

## **General Terms and Conditions of Sale**

### **§ 1 Scope, form**

(1) The present General Terms and Conditions of Sale (GTCS) apply to all of our business relationships with our customers ("Buyers"). The GTCS apply only if the Buyer is an entrepreneur (§ 14 BGB [German Civil Code]), a legal entity under public law, or a special fund under public law.

(2) In particular, the GTCS apply to contracts regarding the sale and/or delivery of movable items ("Goods"), regardless of whether we manufacture the Goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the GTCS shall also apply to equivalent future contracts in the current version at the time of the Buyer's order, and/or in any case in the most recent version provided in text form as a framework agreement, without the need for us to make any additional reference to them in each case.

(3) Our GTCS apply exclusively. Any deviating, conflicting or supplementary General Terms and Conditions of the Buyer shall only become part of the contract if and to the extent that we have explicitly agreed to their validity in writing, i.e. in written or text form (e.g. a letter, email, fax). This agreement requirement applies in every case, for instance even if we provide delivery to the Buyer outright and in full knowledge of the Buyer's General Terms and Conditions.

(4) Individual agreements established with the buyer in each case (including ancillary agreements, additions and amendments) shall always take precedence over these GTCS. Subject to proof to the contrary, a written contract and/or our written confirmation shall be definitive regarding the content of such agreements.

(5) Legally relevant declarations and notifications by the Buyer regarding the contract (e.g. deadlines, defect notifications, cancellation or reduction) must be submitted in writing. Statutory formal requirements and further proof, particularly in case of doubt regarding identification of the declaring party, shall remain unaffected.

(6) Any references to the applicability of statutory provisions are provided only for clarification purposes. Even without such clarification, therefore, the statutory provisions apply unless they have been directly modified or explicitly excluded in these GTCS.

### **§ 2 Conclusion of contract**

(1) Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogs, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documentation, including cost estimates – including in electronic form – for which we reserve ownership rights and copyrights. The documentation shall only be made available to third parties with our prior written permission, and shall be returned to us immediately upon request if the order is not placed with us. The above provision shall apply mutatis mutandis to the Buyer's documentation; however, such documentation may be made available to our suppliers as well as to any third parties to whom we have permissibly transferred deliveries.

(2) Technical data and descriptions in the product information alone do not represent an assurance of certain characteristics. An assurance of characteristics in the legal sense exists only if we have confirmed the relevant information in writing. Declarations made by us regarding performance specifications, references to DIN standards, etc., do not represent the assumption of a guarantee. A guarantee shall only be assumed by way of an explicit written declaration from us.

(3) Goods shall remain subject to design or formal changes as a result of improvements to the technology and/or legal requirements during the delivery period as long as the delivery item is not significantly changed and the changes are reasonable for the Buyer. In the event of a subsequent purchase, a reference to the changes made is not necessary, provided that the above conditions apply.

(4) Ordering of the Goods by the Buyer is considered a binding offer of contract. Unless otherwise indicated in the order, we are entitled to accept this offer of contract within two weeks of its receipt.

(5) Acceptance can be declared in writing (e.g. through an order confirmation) or by way of delivery of the Goods to the Buyer.

(6) Any tools or testing equipment that we manufacture or procure at the Buyer's expense in order to produce and test the Goods ordered by the Buyer shall remain our property even after the contract

has been executed, regardless of the fact that the Buyer bore the relevant manufacturing or procurement costs.

(7) We are entitled to increase or decrease the agreed delivery quantity by up to 10% without incurring subsequent delivery and/or guarantee claims. This shall not affect the individual purchase price of the Goods, but the total purchase price of all ordered Goods shall be increased or reduced according to the changed delivery quantity.

(8) Disposable packaging cannot be returned to us; customers must dispose of this at their own expense.

### **§ 3 Delivery period and delay in delivery**

(1) The delivery period shall be agreed on a case by case basis and/or specified by us when the order is accepted. If this is not the case, the delivery period shall be approx. four weeks after conclusion of the contract.

(2) If we fail to meet binding delivery deadlines for reasons beyond our control (non-availability of the service), we shall inform the Buyer of this and of the expected, new delivery period immediately. If the service is still not available within the new delivery period, we are entitled to cancel the contract in full or in part; we will immediately reimburse any payment already made by the Buyer. In particular, non-availability of the service includes delayed delivery to us by 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 provide the service in a particular case.

