



General Terms and Conditions of Business

A) General Provisions

Article 1 General

The conclusion of the contract shall be effected under the exclusive validity of our General Terms and Conditions of Business (hereinafter known as: GTC); terms of our contractual partners which are contrary to or which deviate from our own contract conditions shall not be recognized by us, unless the validity of said terms has been explicitly approved by us in writing. Our GTC shall also apply when we fulfil our contractual obligation without reservations in the knowledge of terms and conditions of the Contractual partner which are contrary to or which deviate from our GTC.

- (1) Our GTC shall only apply to an entrepreneur (Articles 310 I, 14 German Civil Code).
- (2) All agreements concluded between us and the Contractual partner to amend the contract or for the purpose of the performance of this contract are to be recorded in writing for evidential purposes. This shall also apply to amendments. The written-form requirement may only be repealed in writing.
- (3) Our GTC shall also apply for the individual case to all future business dealings with the Contractual partner.
- (4) Our registered offices shall be the sole place of jurisdiction; we are however also entitled to sue the contractual partner at the court responsible at his place of business.
- (5) Insofar as nothing to the contrary shall arise from the order confirmation, our registered offices shall be the place of performance.
- (6) The contract is subject to German Substantive Law excluding UN-Purchasing Law.

Article 2 Offer

- (1) Our offer is without obligation.
- (2) The documents provided prior to the offer, such as advertising brochures or similar as well as the documents which belong to the offer such as images, drawings, weight and dimension details, are subordinated to the description of services in our offer, insofar as they are not described explicitly as binding and as having priority. Where contradictions arise between the description of services and said documents, the description of services in the offer shall take precedence.
- (3) Should the order of the Contractual partner be qualified as an offer pursuant to Article 145 German Civil Code, thus we may accept this within 3 weeks, unless a shorter or longer lock-in period has been agreed in writing.
- (4) An order shall only be deemed as accepted when it has been confirmed by us in writing or when we start with the execution of said order.
- (5) We reserve the propriety and copyright rights to and of cost estimates, drawings and other documents; this must not be made accessible to third parties. This shall apply, in particular, to such written documents which are marked as "confidential"; prior to these being passed on to third parties, the customer requires our explicit written approval. We shall obligate ourselves only to make plans which have been marked as confidential by the Contractual partner accessible to third parties with his prior approval.

Article 3 Severability Clause

Should a provision of these terms and conditions or a condition be or become invalid, this shall not impair the validity of all the remaining provisions. Insofar as a provision shall be ineffective in the individual contract part, the parties to the contract shall obligate themselves to replace the ineffective provision with an effective one, which comes as close as possible to the purpose of the ineffective provision. The same shall apply should there be a loophole in the contract.

B) Special Provisions for Supply Contracts

Article 4 Prices – Terms of Payment

- (1) Should nothing to the contrary have been agreed upon in writing, our prices are understood to be ex-works Nienhagen excluding any costs for packaging and transport; these are to be paid extra. Statutory VAT is not included in our prices; it will be shown extra on the invoice in the statutory amount on the day which the invoice is issued.
- (2) In the event of no other agreements, payment is to be made 14 days after date of invoice without any deductions. Should the customer be in default of payment, Article 288 of the German Civil Code shall apply, i.e. interest of 8 percentage points above the respec-

tive base rate of interest is to be charged on accounts receivable; we reserve the right to assert further claims.

- (3) All our claims shall fall due immediately when the terms of payment have not been observed or we become aware of circumstances which should reduce the creditworthiness of the Customers. We shall thus further be entitled to perform outstanding deliveries or services only against payment in advance and after an appropriate period of grace to rescind the contract or to claim compensation instead of the service when the fault is on the part of the Customer.
- (4) The Customer shall only be entitled (excluding warranty claims in connection with the present contract) to the setting-off rights, when his/her counter claims have been established in law, are undisputed or are recognised by us. Moreover, he/she shall be authorised to exercise a right of retention under the aforementioned conditions insofar as his/her counter claim shall be based on the same contractual relationship.

