

§ 1 General, scope of application

(1) These General Terms and Conditions of Sale (GTCS) apply to all our business relations with our customers (hereinafter: "Buyer"). The GCS only apply if the Buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.

(2) The GCS apply regardless of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 651 BGB). The GCS as amended from time to time shall also apply as a framework agreement to future contracts for the sale and/or delivery of movable goods with the same Buyer without us having to refer to them again in each individual case; we shall inform the Buyer immediately of any amendments to our GCS in this case.

(3) Our GCS 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 we carry out the delivery to the buyer without reservation in the knowledge of the buyer's GTC.

(4) Individual agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTCS. A written contract or our written confirmation shall be authoritative for the content of such agreements.

(5) Legally relevant declarations and notifications to be made to us by the Buyer after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction) must be made in writing to be effective.

(6) References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly 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 technical documentation, other product descriptions or documents - also in electronic form - to which we reserve ownership rights and copyrights.

(2) The order of the goods by the buyer is deemed to be a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within 2 weeks of its receipt by us.

(3) Acceptance may be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the buyer.

§ 3 Delivery period and delay in delivery

(1) The delivery period shall be agreed individually or stated by us upon acceptance of the order. If this is not the case, the delivery period shall be approx. 2 weeks ex works.

(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 inform the Buyer of this immediately and at the same time inform him of the expected new delivery deadline. If the service is also not available within the new delivery period, 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. The buyer may not reject partial deliveries.

(3) The occurrence of our default in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the buyer is 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 not more than a total of 5% of the delivery value of the goods delivered late. We reserve the right to prove that the buyer has not suffered any damage or that the damage is significantly less than the aforementioned lump sum.

(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 of Acceptance

(1) Delivery shall be made from the loading point of the respective supplying plant, which is also the place of performance and the place of 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. Transport insurance shall only be taken out at the express request and expense of the buyer.

(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 already 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 at our place of loading. 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 EUR 4 per calendar day and per tonne, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for dispatch.

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 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.

(4) In the event of delivery to an agreed location, the buyer shall ensure unhindered access to the place of unloading and immediate unloading. The costs of unloading shall be borne by the buyer. Any change in the quality of the material caused by transport or unloading shall be outside our sphere of responsibility. The persons signing the delivery note shall be deemed to be authorised by us to accept and confirm receipt of the goods.

§ 5 Prices and terms of payment

(1) Unless otherwise agreed in individual cases, our prices current at the time of conclusion of the contract shall apply, ex delivery works, plus statutory value added tax. If less than 2 t are purchased, a minimum quantity surcharge of 25 % may be charged.

In the case of loose loading, we reserve the right to deliver up to 10 % more or less than the ordered quantity. The weight determined by our loading point shall be decisive for the calculation.

Packaged products are delivered on Euro pallets. The Euro pallets are to be exchanged for exchangeable Euro pallets upon receipt of the goods; otherwise we shall charge the price stated in the offer or in the order confirmation for the Euro pallet. If exchangeable Euro pallets are returned later, we shall remunerate them at the reduced price stated in the offer or order confirmation. A late return may be made up to 12 weeks after delivery of the goods. The exchangeability is determined according to the UIC guidelines. Pallets which are not exchangeable will neither be accepted nor credited.

(2) In the case of sale by delivery to a place other than the place of performance (§ 4 para. 1), the buyer shall bear the transport costs ex delivery works 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. We do not take back transport packaging and all other packaging in accordance with the Packaging Ordinance; it becomes the property of the buyer, with the exception of pallets. Euro exchange pallets are to be exchanged upon receipt of the goods; pallets not exchanged immediately will be charged.

(3) The purchase price is due and payable within 10 days from the date of invoice and delivery or acceptance of the goods.

(4) Upon expiry of the above payment period, 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 HGB) shall remain unaffected. In the event of default, the buyer shall pay a flat rate of eight euros plus VAT per reminder.

(5) The buyer shall only be entitled to rights of set-off or retention insofar as his 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 para. 7 sentence 2 of these GTC.

(6) If, after conclusion of the contract, it becomes apparent that our claim to the purchase price is jeopardised by the buyer's inability to pay (e.g. by an application for the opening of insolvency proceedings), 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 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 shall notify us immediately in writing if and to the extent that third parties seize the goods belonging to us. The buyer shall hand over to us all documents necessary for an intervention and shall bear the costs incurred by us for the exercise of our rights.

(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 surrender 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) 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 shall extend to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we shall be deemed to be the manufacturer without any obligations arising for us. If, in the event 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 the claims against third parties arising from the resale of the goods or the product in total or in the amount of our possible co-ownership share in accordance with the above 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 payment obligations towards us, is not in default of payment, no application for the opening of insolvency proceedings has been filed and there is no other deficiency in his ability to pay. If this is the case, however, we may 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.

(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.

§ 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), unless otherwise stipulated below. In all cases, the special statutory provisions shall remain unaffected in the case of final delivery of the goods to a consumer (supplier's recourse pursuant to §§ 478, 479 BGB).