(3) The start of our delayed delivery shall be determined according to the statutory provisions. In every case, however, the Buyer must provide a warning. If we are in default with a delivery, the Buyer can request a lump-sum compensation as compensation for damage caused by the delay. The lump-sum compensation shall be 0.5% of the net price (delivery value) for each full calendar week of the delay, but at most up to 5% total of the delivery value of the delayed Goods. We reserve the right to provide proof that the Buyer incurred no damage at all, or significantly lower damage than the abovementioned lump-sum compensation.

(4) The Buyer's rights as per § 8 of these GTCS and our statutory rights, particularly in the event of an exclusion of the performance obligation (e.g. if it is impossible or unreasonable to perform the service and/or provide a supplementary performance), remain unaffected.

### **§ 4 Delivery, partial delivery, transfer of risk, acceptance, default of acceptance**

(1) Delivery is provided ex works, which is also the place of fulfillment for the delivery and any supplementary performance. At the Buyer's request and expense, Goods can be sent to a different destination (sales shipment). Unless otherwise agreed, we are entitled to determine the shipment type (particularly the transport company, transport route, and packaging) ourselves.

(2) Partial deliveries are permissible within the delivery periods we have specified as long as these do not pose any disadvantage with regard to use and as long as this is reasonable for the Buyer.

(3) The risk of accidental destruction and accidental deterioration of the Goods shall be transferred to the Buyer at the latest at the time of delivery. In the case of a sales shipment, however, the risk of accidental destruction and accidental deterioration of the Goods as well as the default risk shall be transferred to the shipping company, freight forwarder or any other person or entity chosen to provide transport. Where an acceptance requirement has been agreed, acceptance shall be definitive for the transfer of risk. For the rest, the statutory provisions of work contract law shall apply correspondingly to any agreed acceptance. If the Buyer is in default of acceptance, this shall be equivalent to handover and/or acceptance.

(3) If the Buyer is in default of acceptance or fails to cooperate as required, or if our delivery is delayed for other reasons caused by the Buyer, we are entitled to request compensation for the resulting damage including additional expenses (e.g. warehousing costs). In this case we shall charge a lump-sum compensation equal to 0.5% of the net price (delivery value) for each full calendar week of the delay, but at most up to 10% of the delivery value, beginning at the end of the delivery period or – if no delivery period is specified – upon notification that the Goods are ready to ship.

The right to prove greater damage and assert our statutory claims (particularly compensation for additional expenses, appropriate indemnification, termination) shall remain unaffected; however, the lump-sum compensation shall then be offset against any further monetary claims. The Buyer is entitled

to prove that we incurred no damage at all, or significantly lower damage than the abovementioned flat fee.

## **§ 5 Prices and payment conditions**

(1) Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract shall apply, ex works and subject to statutory value added tax.

(2) For sales shipments (§ 4 Sec. 1) the Buyer shall bear the transport costs ex works and the costs of any transport insurance desired by the Buyer. If we do not invoice the transport costs actually incurred in the individual case, a flat transport-cost fee (excluding transport insurance) of 150 euros is hereby agreed. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.

(3) The purchase price is due for payment within 30 days of invoicing and delivery or acceptance of the Goods. However, we are also entitled to require payment in advance for a full or partial delivery at any time in the context of an ongoing business relationship. We shall declare such reservation at the latest when the order is confirmed. A 2% discount shall be granted for payments made within 10 days if the order confirmation includes a reference to such discount.

(4) When the above payment period lapses, the Buyer shall be considered in default. During the period of default, the purchase price shall be subject to the applicable statutory interest rates. We reserve the right to assert claims for further damage caused by default. Our claim to commercial default interest against merchants (§ 353 HGB) shall remain unaffected.

(5) The Buyer shall only be entitled to offsetting or retention rights where the Buyer's claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's opposing claims particularly as per § 7 Sec. 6 Sentence 2 of these GTCS shall remain unaffected.

(6) If it becomes apparent after conclusion of the contract (e.g. by filing for insolvency proceedings) that our claim to the purchase price is endangered by the Buyer's inability to pay, we are entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a grace period – to withdraw from the contract (§ 321 BGB). For contracts regarding the manufacture of unique items (individual production), we can declare our withdraw immediately; the statutory provisions regarding the dispensability of a time limit shall remain unaffected.

## **§ 6 Reservation of title**

(1) We hereby reserve ownership of the sold Goods until all of our current and future claims from the purchase agreement and from any ongoing business relationship (secured claims) have been paid in full.

(2) Goods subject to reservation of title shall neither be pledged to third parties nor assigned by way of security until the secured claims have been paid in full. The Buyer shall notify us immediately in writing if a petition has been filed to initiate insolvency proceedings or if third parties access the Goods belonging to us (e.g. through pledging).

