

General Business Conditions

§ 1 Area of application, form

- (1) These General Business Conditions (GBCs) are applicable for our all business relationships with our customers ("buyers"). The GTCs shall be applicable only if the buyer is an entrepreneur (§ 14 of the BGB (German Civil Code)), a legal entity under public law or a special fund under public law.
- (2) The GTCs shall be applicable in particular to contracts for the sale and/or delivery of movable goods ("Goods"), regardless of whether we manufacture the Goods ourselves or purchase them from suppliers (§§ 433, 650 of the BGB). Unless otherwise agreed, the prevailing version of the GTCs at the time of the buyer's order or, in any case, in the version last notified to the buyer 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) Our GTCs shall apply exclusively. 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 expressly consented to their application. This requirement of consent shall apply in any case, for example even if the buyer refers to its GTCs within the scope of the order and we do not explicitly object to this.
- (4) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order confirmation take precedence over the GTCs. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® published by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.
- (5) Legally relevant declarations and notifications by the buyer with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing. Written form within the meaning of these GTCs includes written and text form (e.g. letter, email, fax). Legal formal requirements and further proof, in particular in the case of doubts about the legitimacy of the person making the declaration, shall remain unaffected.
- (6) References to the applicability of statutory provisions shall only have a clarifying meaning. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCs.

§ 2 Conclusion of a contract

- (1) Our offers are subject to change and non-binding. This shall also apply if we have provided the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, illustrations, references to DIN standards), other product descriptions or documents - also in electronic form - to which we reserve property rights and copyrights.
- (2) The order of the goods by the buyer shall be deemed to be a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within 14 days of its receipt by us.
- (3) Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the buyer.
- (4) The information provided in catalogues, brochures, circulars, advertisements, illustrations, price lists and other documents regarding the dimensions, weights, performance and physical or material properties of our products are not legally binding on us unless we have expressly confirmed this information as binding in writing at the time of conclusion of the contract and it has thus become part of the respective contract.

§ 3 Delivery deadline and delay in delivery

- (1) The delivery deadline shall be agreed individually or stated by us upon acceptance of the order.
- (2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall immediately inform the buyer of this and at the same time inform the buyer of the expected new delivery deadline. If the service is also not available within the new delivery deadline, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the buyer. A case of non-availability of the performance in this sense shall be deemed to be, in particular, the failure of our supplier to deliver on time if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case. Further cases of non-availability relate to force majeure, in particular industrial disputes, strikes and lockouts as well as operational disruptions caused by unforeseen events.
- (3) The occurrence of our default in delivery shall be determined in accordance with the statutory provisions. In any case, a reminder by the buyer is however required. If we are in default of delivery, the buyer may demand lump-sum compensation for the damage caused by the default. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each completed calendar week of the delay, but in total not more than 5% of the delivery value of the goods delivered late. We reserve the right to prove that the buyer has suffered no damage at all or only significantly less damage than the aforementioned lump-sum amount.
- (4) The rights of the buyer pursuant to § 8 of these GTCs and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

§ 4 Delivery, transfer of risk, acceptance, default in acceptance

- (1) Delivery shall be made ex warehouse, which is also the place of performance for the delivery and any subsequent performance. At the buyer's request and expense, the goods shall be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
- (2) The risk of accidental loss and accidental deterioration of the goods shall pass to the buyer at the latest upon handover. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the buyer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. Handover or acceptance shall be deemed to have taken place if the buyer is in default of acceptance.
- (3) If the buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the buyer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge a lump-sum compensation of 0.25% of the net price (delivery value) per calendar day, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for dispatch, but not exceeding a total of 7.5% of the delivery value. The proof of higher damages and our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump-sum amount shall be offset against further monetary claims. The buyer shall be entitled to prove that we have not incurred any damage at all or only significantly less damage than the aforementioned lump-sum amount.