(2) The basis of our liability for defects is above all the agreement reached on the quality of the goods. In the absence of an individual agreement, the respective standard specified in our order confirmation or the qualities of the specified technical regulations shall apply as such an agreement on the quality of the goods.

technical regulations. In particular, the quartz grains comply with the requirements of EN 12620, AQUAGRAN with EN 12904 or for well construction with DIN 4924, AQUAZIT with EN 12909, AQUALIN with EN 12907. Guarantees are not assumed and are not associated with the quality descriptions.

(3) Insofar as the quality has not been agreed, it shall be assessed in accordance with the statutory provisions whether or not there is a defect (§ 434 Para. 1 S 2 and 3 BGB).

(4) The buyer's claims for defects presuppose that he has fulfilled his statutory obligations to examine the goods and give notice of defects (§§ 377, 381 HGB). If a defect becomes apparent during the inspection or later, we must be notified of this in writing without delay. The notification shall be made to our head office

in Dorsten. The notification shall be deemed to have been made without delay if it is made within two weeks, whereby timely dispatch of the notification shall suffice to meet the deadline. Irrespective of this obligation to inspect and give notice of defects, the buyer shall notify us in writing of obvious defects (including incorrect and short deliveries) within five working days of delivery, whereby timely dispatch of the notification shall also suffice here to meet the deadline. If the buyer fails to duly inspect and/or notify the defect, our liability for the non-notified defect shall be excluded.

(5) In the event of a complaint, the buyer shall be obliged to leave the goods unchanged for the purpose of inspection by us and to give us the opportunity to inspect them. If the buyer regularly carries out incoming quality inspections or if it is reasonable to expect him to do so in view of his organisational status, the notice of defect must be given within three working days after delivery. When taking samples, the standards EN 932-1 or EN 12904 must be observed.

(6) If the delivered item is defective, we may first choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). Our right to refuse subsequent performance under the statutory conditions remains unaffected.

(7) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer is entitled to retain a reasonable part of the purchase price in relation to the defect.

(8) 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 in accordance with the statutory provisions. Subsequent performance shall neither include the removal of the defective item nor its re-installation if we were not originally obliged to install it.

(9) We shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs (not: removal and installation costs), if a defect is actually present. However, if a request by the buyer to remedy a defect turns out to be unjustified, we may demand reimbursement of the resulting costs from the buyer.

(10) In urgent cases, e.g. if operational safety is endangered or to prevent disproportionate damage, the buyer has the right to remedy the defect himself and to demand reimbursement from us of the expenses objectively necessary for this. We are to be notified 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.

(11) If the supplementary performance has failed or a reasonable deadline to be set by the buyer for the supplementary 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. In the case of an insignificant defect, however, there is no right of withdrawal.

(12) Claims of the buyer for damages or reimbursement of futile expenses exist only in accordance with § 8 and are otherwise excluded.

§ 8 Other liability

(1) Insofar as nothing to the contrary arises from these GCS including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions.

(2) We shall be liable for damages - irrespective of the legal grounds - in the event of intent and gross negligence. In the case of simple negligence we shall only be liable

a) for damages resulting from injury to life, body or health,

b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to the compensation of the foreseeable, typically occurring damage.

(3) The limitations of liability resulting from para. 2 shall not apply insofar as we have fraudulently concealed a defect or have assumed a guarantee for the quality of the goods. The same applies to 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 which 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 §§ 651, 649 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

§ 9 Limitation

(1) Notwithstanding § 438 para. 1 no. 3 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, however, 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 provision (Section 438 (1) No. 2 BGB). Also unaffected are special statutory provisions for claims in rem for the surrender of goods by third parties (section 438 subsection 1 no. 1 BGB), in the event of fraudulent intent on the part of the seller (section 438 subsection 3 BGB) and for claims in supplier's recourse in the event of final delivery to a consumer (section 479 BGB).

(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 BGB) would lead to a shorter limitation period in the individual case. The limitation periods of the Product Liability Act shall remain unaffected in any case. Otherwise, the statutory limitation periods shall apply exclusively to the buyer's claims for damages pursuant to § 8.

§ 10 Choice of law and place of jurisdiction

(1) The law of the Federal Republic of Germany shall apply to these GCS and all legal relationships between us and the Buyer. The prerequisites and effects of the retention of title pursuant to § 6 shall be subject to the law of the respective place of storage of the item, insofar as the choice of law made in favour of German law is inadmissible or ineffective thereafter.

(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 - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Dorsten. However, we are also entitled to bring an action at the buyer's general place of jurisdiction.

§ 11 Data processing

The data arising from this contractual relationship, in particular names and addresses of the contracting party, payment modalities and the data of the acting persons shall be stored and processed in automated files. Outside of legal obligations, the data will not be passed on to third parties.

§ 12 Samples of goods and technical application advice

(1) For the purpose of quality assurance, we take material samples of the current production and document them. Insofar as such samples are made available, they only show an approximate quality of the goods and are non-binding in particular with regard to colour, grain shape and structure of the grading curve, unless expressly agreed in writing.

(2) We provide advice on technical applications to the best of our knowledge based on our knowledge and experience, without, however, being obliged to do so. This advice is given free of charge and no claims against us can be derived from it. The buyer is responsible for testing the goods for their suitability for the intended use.