

# General Terms and Conditions of Delivery

## I. Scope, Conclusion of the Contract, Contents of the Contract

- These General Terms and Conditions of Delivery (hereinafter referred to as Conditions) only apply to companies within the meaning of Section 14 German Civil Code (BGB), legal persons under public law and special funds under public law.
- Unless otherwise agreed in writing, all - current and future - deliveries of goods and services (hereinafter referred to as Deliveries) to one of the customers specified in Clause I No. 1 (hereinafter referred to as Purchaser) shall be governed exclusively by these Conditions. The Purchaser's terms and conditions shall not form part of any contract even if we do not expressly object to them.
- Unless otherwise indicated in the offer, we shall be bound by our offers as regards technical content and prices for a period of 3 months. Otherwise our offers are non-binding. A contract shall come into being - in the absence of a special agreement - with our written order confirmation or by way of delivery. **Oral ancillary agreements or commitments by our employees** which go beyond the content of the written contract or which modify these Conditions in such a way that is disadvantageous to us, **are only valid where they are confirmed in writing.**
- We reserve all rights of ownership and copyright over samples, cost estimates, drawings and similar information of a corporeal and incorporeal nature, produced by us - including in electronic form; they must not be disclosed to third parties without our prior written consent. Our illustrations, drawings, colour specifications, weight specifications and measurements only represent approximate values insofar as they are not a) expressly identified as binding or b) material.
- Our product specifications do not constitute any guarantee.
- Unless otherwise agreed, customary or minor, technically unavoidable deviations in quality, colour, size or weight do not constitute defects.

## II. Price and Payment

- In the absence of any special agreement, our prices apply CPT agreed destination (Incoterms® 2020). Packaging, transport costs and value added tax at the applicable rate are calculated separately.
- In the case of delivery periods that are longer than 2 months, we are entitled to increase or reduce the agreed prices accordingly where, following conclusion of the contract, there are major changes in the cost of wages, salaries, materials or raw materials and we are not responsible for these changes. Where the price increase exceeds 5%, the Purchaser is entitled to rescind the contract in writing within 2 weeks of notification of the price increase.
- In the absence of any special agreement, payment shall be made within 30 days of receipt of the invoice, without any deductions, to our bank account. Payments are only deemed to have been made to the extent that we have free disposal over them at our bank. Cheques and bills of exchange will only be accepted on account of payment; bank charges are borne by the Purchaser. They are due immediately.
- In the event of default on payment, interest will be charged at a rate of 9 percentage points above the base rate, but in any case no less than 10 %.
- The Purchaser only has a right to withhold payments or to set them off against counter claims where its counter claims are undisputed or established by a final court judgement.

## III. Delivery, Delivery Time, Delivery by own Suppliers, Delayed Delivery

- Delivery shall take place CPT agreed destination (Incoterms® 2020).
- Specified delivery periods are only approximate and therefore non-binding.
- Unless otherwise agreed, an agreed delivery period commences on receipt of the order confirmation but not before clarification of all commercial and technical details regarding execution of the order, or before compliance by the Purchaser with all its obligations, such as e.g. submission of the necessary official certificates and permits, and the provision of any agreed down payment or agreed payment security. Where a specific delivery date is agreed, the delivery period shall be extended accordingly. The foregoing does not apply insofar as we are responsible for the delay.
- Compliance with the delivery period is subject to correct and timely delivery to us by our own suppliers (particularly of raw materials), unless we are responsible for the incorrect or late delivery by our own suppliers. We shall ensure prompt notification of any impending delays.
- The delivery period is deemed to have been complied with if the delivery item is handed over to the carrier at our plant in Wenden before the delivery period expires. Where acceptance is required - other than in the case of justified refusal of acceptance - the acceptance date shall determine compliance, alternatively notification of readiness for acceptance.
- Requests for changes made by the Purchaser shall extend the delivery period until we have examined their feasibility and for the period required for implementing the new requirements into production. Where ongoing production is suspended due to the request for changes, we may bring forward and finish other orders. We are not obliged to keep production capacity free during the delay.
- Where shipping and/or acceptance of the delivery item is delayed due to reasons for which the Purchaser is responsible and the delivery is stored at our plant, the Purchaser shall be charged, on a monthly basis, at least 0.5% of the invoice amount for the stored delivery.
- If we delay on delivery and as a result the Purchaser incurs loss, our liability for simple negligence shall be limited for each full week of delay to 0.5 %, but not exceeding a total of 5% of the invoice amount for that part of the delivery affected by the delay. This shall be without prejudice to the right to damages in lieu of performance pursuant to Clause VII.

## IV. Transfer of Risk, Acceptance, Force Majeure

- Risk shall pass to the Purchaser on transfer of the delivery to the carrier at our Wenden plant (= delivery destination) and this shall be the case even for partial deliveries and in the exceptional case that we also assume other obligations, e.g. shipping costs or delivery. Where acceptance is required, this shall determine the passing of risk. It must take place without delay on the acceptance date, or alternatively on notification of readiness for acceptance. The Purchaser is not permitted to refuse acceptance due to minor defects.

