



General Terms and Conditions of Purchase (GTCP)

Im Neuen Felde 88-90, D-29525 Uelzen

Phone +49 (0) 581 / 882 - 0, Fax +49 (0) 581 / 882 - 22

§ 1 Scope, form

(1) These General Terms and Conditions of Purchase (GTCP) apply to all business relations with our business partners and suppliers ("Seller"). The GTCPs shall only apply if the Seller is an entrepreneur (§ 14 German Civil Code ("BGB")), a legal entity under public law or a special fund under public law. The GTCP are available under www.w-winkelmann.com/downloads

(2) The GTCP shall apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether the Seller manufactures the Goods itself or purchases them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the GTCP s in the version valid at the time of the Buyer's order or, in any event, in the version most recently communicated to him in text form, shall also apply as a framework agreement for similar future contracts, without our having to refer to them again in each individual case.

(3) These GTCP apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of Business of the Seller shall only become part of the contract if and to the extent that we have expressly agreed to their validity in writing. This consent requirement shall apply in each and every case, for example even if we accept the Seller's deliveries without reservation in the knowledge of the Seller's General Terms and Conditions of Business.

(4) Individual agreements made with the Seller in individual cases (including collateral agreements, supplements and amendments) as well as the terms and conditions of the delivery contract shall in any case take precedence over these GTCP. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.

(5) Legally relevant declarations and notifications of the Seller in relation to the contract (e.g. setting of a deadline, reminder, withdrawal) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration, remain unaffected.

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

§ 2 Conclusion of Contract

(1) At the earliest, our order shall be deemed binding upon written submission or confirmation. The Seller shall notify us of obvious errors (e.g. typing and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion before acceptance; otherwise the contract shall be deemed not concluded.

(2) The Seller shall be obliged to confirm our order in writing within a period of 14 days with a binding price and delivery date as well as stating the order number or, in particular, to execute it without reservation by dispatching the Goods (acceptance).

A delayed acceptance shall be deemed to be a new offer and requires our acceptance.

§ 3 Delivery time and delay in delivery

(1) The delivery time we stated in the order is binding. If the delivery time is not stated in the order and has not been agreed upon otherwise, it is 2 weeks from the conclusion of the contract. The Seller is obliged to inform us immediately in writing if it is unlikely to be able to meet the agreed delivery times - for whatever reasons.

(2) If the Seller does not perform or does not perform within the agreed delivery time or if it is in default, our rights - in particular to withdraw from the contract and to claim damages - shall be governed by the statutory provisions. The provisions in sub-section 3 remain unaffected.

(3) If the Seller is in default of delivery, we may - in addition to further statutory claims - demand lump-sum compensation for our damage caused by default in the amount of 1% of the net price per completed calendar week, but not more than a total of 5% of the net price of the Goods delivered late. We reserve the right to prove that higher damages have been incurred. The Seller reserves the right to prove that no damage at all or only a significantly lower damage has been incurred.

§ 4 Performance, delivery, transfer of risk, default of acceptance

(1) Without our prior written consent, the Seller is not entitled to have the performance it owes rendered by third parties (e.g. subcontractors). Partial deliveries of the ordered Goods are only possible with our consent. The Seller shall bear the procurement risk for its services, unless otherwise agreed in individual cases (e.g. limitation to stock).

(2) Within Germany, delivery shall be made "free domicile" (*frei Haus*) to the place specified in the order (shipping address). If the place of destination is not specified and unless otherwise agreed, delivery shall be made to our registered office in Im Neuen Felde 88-90, D-29525 Uelzen. The respective place of destination is also the place of performance for the delivery and any subsequent performance (debt to be discharged at the place of performance (*Bringschuld*)). The specified storage location must be noted on all packages.

(3) The delivery shall be accompanied by a delivery note stating the date (issue and dispatch), the contents of the delivery (item number and quantity) and our order identification (date and number). If the delivery note is missing or incomplete, we are not responsible for any delays in processing and payment resulting from this. Separated from the delivery note, a corresponding dispatch note with the same content is to be sent to us.

(4) The risk of accidental loss and accidental deterioration of the Goods shall pass to us upon delivery at the place of performance. If acceptance has been agreed, this shall be decisive for the transfer of risk. The statutory provisions of the law on contracts for works (*Werkvertragsrecht*) shall also apply accordingly in other respects in the event of an



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acceptance. If we are in default of acceptance, this shall be equivalent to handover or acceptance.

(5) The statutory provisions shall apply to the occurrence of our default of acceptance. However, the Seller must also expressly offer us its performance if a specific or determinable calendar time has been agreed for an action or cooperation on our part (e.g. provision of material). If we are in default of acceptance, the Seller may demand compensation for its additional expenses in accordance with the statutory provisions (§ 304 BGB). If the contract relates to an unacceptable item to be manufactured by the Seller (bespoke product), the Seller shall only be entitled to further rights if we are obliged to cooperate and are responsible for the failure to cooperate.

§ 5 Prices and terms of payment

(1) The price stated in the order is binding. All prices are understood to include statutory value added tax if this is not shown separately.

