

General Terms and Conditions (GTC)

1. General/Scope of application

- (1) Only our terms and conditions of business apply for the cooperation. We shall not recognise and hereby reject any terms and conditions of the customer which differ from these general terms and conditions unless we have expressly agreed to their validity in writing. Our general terms and conditions also apply if we carry out the delivery to the customer unconditionally with the knowledge of differing general terms and conditions of the customer.
- (2) For contract extensions and supplementary orders, these general terms and conditions also apply without the need for any express notice.
- (3) Verbal agreements are only binding if they have been confirmed in writing by our management.
- (4) These GTCs apply only to companies in the sense of § 14 BGB, as well as to legal entities of public law and public special funds (hereinafter "customer"). We and the customer are hereinafter also jointly referred to as the "contractual partner".

2. Offer/Offer documents

- (1) Our offers are always without obligation, unless we have expressly indicated the offer as binding in writing or state a specific binding period for the offer. An order of the customer, which can be qualified as a legally binding offer to conclude a contract, can be accepted within twelve (12) weeks by sending an order confirmation or by sending the ordered products within the same period. The illustrations, drawings, weight and dimensions, as well as other documents accompanying the offer, merely describe the individual articles, but are also not binding.
- (2) We have the ownership rights and copyrights for the illustrations, drawings, weights and measurements as well as other documents produced by us. This also applies to such written documents, which are referred to as "Confidential". The documents must be returned to us on request and may not be passed on to third parties without our express consent. The customer accepts liability for the fact that by their prescribed production no rights of third parties are violated.
- (3) The scope of the services shall be determined in writing in the order confirmation. The customer has to check the order confirmation immediately upon receipt for its correctness, especially regarding the type, dimensions, quantity, price and delivery time. Any deviations from the confirmation of orders shall be claimed by the customer immediately, at the latest within three (3) working days after receipt of the order confirmation. Subsequent complaints will no longer be considered.

3. Prices/Payment

- (1) The prices are valid ex works, including loading at the factory, excluding packaging, transport costs and installation and plus the statutory value-added tax, unless otherwise agreed in the individual case.
- (2) We reserve the right to change prices accordingly if more than four months elapse between conclusion of the contract and delivery and if cost increases occur, in particular due to collective wage agreements or changes in the price of materials, unless these prices have been expressly agreed as fixed. This applies to cases in which a performance and delivery period of more than four months was agreed, as well as to cases in which a performance or delivery period of less than four months was agreed, but the performance can be rendered by us later than four months after the order confirmation or the order for reasons for which the customer is responsible. At the written request of the customer, the cost change is proven. The customer is only entitled to withdraw from the contract if the price rises do not exceed the increase in the cost of living between the order and the delivery to an insignificant extent.
- (3) If changes in the scope of the order or additions occur during the processing period at the request of the customer, we are entitled to adjust the price.
- (4) In the case of spare parts and other consumables, the payment must be made within ten (10) days after delivery without deduction of discounts.
- (5) Differing reasonable advance payments may be requested and/or partial invoices be made according to the services already rendered. Partial invoices do not have to be designated as such. Receiving an invoice does not mean that we have settled the order completely.

- (6) The invoiced fees are due for payment within 14 calendar days after invoicing, unless agreed otherwise. The receipt of money in our account shall be the determining factor. If the customer does not pay within this period, a default of payment occurs. In the case of default in payment, the annual interest rate is calculated as nine (9) percentage points above the respective base rate of the German Federal Bank. If the customer does not pay the agreed price at maturity and if there is no default in payment, we are entitled to maturity interest according to §§ 352, 353 HGB. We reserve the right to assert further or higher damages.
- (7) The customer is only entitled to offset or to assert a right of retention, even if claims of defect or counter-claims are asserted, if the counter-claims have been legally established, recognized by us or are undisputed and if their counter-claim is based on the same contractual relationship.