§ 5 Prices and terms of payment

- (1) Unless otherwise agreed in individual cases, our prevailing prices at the time of conclusion of the contract shall apply ex warehouse (EXW works, 73240 Wendlingen, Germany), plus statutory VAT, paragraph 1), the buyer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the buyer. Any customs duties, fees, taxes and other public charges shall be borne by the buyer.
- (2) The purchase price is due and payable within 14 days from the date of invoice and delivery or acceptance of the goods. However, we are entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation. If the buyer is more than two months in arrears with a payment obligation, we are also entitled to make outstanding deliveries to the buyer only against advance payment.
- (3) Upon expiry of the aforementioned payment deadline, the buyer shall be in default. During the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable at the time. We reserve the right to assert further damage caused by default. With respect to merchants, our claim to the commercial due date interest rate (§ 353 of the HGB (German Commercial Code)) shall remain unaffected.
- (4) The deduction of rebates or discounts is only permissible if this has been agreed in writing in advance. In the event of a written agreement, a cash discount deduction requires that all payments from the order have been received within the agreed cash discount period.
- (5) The buyer shall only be entitled to rights of set-off or retention insofar as his/her claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's counter rights shall remain unaffected, in particular pursuant to § 7, Paragraph 6, Sentence 2 of these GTCs.
- (6) If, after conclusion of the contract, it becomes apparent (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardised by the buyer's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 of the BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), we may declare withdrawal immediately; the statutory regulations on the dispensability of setting a deadline remain unaffected.

§ 6 Retention of title

- (1) We retain title to the goods sold until all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims) have been paid in full.
- (2) The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The buyer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.
- (3) In the event of conduct by the buyer in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the buyer does not pay the purchase price due, we may only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- (4) Until revoked in accordance with (c) below, the buyer is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition:
 - (a) The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the case of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. Otherwise, the same shall apply to the resulting product as to the goods delivered under retention of title.
 - (b) The buyer hereby assigns to us by way of security all claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, pursuant to the preceding paragraph. We accept the assignment. The obligations of the buyer mentioned in paragraph 2 shall also apply with regard to the assigned claims.

- (c) The buyer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the buyer meets his/her payment obligations towards us, there is no deficiency in his/her ability to pay and we do not assert the reservation of title by exercising a right pursuant to Paragraph 3. If this is the case, we may however demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case, we are entitled to revoke the buyer's authorisation to further sell and process the goods subject to retention of title.
- (d) If the realisable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the buyer's request.
- (5) The buyer is obliged to store goods delivered under retention of title separately at his/her expense and to insure them to a reasonable extent against destruction and loss. Evidence of the insurances shall be provided upon request.

