

General Terms and Conditions of Sale and Delivery of

GEHR GmbH

- Status: march 2023 -

§ 1 General scope

1. These General Terms and Conditions of Sale and Delivery (hereinafter: "GTCS") apply to all our business relationships of GEHR GmbH (hereinafter: "we" or "us") with our customers (hereinafter: "buyer"). The terms and conditions of sale and delivery shall apply if the buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law only.
2. The GTCS apply to contracts for the sale and delivery of movable items (hereinafter also: "goods"), regardless of whether we have manufactured the goods ourselves or purchased them from suppliers. The GTCS in the version valid at the time of conclusion of the contract shall also apply as a framework agreement for future contracts for the sale and delivery of movable goods with the same buyer, without us having to inform him of them again in each case.
3. Our GTCS apply exclusively. Deviating, conflicting or supplementary general terms and conditions of business or purchase of the buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity in writing. This approval requirement applies in any case, also if we carry out the delivery to the buyer without reservation in knowledge of the buyer's terms and conditions.
4. Agreements made with the buyer in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over the GTCS. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.

5. Legally relevant declarations and notifications of the buyer with regard to the contract (e.g. setting of deadlines, reminders, declaration of withdrawal) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declarant, remain unaffected.
6. In the case of commission transactions, these GTCS shall not apply to the contract concluded between the buyer and the manufacturer/supplier, but exclusively the terms and conditions of sale and delivery of the manufacturer/supplier concerned, unless we have agreed otherwise in writing.
7. References to the validity of statutory provisions have clarifying significance only. Even without such clarification, the statutory provisions shall therefore apply, unless they are directly amended or expressly excluded in these Terms and Conditions of Sale and Delivery.

§ 2 Contract

1. Our contract offers are subject to change and non-binding. This also applies if we have provided the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, calculations, samples, illustrations, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserve ownership rights and copyrights. These may be made accessible to third parties with our prior written consent only. If the order is not placed, the documents must be returned immediately at our request.
2. In the production of extraordinary articles that deviate from our usual product range, we reserve the right to make reasonable design and shape changes for the customer. Reasonableness in this sense is given if there are favorable deviations from the owed performance for the buyer or if the deviations are minor and do not affect the objective interests of the buyer.
3. The order of the goods by the buyer is considered a binding contract offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within two weeks of its receipt by us.

4. The acceptance can be declared in text form (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 is agreed individually or specified by us upon acceptance of the order. Compliance with them presupposes that all commercial and technical questions have been clarified and that the customer has fulfilled all obligations incumbent on him, such as the provision of material samples or documents to be procured by him or the payment of a down payment. If this is not the case, the delivery period shall be extended accordingly. This does not apply if we are responsible for the delay.
2. The delivery period shall be deemed to have been met if the delivery item has left the factory or readiness for dispatch has been notified by the time it expires.
3. If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (e.g. due to non-availability of the service), we will inform the buyer immediately and at the same time inform the customer of the anticipated new delivery period. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part, we will immediately reimburse any consideration already provided by the buyer. A case of non-availability of the service in this sense is in particular the late self-delivery by our supplier if we have concluded a congruent hedging transaction, neither we nor our supplier is at fault or we are not obliged to procure in individual cases. Our statutory rights of withdrawal and termination, the statutory provisions on the execution of the contract in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance) as well as § 3 para. 5 of these GTCS remain unaffected. The rights of the buyer pursuant to §§ 9, 10 of these GTCS shall also remain unaffected.
4. The occurrence of our delay in delivery shall otherwise be determined in accordance with the statutory provisions; in any case, however, a reminder by

the buyer with a reasonable deadline is required.

5. We reserve the right to make a partial delivery if this appears advantageous for speedy processing and the partial delivery is not exceptionally unreasonable for the buyer.
6. "Force Majeure" means the occurrence of an event or circumstance that prevents a party from performing one or more of its contractual obligations under the Contract if and to the extent that the party affected by the impediment proves that: (a) such impediment is beyond its reasonable control and is beyond its control; ; and (b) it was not reasonably foreseeable at the time of entering into the Agreement; and (c) the effects of the impediment could not reasonably have been avoided or overcome by the party concerned.

Unless proven otherwise, the following events affecting a Party are presumed to meet the conditions set forth in (a) and (b) above: (i) war (declared or undeclared), hostilities, attack, acts of foreign enemies, large-scale military mobilization; (ii) civil war, riot, rebellion and revolution, military or other seizure of power, insurrection, acts of terrorism, sabotage or piracy; (iii) currency and trade restrictions, embargo, sanctions; (iv) lawful or unlawful official acts, obeying any law or governmental order, expropriation, seizure of works, requisition, nationalization; (v) plague, epidemic, natural disaster or extreme natural event; (vi) explosion, fire, destruction of equipment, prolonged failure of transportation, telecommunications, information systems or energy; (vii) general labor unrest such as boycott, strike and lockout, slow strike, occupation of factories and buildings.