4. Delivery/Delay

- (1) The order and delivery times stated by us are exclusively unbinding, unless their binding is expressly agreed in writing. An order or delivery period to be determined according to days, weeks or months begins with receipt of the order confirmation, but not before the provision of documents to be procured from the customer, complete order clarification, clarification of all technical questions and agreement on the order type, the timely and proper fulfilment of the obligations of the customer, in particular the payment, cooperation and other subsidiary obligations, etc. The delivery deadlines shall be deemed to have been met when the goods leave our factory or warehouse, or the goods are handed over to the transporter, or readiness for delivery has been notified before the expiry of such deadlines.
- (2) The customer may request us in writing within four (4) weeks after the non-binding delivery date has been exceeded, to deliver within a reasonable period; with receipt of this request we are in default.
- (3) Claims for damages by the customer due to delayed or impossible deliveries shall be excluded insofar as they exceed 0.5% of the net invoiced amount of the delayed delivery per completed week of the delay in delivery, up to a maximum of 5% of the net invoiced amount of the delayed delivery. This limitation does not apply if the delay is due to intent or gross negligence on our part. The right of the customer to withdraw from the contract after the expiry of a reasonable grace period and/or to claim damages for non-performance in accordance with Clause 6(6) of these GTCs shall remain unaffected.
- (4) We shall not be liable for impossibility or delay insofar as it is based in each case on force majeure or another event which was not foreseeable at the time of conclusion of the contract and for which we are not responsible (force majeure; e.g. business disruptions of any kind, fire, natural disasters, epidemic, pandemic, weather, floods, war, insurrection, terrorism, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, delays in obtaining any necessary official permits, official/sovereign measures). This shall also apply if these circumstances occur at our suppliers. .
- (5) An event equivalent to Clause 4(4) is also our incorrect or untimely delivery by one of our suppliers if we are not responsible for this in each case and had concluded a congruent covering transaction with the respective supplier at the time of the conclusion of the contract with the customer. This shall also apply if we conclude the covering transaction with the customer immediately after the conclusion of the contract.
- (6) If we become aware of an event within the meaning of Clause 4(4) or 4(5), we shall inform the customer without delay. In the case of such an event, the performance periods / dates specified by us shall be automatically extended / postponed by the duration of such event, plus a reasonable lead period. If such events make it significantly more difficult or impossible for us to provide the service and are not only of temporary duration, we are entitled to withdraw from the contract.
- (7) If the customer arranges additional services or if the execution is changed by the customer, agreed execution periods shall be extended by the appropriate period necessary for the processing of the changes and additional services.
- (8) If the customer is in default of acceptance, we can demand damages of a flat rate of 15% of the purchase price. The assertion of further damage is expressly reserved. Lump-sum compensation paid shall be credited against our claims. The costs of storage, etc. are calculated separately, at least with 0.5% of the invoice amount for each month started, during the time of the acceptance delay, calculated from the notification of the readiness for dispatch. The customer is expressly permitted to prove that no damage or reduction in value has occurred to us as a result of the delay in acceptance or is substantially lower than the lump sum.
- (9) Furthermore, in the event of default in payment by the customer, all outstanding claims shall become due for payment immediately.

- (10) Furthermore, we are entitled to refuse our outstanding services within a contractual relationship if it becomes apparent after the conclusion of the contract (e.g. through an application for insolvency by or against the customer) that our claim for payment from the respective contractual relationship is at risk due to the customer's inability to pay. Our right to refuse performance shall cease to apply if payment is made or security is provided for it. We shall be entitled to set the customer a reasonable deadline within which they must, at their discretion, make payment or provide security for this concurrently with our performance. After the deadline expires without such action, we may withdraw from the contract. In the case of contracts for the manufacture of bespoke items (custom-made products), we may withdraw from the contract immediately. Statutory regulations on the need to set a deadline, § 321 BGB and the other regulations of this clause 4 remain unaffected.
- (11) We are entitled to partial deliveries and partial services at any time, as far as this is reasonable for the customer. These can be calculated separately.
- (12) Our statutory rights, in particular concerning the exclusion of our obligation to perform (e.g. due to final or temporary impossibility or unreasonableness of performance and/or subsequent performance) and in the event of default of acceptance or performance on the part of the customer, shall remain unaffected.

5. Transfer of risk/acceptance

- (1) The risk of accidental loss or accidental deterioration of the goods shall pass to the customer if we have delivered the goods to the customer or the transporter, the customer is in default of acceptance or the customer has accepted the goods. The provisions of § 447 BGB also apply if dispatch is carried out with our means of transport or employees or from a place other than the place of performance, as well as regardless of who bears the freight costs.
- (2) Partial acceptance of the delivered goods is permitted.
- (3) Insofar as it is expressly agreed that an acceptance shall take place, § 640 para. 1, para. 2 sentence 1 and para. 3 BGB shall apply accordingly. The delivered goods shall be deemed to have been accepted at the latest when the delivery – and, if and insofar as we are also responsible for the assembly or a similar service (e.g. mounting, installation, commissioning, set-up, adjustment) – has been completed. (aa) 3 weeks have passed since this request or (bb) the customer has started to use the goods and 1 week has passed since the request, and the customer has not declared (expressly or by implication) acceptance within the relevant aforementioned period, unless this is based on a defect notified to us which makes the use of the goods impossible or significantly impairs it.
- (4) If an equipment can not be installed and/or put into operation within the agreed period due to reasons for which the customer is responsible, the equipment is deemed to have been accepted 60 days after the notification of the readiness for dispatch. Our statutory rights, in particular to compensation for damages due to failure to cooperate on the part of the customer, shall remain unaffected.