(3) In the event that the Buyer is in breach of contract, particularly non-payment of the owed purchase price, we are entitled to cancel the contract according to the statutory provisions and/or request the return of the Goods on the basis of the reservation of title. Such a return request shall not automatically constitute a declaration of cancellation; rather, we are entitled to merely request the return of the Goods and reserve our cancellation right. If the Buyer does not pay the owed purchase price, we shall only assert these rights if we have first set an appropriate grace period for payment by the Buyer, without result, or if such a grace period is unnecessary according to the statutory provisions.

(4) Until cancellation as per (c) below, the Buyer is authorized to resell and/or process the Goods subject to reservation of title in the proper course of business. In this case, the following additional provisions shall apply.

(a) The reservation of title shall apply to the full value of the products that result from processing, mixing or combining our Goods; we are considered the manufacturer. If third-party property rights continue to exist after processing, mixing or combination with third-party goods, we shall obtain co-ownership in proportion to the invoice values of the processed, mixed or combined goods. For the rest, the resulting product is subject to the same conditions as for Goods delivered subject to reservation of title.

(b) The Buyer hereby assigns to us, by way of security in advance, in full and/or in the amount of any co-ownership share that we obtain as per the above section, any claims against third parties that result

from the resale of the Goods or the product. We hereby accept the assignment. The Buyer's obligations as named in Sec. 2 shall also apply with regard to the assigned claims.

(c) In addition to us, the Buyer shall remain authorized to collect claims. We hereby agree not to collect the claim as long as the Buyer fulfills its payment obligations toward us and does not have any deficiency of performance, and as long as we do not assert our reservation of title by exercising a right as per Sec. 3. However, if this is the case, we can request that the Buyer notify us of the assigned claims and their debtors, provide all necessary information for collection, hand over the relevant documentation, and inform the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the Buyer's authorization to resell and process the Goods subject to reservation of title.

(d) If the security value that can be realized exceeds our claims by more than 10%, we shall release our choice of securities at the Buyer's request.

## **§ 7 Defect claims by the Buyer**

(1) The Buyer's rights in the case of material defects or defects of title (including incorrect or insufficient deliveries as well as improper assembly or defective assembly instructions) are subject to the statutory provisions unless otherwise provided in § 2 (7) and in the following. In every case, the special statutory provisions shall remain unaffected upon final delivery of unprocessed Goods to a consumer, even if the consumer further processes them (supplier recourse as per §§ 478 BGB). Claims from supplier recourse are excluded if the defective Goods were further processed by the Buyer or another entrepreneur, e.g. by incorporating them into another product.

(2) Above all, our defect liability is based on the established agreement regarding the condition of the Goods. An agreement regarding the condition of the Goods is established by all product descriptions and manufacturer information defined in the individual contract or made public by us (particularly in catalogs or on our website) at the time when the contract was concluded.

(3) If the condition has not been agreed, the statutory provision shall be applied in order to determine whether a defect exists or not (§ 434 Sec. 1 p. 2 and 3 BGB). However, we do not assume any liability for public statements made by the manufacturer or other third parties (e.g. in advertisements) which the Buyer has not mentioned as a reason for making the purchase.

(4) The Buyer's defect claims require the Buyer to have fulfilled its statutory inspection and complaint obligations (§§ 377, 381 HGB). For construction materials and other Goods intended for incorporation or other further processing, an inspection must always take place immediately before processing. If a defect is discovered upon delivery, during inspection, or at any later point, we must be notified of this in writing immediately. In every case, obvious defects must be reported in writing within seven business days after delivery, and defects not discovered during the inspection reported within the same period after their discovery. If the Buyer fails to perform a proper inspection and/or provide a defect notification, our liability for any defect that was not reported, or not reported in a timely manner, or not reported properly, is hereby excluded according to the statutory provisions.

(5) If the delivered item is defective, we can initially choose whether we will provide a supplementary performance by remedying the defect (rectification) or by delivering a fault-free item (replacement delivery). Our right to refuse supplementary performance under the statutory provisions remains unaffected.

(6) We are entitled to make the owed supplementary performance contingent upon the Buyer's payment of the owed purchase price. However, the Buyer is entitled to retain an appropriate part of the purchase price in proportion to the defect.

(7) The Buyer shall give us the necessary time and opportunity to provide the owed supplementary performance, particularly by handing over the rejected Goods for testing purposes. In the case of a replacement delivery, the Buyer shall return the defective item to us according to the statutory provisions. Our supplementary performance shall not include removal of the defective item or its re-installation if we were not originally obligated to perform the installation.