A party who successfully relies on this clause shall be released from its obligation to perform its contractual obligations and from any obligation to pay damages or from any other contractual remedy for breach of contract from the time when the impediment makes it impossible for it to perform, provided that this is communicated immediately. If the notification is not given immediately, the exemption shall take effect from the moment the notification reaches the other party. If the effect of the alleged impediment or event is temporary, the consequences set out above shall apply only as long as the alleged impediment

prevents the performance of the contract by the affected party. If the duration of the alleged impediment has the effect of significantly depriving the contracting parties of what they could legitimately expect under the contract, each party shall have the right to terminate the contract by notifying the other party within a reasonable period of time. Unless otherwise agreed, the parties expressly agree that the Agreement may be terminated by either party if the duration of the impediment exceeds 120 days.

§ 4 Delivery, transfer of risk, acceptance, default of acceptance

1. Delivery takes place ex warehouse, which is also the place of performance for the delivery and any subsequent performance. Unless otherwise agreed, the place of performance is Mannheim. At the request and expense of the buyer, the goods will be shipped to another destination (sale by dispatch). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
2. In the case of orders on call, we grant the buyer, unless otherwise agreed, a period of six months for acceptance.
3. The risk of accidental loss and accidental deterioration of the goods shall pass to the buyer at the latest upon handover. In the case of sale by dispatch, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to him upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment.
4. If a shipment arrives in a damaged condition, the buyer must immediately have the damage officially recorded by the carrier to secure his claims.
5. 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).

§ 5 Prices and terms of payment

1. Unless otherwise agreed in individual cases and subject to the further provisions in this § 5, our current prices at the time of conclusion of the contract shall apply.
2. All prices stated in our offer or the contract have been calculated based on the applicable purchase, material and raw material prices at the time of its preparation or conclusion. These are therefore part of the business basis. Since in special exceptional cases there may be material bottlenecks and thus significantly longer delivery times and/or serious price changes for these raw materials and primary materials, it cannot be ruled out that this calculation basis will change considerably up to the time of delivery and unpredictably for us. If, as a result, the previously agreed net price rises or decreases, possibly offset against other rising or falling cost factors, by more than 3%, which we prove on request, these changes in pricing must be considered by way of a fair compensation based on partnership. Each contracting party therefore has the right to require the other to renegotiate prices in good faith within a reasonable period of time, taking due account of the interests of both parties. In the event of a failure of these negotiations, we shall be entitled to set a price in accordance with the statutory rules for determining performance by the creditor (§§ 315, 316 BGB) that reflects the changes and whose appropriateness can be reviewed by the court on request.
3. Unless otherwise stated in the order confirmation, our prices FCA (Incoterms 2020), Mannheim apply. Packaging costs and, in the case of sale by dispatch, the transport costs ex warehouse 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. These costs will be invoiced separately.
4. Place of performance for payments is Mannheim.
5. The statutory value added tax is not included in the prices. It will also be shown separately at the statutory rate and must also be paid by the buyer.

6. The purchase price must be paid within the agreed payment period. Unless this has been separately agreed, the payment term is 30 days net. However, we are entitled at any time, even within the framework of an ongoing business relationship, to carry out a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation; § 321 BGB remains unaffected.
7. In the case of tool requirements, 50% of the tool cost share must be paid immediately upon placing the order without discount, the remaining amount after acceptance of the samples.
8. Upon expiry of the aforementioned payment period, the buyer shall be in default. If default of payment occurs, we are entitled to claim default interest at the statutory rate, which is currently 9 percentage points above the base interest rate, as well as an additional default lump sum of EUR 40.00. We expressly reserve the right to assert further damages. Regarding merchants, our claim to the commercial maturity interest (§ 353 HGB) remains unaffected.
9. Insofar as we have granted a right to a discount, this shall lapse upon occurrence of the resolutive condition that after the discount commitment for an invoice, another invoice due earlier from the business relationship is not paid within the payment period.
10. Bills of exchange or cheques shall only be accepted on account of performance. Bank charges and bill of exchange costs shall be borne by the buyer.
11. The buyer may only offset counterclaims if these are undisputed, acknowledged by us or legally established. In the event of defects in the delivery, the counter-rights of the buyer, in particular in accordance with § 9 of these GTCS, remain unaffected.
12. If, after conclusion of the contract, it becomes apparent (e.g. by application for the opening of insolvency proceedings) that our claim to the purchase price is endangered by the buyer's inability to pay, 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. The statutory provisions on

the dispensability of setting a deadline remain unaffected.

