

General Terms and Conditions

§ 1 Scope of application

- (1) The following terms and conditions apply to business transactions with entrepreneurs, legal entities under public law and special funds under public law.
- (2) Deliveries and other services (hereinafter referred to as "Delivery") shall be made exclusively on the basis of our terms and conditions. Once these have been received by the customer, they shall also apply to all future transactions without express reference to them.
- (3) Conflicting terms and conditions of the customer shall not apply unless we have expressly agreed to their validity. Deviating terms and conditions of the customer shall not apply even if they are not expressly rejected again upon conclusion of the contract.

§ 2 Offer and conclusion of contract

- (1) Our offers are subject to change without notice. The contract is only concluded by our order confirmation. If the delivery is carried out without the customer receiving a confirmation beforehand, the contract is concluded by the acceptance of the delivery. With the acceptance of the delivery the customer accepts these terms and conditions.
- (2) Drawings, illustrations, dimensions, weights or other performance data or information shall only be binding if expressly confirmed by us in writing. We reserve the right to make technical, constructive and customary changes to the delivery item, insofar as they do not unreasonably affect the customer and insofar as they do not affect the usability of the item.

§ 3 Prices, Terms of Payment and Offsetting

- (1) The prices valid on the day of delivery according to the respectively valid price list without deduction of cash discounts are decisive, unless otherwise agreed in writing in the offer. The prices are quoted ex works/warehouse plus the applicable statutory value added tax. Packaging, freight, insurance and postage will be charged separately. This shall also apply to unforeseen additional services for which we are not responsible.
- (2) Unless otherwise agreed, our invoices are due for payment immediately after issue without deduction. Bills of exchange and cheques shall only be accepted on account of payment on the basis of special agreements and shall only be credited after final encashment.
- (3) If it becomes apparent after conclusion of the contract that our payment claim is endangered by the customer's lack of ability to pay, we shall be entitled to the rights arising from § 321 BGB (German Civil Code). The same shall apply in the event of non-compliance with payment conditions, default of payment or in the event of circumstances which call the creditworthiness of the customer into question. These circumstances result in the immediate maturity of all our claims.
- (4) The customer shall only be entitled to offset or exercise the right of retention due to counterclaims if these have been legally established or are undisputed.

§ 4 Delivery, Time of Performance and Assembly

- (1) As a matter of principle, delivery periods shall only be agreed by us in writing. Compliance with our delivery and performance obligations presupposes the timely and proper fulfilment of the customer's obligations.
- (2) In the event of unforeseen hindrances which lie outside our sphere of influence and which we could not avert despite exercising reasonable care in the circumstances of the case, or in the event of force majeure - regardless of whether they occur at our premises or at those of our suppliers - we shall be entitled to rescind the contract in whole or in part on account of the unfulfilled part or to extend the delivery period by the duration of the hindrance. We will inform the customer immediately of any obstacles to performance.
- (3) In the event of a delay in delivery, a reasonable grace period must be set beforehand in order to assert a rescission or claim for damages. For claims for damages § 9 of these AGB applies.
- (4) We shall be entitled to make partial deliveries and render partial services as long as these do not unreasonably impair the customer.
- (5) If the customer is in default of acceptance, we may withdraw from the contract or demand damages instead of performance after the customer has been unsuccessfully set a reasonable deadline for performance. If we choose compensation, this claim shall amount to 25% of the purchase price. Further claims for damages remain unaffected by this. The customer shall be permitted to prove that no damage or a reduction in value has occurred at all or that it is substantially lower than the lump sum.
- (6) Insofar as test items of the customer are required for test purposes, these must, unless otherwise agreed, be received by us at least 8 weeks prior to the advance acceptance date or 10 weeks prior to the agreed delivery date.
- (7) In the event of assembly, the customer shall be obliged to make available qualified and authorised plant operators and assistants, also - if necessary - on weekends and public holidays, free of charge. The Customer shall guarantee a freely accessible installation site and trouble-free operation and support in accordance with sentence 1 for 10 hours per day, including - if necessary - on weekends and public holidays. The customer is obliged to guarantee safety precautions for our fitters and to provide protective clothing, as well as to point out hazards or unusual working conditions already in the order.

§ 5 Software and Confidentiality

- (1) The customer receives a non-exclusive and non-transferable right (simple right) to use the software specified in the contract within the framework of the contractual provisions. The customer is obliged to treat our software, drawings and documents as strictly confidential and to make them accessible only to employees who have to deal with them due to their tasks. Any further use of the software; use on other equipment or passing on to third parties is prohibited. We have the right to modify, further develop and market the software to third parties.
- (2) We shall be entitled without restriction to the property rights and copyrights of exploitation, use and protection of cost estimates, drawings, other documents and our software. These items are to be returned immediately upon failure of the contract or upon termination of the contract. In the event of violations, planning costs for engineering services in accordance with HOAI will be reimbursed by the customer.

§ 6 Retention of title

- (1) We reserve title to the delivered goods until receipt of all payments under the delivery contract.
- (2) Processing or transformation of the goods delivered by us under retention of title shall always be carried out on our behalf to the exclusion of the acquisition of title in accordance with § 950 BGB (German Civil Code), without any liabilities arising for us therefrom. If the reserved goods are combined, mixed, blended or processed with other objects not belonging to us, we shall be entitled to co-ownership of the new object in the ratio of the invoice value of the reserved goods to the other processed goods at the time of processing or treatment. If the customer acquires sole ownership of the new item, the contracting parties agree that the customer shall grant us co-ownership of the new object in the internal relationship to the

amount of the value of the processed reserved object and shall keep it in safe custody for us free of charge. If the other item is to be regarded as the main item, the customer shall transfer to us proportionate co-ownership in accordance with the invoice value as soon as the main item belongs to him.