Article 5 Delivery period and delivery date

- (1) Delivery dates and delivery periods shall only be binding when this has been expressly agreed for the individual case. The delivery period commences with the day of our acceptance of the order, however not before all performance details have been completely clarified.
- (2) Delivery period and delivery date are deemed as observed with readiness to despatch and the timely notification, when the shipment shall be impossible for us through no fault of our own.
- (3) The agreed delivery period shall be extended - irrespective of our rights arising from a delay of the Customer - by the period he/she shall be in delay with the fulfilment of his/her obligations arising from this or another contract. This shall also apply mutatis mutandis, when a delivery date has been agreed upon.
- (4) Should we be behind with the delivery, the Customer may set a grace period of appropriate length and after said deadline has expired, may rescind the contract.
- (5) Claims for damages for the not keeping of binding delivery periods or due to other delays are excluded, unless the damage has been caused intentionally or out of gross negligence by our legal representatives or directors; in the event of delay owing to slight negligence, we shall only be liable for the contractually foreseeable damage.

Article 6 Obstructions to delivery

Force majeure events shall entitle us to extend the delivery or performance by the duration of the obstruction and an appropriate start-up period or to rescind the contract owing to the non-performed part of said contract. Strikes, lockouts and other circumstances for which we are not responsible, which substantially complicate the delivery or performance of the service or which in some other way make it impossible, such as fire, machine damage, raw-material defects, obstructions to transport routes are considered to be the same as force majeure and irrespective of whether these circumstances occur to us or our suppliers. The Customer may request the explanation from us as to whether we would like to rescind, supply or perform within an appropriate period. Should we remain mute, the Customer may rescind the contract.

Article 7 Compensation due to unauthorised non-acceptance

- (1) Should the Customer rescind the contract without reason or should he/she not accept the goods within the agreed period as per the readiness of despatch notification or otherwise, we may rescind the contract and claim compensation. In the event of this, the risk of incidental destruction or incidental deterioration of the goods shall pass to the Customer at such time he/she shall be in default of acceptance.
- (2) The Customer shall owe 20 % of the net invoice amount as compensation; should we be in a position to prove that higher damages have been incurred; the compensation of this damage shall be owed. The Customer shall be entitled to provide proof that we have incurred no or less damages.

Article 8 Transfer of risk

With the handover of the goods to the forwarder or haulier, however at the latest upon leaving the works, risk is transferred to the Customer - including risk of confiscation - in every case, e. g. also for FOB - or CIF transactions. For the rest the Incoterms 2010 shall be authoritative for the interpretation of the various contract clauses, provided no other provisions have been agreed in these terms and conditions. Merchandise registered as ready for despatch must be requested immediately, otherwise or in the event of impossibility of the delivery, at our discretion we



shall be entitled to store said goods at the Customer's risk and expense and to invoice said goods as delivered ex-works.

Article 9 Reservation of title

- (1) We reserve the right of title of the merchandise until all payments arising from this supply contract have been received. Customer behaviour which violates this contract, in particular default in payment, we shall be entitled to repossess the merchandise. Our repossession of the merchandise shall not constitute a rescission of the contract, unless, we had explicitly declared this in writing. Seizure of the goods by us shall always constitute a rescission of the contract. After repossession of the merchandise, we shall be authorised to dispose of said goods, the proceeds from the disposal shall be set off against the Customer's liabilities – with the deduction of appropriate disposal costs.
- (2) The Customer is obligated to treat the goods with care; in particular he/she is obliged to adequately insure said goods at their replacement value against fire, water and theft damages at his/her own expense. Insofar as maintenance and service work shall be necessary, the Customer must carry this out at his/her own expense
- (3) The Purchaser shall inform us forthwith of any seizure or other act of intervention by third parties, so that we may bring legal action pursuant to Article 771 ZPO (German Code of Civil Procedure). Insofar as the third party shall not be in the position to reimburse us for the court and extra-judicial costs of any legal action pursuant to Article 771 ZPO (German Code of Civil Procedure), the Customer shall be liable for the losses incurred by us.
- (4) The Customer is entitled to resale the merchandise in the course of normal business; however, he/she shall cede to us all claims in the net-invoice amount (including VAT) agreed with us, which he/she shall receive from the resale to his customer or third parties, irrespective of whether the merchandise has been sold on without or after processing. The Customer shall remain entitled to collect these claims even after cession, provided he/she complies with his/her payment obligations from the received proceeds, is not in default of payment and particularly when no application for the opening of insolvency proceedings or cessation of payments has been made. Should this however be the case, we may request the Customer to inform us of the assigned claims and debtors, provide us with all information required for collection, hands over the corresponding documentation and notifies the debtors (third parties) of the assignment.

