

# General Terms and Conditions (GTC)

## § 1 Validity

1. All agreements and offers in commercial business dealings between us, panel sell (the Seller) and the Customer shall, in addition to the offer and the special terms listed in the order confirmation, exclusively be based on the following Terms and Conditions, as amended at the time in question, even if the Seller no longer make any express reference to them in future. By placing an order or accepting a delivery or service, the Customer confirms their agreement with our General Terms and Conditions (GTC).
2. Deviating terms and conditions do not become part of the contract, unless they are expressly accepted in writing by the Seller. The Seller's silence in this regard does not imply consent to contradicting General Terms and Conditions of the Customer. If terms and conditions of the Customer also become part of the contract, due to explicit approval of the Seller, the following terms and conditions of the Seller shall prevail in any conflict between the terms and conditions.
3. The paragraphs 1 and 2 shall not apply if the Customer is a consumer. These terms and conditions shall become part of the contract in accordance with the statutory requirements. Whereas an entrepreneur is to be understood as any natural or legal entity or partnership with legal capacity which acts in fulfillment of his/her commercial activity

## § 2 Special terms for B-grade material and 1B merchandise

1. If B-grade goods are delivered it is not merchandise of average kind and quality but of sub-standard norm. These materials may have scratches, dents, foam and paint defects (e.g. coating becomes detached from the plate) and greater tolerances in size and strength, non-compliance with the DIN and RAL regulations as well as unevenness. These deviations from usual standards are not defects. Occasionally, "clinch panels" may be supplied. These panels are characterised by overlapping and riveted steel plates. The Seller also reserves the right, to deliver, without additional cost, longer panels than ordered if the ordered length is not available. This is also not a defect.
2. If "1B-merchandise" is delivered this is new material with only occasional external defects and which foremost regarding material composition (e.g. thickness of steel, foam composition) may deviate from local admission requirements. With 1-B-merchandise, neither occasional external defects nor deviations from admission requirements in the country of operation do not constitute a defect in the merchandise. Consequently, the Customer shall not have any fulfillment, supplementary performance, warranty, or reimbursement claims.
3. In case of B-grade material, the actual availability of the offered goods cannot be guaranteed, even after the agreement has been concluded. In the event that the goods are not available and cannot be made available within a reasonable time, the Seller is

entitled to replace the unavailable offer or parts thereof with other goods if the outcome means no deterioration for the Customer. In case of impossibility, the full purchase price will be refunded to the Customer, either for the full contract or the impossible part thereof in case the compliant part of the contract remains sensible. Further claims are excluded, unless the inability to deliver results from intent or gross negligence of the Seller.

4. In case of B-grade material or 1-B-material there is no guarantee that all goods comply with admission requirements in the country of operation in relation to steel thickness and foam.

### **§3 Offers and conclusion of contract**

1. All offers and quotations are always non-binding and without obligation.
2. A contract is concluded only when the invoice is sent by the Seller. The invoice constitutes the written order confirmation. If no invoice is sent, the contract is concluded upon receipt of the merchandise by the Customer.
3. Should the order confirmation vary from the oral order placement, the written order confirmation shall be deemed contractually agreed unless written objection is lodged within three working days after posting.
4. In case the items being offered are no longer available at the time of order confirmation the Seller will inform the client hereof. If the item will permanently be unavailable the Seller will abstain from the declaration of acceptance. A contract does not become effective.
5. In case the item is temporarily unavailable the Seller will inform the client hereof. In case of delay of more than two weeks the client is entitled to withdraw from the contract. Similarly, the Seller as well is entitled to withdraw from the contract. Additional agreements are only effective if they are confirmed in writing. Confirmation by fax is sufficient.
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7. The Seller expressly reserves the right of price changes, technical modifications, mistakes, printing errors and/or prior sale.

### **§ 4 Prices**

1. All prices are net prices in EUR plus applicable sales tax unless stated otherwise.
2. Prices effective at the moment of order placement shall be valid. Events which occur 4 months subsequent to conclusion of the contract but prior to shipment of goods which incur an unexpected influence beyond the Seller's control and which significantly change the price calculation, shall entitle the Seller to change the agreed price, but only to an amount which is in line with the new circumstances. This particularly applies to changes in legislation, regulatory actions, etc. The new price adjusted in this manner shall be calculated on the same basis as the initially agreed price and shall not serve to increase profits.

3. Significant changes in material costs that occur 4 months subsequent to conclusion of the contract but prior to shipment of goods in an unforeseen manner will entitle the Seller - against presentation of documentary evidence of said cost increases - to adjust prices accordingly. A price change of more than 10 % is considered as significant.
4. For delivery to EU countries, the current sales tax rates of the Federal Republic of Germany shall apply, for non-EU countries, the order price shall be reduced by this amount. The customary import turnover tax shall be paid by the Customer.

## **§ 5 Terms of payment**

1. The purchase price including all charges is due for payment from the date of invoice and prior to delivery.
2. Only net payments are to be made, without any discounts or other deductions unless otherwise expressly agreed in writing.
3. The Customer can offset Seller's claims only if the counterclaim of the Customer is undisputed or has been determined in a legally binding way.

