

General Terms and Conditions of Daniel Gruppe GmbH

As of: 04/2018

§ 1 Scope, form

(1) These General Sales Conditions (GTC) apply to all our business relationships with our customers ("Buyers"). The GTC apply only if the buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.

(2) The GTC apply in particular to contracts for the sale and / or delivery of goods ("goods"), irrespective of whether we manufacture the goods ourselves or purchase from suppliers. Unless otherwise agreed, the general terms and conditions in the version valid at the time of the buyer's order or at least in the version last communicated to him in text form also apply to similar future contracts, without us having to refer to them again in each individual case.

(3) Our GTC apply exclusively. Deviating, conflicting or supplementary terms and conditions of the buyer shall only become part of the contract if and insofar as we have expressly consented to their validity. This approval requirement applies in any case, for example, even if we carry out the delivery to him unconditionally with knowledge of the terms and conditions of the buyer.

(4) In individual cases, individual agreements with the purchaser (including collateral agreements, supplements and changes) shall in any case take precedence over these GTC.

(5) Legally relevant statements and advertisements of the buyer regarding the contract (eg setting of a deadline, notification of a defect, withdrawal or reduction) are in writing, i. in written or textual form (eg letter, e-mail, fax).

§ 2 conclusion of contract; Delivery quantities

(1) Our offers are non-binding. This also applies if we have provided the buyer with catalogs, technical documentation (eg drawings, plans, calculations, references to DIN standards), other product descriptions or documents - including in electronic form - in which we own property rights and copyrights Reserved.

(2) Insofar as we only give an approximate delivery quantity within the scope of the specification (for example, by the addition: "+/- 10%"), this is due to manufacturing-related imponderables. In these cases, the delivery of a quantity deviating within the agreed tolerance framework by us shall in principle be considered to be a contractual delivery; as a result, supplementary performance claims within the meaning of 439 BGB do not exist. However, there will then be an adjustment of the purchase price to be paid in the amount of the excess or short delivery. This means that the purchase price to be paid increases or decreases in proportion to the excess or short delivery.

(3) We can declare the acceptance of an offer or an order of the buyer either in writing (for example by sending an order confirmation) or by delivering the goods to the buyer. Unless otherwise stated in the order of the purchaser, we are entitled to accept his contract offer within 14 days of his receipt.

§ 3 Delivery time and delivery delay

(1) The delivery period is individually agreed or specified by us when accepting the order.

(2) If we can not meet binding delivery deadlines for reasons for which we are not responsible (unavailability of the service), we will inform the buyer without delay and at the same time notify the expected new delivery deadline. If the service is not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part; We will reimburse immediately any consideration already provided by the buyer.

(3) The occurrence of our default in delivery is determined by the statutory provisions. In any case, a reminder from the buyer is required.

(4) The rights of the buyer acc. § 8 of these GTS and our statutory rights, in particular in the case of an exclusion of the obligation to perform (for example due to impossibility or unreasonableness of the service and / or subsequent performance), remain unaffected.

§ 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance

(1) Delivery is ex warehouse, where the place of performance for the delivery and any subsequent performance is. At the request and expense of the buyer, the goods will be shipped to another destination (consignment purchase). Unless otherwise agreed, we are entitled to determine the nature of the shipment (in particular transport company, shipping route, packaging).

(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 consignment purchase, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the forwarder, the carrier or the person or institution otherwise responsible for carrying out the consignment.

(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 (for example storage costs).

§ 5 Prices and Terms of Payment

(1) Unless otherwise agreed in individual cases, our current prices at the time of the conclusion of the contract shall apply, ex warehouse, plus statutory sales tax. Discounts are only granted on the basis of an individual agreement.

(2) In the case of a consignment purchase (§ 4 para. 1), the buyer shall bear the transport costs ex warehouse and the costs of any transport insurance desired by the purchaser. Any duties, fees, taxes and other public charges shall be borne by the buyer.

(3) The purchase price is due and payable at the time of delivery, unless a separate payment period has been agreed with the buyer on an individual contract basis. However, we are entitled at any time, even in the context of an ongoing business relationship, to carry out a delivery in whole or in part only in advance. We declare a corresponding reservation at the latest with the order confirmation.

(4) Upon expiry of the applicable payment period, the buyer is in default. The purchase price is subject to interest during the default at the applicable statutory default interest rate. We reserve the right to assert further damages caused by delay. For merchants our claim to the commercial maturity interest (§ 353 HGB) remains unaffected.

(5) The buyer is only entitled to offset our payment claims if his counterclaims are undisputed or have been legally established. Any rights of retention of the buyer pursuant to § 320 BGB remain unaffected.

§ 6 Retention of title

(1) All delivered goods remain our property (reserved goods) until the fulfillment of all claims, in particular also the respective balance claims, which we are entitled to in the context of the entire business relationship (balance reserve). This also applies to future and conditional claims. This balance is definitively terminated by the settlement of all claims outstanding at the time of payment and recognized by this balance.

(2) Within the framework of proper business transactions, the purchaser is entitled to combine, mix and process the reserved goods with other objects. Working and processing of the reserved goods are carried out for us as a manufacturer within the meaning of § 950 BGB, without obligation to us. In the case of processing, combining and mixing of the reserved goods with other items by the buyer, the buyer assigns the co-ownership of the new item to us in proportion to the proportion corresponding to the ratio of the value of our reserved goods plus the processing value to the value of the new item. The processed and processed goods are considered reserved goods within the meaning of paragraph 1. Our co-ownership rights (including those which we may acquire by operation of law in accordance with §§ 947, 948 BGB) shall also be deemed reserved property within the meaning of subsection (1).