Article 10 Impossibility

Insofar as our delivery shall be impossible owing to reasons for which we are responsible, the Customer may only claim compensation in the amount of 20 % of the net price of the part of the delivery which has become impossible, without prejudice to his/her right to rescind the contract, however at least in the amount of the contract-typical damage; this limitation shall not apply in the event of intent, gross negligence or injury to life, body or health. This ruling does not entail a reversal of the burden of proof to the detriment of the Customer.

Article 11 Other Compensation Claims

- (1) Customer claims for damages and reimbursement, irrespective of the legal grounds, particularly arising from the breach of obligations in regard to the contractual relationship, which do not represent warranty claims, do not exist.
- (2) This shall not apply, insofar as the liability shall be based on mandatory standards, particularly in accordance with the Product Liability Act, shall not apply in the event of intent, gross negligence or injury to life, body or health, when an essential contractual obligation has been violated. Essential contractual obligations are those obligations which are explicitly agreed as such. Furthermore, the supply and where necessary installation of the defect-free object of the contract as well as advisory, protection and care duties, which are to enable the Customer to use the object of the contract in accordance with the contract are also contractually essential. In the event of a violation of an essential contractual obligation, the claim for damages shall be limited to contract-typical, foreseeable damage, unless there has been intent, gross negligence or injury to life, body or health. This ruling does not entail a reversal of the burden of proof to the detriment of the Customer.

Article 12 Acceptance

Insofar as an acceptance of the purchased goods has been explicitly agreed upon or insofar as we manufacture the object being delivered, these shall be deemed as accepted, when

- delivery and insofar as we shall be responsible for the installation, the installation have been completed,
- we have informed the Customer of this on the grounds of the acceptance pursuant to Article 12 and have requested him/her to accept,

- 14 working days have passed since delivery or installation or the Customer has commenced with the use of the purchased goods and in the event of this, seven working days have passed since delivery or installation and
- the Customer has neglected to accept the goods within this period, for a reason other than a defect which has been brought to our attention, which significantly impairs the use of the goods or makes said use impossible.

Article 13 Condition

- (1) The technical description is in the individual case definitive for the condition of the object of the contract.
- (2) Insofar as drawings and plans are the basis for the production or supply, the textile descriptions shall take precedence should any contradictions arise between the image and the textile description of the object of the contract. In remaining cases of doubt, the parties to the contract have to jointly resolve any unclear issues.
- (3) The Purchaser is to inform us of any subsequent alterations to the condition requirement as soon as possible; we shall then submit an offer on any additional payment. Insofar as the customer does not accept said offer and the parties cannot agree on the price, the object of the contract shall be produced in the original intended condition.