6. Warranty

- (1) Statutory provisions shall apply to the rights of the customer in the event of material defects and defects of title (including incorrect delivery/short delivery, faulty assembly or similar services as well as faulty instructions), subject to deviating or supplementary provisions in these GTCs.
- (2) We only guarantee that the goods have the quality expressly agreed upon conclusion of the contract and are suitable for the use expressly agreed upon in the contract (e.g. in the product specifications or in the product description). Changes in the construction and/or design, which neither affect the functionality or the value of the delivery item, are reserved and do not represent a defect. We assume no liability for defects which arise after transfer to or acceptance by the customer by natural wear and tear, faulty or negligent treatment, improper storage, unsuitable or improper use, improper maintenance or non-observance of the processing and usage instructions. If the delivery takes place according to drawings, specifications, samples, etc. of the customer, the customer assumes the risk of suitability for the intended purpose of use. If the customer or third parties carry out conversions, repairs or alterations to the goods without authorization, there is no warranty for any defects resulting from that.
- (3) Claims for subsequent performance (rectification or supplementary performance) do not exist in the event of a minor deviation from the agreed upon condition or in case of insignificant impairment of usability. The customer's right to reduce the purchase price or to withdraw from the contract remains reserved.

- (4) Unless acceptance has been expressly agreed, the customer is obliged to inspect the delivered goods in accordance with § 377 HGB immediately after delivery to them or to the third party designated by them and to notify us of any defects without delay. § 442 BGB remains unaffected. The notification must be made in writing/text form and, if time is of the essence, by e-mail or fax. The notification must be sent without delay, but in any event no later than (aa) 5 working days after delivery (§ 377 para. 1 HGB) or (bb) – in the case of a defect which was not readily apparent during the inspection after delivery (§ 377 para. 2 and 3 HGB) – 3 working days after discovery of the defect.
- (5) We are entitled, at our discretion, to make a replacement delivery or to repair defective goods within a reasonable period. When choosing the type of supplementary performance, we must take into account the type of the defect and the legitimate interests of the customer. We shall bear the expenses necessary for the purpose of supplementary performance. We shall not bear any additional costs resulting from the fact that the goods have been moved to a place other than the office of the commercial establishment of the customer, unless the goods are used according to the intended use of the goods. The customer must return exchanged goods to us in accordance with the statutory provisions.
- (6) If the supplementary performance fails after the expiry of a reasonable period, the customer is entitled to further statutory claims for defects. The customer can, at their discretion, in particular, reduce the price, withdraw from the contract or demand compensation. If only part of the goods delivered are defective, the customer can only withdraw from the entire contract if he can prove that he is not interested in the remaining part of the delivery. If the customer chooses compensation for damages, the goods remain with the customer, if this is reasonable for him.
- (7) All claims for defects of the customer shall become statute-barred notwithstanding § 438 para. 1 no. 3 BGB twelve (12) months after delivery for purchase contracts and notwithstanding § 634a para. 1 no. 3 BGB twelve (12) months after acceptance of the work for contracts for work. This shall not apply in the case of intentional or grossly negligent breach of duty, for damages arising from injury to life, body or health, in the case of fraudulent concealment of a defect and/or in the case of mandatory statutory liability; in these cases the respective statutory limitation period shall apply.
- (8) If the goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the statutory limitation period in accordance with § 438 para. 1 no. 2 BGB shall apply.

7. General limitation of liability

- (1) We shall be liable – for whatever legal reason – without limitation for damages, for damages based on an intentional or grossly negligent breach of duty by us or one of our legal representatives or vicarious agents, in the event of fraudulent concealment of a defect, as well as in the event of the assumption of a quality guarantee or a procurement risk that is subject to compensation.
- (2) In the event of a merely simple or slightly negligent breach of duty by us or one of our legal representatives or vicarious agents, we shall be liable (subject to a milder standard of liability in accordance with the statutory provisions)
 - only – but without limitation – for damages resulting from injury to life, body or health
 - for damages arising from the breach of material contractual obligations. Violation of essential contractual obligations, i.e. such obligations whose fulfilment makes the proper execution of the contract possible in the first place and on whose compliance the customer regularly relies and is entitled to rely upon. In these cases, however, our liability is limited to the amount of the damage typical for the contract and foreseeable at the time of conclusion of the contract.
- (3) Furthermore, any mandatory statutory liability, in particular under the Product Liability Act, shall remain unaffected.
- (4) To the extent that compensation claims for damages against us are excluded or limited, this also applies to the personal liability of our organs, other employees as well as fulfilment and vicarious agents.