## **§ 6 Delivery**

1. Our offers refer to the pick-up of goods from warehouse or factory.
2. If the Customer requires delivery, it can be arranged by the Seller, depending on the availability of appropriate transport companies.
3. The delivery time depends on the transport company hired and on the conditions which may be provided by the Customer. Since the Seller has to rely on external transport companies for delivery, the Seller is not responsible for delays. The Seller bears no liability for any delivery delays caused by transport companies.
4. If the Seller is prevented from fulfilling his obligations due to circumstances of force majeure that were not predictable at the time of concluding the contract, such as labour disputes, strikes, lockouts, unpredictable disruptions in operation or unavoidable shortage of raw materials, as well as due to other similar circumstances beyond his control and responsibility, the Seller is freed from his obligations for the duration of this disruption.
5. Agreed delivery times shall be prolonged by the duration of the disorder. Any claims for damage by the Customer are excluded in the event of the aforementioned circumstances. However, the contractual obligations of the Customer are also suspended for the duration of the disruption. The Seller will immediately inform the Customer of the beginning and the end of force majeure condition for the purposes of this provision and furnish proof of non-liability not later than 6 months after the end of the disruption. The right to withdraw from the contract, in accordance with statutory regulations, will remain unaffected for both parties.
6. If delivery is delayed due to circumstances for which the Customer is responsible, then the Customer is then obliged to reimburse the Seller for any additional expenses which occur.

## **§ 7 Transfer of risk**

1. The risk passes to the purchaser as soon as the Seller has handed over the goods to the shipper, carrier or to another person in charge of delivery.
2. At the request and expense of the Customer, the Seller will insure the goods against theft, breakage, transport, fire, water damage, and other insurable risks. The Customer must notify the Seller of this when placing the order.
3. Partial shipments are permitted unless they are unreasonable to the Customer. If the Customer culpably refuses to accept the goods, they are obliged to pay compensation amounting to 0.1% of total net contract value per working day. The total liability for damages is limited to 10 % of the total net sum of the order. Furthermore, the Customer agrees to bear the costs of temporary storage resulting from their non-acceptance. Transport costs also apply in this case. Further claims are explicitly reserved. The Customer reserves the right to prove that the actual damage incurred is lower than the alleged amount.

## **§ 8 Reservation of ownership**

1. Each delivery is carried out under reservation of ownership; the ownership passes to the Customer only after a full payment of the invoice. Until that time, the goods may not be pledged and the Customer may not transfer the ownership of them to a third party as a precaution or charge the goods with other rights.
2. The Seller is entitled to demand from the Customer the return of the delivered product when the Customer withdraws from the contract. Any pledging of the delivered product shall consistently constitute a contract rescission. In order to enable the Seller to bring action pursuant to § 771 German Code of Civil Procedure [ZPO], the Customer shall immediately notify the Seller in writing if the Product is pledged or otherwise seized by a third party. If the third party is unable to reimburse the Seller the legal and / or out of court costs pursuant to § 771 ZPO, the Customer is liable to the Seller for any resulting loss.
3. If the delivery goods are inseparably combined or mixed with other objects not belonging to the Seller, he acquires the co-ownership of the new object in proportion to the value of the delivered goods to other combined or mixed objects at the time of the combination or mixture. If the combination or mixture is such that the Customer's object is regarded as the main item, it is considered as agreed that the Customer transfers a proportionate co-ownership to the Seller. The Customer shall hold the sole ownership or a co-ownership for the Seller.
4. The Customer is entitled to resell the goods delivered in the ordinary course of business; they assign to the Seller all claims against their buyers or third parties in the amount of the invoice total (including VAT) occurring from the resale of the goods supplied by us or of goods for which the Seller, in accordance with the foregoing provisions, has ownership or co-ownership of, regardless of whether the delivered item has been resold with or without agreement. If the Seller is only a co-owner, the assignment shall be limited to a portion of the claim that is equal to the amount of the purchase price claim calculated by the Seller for the Customer as well as of any

possible accessory claims. If the claim resulting from resale of the conditional goods is replaced by another claim, e.g. insurance benefits or a compensation claim, the assignment concerns this claim. The clause concerning partial assignment on the goods, for which the Seller is owner or co-owner in accordance with the foregoing provisions, is duly valid. If the claim to assign is on current account, the Customer shall assign the Seller the claim of the final balance amounting to the purchase price invoiced by the Seller. In all cases, the Seller accepts the assignment. The Customer is also entitled to collect claims after their assignment. The Seller is authorised to collect claims themselves, but promises not to collect them as long as the Customer meets their payment obligations and is not in default of payment. In this case, the Seller may request that the Customer discloses the assigned claims and the debtors and provides all information necessary for collection as well as relevant documents and informs the debtors (third parties) of the assignment. If the Customer has effectively agreed a prohibition of assignment with their own buyer(s), they are not entitled to sell the goods as long as the reservation of ownership remains effective.