Article 14 Guarantee

- (1) Only the description of the service contained in the order confirmation or in the contract shall be definitive for the determining of the contractual condition of the merchandise. We shall only accept a guarantee when this has been explicitly agreed in writing and said confirmation has been declared as „Guarantee“.
- (2) The warranty rights of the Customer shall be conditional on him/her fulfilling his/her inspection and notification obligations to Article 377 HGB (German Commercial Code). In accordance with said legislation, obvious defects are to be reported within one week after receipt of the goods at the Customer and non-obvious defects are to be reported within one week after said defects have been discovered.
- (3) Insofar as a defect of the goods exists, we shall be entitled to supplementary performance (of our choice: correction of the defect or supply of a defect-free good). The Customer may not carry out correction work on the defect him/herself without our prior consent or have said work carried out by third parties; costs for such work shall not be accepted by us. In the event of correction work carried out by us, we shall be obligated to bear all costs necessary for the purpose of rectifying the defect, particularly transport, travel, work and material costs, insofar as the costs shall not be higher owing to the fact that the goods have been brought to a place other than the place to which the goods were delivered or which shall be other than the place of destination as stipulated in the contract.
- (4) Insofar as the correction of the defect should fail or shall be rejected by us or insofar as the supply of a defect-free good shall be rejected by us, the Customer shall have the choice to rescind the contract or to request a corresponding reduction of the purchasing price (Reduction).
- (5) Insofar as there is nothing to the contrary stated hereinafter (Section 6), any further-reaching claims by the Customer – regardless of the legal grounds – shall be excluded. We shall therefore not be liable for damages, which have not occurred to the object of the contract itself; in particular we shall not be liable for loss of profit or other pecuniary losses of the Customer.
- (6) Insofar as the damage has been caused by intent or gross negligence or insofar as the damage affects life, body or health, we shall be liable in accordance with statutory provisions. Insofar as we culpably violate an essential contractual obligation (Article 11 Section 2), liability shall be limited to the contract-typical damage; otherwise it shall be excluded pursuant to section (5).
- (7) The guarantee period shall be 1 year from transfer of risk. This shall not apply in the case of a delivery, which in accordance with the provisions has been installed in a construction which has hence caused its defectiveness.

Article 15 Commissioning of third parties

We shall be entitled to commission sub-contractors for part or whole rendition of services necessary in conjunction with the manufacture of the object of the contract.

C) Special Regulations for Purchasing

Article 16 Orders and contracts

- (1) Insofar as our order shall not contain a binding period, we shall be bound to one week after the order date. The receipt of the acceptance declaration at our premises shall be definitive for the timely acceptance.



- (2) We shall be entitled to alter the time and place of the delivery as well as the type of packaging at any time by means of written notification and notice period of at least 7 calendar days prior to the agreed delivery date.

Article 17 Prices, terms of payment, invoice information

- (1) The price as stated in the order shall be binding.
- (2) In the absence of any written agreement to the contrary, the price shall include delivery and transport to the shipping address as listed in the contract including packaging. At our request, the Supplier has to take back the packaging at his/her expense.
- (3) Insofar as nothing to the contrary has been agreed, we shall pay the purchasing price within 14 days with 2 % discount or within 30 days net after delivery of the merchandise and receipt of the invoice. The receipt of our transfer instruction at our bank shall suffice for the punctuality of the payments owed by us, insofar as this has been accepted by the Bank and shall be executed.
- (4) Our order number, the article number, quantity delivered and delivery address are to be on all order acknowledgements, delivery papers and invoices. Should one or more of said details be missing and as a result of this, the processing by us should be delayed in the course of our normal business, the payment periods as stipulated in section 4 shall be extended by the period of said delay.
- (5) In the event of delayed payment, we shall owe interest on arrears of five percentage points above the base rate of interest pursuant to Article 247 German Civil Code. Further claims for damages shall remain unaffected, insofar as the delay shall be caused by intent or gross negligence.
- (6) We shall be entitled to the right to offset and retention as well as the plea of non-performance of the contract to the full extent allowed by law. In particular, we shall be entitled to withhold due payments, provided we have open claims against the Suppliers arising from incomplete or faulty services.
- (7) The Supplier shall only have a right to offset or retention on condition that the respective counterclaims shall be undisputed, recognised by us or established as final by a court of law.