(2) Unless otherwise agreed in individual cases, the price includes the primary performance obligation as well as all ancillary performance obligations of the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).

(3) The agreed price is due for payment within 30 calendar days from complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice (in duplicate with order number and date). If we make payment within 14 calendar days, the Seller grants us a 3% discount on the net amount of the invoice. In the case of bank transfer, payment shall be deemed to have been made on time if our bank receives our transfer order before the expiry of the payment period; we shall not be responsible for delays caused by the banks involved in the payment process.

(4) We do not owe any interest on maturity (*Fälligkeitszinsen*). The statutory provisions shall apply to default of payment.

(5) We shall be entitled to rights of set-off and retention as well as the defence of non-performance of the contract to the extent permitted by law. In particular, we shall be entitled to withhold due payments as long as we are still entitled to claims from incomplete or defective performance against the Seller.

(6) The Seller shall only have a right of set-off or retention on the basis of counterclaims which have been determined as legally binding or are undisputed.

§ 6 Confidentiality and retention of title

(1) We reserve the right of ownership and copyright to illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and, after completion of the contract, are either to be returned to us or to be stored, maintained or renewed by the Seller at no cost or carefully so that they can be used at any time. The documents must

be kept secret from third parties, even after termination of the contract. The obligation to maintain secrecy shall not expire until and insofar as the knowledge contained in the documents provided has become generally known.

(2) The above provision shall apply *mutatis mutandis* to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items that we provide to the Seller for production. Such items - as long as they are not processed - shall be stored separately at the expense of the Seller and insured to a reasonable extent against destruction and loss. Furthermore, we shall be entitled to inspect these substances, materials, tools at the Seller's premises at any time during normal business hours and the Seller shall grant us access to them.

(3) Any processing, mixing or combination (further processing) of items provided by the Seller shall be carried out on our behalf. The same shall apply if we further process the Goods supplied, so that we shall be deemed to be the manufacturer and shall acquire title to the product at the latest upon further processing in accordance with the statutory provisions.

(4) The transfer of ownership of the Goods to us shall take place unconditionally and without regard to the payment of the price. If, however, we accept in individual cases an offer of transfer of title from the Seller conditional upon payment of the purchase price, the Seller's reservation of title shall expire at the latest upon payment of the purchase price for the delivered Goods. In the ordinary course of business, we shall remain authorised to resell the Goods in advance of payment of the purchase price and to assign the resulting claim (alternatively, the simple reservation of title extended to resale). All other forms of retention of title are thus excluded in any case, in particular the extended, the forwarded and the retention of title extended to further processing (*der erweiterte, der weitergeleitete und der auf die Weiterverarbeitung verlängerte Eigentumsvorbehalt*).

§ 7 Defective delivery

(1) The statutory provisions shall apply to our rights in the event of material defects (*Sachmängel*) and defects of title of the Goods (including incorrect and incomplete delivery as well as improper assembly, defective assembly, operating or instruction manuals) and other breaches of duty by the Seller, unless otherwise provided for in the following.

(2) In accordance with the statutory provisions, the Seller shall be liable in particular for ensuring that the Goods have the agreed quality at the time of transfer of risk to us. In any event, those product descriptions which - in particular by designation or reference in our order - are the subject matter of the respective contract or which have been incorporated into the contract in the same way as these GTCP shall be deemed to be an agreement on quality (*Beschaffensvereinbarung*). It makes no difference whether the product description originates from us, the Seller or the manufacturer.

(3) Notwithstanding sentence 2 of § 442 sub-section 1 2 BGB, we shall be entitled to claims for defects without



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limitation even if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.

(4) The statutory provisions (§§ 377, 381 German Commercial Code (HGB)) shall apply to the commercial duty to inspect and notify defects with the following proviso: Our duty to inspect shall be limited to defects which become apparent during our incoming goods inspection under external appraisal including the delivery documents (e.g. transport damage, incorrect and incomplete delivery) or which are recognisable during our quality control by random sampling. Insofar as acceptance has been agreed, there is no obligation to inspect. In all other respects it depends on the extent to which an inspection is feasible in the normal course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later remains unaffected. Irrespective of our duty to inspect, our complaint (notification of defects) shall in any case be deemed to be prompt and timely if it is sent within 8 working days of discovery or, in the case of obvious defects, of delivery.

(5) Subsequent performance shall also include the removal of the defective Goods and their reinstallation, provided that the Goods have been installed in or attached to another object in accordance with their nature and intended use; our statutory claim to reimbursement of corresponding expenses shall remain unaffected. The Seller shall bear the expenses necessary for the purpose of inspection and subsequent performance even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request for the removal of defects remains unaffected; however, in this respect we shall only be liable if we have recognised or grossly negligently failed to recognise that there was no defect.

(6) Notwithstanding our statutory rights and the provisions in sub-section 5, the following shall apply: If the Seller does not fulfil its obligation to provide subsequent performance - at our discretion either by remedying the defect (rectification of defects) or by delivering a defect-free item (replacement delivery) - within a reasonable period of time set by us, we may remedy the defect ourselves and demand from the Seller reimbursement of the expenses required for this purpose or a corresponding advance payment. If the subsequent performance by the Seller has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we shall inform the Seller of such circumstances without delay, if possible in advance.

