

# General Terms and Conditions - GS HUB GmbH

## § 1 General

### 1.1.

All of our deliveries and services, in particular deliveries and services under contracts for purchasing, work and services, and supply of materials as well as consulting and other ancillary services (hereinafter referred to as "deliveries"), are provided exclusively on the basis of these General Terms and Conditions of Business (hereinafter referred to as the "Terms of Delivery"). Our terms of delivery apply exclusively. General terms and conditions of business of our contractual partners that are contrary to or deviate from or supplement our terms and conditions of delivery shall not be recognized, even if they have not been expressly objected to and/or the delivery has been carried out without reservation despite knowledge of them.

### 1.2.

These terms and conditions of delivery shall apply in business transactions with entrepreneurs within the meaning of § 14 BGB (German Civil Code), legal entities under public law, and special assets under public law.

### 1.3.

These terms of delivery apply within the framework of an ongoing business relationship and for all our future deliveries to the contractual partner.

## § 2 Quotations, conclusion of contract, and form

### 2.1.

Our quotations are always subject to change and non-binding. A contract shall only come into effect through an order by the contractual partner and our written order confirmation or execution of the delivery. Our silence does not constitute any reliance on the conclusion of a contract.

### 2.2.

Insofar as these terms of delivery or the contract refer to a written form requirement, the text form within the meaning of § 126 b BGB (e.g. fax or e-mail) shall be sufficient to ensure the written form.

### 2.3.

Technical changes as well as changes in form, color, and/or weight are reserved within the scope of reasonableness. The contractual partner is obliged to check our order confirmation and, if available, our design drawings for correctness and local feasibility, in particular construction dimensions, without delay and to report any discrepancies immediately. Partial deliveries are acceptable.

### 2.4.

We reserve the right of ownership and, if applicable, the copyright to quotations, drawings, and similar documents. This also applies to those documents that are classified as "confidential". These documents may not be made available to third parties without our prior expressed consent and must be returned immediately upon request.

### 2.5.

Commercial clauses shall be interpreted in accordance with the Incoterms in the version valid at the time that the contract is concluded.

### **§ 3 Acceptance**

#### **3.1.**

Deliveries only require acceptance if this has been expressly agreed or if this is required by law.

#### **3.2.**

Acceptance shall be at the expense of the contractual partner.

#### **3.3.**

The customer may not refuse to accept the delivery due to insignificant flaws.

### **§ 4 Transfer of risk, execution of delivery, and deadlines**

#### **4.1.**

Unless otherwise agreed, we shall select the shipping method and means as well as the forwarder and carrier.

#### **4.2.**

Our delivery obligation is subject to proper and timely delivery to us by our suppliers.

#### **4.3.**

Compliance with any possibly sent delivery dates presupposes the clarification of all technical questions, the timely receipt of all documents, approvals and releases to be supplied by the contractual partner as well as compliance with the agreed terms of payment and other obligations of the contractual partner. If one of these conditions is not fulfilled on time or completely, the agreed delivery deadline shall be extended accordingly.

#### **4.4.**

The agreed delivery dates shall be considered to be met upon notification to the contractual partner that the goods are ready for dispatch, even if deliveries cannot be dispatched on time through no fault of ours.

#### **4.5.**

If collection by the contractual partner has been agreed, the delivery reported ready for dispatch in accordance with the contract must be collected immediately; otherwise we are entitled to dispatch it at our discretion at the cost and risk of the contractual partner and to invoice it as being delivered.

#### **4.6.**

We are entitled to make partial deliveries as far as this is reasonable for the contractual partner. Such partial deliveries can be invoiced separately; the shipping costs for all partial deliveries may not exceed the agreed shipping costs.

#### **4.7.**

Events of force majeure entitle us to postpone delivery for the duration of the impairment caused by the force majeure plus a reasonable start-up time. Events of force majeure shall be deemed equivalent to all events for which we are not responsible, and which cannot be averted.

#### **4.8.**

If the contractual partner has a claim for damages in addition to the delivery of the delayed goods, the damages to be incurred shall be limited to an amount of 0.5% of the agreed net price of the delivery affected by the delay for each full week of the delay in delivery, but in total to an amount of 5% of this net price. This limitation shall not apply if the delay is due to intent or gross negligence.

#### **4.9.**

The contractual partner must unload the transport vehicle immediately upon delivery. Waiting times will always be charged to the contractual partner. In the case of delivery free building site, the agreed price is always considered to be free truck on a drivable road at ground level. Unloading, including transport to the place of use or storage, shall be the responsibility of the contractual partner, who shall bear the costs and risk of unloading or stacking or storage or return transport in the event of any delay.

