate damages, the Customer has the right to remove the defect himself and demand compensation from us for the costs objectively required for this. We must be notified of such a self-performance without delay, in advance as far as is possible. There is no right to self-performance if we would have been entitled to refuse a corresponding subsequent performance according to the legal provisions.
- (10) If the subsequent performance has failed or a reasonable deadline to be set by the Customer has elapsed without success or is not required according to the legal regulations, the Customer can withdraw from the purchase agreement or reduce the price. However, in the case of an insignificant defect, no right of withdrawal exists.
- (11) Claims on the part of the Customer for damages or compensation for fruitless expenditures only exist in accordance with § 8 and are otherwise excluded.

§ 8 Other Liability

- (1) Insofar as not otherwise stipulated in these GSC including the following provisions, we accept liability in the case of a violation of contractual and non-contractual obligations according to the relevant legal provisions.
- (2) We assume liability for damages – regardless of legal grounds – in the case of intent and gross negligence. In the event of simple negligence, we only assume liability
 - a) for damages arising from injury to life, body or health,
 - b) for damages arising from an essential contractual obligation (an obligation whose satisfaction is a prerequisite for the proper performance of the contract and upon whose observance the contractual partner regularly relies and is entitled to rely on); in this case, however, our liability is limited to compensation for foreseeable, typically occurring damages.
- (3) The liability limitations resulting from Para. 2 shall not apply insofar as we have maliciously failed to disclose a defect or have furnished a guarantee for the quality of the goods. The same applies for claims on the part of the Customer according to the German Product Liability Law.
- (4) In the event of a breach of obligation not constituted by a defect, the Customer can only withdraw from or cancel the contract if we are responsible for the breach of obligation. A free right of termination on the part of the Customer (particularly in accordance with §§ 651, 649 BGB) is excluded. The statutory requirements and legal consequences shall otherwise apply.

§ 9 Limitation Period

- (1) Notwithstanding 438 Para. 1 No. 3 BGB, the general limitation period for claims arising from defects in goods or title shall be one year after delivery. Insofar as an acceptance has been agreed, the limitation period begins as of acceptance.
- (2) However, if the goods represent a building or an object that was used as a building in accordance with its usual utilisation and caused it to be defective (building material), the limitation period shall be 5 years after delivery in accordance with the legal provisions (§ 438 Para. 1 No. 2 BGB). Special statutory provisions concerning in rem claims for restitution of property of third parties (§ 438 Para. 1 No. 1 BGB), bad faith on the part of the seller (§ 438 Para. 3 BGB) and for claims for supplier's recourse in case of final delivery to a consumer (§ 479 BGB) also remain unaffected.
- (3) The above limitation periods of sales law shall also apply for contractual and non-contractual claims for damages on the part of the Customer that rest on a defect of the goods, unless the application of the normal statutory limitation period (§§ 195, 199 BGB) would result in a shorter limitation period in the individual case. The limitation periods of the Product Liability Law remain unaffected in every case. Otherwise, the statutory limitation periods shall apply exclusively for damage claims on the part of the Customer as per § 8.

§ 10 Governing Law and Place of Jurisdiction

- (1) The law of the Federal Republic of Germany shall govern these GSC and all legal relations between ourselves and the Customer to the exclusion of international uniform law, particularly of the UN Convention on the International Sale of Goods. Prerequisites for and effects of the retention of title as per § 6 are subject to the law in force in the place where the object is stored insofar as, under said law, a choice of law made in favour of German law is not permitted or is ineffective.
- (2) If the Customer is a businessperson for the purposes of the German Commercial Code, a legal entity under public law or a special fund under public law, then our headquarters in Immelmannweg 2, 78532 Tuttlingen, Germany is the exclusive place of jurisdiction – including in international matters – for all disputes arising directly or indirectly from the contractual relationship. However, we shall also be entitled to raise a charge in the place of general jurisdiction of the Customer.

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