- Partial deliveries are permitted provided this is reasonable for the Purchaser.
- Unforeseen or unavoidable events, or events for which we cannot be held responsible (e.g. force majeure, strikes or lockouts, operational breakdown, problems in the procurement of material or energy, transport delays, shortages in staff, energy or raw materials, official measures as well as difficulties in obtaining authorisations esp. import or export licences), shall extend the delivery period by the duration of the period of disruption and its effects. This also applies where our own suppliers are subject to such hindrance or during an existing period of delay. Where the obstruction is not purely temporary, both parties to the contract are entitled to rescind. The right to claim damages is excluded in the cases referred to in Clause IV No. 3.

## V. Reservation of Title

- We reserve title to the delivery item until all payments and cheques and bills of exchange, arising from the business relationship with the Purchaser, have been received respectively irrevocably honoured. Where there is a current account relationship, the reservation of title extends to the recognised balance.
- The Purchaser is obliged to handle the reserved goods with care and keep them in good condition; in particular it is obliged to insure them sufficiently against loss or damage, at its own expense, for the replacement value. The insurance policy and evidence of payment of the premiums must be submitted upon request. The Purchaser hereby assigns to us its claims under the insurance policy, subject to the condition subsequent that title passes to us; we hereby accept the assignment.
- Any treatment or processing of the reserved goods by the Purchaser is always undertaken on our behalf without giving rise to any obligations on our part. Where the reserved goods are mixed or combined with other goods, we shall acquire co-ownership of the new product in accordance with the ratio of the invoice value of the reserved goods to that of the other materials.
- Where reserved goods are sold, used or installed, alone or together with third-party goods, the Purchaser hereby assigns to us any claims arising as a result, in the amount of the value of the reserved goods together with all ancillary rights, and with priority over all other claims; we hereby accept the assignment.
- The Purchaser is only entitled and authorised to resell, use or install the reserved goods in the ordinary course of business and only subject to the proviso that the claims arising as a result are in fact assigned to us. Reserving the right to revoke, we authorise the Purchaser to recover the assigned claims; we shall not make use of our own right of recovery as long as the Purchaser complies with its payment obligations, including vis à vis third parties.
- In the event of default on payment, we may revoke the authorisation to effect recovery and, on request, the Purchaser must name the debtors of the assigned claims, notify them of the assignment, provide to us all information necessary for recovery and hand over the associated documents. We are also entitled to notify the debtors about the assignment ourselves.
- The Purchaser must notify us without delay of any enforcement measures by third parties, concerning the reserved goods or assigned claims, and provide the documentation necessary for a defence. The costs of intervention shall be borne by the Purchaser insofar as they cannot be recovered from the third party.
- The right to resell, use or install the reserved goods and the authorisation to recover the assigned claims shall cease to apply on suspension of payments or on application or institution of insolvency proceedings; the authorisation to effect recovery also expires if bills or cheques are protested.
- If the value of the provided securities exceeds our claims by more than 10%, we shall, at the Purchaser's request, release securities of our own choosing to that extent. When all claims under the business relationship have been paid, title to the reserved goods and the assigned claims shall pass to the Purchaser.
- The Purchaser is not permitted to pledge the delivery item or assign it as security. In the case of an attachment, seizure or other disposal by a third party, the Purchaser must notify us thereof without delay.
- Taking back the reserved goods does not constitute rescission of the contract. If we declare rescission of the contract we shall be entitled to sell the goods as we think fit. An application to institute insolvency proceedings shall entitle us to rescind the contract and demand immediate return of the delivery item.

## VI. Claims under Warranty

### Material defects

- The Purchaser can only assert rights to claim under warranty if it has properly complied with its inspection and notification obligations under Section 377 Commercial Code (HGB) in relation to the delivered goods.
- In the event of legitimate complaint, we will choose either to supply replacement goods or repair the defect. Where subsequent performance fails, the Purchaser may request a price reduction or - in the case of serious defects - rescind the Contract. Where subsequent performance fails, the Purchaser can also request damages in lieu of performance pursuant to Clause VII.
- We will not assume the cost of supplementary performance which arises due to the fact that, following delivery, the item delivered is transported to a location other than the Purchaser's place of business.
- Replaced parts shall become our property.
- We accept no liability under warranty particularly in the following cases: Inappropriate or incorrect use, defective assembly or commissioning by the Purchaser or third parties, natural wear and tear, defective or negligent handling, improper servicing, inappropriate equipment, defective building work, unsuitable building area and chemical, electrochemical or electrical factors unless the Purchaser can prove that the defect already existed when the risk passed and was not the result of the aforementioned circumstances.
- If the Purchaser or a third party carries out improper repairs, we shall not be liable for the resulting consequences. The same applies to changes made to the delivery item without our prior written approval.