§ 6 Packaging

1. We take back transport packaging if we are obliged to do so by law or on the basis of a law only. We also assume the costs of returning the goods if we are obliged to do so by law or based on a law.
2. The buyer must always return packaging materials expressly provided only on loan and return them to us immediately carriage paid.

§ 7 Condition of the goods/samples/technical advice/uses

1. Unless otherwise agreed, the quality of the goods results exclusively from our product specification. Insofar as we sell products from other manufacturers, the product specification of the manufacturer applies. Nevertheless, the goods delivered by us are normally not suitable for the following applications, unless expressly stated otherwise: (a) for implants intended to remain in a person's body for more than 29 days; (b) weapons (including chemical weapons as defined in the Chemical Weapons Convention, landmines and landmine components, and any type of explosive device); (c) devices or components used in the context of human reproduction; (d) General purpose resins in medical or health applications.
2. The samples provided by us as well as our technical and chemical information serve as a general description of the goods only. They do not include any guarantee or warranty of quality or durability. Goods-specific performance data, such as dimensions or weights, are only binding in the event of a corresponding agreement or confirmation by us.
3. Insofar as we provide application-related information or act in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by us, this is done free of charge and to the exclusion of any liability with the exception of intent. It does not exempt the buyer from

checking each individual delivery for its suitability for the intended use before processing. The buyer is solely responsible for the use and processing of the goods delivered by us as well as for compliance with the applicable safety regulations.

§ 8 Ownership

1. Until full payment of all our current and future payment claims arising from the purchase contract and an ongoing business relationship (secured claims), we reserve title to the goods sold.
2. Insofar as payment of the purchase price debt has been agreed with the buyer in the cheque-bill of exchange procedure, the reservation also extends to the redemption of the bill of exchange accepted by us by the buyer and does not expire by provisional crediting of the cheque received.
3. 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 must inform us immediately in text form if and to the extent that third parties access the goods belonging to us. If the third party is unable to reimburse us for the judicial or extrajudicial costs incurred in this context, the buyer shall be liable for them.
4. The buyer is obliged to store the reserved goods at his own expense with the care of a prudent businessman and to insure them against the usual storage risks. The buyer hereby assigns his claims arising from the insurance contracts to us. We accept the assignment.
5. In the event of breach of contract by the buyer, 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 the return of the goods on the basis of the retention of title and 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 such a deadline is dispensable according to statutory provisions.

6. The seizure of the purchased item by us always constitutes a withdrawal from the contract. After taking back the purchased item, we are entitled to sell it. The proceeds from the sale shall be set off against the buyer's liabilities, less reasonable disposal costs.
7. Until revoked in accordance with (c) below, the buyer is entitled 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 additionally:
 - a) The retention of title extends to the products resulting from processing, mixing or combining our goods at their full value, whereby we shall be deemed to be the manufacturer. If, in the case 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. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
 - b) The buyer hereby assigns to us as security the claims against third parties arising from the resale of the goods or the product in their entirety or in the amount of our possible co-ownership share in accordance with the preceding paragraph. We accept the assignment. The obligations of the buyer mentioned in § 8 paragraph 3 of these GTCS also apply with regard to the assigned claims.
 - c) In addition to us, the buyer remains entitled to collect the claim. We undertake not to collect the claim as long as the buyer meets his payment obligations to us, there is no defect in his ability to pay and we do not assert the retention of title by exercising a right pursuant to § 8 paragraph 5 of these GTCS. In the event of the occurrence of one of the above-mentioned defaults on the part of the buyer, we can demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment. In this case, we are also entitled to revoke the buyer's authority to resell and process the goods subject to retention of title.
 - d) If the value of the securities exceeds the sum of our claim by more than 10%, we

will release the excess securities at the request of the buyer at our discretion.