8. Expanded and extended retention of title

- (1) The delivered goods shall remain our property as reserved goods until full payment of the purchase price and settlement of all claims against the customer arising from the deliveries and services, including balance claims from the open accounts.
- (2) If our reserved goods are processed by the customer to a new movable object, the processing is carried out for us without our being obliged to do so; the new object will be our property. When processing together goods not belonging to us, we acquire co-ownership of the new object according to the ratio of the value of the reserved goods to the other goods at the time of the processing. If reserved goods are combined, mixed or blended with goods not belonging to us according to §§ 947, 948 German Civil Code (BGB), we become co-owners according to the legal regulations. If the customer acquires sole ownership by combining, mixing or blending, he already transfers co-ownership to us according to the ratio of the value of the reserved goods to the other goods at the time of the combining, mixing or blending. In these cases, the customer shall keep the property owned or co-owned by us, which shall likewise be deemed as reserved goods in the sense of the following provisions, free of charge.
- (3) If reserved goods are sold by the customer, the customer shall already assign to us the claims arising from the resale of the processed and unprocessed reserved goods against his customers or third parties in the amount of the reserved goods with all subsidiary rights and rank before the rest. The value of the reserved goods is our invoice amount. If the resold reserved goods are in our co-ownership, the assignment of the claim extends to the amount corresponding to our share in the property. The same applies to the extended retention of title. In addition, all claims shall be assigned to us which will accrue to the customer from the rental of reserved goods authorized by us.
- (4) If reserved goods are installed by the customer as an integral part of the property of a third party, then the customer shall already assign to the third party or the party concerned, arising compensation in the amount of the value of the reserved goods with all subsidiary rights including one such on the granting of a security mortgages, with rank before the rest.
- (5) If reserved goods are installed by the customer as an integral part of the customer's property, the customer shall already assign the claims arising from the commercial sale of the property or land rights in the amount of the reserved goods with all rights and with rank before the rest.
- (6) We hereby accept the assignments.
- (7) The customer is only responsible for the resale, use or installation of the reserved goods in normal, regular business transactions, as long as he meets his obligations arising from the business relationship in good time and is not particularly in defaults with payment and is only entitled and authorized with the provision that the claims within the meaning of the preceding paragraphs do not actually pass to us. The customer shall not be entitled to any other disposal of the reserved goods. He is not entitled to pledge or to surrender the reserved goods. In the case of the credited resale of the reserved goods, he has to secure our rights.
- (8) The customer shall remain authorized to collect his claims even after the assignment. This shall not affect our right to collect claims. However, we will not collect the claims as long as the customer fulfils his payment obligation from the revenues collected, does not fall into defaults with payment, no application for opening insolvency proceedings is filed or payment is settled. If this is the case, however, we can demand that the customer notify us of the assigned claims and their debtors, make all necessary information for collection, hand over the related documents and notify the debtors (third parties) of the assignment.
- (9) The customer is obliged to treat the reserved goods carefully, to keep them separately from other goods and to insure them adequately against fire and theft.
- (10) The customer must notify us without delay about the necessary documents necessary for an intervention concerning the enforcement measures of third parties in the reserved goods, the assigned claims or other collateral. This also applies to impairments of other kind. The customer bears the costs of extra judicial efforts to release and re-procure the goods. This also applies to the costs of a legitimate judicial intervention (third party proceedings), if they can not be recovered from the third party.
- (11) If the value of the existing collateral exceeds the secured claims by a total of more than 20%, we shall be obliged to release collateral at our discretion if the customer so requests.

9. Place of performance/jurisdiction/applicable law

- (1) The place of performance is, unless otherwise agreed, our place of business. The exclusive place of jurisdiction for all disputes arising from or in connection with these GTCs is determined by the registered office of our company. However, we are entitled to sue the customer at his general court of jurisdiction.
- (2) The contractual relationship (these GTCs and the entire contractual relationship between us and the customer), as well as non-contractual claims arising in connection with these GTCs or the contractual relationship, shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

10. Miscellaneous

- (1) If we have committed to the assembly, our General Conditions of Assembly and Service apply.
- (2) Should a provision of these terms and the further agreements made be or become invalid, this shall not affect the validity of the remaining provisions. The contracting parties will endeavour to replace the invalid provision by a legally permissible and enforceable provision which is as close as possible to the invalid provision in terms of its economic effect. The same applies in the event of a regulatory gap. In this case, the contracting parties will endeavour to negotiate an agreement with the content to which they would have agreed within the meaning of the GTCs if the regulatory gap had been known at the time of the conclusion of the contract.
- (3) You can find our data protection information at:
<https://sturm-gruppe.com/kontakt/hinweise-zum-datenschutz-bei-geschaeftsabschluessen/>.