## General Terms and Conditions of Delivery

### Defects in Title

7. If the use of the delivery item results in the breach of intellectual property rights or copyright in Germany, we will generally procure, at our own expense, the right to continued use, or modify the delivery item in a manner that is reasonable for the Purchaser, such that the breach of intellectual property rights no longer exists. If this is not possible under economically reasonable conditions or within a reasonable time limit, the Purchaser is entitled to rescind the contract and may demand damages in lieu of performance pursuant to Clause VII. Under the conditions specified in Clause VI No. 7, we are also entitled to rescind the contract.
8. The infringement of third-party rights only represents a defect where these rights exist in the Federal Republic of Germany.
9. In addition, there is no defect in title if this is caused by instructions from the Purchaser or the infringement of rights is caused by the fact that the Purchaser has arbitrarily modified the delivery item or used it in a manner which did not conform to the contract.
10. The obligations specified in Clause VI No. 7 applicable in the event of an infringement of intellectual property rights or copyright are conclusive. They only exist where the Purchaser notifies us without delay that claims for the infringement of intellectual property rights and copyright have been asserted. Furthermore, they only exist if the Purchaser supports us to a reasonable extent in the defence against asserted claims, allows us to carry out modifications under Clause VI No. 7 and if we reserve the right to take all defensive measures including out-of-court arrangements.

### VII. General Liability

1. In the case of intent or gross negligence, death, personal injury or damage to health, or liability under the Product Liability Act, our liability is governed by the statutory provisions. Where there is a guarantee, we shall be liable in accordance with any provisions of the guarantee.
2. In the case of simple negligence, we are only liable for the breach of a material contractual condition, which is one which must be fulfilled in order for the contract to be properly implemented and compliance with which the Purchaser generally expects and is entitled to expect; this liability is limited - in the absence of any provision to the contrary relating to damages for delay under Clause III No. 8 - to compensation for foreseeable and customary loss. In all other cases, our liability is excluded.
3. The limitation period for claims by the Purchaser for defects shall be 24 months from the passing of risk unless we have fraudulently concealed the defect, or we have given a longer guarantee. Claims for other breaches of obligation and for damages under the Product Liability Act shall lapse in accordance with the statutory limitation period as of commencement of the statutory limitation period. In the event of a liability under a guarantee, we shall be liable in accordance with the provisions of the guarantee.

### VIII. Packaging

1. Our transport packaging and our sales and outer packaging for which there is no system participation obligation pursuant to Section 7 German Packaging Act [VerpackG] can be returned exclusively to our registered office and only during normal business hours. The Purchaser shall bear the cost of return. Euro-pallets can also be returned in the course of subsequent deliveries and also in exchange for other pallets of equal value.
2. Packaging must be emptied of any residue, free from contaminants which were not caused by the packaged product and which not insubstantially hinder recycling and separated according to type; otherwise we shall be entitled to demand payment of the additional costs resulting from the recycling or disposal.

### IX. Electrical Equipment

1. Under the German Electrical and Electronic Equipment Act (ElektroG), we are registered with the Waste Electrical Equipment Register (EAR Institute) as manufacturer under the DREHMO trademark for small appliances exclusively for users other than private households and for large appliances exclusively for users other than private households.
2. The Purchaser hereby undertakes to process and properly dispose of equipment, that is no longer in use, at its own expense, in accordance with the requirements of the ElektroG. The Purchaser is thus under a duty to dispose of old equipment within the meaning of Section 19 (2) ElektroG. The Purchaser shall indemnify us against the duty to take back equipment and the duty to dispose of it pursuant to Section 19 (1) ElektroG and from all claims by third parties in this regard.
3. We hereby inform the Purchaser that the duties assumed by it shall not be affected by resale.
4. Our claim for assumption of duties/indemnity by the Purchaser shall not lapse before the expiry of 2 years from final termination of the use of the equipment. The 2-year suspension of the limitation period shall commence no earlier than upon receipt by us of a written notification from the Purchaser of termination of use.

### X. Software Usage

1. Insofar as the delivery contains software, the Purchaser shall be granted a non-exclusive right to use the delivered software together with its documentation. It shall be made available for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited.
2. The Purchaser can only copy, rewrite, translate or convert the software from object code to source code, as permitted by law (Section 69 a et seq. Copyright Act - UrhG). The Purchaser undertakes to refrain from removing the manufacturer's information - particularly copyright notices - and from modifying them, without our prior express consent.
3. All other rights to software and documentation including copies shall remain with us or with the software supplier. The issuing of sub-licences is not permitted.

### XI. Applicable Law, Jurisdiction

1. All legal relations between us and the Purchaser shall be governed by German substantive law. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.
2. **The place of jurisdiction shall be our head office in Wenden.** We are, however, entitled to bring proceedings in the court with jurisdiction over the Purchaser's head office.