Article 18 Delivery time and delivery, Service, Transfer of Risk

- (1) The delivery recorded in the order (delivery date or period) is binding. Advance deliveries or part-deliveries shall only be permissible with our prior written approval.
- (2) The Supplier shall be obligated to notify us immediately when circumstances occur or become known, owing to which the delivery time cannot be observed.
- (3) In the event of a delay in delivery, whose occurrence shall be based on statutory provisions, we shall be entitled without restriction to the statutory claims including the right of rescission and the claim for damages instead of the service after a reasonable grace period has elapsed.
- (4) We shall be entitled to claim a contractual penalty of 0.5%, maximum 5%, of the respective net order value in the event of culpable delays in delivery after prior written warning to the Supplier for each commenced week of the delivery delay. The right is reserved to make further-reaching claims for damages, against which the contractual penalty will be charged. Should we accept the delayed service, the contractual penalty is to be claimed with the final payment at the latest.
- (5) Without our written approval, the Supplier shall not be entitled to commission subcontractor in whole or in part or to have said order carried out by a subcontractor.
- (6) Risk shall be only transferred to us, also when shipment has been agreed upon, when the merchandise has been handed over at the agreed place of destination.

Article 19 Spare Parts

- (1) The Supplier shall be obligated to maintain a stock of spare parts for the products supplied to us for a period of at least 5 years after the delivery.
- (2) Should the Supplier intend to cease the production spare parts for the products supplied to us, he is to notify us immediately of said decision concerning the discontinuation. This decision must be – subject to section 1 – at least 6 months prior to the discontinuation of production.

Article 20 Guarantee and Warranty Claims

- (1) The Supplier shall guarantee that the objects supplied by him/her correspond in full to the service description in the order. Deviations shall also not be permissible without our explicit approval even in such cases when the objects, the Supplier would like to supply have the same function as the objects in the order.
- (2) In the event of defects, we shall be unrestrictedly entitled to the statutory claims. The warranty period is 5 years from delivery (Article 438 Section 1 No. 2 lit. b) German Civil Code).
- (3) The supplier assumes the quality assurance in regard to the merchandise being supplied by him/her. Our inspection and reporting obligations shall therefore be limited to defects, which become apparent during our goods-in inspections under external inspection (e.g. Transport damage, incorrect or short deliveries). When acceptance of the goods has been agreed upon, no special inspection obligation shall be required. Quality and quantity deviations shall also be deemed to be duly reported in time, when we inform the supplier of them within 10 working days since receipt of them at our premises. Hidden material defects shall also be deemed to be duly reported in time, when the supplier shall be notified within 10 working days after discovery.
- (4) The costs incurred for the inspection and the supplementary performance shall be borne by the supplier, also in such cases, when the supplementary performance request proves to be unjustified. This shall not apply, when our supplementary performance request was expressed in the knowledge or grossly negligent ignorance of said circumstance that no defect exists.
- (5) Acceptance or approval of samples or specimens provided shall not signify a waiver of guarantee claims on our part.
- (6) With the receipt by the Supplier of our written defect notification, the statutory limitation of guarantee claims shall be inhibited. For replacement deliveries or for defect remedies, the warranty period shall begin again for replaced or repaired parts, unless the measure shall be carried out for only on a goodwill basis discernible to us and without recognition of a legal duty.

Article 21 Product liability

The supplier shall be responsible for all claims asserted by third parties for damages to persons or property caused by a defective product supplied by him/her and is obligated to release us from any resulting liability.

Article 22 Trademark rights

- (1) The supplier shall be responsible in conjunction with his/her delivery, that no third party trademark rights in Countries of the European Union, North America or other countries shall be infringed, in which he/she manufactures the products or has said products manufactured.
- (2) The supplier is obligated to release us from all claims raised by third parties against us due to the infringement of industrial property rights as stipulated in section 1 and to reimburse us for all necessary expense incurred in conjunction with said claim. This claim exists independently of the culpability of the supplier.

Article 23 Contract language

In case where there are ambiguities or discrepancies between the English and the German version of this GTC, the German version shall prevail exclusively.