

General Terms and Conditions of Sale of Terhoeven GmbH & Co. KG

§ 1 Scope, Form

(1) These General Terms and Conditions of Sale (GTC) apply to all business relationships with our customers ("Buyer"). 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 particularly apply 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 BGB).

(3) Our GTC apply exclusively. Deviating, conflicting, or supplementary general terms and conditions of the Buyer shall only become part of the contract if we have expressly agreed to their validity in writing, at least in text form (e.g., email). This consent requirement applies in every case, for example, even if the Buyer refers to their own terms and conditions during the order process and we do not expressly object.

(4) Unless otherwise agreed, the version of the GTC valid at the time of the Buyer's order, or at least the version last communicated to them in text form, shall apply as a framework agreement to similar future contracts, without the need for us to refer to them again in each individual case. Individual agreements (e.g., framework supply agreements, quality assurance agreements) and provisions in our order confirmation take precedence over the GTC. Trade clauses are to be interpreted according to the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of contract conclusion.

(5) Legally relevant declarations and notifications by the Buyer concerning the contract (e.g., setting of deadlines, notice of defects, withdrawal, or reduction) must be made in writing. "In writing" for the purposes of these GTC includes written and text form (e.g., letter, email, fax). Statutory formal requirements and further proof, particularly in cases of doubt about the authority of the declarant, remain unaffected.

(6) References to the applicability of statutory provisions are for clarification purposes only. Therefore, statutory provisions shall apply even without such clarification, unless they are directly modified or expressly excluded in these GTC.

§ 2 Conclusion of Contract

(1) Our offers are non-binding and without obligation, unless they are expressly designated as binding in writing. This non-binding status also applies if we provide the Buyer with

catalogs, technical documentation (e.g., drawings, plans, calculations, cost estimates, references to DIN standards), or other product descriptions or documents – including in electronic form.

(2) We reserve ownership and copyright of samples, drawings, cost estimates, etc. – also in electronic form. They may not be made accessible to third parties, used, or reproduced by the Buyer without our consent and must be returned immediately upon request.

(3) Seller's specifications regarding the subject matter of delivery or performance (e.g., weights, dimensions, utility values, load capacity, tolerances, and technical data) as well as representations thereof (e.g., drawings and illustrations) are only approximately authoritative unless exact conformity is required for the intended contractual purpose. They do not constitute guaranteed quality features but are descriptions or designations of the delivery or service. Deviations customary in the trade, deviations due to legal requirements, or technical improvements, as well as the replacement of components with equivalent parts, are permissible, provided they do not impair the usability for the contractually intended purpose.

(4) The Buyer's order of Goods constitutes a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 5 days of its receipt.

(5) Acceptance can only be declared in writing (e.g., by order confirmation).

§ 8 Buyer's Claims for Defects

(1) The Buyer's rights in case of material and legal defects (including incorrect and short delivery as well as improper assembly/installation or defective instructions) shall be governed by statutory provisions, unless otherwise provided below. In all cases, the statutory provisions on consumer goods sales (§§ 474 ff. BGB) and the Buyer's rights under separately issued guarantees shall remain unaffected.

(2) The basis of our liability for defects is primarily the agreement made on the quality and intended use of the Goods (including accessories and instructions). All product descriptions and manufacturer's statements that are the subject of the individual contract or that were publicly announced by us (in particular in catalogs or on our website) at the time of conclusion of the contract shall be deemed quality agreements in this sense. If quality was not agreed, it shall be determined in accordance with the statutory regulation whether a defect exists or not (§ 434 para. 3 BGB).

(3) For Goods with digital elements or other digital content, we are only obliged to provide and, if applicable, update the digital content insofar as this results expressly from a quality agreement pursuant to para. 2.

(4) We are not liable for defects of which the Buyer is aware at the time of conclusion of the contract or which they are grossly negligent in not knowing (§ 442 BGB). Furthermore, the Buyer's claims for defects presuppose that they have complied with their statutory duties of inspection and notification of defects (§§ 377, 381 HGB).

If a defect becomes apparent during delivery, inspection, or at any later time, it must be notified to us in writing without undue delay. In all cases, obvious defects must be reported in writing within 10 working days of delivery, and defects not apparent during inspection within the same period after discovery. If the Buyer fails to duly inspect and/or notify defects, our liability for the defect not, or not timely, or not properly reported is excluded according to statutory provisions. For Goods intended for installation or incorporation, this also applies if the defect becomes apparent only after such processing; in this case, the Buyer shall not have any claims, in particular for reimbursement of related costs ("removal and installation costs").

(5) If the delivered Goods are defective, we may initially choose whether to remedy the defect (repair) or deliver defect-free Goods (replacement delivery). If the type of subsequent performance chosen by us is unreasonable for the Buyer in the individual case, they may reject it. Our right to refuse subsequent performance under statutory provisions remains unaffected.

(6) We are entitled to make subsequent performance conditional on the Buyer paying the due purchase price. However, the Buyer is entitled to retain a part of the purchase price that is reasonable in relation to the defect.

(7) The Buyer shall give us the necessary time and opportunity for subsequent performance. In the case of a replacement delivery, the Buyer shall return the defective Goods to us upon our request in accordance with statutory provisions; however, the Buyer shall not have a return claim. Subsequent performance does not include the removal, dismantling, or de-installation of the defective Goods, nor the installation, affixing, or installation of defect-free Goods, if we were not originally obliged to perform these services; the Buyer's claims for reimbursement of related costs ("removal and installation costs") remain unaffected.