### **§ 5 Prices, payment, and export**

#### **5.1.**

Unless otherwise agreed, our prices are net prices. Our prices are EXW (Incoterms 2020) plus the value added tax valid at the time of invoicing. If the contractual partner demands the dispatch of the goods, the additional costs for the transport will be charged.

#### **5.2.**

Our invoices are payable 10 days after invoicing.

#### **5.3.**

If, after conclusion of the contract, a significant deterioration in the financial circumstances of the contractual partner becomes apparent, as a result of which a claim of ours is endangered, in particular in the event of suspension of payments, an application for the opening of insolvency proceedings against the assets of the contractual partner or a bill or cheque protest, we shall be entitled, in the event of an obligation on our part to make advance performance, to carry out outstanding deliveries only against the provision of appropriate securities. If the contractual partner fails to provide security within a reasonable period of time set by us, we shall be entitled to withdraw from the contract - without prejudice to any other rights of withdrawal. This does not apply if the contractual partner provides an advance payment.

#### **5.4.**

The contractual partner shall only be entitled to rights of set-off and retention insofar as his counterclaims have been legally established or are undisputed or the contractual partner's claim originates from the same contractual relationship as our claim and is in reasonable proportion to it.

#### **5.4.**

Payment orders, cheques or bills of exchange shall only be accepted by special agreement and only as payment, but not in lieu of payment. The costs for bills of exchange, discounting and collection shall be at the expense of the contractual partner.

### **§ 6 Retention of title, protection**

#### **6.1.**

The delivered goods remain our property until all claims and demands, regardless of their legal grounds, have been fulfilled. In the case of ongoing contractual relationships, the retained title shall also serve as security for the balance claim.

#### **6.2.**

The contractual partner is entitled to resell the goods delivered under retention of title in the framework of proper business transactions until revoked at any time and as long as he is not in default of his payments to us. Our authority to collect the claim ourselves remains unaffected by this. Pledging or transfer by way of

security in whole or in part without our express written consent is not permitted as long as our retention of title exists.

### **6.3.**

All claims of the contractual partner from the resale of the goods subject to retention of title are hereby assigned to us in full until all claims have been paid. We hereby accept the assignment. If the contractual partner includes the claim to which he is entitled from a resale of the goods subject to retention of title in a current account relationship existing with his customer, he hereby assigns to us the full amount of the current account claim against the customer. We hereby also accept this assignment. After balancing, the recognized balance shall replace the current account receivable and shall be deemed assigned up to the amount of the original current account receivable. In the event that the reserved goods are installed in a building, the provisions of the above paragraph on the assignment of claims from the contract for work and services between the contractual partner and his client shall apply accordingly. At our request he is obliged to inform his customers immediately of the assignment and to provide us with the information and documents necessary for inclusion. The processing, alteration or installation of goods delivered under retention of title shall be carried out by the contractual partner free of charge. If the reserved goods are combined or processed with other items not owned by the supplier, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods to the combined/processed item at the time of combination/processing. Insofar as the contractual partners are entitled to claims against insurance companies or other third parties due to damage, abatement, loss or destruction of the reserved goods or for other reasons, these claims with all ancillary rights are also assigned to us in advance. Rights arising from the retention of title and all special forms of such retention of title stipulated in these terms and conditions shall also apply until complete release from contingent liabilities which we may have entered into in the interest of the contractual partner. If the value of the securities exceeds the secured claim by more than 20% on a sustained basis, we shall be obliged to release securities of our choice at the request of the contractual partner.

### **6.4.**

For the duration of the retention of title, the contractual partner is obliged to insure the delivery item against fire, water damage, contamination, and theft.

### **6.5.**

The contractual partner is obliged to inform the supplier without delay of all foreclosure measures against an object subject to the retention of title and to send him copies of the pledging order and protocols. Furthermore, he is obliged to do everything in his power to avert the execution of the foreclosure.

## **§ 7 Obligation of inspection and notification of non-conformity**

### **7.1.**

The contractual partner is obliged to examine the goods immediately upon delivery, insofar as this is feasible in the ordinary course of business, and if a defect is found, to notify us immediately in writing in accordance with § 377 HGB (German Commercial Code). If the contractual partner fails to notify us, the goods shall be deemed to have been approved, unless it is a defect that could not be detected during the inspection.