§ 7 Claims for defects of the buyer

- (1) The statutory provisions shall apply to the buyer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as defective instructions), unless otherwise stipulated below. In all cases, the special statutory provisions on the reimbursement of expenses in the case of final delivery of the newly manufactured goods to a consumer (supplier's recourse pursuant to §§ 478, 445a, 445b or § 445c, 327 Paragraph 5, 327u of the BGB) shall remain unaffected, unless an equivalent compensation has been agreed, e.g. within the scope of a quality assurance agreement.
- (2) The basis of our liability for defects is above all the agreement reached on the quality and the presumed use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us at the time of the conclusion of the contract shall be deemed to be an agreement on quality in this sense. Insofar as the quality was not agreed, it shall be assessed in accordance with the statutory regulation whether a defect exists or not (§ 434, Paragraph 3 of the BGB). Public statements made by the manufacturer or on his behalf, in particular in advertising or on the label of the goods, shall take precedence over statements made by other third parties.
- (3) As a matter of principle, we shall not be liable for defects of which the buyer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 of the BGB). Furthermore, the buyer's claims for defects presuppose that he/she has complied with his statutory duties of examination and notification (§§ 377, 381 of the HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection must always be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at any later time, we must be notified of this in writing without delay. In any case, obvious defects must be notified to us in writing within 3 days of delivery and defects that are not recognisable during the inspection must be notified to us within the same period of time after discovery. If the buyer fails to properly inspect the goods and/or give notice of defects, our liability for the defect not reported or not reported in time or not reported properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for incorporation, attachment or installation, this shall also apply if the defect only became apparent after the corresponding processing as a result of the breach of one of these obligations; in this case, the buyer shall in particular have no claims for reimbursement of corresponding costs ("removal and installation costs").
- (4) If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (subsequent improvement) or by delivering an item free of defects (replacement delivery). If the type of subsequent performance chosen by us is unreasonable for the buyer in the individual case, he/she may reject it. Our right to refuse subsequent performance under the statutory conditions remains unaffected.
- (5) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer shall be entitled to retain a reasonable part of the purchase price in relation to the defect.
- (6) The buyer shall give us the time and opportunity required for the subsequent performance owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the buyer shall return the defective item to us at our request in accordance with the statutory provisions; however, the buyer shall not have a claim for return. Subsequent performance shall not include the dismantling, removal or disassembly of the defective item or the installation, fitting or assembly of a defect-free item if we were not originally obliged to perform these services; claims of the buyer for reimbursement of corresponding costs ("removal and installation costs") shall remain unaffected.
- (7) We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions and these GTCs if a defect is actually present. Otherwise, we may demand reimbursement from the buyer of the costs incurred as a result of the unjustified request to remedy the defect if the buyer knew or was negligent in not knowing that there was actually no defect.
- (8) In urgent cases, e.g. if operational safety is endangered or to prevent disproportionate damage, the buyer has the right to remedy the defect independently and to demand reimbursement from us of the expenses objectively necessary for this. We are to be informed immediately of such self-execution, if possible in advance. The right of self-execution does not exist if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
- (9) If a reasonable period to be set by the buyer for subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the buyer may withdraw from the purchase contract or reduce the purchase price according to the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.
- (10) Claims of the buyer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with § 8 and are otherwise excluded.
- (11) There is no warranty claim for declassified goods, special items, waste or non-new goods.

§ 8 Other liability

- (1) Insofar as nothing to the contrary arises from these GTCs including the following provisions, we shall be liable in accordance with the statutory provisions in the event of a breach of contractual and non-contractual obligations.
- (2) We shall only be liable for damages - irrespective of the legal grounds - within the scope of culpability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), for
 - (a) for damages resulting from injury to life, body or health,
 - (b) for damages arising from the breach of a material contractual obligation (obligation the fulfilment of which is a prerequisite for the proper performance of the contract and the observance of which the contractual partner regularly relies on and may rely on); in this case, our liability shall however be limited to compensation for the foreseeable, typically occurring damage.
- (3) The limitations of liability resulting from Paragraph 2 shall also apply to third parties as well as in the event of breaches of duty by persons (also in their favour) whose fault we are responsible for according to statutory provisions. They do not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the buyer under the Product Liability Act.
- (4) The buyer may only withdraw from 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. A free right of termination of the buyer (in particular according to §§ 650, 648 of the BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

§ 9 Statute of limitations

- (1) Notwithstanding § 438, Paragraph 1, No. 3 of the BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- (2) If the goods are an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory regulation (§ 438, Paragraph 1, No. 2 of the BGB). Other special statutory provisions on the limitation period (in particular § 438, Paragraph 1, No. 1, Paragraph 3, §§ 444, 445b of the BGB) shall also remain unaffected.
- (3) The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages of the buyer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 of the BGB) would lead to a shorter limitation period in the individual case. Claims for damages by the buyer pursuant to § 8, Paragraph 2, Sentence 1 and sentence 2(a) as well as pursuant to the Product Liability Act shall become statute-barred exclusively in accordance with the statutory limitation periods.

§ 10 Choice of law and place of jurisdiction

- (1) These GTCs and the contractual relationship between us and the buyer shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- (2) If the buyer 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 directly or indirectly from the contractual relationship shall be our registered office in 73240 Wendlingen. However, we are also entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GTCs or a prior individual agreement or at the general place of jurisdiction of the buyer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.

Wendlingen in March 2022

Glaubrecht Stingel GmbH & Co. KG
Heinrich-Otto-Str. 42
D 73240 Wendlingen