(8) The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor, and material costs as well as, where applicable, removal and installation costs, shall be borne or reimbursed by us in accordance with statutory provisions and these GTC if a defect actually exists. Otherwise, we may demand reimbursement from the Buyer of the costs incurred from the unjustified request to remedy a defect if the Buyer knew or could have known that no defect actually existed.

(9) In urgent cases, e.g., in the event of a risk to operational safety or to prevent

disproportionate damage, the Buyer has the right to remedy the defect themselves and demand reimbursement from us of the objectively necessary expenses incurred. We must be notified of such self-remedy without delay, if possible in advance. The right of self-remedy does not exist if we would be entitled to refuse the corresponding subsequent performance under statutory provisions.

(10) If a reasonable period of time set by the Buyer for subsequent performance has expired unsuccessfully, or such a period is unnecessary according to statutory provisions, the Buyer may withdraw from the purchase contract or reduce the purchase price in accordance with statutory provisions. However, in the case of an insignificant defect, there is no right of withdrawal.

(11) In the case of defects in deliveries and services of other suppliers, in particular of components from other manufacturers which the Seller cannot remedy for licensing or factual reasons, the Seller may, at its discretion, assert its warranty claims against the manufacturers and suppliers for the account of the Buyer or assign them to the Buyer. Warranty claims against the Seller shall only exist for such defects under the other conditions and in accordance with these GTC if legal enforcement of the aforementioned claims against the manufacturer and supplier has been unsuccessful or is futile, for example due to insolvency. During the duration of the legal dispute, the limitation period for the Buyer's relevant warranty claims against the Seller shall be suspended.

(12) The warranty shall not apply if the Buyer alters the delivery item without the Seller's consent or has it altered by third parties and the defect remedy is thereby rendered impossible or unreasonably difficult. In any case, the Buyer shall bear the additional costs of remedying defects resulting from the alteration.

(13) Claims of the Buyer for reimbursement of expenses pursuant to § 445a para. 1 BGB are excluded, unless the last contract in the supply chain is a consumer goods purchase (§§ 478, 474 BGB) or a consumer contract for the provision of digital products (§§ 445c sentence 2, 327 para. 5, 327u BGB). Claims of the Buyer for damages or reimbursement of futile expenses (§ 284 BGB) shall also exist in the case of defects in the Goods only in accordance with §§ 9 and 10 below.

§ 9 Other Liability

(1) Unless otherwise provided in these GTC, including the following provisions, we shall be liable for breaches of contractual and non-contractual obligations in accordance with statutory provisions.

(2) We shall be liable for damages – regardless of the legal grounds – within the scope of fault-based liability for intent and gross negligence. In the case of simple negligence, we shall be liable, subject to statutory limitations of liability (e.g., care in our own affairs;

insignificant breach of duty), only

- a) for damages resulting from injury to life, body, or health, and
- b) for damages resulting from the breach of an essential contractual obligation (obligation whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to compensation for foreseeable, typically occurring damages.

(3) We shall in particular not be liable for damages arising from: inappropriate or improper use of the delivered Goods or software; in the case of assembly and/or commissioning by the Buyer: incorrect assembly or commissioning by the Buyer or by third parties commissioned by the Buyer; deviation from our assembly instructions and/or, in the case of instruction by the Buyer: improper or missing instruction of operating personnel; deviation from our operating or maintenance instructions or other improper or negligent handling of the delivered Goods; natural wear and tear; chemical, electronic, or electrical influences, insofar as they are not attributable to our fault; when using spare parts that are not original spare parts from the Seller or the respective manufacturer, we shall not be liable for damages arising solely therefrom.

(4) The limitations of liability arising from para. 2 and 3 shall also apply in favor of third parties and in the event of breaches of duty by persons (also in their favor) whose fault we are responsible for under statutory provisions. They shall not apply if a defect has been fraudulently concealed, a guarantee for the quality of the Goods has been assumed, or for claims of the Buyer under the Product Liability Act.

(5) Due to a breach of duty that does not consist of a defect, the Buyer may only withdraw from or terminate the contract if we are responsible for the breach of duty. A free right of termination of the Buyer (in particular pursuant to §§ 650, 648 BGB) is excluded. Otherwise, the statutory requirements and legal consequences shall apply.

§ 10 Limitation Period

(1) Notwithstanding § 438 para. 1 no. 3 BGB and § 634a para. 1 no. 1 BGB, the general limitation period for claims arising from material and legal defects shall be one year from delivery or, if acceptance is required (contract for work and services), from acceptance. If acceptance has been agreed, the limitation period shall also commence with acceptance. This period shall not apply to claims for damages by the Buyer arising from injury to life, body, or health or from intentional or grossly negligent breaches of duty by the Seller or its vicarious agents, which shall in each case be subject to the statutory limitation periods.

(2) If the Goods are a building or an item that has been used for a building in accordance with its usual manner of use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with statutory provisions (§

438 para. 1 no. 2 BGB). Further statutory special provisions on limitation (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) shall remain unaffected.

(3) The above limitation periods of sales law shall also apply to contractual and non-contractual claims for damages by the Buyer which are based on a defect in the Goods, unless the application of the regular statutory limitation (§§ 195, 199 BGB) would lead to a shorter limitation period in the individual case. Claims for damages by the Buyer pursuant to § 9 para. 2 sentence 1 and 2 (a) as well as under the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

§ 11 Choice of Law and Place of Jurisdiction

(1) These GTC and the contractual relationship between us and the Buyer shall be governed by the law 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 (CISG).

(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 Sonsbeck. The same applies if the Buyer is an entrepreneur within the meaning of § 14 BGB. However, in all cases, we are also entitled to bring an action at the place of performance of the delivery obligation pursuant to these GTC or a prior individual agreement, or at the Buyer's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdictions, shall remain unaffected.