(8) We shall bear or reimburse the necessary expenses for testing and supplementary performance, particularly transport, travel, labor and material costs as well as any removal and installation costs, according to the statutory provisions if a defect is established. Otherwise, we can request compensation from the Buyer for any costs resulting from an unjustified defect rectification request (particularly testing and transport costs) unless the lack of defect was not apparent to the Buyer.

(9) In urgent cases, e.g. if operational safety is at risk or to prevent unreasonable damage, the Buyer has the right to rectify the defect itself and request compensation from us for the objectively necessary expenses. We must be notified immediately, in advance if possible, of any such self-remedy. The self-remedy right does not apply if we would have been entitled to refuse corresponding supplementary performance according to the statutory provisions.

(10) If the supplementary performance is unsuccessful, or if a grace period set by the Buyer for such supplementary performance lapses without result or is unnecessary according to the statutory provisions, the Buyer can cancel the purchase agreement or reduce the purchase price. However, no cancellation right applies for insignificant defects.

(11) The Buyer's claims for damage compensation and/or reimbursement of futile expenditures, even in the case of defects, shall exist only as defined in § 8 and are otherwise excluded.

## **§ 8 Other liability**

(1) Unless otherwise stated in these GTCS, including the provisions below, we are liable according to the statutory provisions in the case of a breach of contractual or non-contractual duties.

(2) Regardless of legal grounds, we shall be liable for damage compensation within the scope of fault-based liability in cases of intent and gross negligence. In the case of simple negligence, we shall only be liable, subject to statutory liability limitations (e.g. duty of care in our own affairs, breach of insignificant duties), for:

a) damages arising from a loss of life, bodily injury or damage to health,

b) damages arising from the breach of a significant contractual duty (a duty that must be fulfilled in order to properly execute the contract and which the contractual partner regularly trusts and can trust to be fulfilled); in this case, however, our liability is limited to compensation for foreseeable, typically occurring damages.

(3) The liability limitations defined in Sec. 2 also apply to breaches of duty by and/or on behalf of persons whose fault is our responsibility according to the statutory provisions. They do not apply if we fraudulently concealed a defect or assumed a guarantee for the condition of the Goods, nor to the Buyer's claims under the Product Liability Act.

(4) The Buyer can only cancel 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. The Buyer's unrestricted termination right (particularly as per §§ 650, 648 BGB) is hereby excluded. For the rest, the statutory requirements and legal consequences apply.

(5) Damage compensation asserted as per the above provisions and based on the fact that preliminary products used to produce the Goods do not fulfill the statutory requirements for hazardous materials in electronic components as per ElektroStoffV [Ordinance on Hazardous Materials in Electrical and Electronic Devices] can only be asserted against us after an attempt to assert a claim against the supplier of the preliminary products has definitively failed.

## **§ 9 Limitation period**

(1) In deviation from § 438 Sec. 1 No. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year as of delivery. Where an acceptance requirement has been agreed, the limitation period shall begin as of the time of acceptance.

(2) However, if the Goods are a structure or an item that has been used for a structure according to its usual intended purpose, and if they have caused a defect in this structure (construction material), the limitation period as per the statutory provision shall be 5 years from the time of delivery (§ 438 Sec. 1 No. 2 BGB). Further special statutory provisions on the limitation period (esp. § 438 Sec. 1 No. 1, Sec. 3, §§ 444, 445b BGB) also remain unaffected.

(3) The above limitation periods for purchase rights also apply to contractual and non-contractual damage compensation claims by the Buyer that result from a defect in the Goods, unless applying the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in the relevant case. However, damage compensation claims by the Buyer as per § 8 Sec. 2 Sentence 1 and Sentence 2(a) as well as according to the Product Liability Act shall lapse exclusively according to the statutory limitation periods.

## **§ 10 Choice of law, place of jurisdiction and priority German version**

(1) These GTCS and the contractual relationship between us and the Buyer are subject to the laws of the Federal Republic of Germany to the exclusion of international uniform law, particularly the UN Convention on Contracts for the International Sale of Goods.

(2) If the Buyer is an entrepreneur in the sense 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 directly or indirectly from the contractual relationship shall be our registered place of business in 83083 Riedering, Germany. The same applies correspondingly if the Buyer is an entrepreneur in the sense of § 14 BGB. However, we are entitled in every case to file a complaint at the place of fulfillment for the delivery obligation as per these GTCS and/or a prior-ranking individual agreement, or at the Buyer's general place of jurisdiction. Prior-ranking statutory provisions, particularly regarding exclusive jurisdiction, shall remain unaffected.

(3) In the event of difficulties of interpretation, the German text of these GTCS shall prevail.