(7) In addition to the above, in the event of a material defect (*Sachmangel*) or defect in title, we shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. Furthermore, we shall be entitled to compensation for damages and expenses in accordance with the statutory provisions.

§ 8 Supplier recourse

(1) In addition to claims for defects, we are entitled without restriction to our legally determined rights of recourse within a supply chain (supplier recourse according to §§ 445a, 445b, 478 BGB). In particular, we shall be entitled to

demand from the Seller exactly the type of subsequent performance (repair or replacement delivery) that we owe our customer in the individual case. Our statutory right of choice (§ 439 para. 1 BGB) is not restricted by this.

(2) Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to §§ 445a sub-section 1, 439 sub-sections 2 and 3 BGB), we shall notify the Vendor, provide it with a short summary of the facts and request a written statement. If a substantiated statement is not made within a reasonable period of time and no amicable solution is brought about, the claim for defects actually granted by us shall be deemed to be owed to our customer. In this case, the Seller shall be responsible for providing proof to the contrary.

(3) Our claims arising from supplier recourse shall also apply if the defective Goods have been further processed by us or another entrepreneur, e.g. by incorporation into another product.

§ 9 Producer liability

(1) If the Seller is responsible for product damage (*Produktschaden*), it shall indemnify us against claims by third parties to the extent that the cause lies within its sphere of control and organisation and it is itself liable in the external relationship.

(2) Within the scope of its indemnity obligation, the Seller shall reimburse us for expenses pursuant to §§ 683, 670 BGB (German Civil Code) which arise from or in connection with a third-party claim, including recall actions carried out by us. We shall inform the Seller - as far as possible and reasonable - of the content and scope of recall measures and give him the opportunity to comment. Further legal claims shall remain unaffected.

(3) The Seller shall take out and maintain product liability insurance with a lump sum coverage of at least EUR 7.500.000,00 per personal injury/property damage.

§ 10 Limitation period

(1) The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions, unless otherwise provided for below.

(2) Notwithstanding § 438 sub-section 1 No. 3 BGB, the general limitation period for claims for defects is 3 years from the transfer of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance. The 3-year period of limitation shall also apply accordingly to claims arising from defects of title, whereby the statutory period of limitation for third-party restitution of property claims *in rem* (§ 438 sub-section 1 No. 1 BGB) shall remain unaffected; furthermore, claims arising from defects of title shall in no case become statute-barred as long as the third party can still assert the right - in particular in the absence of limitation - against us.

(3) The limitation periods of the law on sales, including the above extension, shall apply - to the statutory extent - to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a



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defect, the regular statutory limitation period (§§ 195, 199 BGB) shall apply here, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

§ 11 Choice of law and place of jurisdiction

(1) These GTCP and the contractual relationship between us and the Seller shall be governed by the law of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

(2) If the Seller 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 exclusive - also international - place of jurisdiction for all disputes arising from the contractual relationship shall be our registered office in 29525 Uelzen. The same applies if the Seller is an entrepreneur within the meaning of § 14 BGB. In all cases, however, we shall also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTCP or a prior individual agreement or at the general place of jurisdiction of the Seller. Overriding statutory provisions, in particular those concerning exclusive jurisdiction, shall remain unaffected.

§ 12 Compliance with laws, customs declaration and export controls

(1) In connection with the contractual relationship, the Seller is obliged to comply with the relevant legal provisions applicable to it. This concerns in particular anti-corruption and money laundering laws as well as antitrust, labour and environmental protection regulations. The Seller shall ensure that the delivered Goods comply with Directive 2011/65 EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment and that the maximum permissible concentrations are not exceeded.

(2) The Seller shall ensure that the products it delivers comply with all relevant requirements for placing them on the market in the European Union and the European Economic Area. Upon request, the Seller shall provide evidence of conformity by presenting suitable documents.

(3) The Seller shall make reasonable efforts to ensure that its subcontractors comply with the obligations of the Seller contained in this Section 12.

(4) We shall accept only materials and products that are REACH and RoHS compliant. We expect the Seller to comply with its duty to provide information on substances of very high concern in accordance with Article 33 of the REACH Regulation. In particular, restrictions and/or prohibitions of substances or uses and possible contents of substances on the candidate list (SVHC) must be observed and communicated. The Seller shall provide safety data sheets and further information in accordance with the provisions of the REACH regulation without being asked.

(5) If the Seller is domiciled abroad or if it imports Goods, it shall assume responsibility for the correctness of the declaration of the Goods which comply with the customs regulations and the foreign trade law of the Federal

Republic of Germany and the EU. For all Goods originating in the EU, the Seller shall submit to us the supplier's declaration with preferential origin status in accordance with Regulation (EU) 2015/2447. The Seller may also provide us with a long-term supplier's declaration which is valid for one year. The Seller shall be liable for any costs arising from the neglect of the declaration obligation.