### **7.2.**

In principle, only the product description/order confirmation or the specifications laid down in the proposal shall be deemed as agreed regarding the quality of the contractual object. Public statements, recommendations, or advertising by the manufacturer do not constitute contractual specifications of the quality of the goods.

### **7.3.**

We shall be liable in accordance with the legal provisions insofar as the contractual partner asserts claims for damages that are based on intent or grossly negligent breach of duty; in this case, the liability for damages

shall be limited to the typically occurring damage. This shall not apply to liability for culpable injury to the life, body, or health of a person, including death, nor to mandatory liability under the Product Liability Act. We will not cover the costs for installation and deinstallation or shipping costs.

#### **7.4.**

Excluded are damages due to improper installation and omitted care and maintenance, improper commissioning and operation, negligent or willful destruction, external influence as well as fire, water, brines, acids, abnormal environmental influences, mechanical damage due to improper transport and installation, priming and other surface protection, incorrect or untimely use of parts of foreign origin without the manufacturer's consent and removal or obliteration of the product number. The statutory limitation period for the contractual partner's claims for defects shall be one year after the delivery of the goods in the case of purchased goods, provided that the contractual partner duly complies with their obligation of inspection, notification and rejection as set out hereinabove. Normal wear and tear, e.g. on wearing parts, does not constitute a material defect.

#### **7.5.**

Recourse claims of the contractual partner against us are excluded in accordance with § 478 BGB (German Civil Code), insofar as the contractual partner has agreed on the rights with their customer for defects exceeding the statutory provisions.

## **§ 8 Liability**

#### **8.1.**

Claims for damages and reimbursement of expenses by the contractual partner, regardless of the legal basis, are excluded.

#### **8.2.**

The exclusion of liability according to the above clause shall not apply:

- in case of liability according to the product liability law
- in cases of intent or gross negligence
- in case of culpable injury to life, body, or health
- in the event of breaches of essential contractual obligations, i.e. such obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely on
- liability for breach of essential contractual obligations, however, is limited to compensation for foreseeable damage that is typical of the contract, unless we are liable on the basis of intent or gross negligence, injury to life, body or health, or under the Product Liability Act.

#### **8.3.**

Insofar as our liability is excluded or limited in accordance with the above paragraphs, this shall also apply to the corresponding personal liability of our employees, vicarious agents, and legal representatives.

#### **8.4.**

For damage caused by delay, priority shall be given to the special regulations.

## **§ 9 Foreign trade law**

### **9.1.**

The fulfillment of the contract with the contractual partner is subject to the provision that there are no impediments to the fulfillment resulting from the national or international regulations of foreign trade law and no embargo and/or other sanctions.

### **9.2.**

When handing over the goods that we delivered, the contractual partner must comply with the respective applicable provisions of national and international (re-)export control law.

### **9.3.**

Insofar as a verification inspection is required for an export, the contractual partner shall, upon request, immediately provide us with all the information on the final recipient, final destination, and intended use of the goods delivered or services rendered by us as well as any relevant export control restrictions.

### **9.4.**

The contractual partner shall fully indemnify us against all claims asserted against us by authorities or other third parties due to the contractual partner's failure to comply with the aforementioned export control obligation and undertakes to reimburse us for all damages and expenses incurred by us in this context, unless the contractual partner is not responsible for the breach of duty.

## **§ 10 Confidentiality**

The contractual partner must treat our documents and our business and trade secrets as confidential. In particular, they are not entitled to pass on these secrets to third parties or make them accessible to third parties without our prior written consent. Insofar as we have agreed to pass on orders to third parties, these must be committed to confidentiality in writing accordingly. It does not exist insofar as information was already known to the contractual partner at the time of the conclusion of the contract or becomes known later without being based on a breach of a confidentiality obligation or was already publicly known at the time of the conclusion of the contract or becomes publicly known later or must be disclosed due to legal obligations or by order of a court or an authority.

## **§ 11 Final provisions**

### **11.1.**

The law of the Federal Republic of Germany shall apply; the provisions of the UN Convention on the International Sale of Goods shall not apply.

### **11.2.**

Additional agreements and changes require our written confirmation. This also applies to the amendment of the written form clause. The invalidity of the individual provisions of these terms and conditions or other contractual components shall not affect the validity of the remaining provisions. Place of performance for both parties to the contract is our registered office in Manrode; the courts at our registered office have exclusive local jurisdiction. However, we remain entitled to sue the contractual partner at its general place of jurisdiction or any other competent court.