5. The suspension of payments or decree of insolvency proceedings as well as the filing of a statutory declaration according to § 807 ZPO terminates the Customer's right to resell the conditional goods as well as the goods subject to Seller's co-ownership according to § 6 Section 3 and to collect the claims assigned to the Seller.
6. The Customer is obligated to properly store conditional goods and to insure them, against theft, fire, water, transport and other damages at his own expense.
7. If reservation of ownership requires, for legal reasons, the entry into a register, the Customer is obliged to declare their consent to do so in the required form. If reservation of ownership or any other security arranged according to these conditions cannot be agreed with the same effect as under German law, but a reservation of other rights or other security instruments are allowed, then the Seller is entitled to these rights. The Customer declares his consent to this and shall provide the required assistance.
8. The Customer has a claim against the Seller for release of the conditional property if the securities exceed 110% of the realizable value. The claim for release also exists if the estimated value of the conditional goods is 150 % of the value of claims to be secured.

## **§ 9 Warranty**

1. If second-quality goods are delivered, § 2 Special terms for B-grade material and 1B-merchandise applies.
2. Is the Customer not a consumer, apparent defects shall be reported immediately, latest within 3 days of delivery to the Seller in writing, or in case of hidden defects, upon detection. If such defects are not notified in time, the goods are deemed to have been approved and accepted, with all inherent warranty rights expiring.
3. If a defect in the delivered first-grade goods has been reported in time within the warranty period, the Seller can choose between replacement and repair. Obvious defects must be reported the Seller in writing and immediately, at the latest within 3 days after delivery. In case of hidden defects, this applies from the time of their discovery. If repair is not reasonable or fails, the Customer can demand a price

reduction or rescission of the contract. If said defects have not been reported in time, the Customer loses his warranty rights.

4. The Customer must provide the Seller an opportunity to carry out any necessary repair work within reasonable limits. If the Customer does not take the necessary relevant actions, then the Seller has no further liability for any occurring damages.
5. If the defectiveness of the product is caused by misuse or interference by third parties that have not been expressly authorised by the Seller, the Customer has to bear the costs of subsequent improvements (replacement, delivery, or repair). The Seller will inform the Customer in advance on this matter. If the Customer refuses subsequent improvements under these circumstances, they shall reimburse the expenses of the Seller upon presentation of documentary evidence.
6. The warranty claims of the Customer expire 12 months after delivery if the Customer is not a consumer. If the Customer is a consumer warranty claims expire two years after delivery. The warranty period starts with the reception of the goods.
7. The Seller is not liable for damages resulting from the defectiveness of the product unless such damages were caused by gross negligence or willful breach of duty committed by the Seller himself, by his legal representatives or vicarious agents. Furthermore, the Seller is not liable for the defectiveness of the product if the defect is attributable to any extra specifications requested by the Customer. The above does not apply to foreseeable damages resulting from breach of significant contractual obligations. In such a case, however, the Seller shall only be liable to the extent that the damage was foreseeable. The above limitation shall expressly not apply if liability for damage occurs resulting in injury to life, limb or health as a result of a culpable breach of obligations by the Customer themselves, their legal representatives' or vicarious agents.
8. Any claims under the Product Liability Act remain unaffected.

## **§ 10 Return of delivered goods**

Any goods delivered by the Seller can only be returned based on individual written agreements. This does not apply in the event of a justified withdrawal from the contract or with regard to justified warranty claims.

## **§ 11 Termination of the contract by the Customer**

If the Customer withdraws from the contract or terminates it for other reasons, without a legal reason for the withdrawal and if the Seller is not responsible for this termination, the Seller is entitled to claim from the Customer alternatively to the total purchase price Seller the payment of a reimbursement of expenses amounting to 12 % of the gross contract value, or a minimum of £500. The Customer is free to provide evidence that an appropriate reimbursement in their particular case is much lower than the rate stated to sentence 1 of this section.

## **§ 12 Limitation of liability**

1. The Seller's liability to the Customer for compensation of damages, for whatever legal reasons, is limited to cases of intent or gross negligence with the exception of breach of essential contractual obligations.
2. The Customer's claims for damages, other than those in tort, and deceit shall expire no later than two years after knowledge of the damage and the circumstances giving rise to their claim, without this knowledge no later than three years from the date of the damaging event.

## **§ 13 Privacy policy**

In dealing with Customer's personal data, the Seller observes all regulations of the Data Protection Act and is entitled to process and to store all the data concerning his business relationship with the Customer in accordance with the above Act. Furthermore, the Seller is under applicable law authorised to collect information on creditworthiness from trade and economic inquiry agencies.

## **§ 14 Final provisions**

1. Any modifications or amendments to these terms and conditions shall be made in writing.
2. The relationship between the contractual parties shall be governed exclusively by German law. In particular, the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not be applicable.
3. The venue for any disputes arising from or in connection with concluded contractual relationship or relationships with the Customer, is Leipzig, Germany.

## **§ 15 Severability clause**

Should individual provisions of these terms in whole or in part become ineffective, the validity of the remaining provisions shall not be affected by this. In such case the contracting parties shall be obliged to interpret and structure the provisions in such a way that the economic aim of the void or legally invalid parts is achieved as far as possible.