§ 9 Claims; Defects

1. The statutory provisions shall apply to the rights of the buyer in the event of material defects and defects of title (including incorrect and short delivery), unless otherwise specified below. In all cases, the statutory special provisions for final delivery of the unprocessed goods to a consumer remain unaffected, even if he has further processed them (supplier recourse according to §§ 445a, 478 BGB). Claims arising from supplier recourse are excluded if the defective goods have been further processed by the buyer or another entrepreneur, e.g. by installation in another product.
2. The basis of our liability for defects is above all the agreement made on the quality of the goods. If the quality has not been agreed, it is to be assessed according to the statutory regulation whether a defect exists or not (§ 434 para. 2, 3 and 4 BGB).
3. In principle, we are not liable for defects which the buyer is aware of at the time of conclusion of the contract or which is grossly negligent (§ 442 BGB). Furthermore, the buyer's claims for defects presuppose that he has complied with his statutory inspection and notification obligations (§§ 377, 381 HGB). In the case of materials and other goods intended for incorporation or other further processing, an examination must in any case be carried out immediately before processing. If a defect becomes apparent during the inspection or later, we must be notified immediately in text form. If the buyer fails to carry out a proper inspection or to notify the defect, our liability for the defect not reported shall be excluded. In the case of partial deliveries, this obligation of the buyer refers to each individual partial quantity.
4. If the delivered item is defective, we can initially choose whether we provide supplementary performance by eliminating the defect (rectification) or by delivering a defect-free item (replacement delivery). Our right to refuse subsequent performance under the statutory conditions remains unaffected.

5. We are entitled to make the supplementary 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.
6. The buyer must give us the time and opportunity necessary for the supplementary performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the buyer must return the defective item to us in accordance with the statutory provisions. The supplementary performance does not include the removal of the defective item or the reinstallation if we were not originally obliged to install it.
7. We shall bear or reimburse the expenses necessary for the purpose of inspection and supplementary performance, in particular transport, travel, labour and material costs as well as any dismantling and installation costs in accordance with the statutory provisions, if a defect actually exists. Otherwise, we may demand compensation from the buyer for the costs incurred from the unjustified request to remedy the defect (inspection and transport costs), unless the lack of defectiveness was not recognizable to the buyer.
8. If the supplementary performance has failed or a reasonable deadline to be set by the buyer for the supplementary performance has expired without success or is dispensable according to the statutory provisions, the buyer may withdraw from the purchase contract or reduce the purchase price. In the event of an insignificant defect, however, there is no right of withdrawal.
9. Liability for replacement and repair shall be to the same extent as for the original delivery item, but for a limited period of time until the end of the limitation periods due to defects in the original delivery item. The period for liability for defects in the delivery item shall be extended by the time claimed by us for the inspection and rectification of defects.
10. Persons commissioned by us to inspect defects are not entitled to acknowledge defects at our expense unless expressly stated otherwise in writing on our part.
11. Unless otherwise agreed, the corresponding DIN regulations shall apply.

12. Claims of the buyer for damages or reimbursement of futile expenses exist even in the case of defects only in accordance with § 10 and are otherwise excluded.

§ 10 Other liability

1. We shall be liable for damages – irrespective of the legal grounds – in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. due diligence in our own affairs),
 - a) for damages resulting from injury to life, limb or health as well as
 - b) for damages resulting from the breach of an essential contractual obligation (obligation the fulfilment of which is essential for the proper execution of the contract and on the observance of which the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.
2. The above limitations of liability shall not apply if we have fraudulently concealed a defect or assumed a guarantee for the quality of the goods. Other mandatory statutory liability provisions, in particular according to the provisions of the Product Liability Act, remain unaffected.
3. Insofar as our liability is excluded or limited, this also applies with regard to the personal liability of our employees, workers, employees, representatives and vicarious agents.

§ 11 Prescription

1. Notwithstanding § 438 Abs. 1 Nr. 3 BGB, the general limitation period for claims arising from material defects and defects of title is one year from delivery. Insofar as acceptance has been agreed, the limitation period begins with acceptance.
2. § 11 (1) of these GTCS does not apply insofar as special statutory provisions on limitation apply (in particular § 438 (1) No. 1 and No. 2, (3), §§ 444, 445b BGB).

3. The above limitation periods of the sales law also apply to contractual and non-contractual claims for damages of the buyer, which are 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 individual cases. Claims for damages of the buyer pursuant to § 10 paragraphs 1 and 2 of these GTCS shall become statute-barred exclusively after the statutory limitation periods.
4. A suspension of the limitation period due to ongoing negotiations pursuant to § 203 sentence 1 BGB presupposes that the buyer asserts the claims asserted by him in writing.

§ 12 Applicable law, place of jurisdiction, partial invalidity

1. These GTCS and all legal relationships between us and the buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of the provisions of international private law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. The exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Mannheim. This only applies 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. In all cases, however, we are also entitled to take legal action at the place of performance of the delivery obligation in accordance with § 4 paragraph 1 of these GTCS or a priority individual agreement or at the general place of jurisdiction of the buyer. Overriding statutory provisions, in particular with regard to exclusive jurisdiction, remain unaffected.