- (3) The customer may only sell or process the goods in the ordinary course of business as long as he is not in default, the claim from the resale or processing is actually transferred to the customer and the customer has agreed a retention of title with his customers in accordance with these conditions.
- (4) Upon conclusion of the contract, the customer assigns to us all claims with all ancillary rights and securities to which he is entitled from the resale or processing of the reserved goods or from insurance against third parties. We hereby accept the assignment. If the reserved goods are sold together with items not belonging to us or in connection with other services, the assignment of the claim shall be limited to the amount of the invoice value of the reserved goods. The customer is authorized to collect the claim assigned to the customer for the customer's account in his own name. This direct debit authorisation can be revoked by us in the event of default in payment on the part of the customer.
- (5) Pledges or assignments by way of security are not permitted. In the event of access by third parties to the reserved goods, in particular seizure, the customer shall draw attention to our ownership and inform us immediately. The customer is obliged to immediately disclose the claims assigned to us and their debtors and to hand over all information and documents required for collection. If the customer acts in breach of contract - in particular in default of payment - we shall be entitled to take back the reserved goods or to demand assignment of the customer's claims for surrender against third parties.
- (6) If the value of our securities exceeds our outstanding claims against the customer by more than 10%, we shall release securities of our choice upon request. The repossession or seizure of the reserved goods shall not be deemed withdrawal from the contract unless this is expressly declared.

§ 7 Passing of risk and dispatch

- (1) Loading and dispatch shall take place ex works/warehouse of the Seller upon transfer of risk.
- (2) Goods declared ready for dispatch must be called off immediately. Should the customer be in default of acceptance, the risk shall pass to him. Insurance against transport damage shall only be taken out at the written request of the customer.
- (3) If delivery has been agreed, this shall be free truck edge without unloading obligation and only to the extent that proper access is possible. Return of packaging material is excluded.

§ 8 Notice of defects, warranty and other liability

- (1) We shall be liable for proven material defects existing at the time of transfer of risk and notified in good time. The liability for material defects shall be effected by subsequent performance in such a way that we either remedy the defect or deliver a defect-free item at our discretion. If the subsequent performance fails, the customer has the right to demand a reduction of the purchase price (reduction) or withdrawal from the contract.
- (2) Claims for subsequent performance, damages and reimbursement of expenses as well as claims for defects shall become statute-barred one year after delivery of the object of sale. This shall not apply where longer periods are prescribed by law, in particular pursuant to § 438 (1) no. 2 BGB (Buildings and objects for buildings), § 479 (1) BGB (Right of recourse) and § 634 a. (1) No. 2 (construction defects) and in cases of injury to life, limb and health, fraudulent concealment of the defect, claims for damages under the Product Liability Act and breach of material contractual obligations. Essential contractual obligations are those whose fulfilment is essential for the proper execution of the contract and on whose observance the contractual partner may regularly rely.
- (3) Excluded from the warranty are damages caused by unsuitable or improper use of the object of purchase, faulty assembly or commissioning by the customer or third parties, as well as natural wear and tear. The warranty for used goods is excluded except in the case of warranty and fraudulent intent.
- (4) Notifications of defects must be made in writing without prejudice to § 377 HGB (German Commercial Code) due to an inspection carried out immediately after delivery. If defects cannot be discovered within this period even after careful inspection, they must be reported immediately after discovery of the defect. Otherwise the goods shall be deemed to have been approved. The Seller shall not waive the objection of delay by examining delayed notices of defects.
- (5) Section 9 of these GTC shall apply mutatis mutandis to claims for damages and reimbursement of expenses. Any further liability is otherwise excluded.

§ 9 Damages and limitation of liability

- (1) We shall only pay damages if we are guilty of intent or gross negligence, in the event of culpable injury to life, limb or health within the scope of § 309 No. 7 BGB (German Civil Code), within the scope of the mandatory limits of the German Product Liability Act as well as in the event of assumption of a guarantee, fraudulent intent on the part of the seller or the assurance of a characteristic, if a defect covered by such a provision triggers our liability, as well as in the event of breach of material contractual obligations. Essential contractual obligations are those whose fulfilment is essential for the proper execution of the contract and on whose observance the contractual partner may regularly rely. In the event of reimbursement of expenses, the above shall apply mutatis mutandis.
- (2) If the Seller culpably violates an essential contractual obligation, the liability within the scope of the above clause (1) shall be limited to the foreseeable damage typical for the contract. This does not entail any change in the burden of proof.

§ 10 Additional agreements, applicable law

- (1) The parties have not made any verbal agreements, contract amendments or other collateral agreements to the contract. These require the written form to be effective. This also applies to the waiver of the written form requirement.
- (2) The law of the Federal Republic of Germany shall apply. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 does not apply.

§ 11 Place of Performance, Jurisdiction, Partial Invalidity

- (1) The place of performance for all rights and obligations arising from the contract and for payments by the customer shall be Bochum.
- (2) If the customer is a merchant, a legal entity under public law or a special fund under public law, Bochum shall be the agreed place of jurisdiction. This shall also apply if the customer does not have a general place of jurisdiction in Germany or relocates his place of business or usual residence abroad or relocates it unknown after conclusion of the contract.

Vogelsang & Benning Prozeßdatentechnik GmbH Bochum, February 2015