(3) The buyer may only resell the reserved goods if:

(a) this is done in the ordinary course of business; and

b) the buyer provides us with the claims arising from the resale in accordance with paragraph 4.

The Purchaser is not entitled to any other dispositions (such as pledges, assignments of title or resale where the claim for the consideration is not effectively transferred to us in accordance with subsection (4) concerning the conditional goods.

(4) The claims that our buyer acquires from the resale of the reserved goods are already assigned to us. They serve as security for the same extent as the reserved goods. In the event of the sale of goods in which we have co-ownership shares in accordance with paragraph 2, we shall be assigned a first-rate portion of the claim from the resale that corresponds to our co-ownership share.

(5) The buyer is entitled to collect claims from the resale in the proper course of business in his own name.

(6) All authority of the buyer to handle the goods subject to retention of title and to collect claims in accordance with paragraph 4 ends in each case at the latest when we have declared the revocation of these powers to the buyer. We will only make use of the right of withdrawal if there are facts which give reason to cause concern that the fulfillment of our payment claims is jeopardized.

(7) If the realizable value of the securities to which we are entitled exceeds our claims by more than 10%, we shall, at the request of the buyer, release securities of our choice.

§ 7 Claims for defects of the buyer

(1) For the rights of the buyer in the case of material and legal defects, the statutory provisions apply, unless otherwise stated below.

(2) Any claims of the buyer against us for defects always require that he has complied with his inspection and complaint obligations.

(3) The buyer is obliged to provide us with the factual findings necessary for the examination of the allegations of defects asserted by the buyer. In particular, we may require that the buyer, at our discretion, send us samples of the ordered delivery at our expense and / or allows the on-site inspection.

(4) If the delivered item is defective, we can first choose whether we provide supplementary performance by rectification of the defect (rectification) or by delivery of a defect-free item (replacement). Our right to refuse the type of supplementary performance initially chosen by us under the statutory conditions remains unaffected.

(5) Claims for recourse of the buyer on the basis of § 445a Abs. 1 BGB against us are excluded. We can not invoke this exclusion if our purchaser or any trader downstream of our purchaser in the supply chain has delivered the newly manufactured goods to a consumer under a consumer contract and was obliged to remedy the defect to the consumer.

(6) In the event of an unjustified notice of defects by the buyer, we may demand compensation from him for the unjustified defect removal request costs (in particular inspection and transport costs), unless the customer was not in good faith in asserting the warranty claims. The customer is not in good faith if he or she was either positively aware of the reasons why our obligation to meet the asserted warranty claims was not known or was only known due to gross negligence. Good faith is excluded in this sense, in

particular, if the customer raises a complaint, although he has clear evidence of another cause of the error and he does not point out immediately in the course of his complaint to these circumstances.

§ 8 Other liability

(1) Insofar as these GTC, including the following provisions, do not stipulate otherwise, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with statutory provisions.

(2) We shall be liable for damages - irrespective of the legal grounds - in the context of fault liability in cases of intent and gross negligence. In the case of ordinary negligence, we are liable only subject to a milder standard of liability according to legal regulations (for example, for care in your own affairs)

a) for damage resulting from injury to life, limb or health,

b) for damages resulting from the material breach of a material contractual obligation (obligation the fulfillment of which makes the proper execution of the contract possible in the first place and the compliance with which the contractual partner regularly relies and can rely on); however, in this case, our liability is limited to compensation for foreseeable, typically occurring damage.

(3) The liability limitations resulting from para. 2 also apply to breaches of duty by or for the benefit of persons whose fault we are responsible for under statutory provisions. They do not apply if we fraudulently concealed a defect or assumed a guarantee for the quality of the goods and for claims of the buyer under the Product Liability Act.

(4) Due to a breach of duty that does not exist in a defect, the buyer can only resign or terminate if we are responsible for the breach of duty. A free right of termination of the buyer (in particular according to §§ 650, 648 BGB) does not exist and is excluded only as a precautionary measure. Incidentally, the legal requirements and legal consequences apply.

§ 9 Statute of limitations

(1) The claims of the purchaser to demand supplementary performance, compensation for damages or reimbursement of futile expenses from us due to a defect in title or title shall expire one year after delivery of the goods at the agreed place of fulfillment.

(2) If the goods are, however, a construction or a thing which has been used for a building in accordance with its normal use and has caused its defectiveness (building material), the limitation period of the claims determined in paragraph 1 shall be determined exclusively by legal regulations. Section 438 (3) BGB remains unaffected.

(3) The above limitation periods of the purchase right 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 (§§ 195, 199 BGB) would in individual cases to a shorter limitation period to lead. Claims for damages of the buyer acc. However, § 8 para. 2 sentence 1 and sentence 2 (a) as well as

according to the product liability law are subject to limitation only according to the statutory limitation periods.

§ 10 Choice of law and jurisdiction

(1) For this GTC and the contractual relationship between us and the buyer, the law of the Federal Republic of Germany applies to the exclusion of international uniform law, in particular the Uniform UN Sales Convention dated April 11, 1980.

(2) If the buyer is a merchant i.S.d. Commercial Code, legal entity under public law or a special fund under public law, is exclusive - also international place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship - our registered office in 32312 Lübbecke. However, in all cases, we are also entitled to bring action at the place of performance of the delivery obligation or at the general place of jurisdiction of the buyer. Priority laws, especially exclusive jurisdictions, remain unaffected.

Daniel Gruppe GmbH