

# General Business and Delivery Conditions (Weier GmbH, Buchholz 8, 57489 Drolshagen, Germany)

## I. Definitive terms and conditions, quotation and conclusion of Contract

1. All services and quotations of the Weier GmbH (hereinafter also referred to as the "Contractor" or "Seller") shall be rendered solely on the basis of the provisions of these General Terms and Conditions, insofar as no variant provisions are explicitly agreed upon in the respective individual Contract. Any contrary business and purchasing terms and conditions of the Customer (hereinafter also referred to as the "Purchaser") or third parties shall not apply, even if the Contractor does not separately object to their application in an individual case.

2. All quotations of the Contractor are non-binding except where specifically stated to be binding. The Contractor can accept orders or commissions within 14 days of receipt.

3. The respective order shall become binding on the Contractor (conclusion of Contract) upon the Contractor's written confirmation or on commencement of execution of the order.

4. The written individual Contract between the parties with respect to the contractual products including the provisions of these General Terms and Conditions shall be solely definitive for the legal relations between the parties. This Contract is deemed to contain all agreements between the parties respecting the object of the contract in full. Verbal assurances of the Contractor prior to conclusion of the Contract shall be legally non-binding and verbal agreements between the Parties shall be substituted by the written Contract. Additions and amendments to the agreed provisions including the provisions of this Contract must be made in writing in order to be valid.

5. Seller's specifications regarding the object of supply or performance (e.g. weights, dimensions, consumption values, load-bearing capacity, tolerances, technical or other performance data) as well as corresponding representations of the Seller respecting the aforementioned specifications (e.g. drawings, illustrations) shall be only approximately definitive, insofar as the Seller does not characterize them in writing as binding and/or insofar as the usability for the contractually intended purpose does not presuppose an exact correspondence with the specifications provided. They are not guaranteed quality features but rather descriptions or designations of the supply or performance. Common commercial deviations and deviations that occur on account of legal regulations or represent technical improvements, as well as the substitution of components for parts of equal quality, are permissible insofar as they do not impair the usability for the contractually intended purpose.

6. The Seller shall retain ownership and/or copyrights to all quotations and cost estimates submitted by him as well as to all drawings, images, calculations, brochures, catalogs, models, tools and other documents and auxiliary materials provided to the Purchaser. The Purchaser may not either make these available to third parties, disclose them, use or duplicate them himself or enable third parties to do so without the express consent of the Seller. At the Seller's demand, the Purchaser shall return these objects to the Seller in full and destroy any copies made when these are no longer needed for the orderly conduct of business or if negotiations do not lead to conclusion of a contract. The same shall apply for corresponding documents which the Purchaser provides to the Seller for the execution of the Contract. However, the Seller may make these available to third parties to whom it has permissibly assigned deliveries.

## II. Prices, terms of payment and consequences in the event of non-compliance, offsetting and retention

1. The prices shall apply for the scope of performance and supply set out in the Seller's order confirmation. Additional or special performances shall be invoiced separately.

2. Insofar as no currency is expressly stipulated, all prices are quoted in euros ex works plus packaging, statutory sales tax, customs and fees and other public levies.

3. Insofar as the Seller's list prices form the basis for the agreed prices and supply is to be effected later than 4 months after conclusion of the Contract, the seller's price list as of the time of supply shall apply.

4. Should the sales tax be altered by statute between conclusion of the individual Contract and its execution, the Contractor shall have the right to invoice the altered sales tax amount.

5. For all orders – including call-up orders and successive-delivery contracts – in which supply is effected later than 4 months from placement of the order pursuant to the contract or at the Purchaser's wish, the Seller shall be entitled to pass on increases in material prices and wage costs to the Purchaser within the context of and as compensation for these price increases between conclusion of the contract and supply to the Purchaser.

6. The Seller shall not be bound by previous prices in the case of automatic follow-on orders. Any price discounts shall not be valid retroactively, but instead solely as of the date of announcement of the corresponding discount.

7. Invoice amounts are payable within 14 days of the respective invoice date with 2 % discount or 30 days net, but no later than 30 days from the due date and receipt of counterperformance net and free of postage and fees. The Contractor's receipt date shall be definitive for receipt of payment; checks shall only be deemed as payment on redemption. If the company fails to pay when due, the outstanding amounts shall be subject to an interest charge of 8 % annually as of the due date. The assertion of higher rates of interest and further losses in the case of arrears in accordance with

statutory provisions shall remain unaffected.

8. The offsetting of counterclaims of the Customer or withholding of payments on account of such claims is only permissible insofar as such counterclaims are undisputed or have been determined in law.

9. The Contractor shall have the right to execute or carry out outstanding performances only for payment in advance and provision of security if it should learn subsequent to conclusion of the Contract of circumstances that appear likely to significantly impair the Customer's creditworthiness and which pose a threat to payment of the Contractor's outstanding claims by the Customer from the respective contractual relationship (including from other individual orders for which the same framework contract applies).

10. The Seller shall have the right to assign claims against the Purchaser from supplies or performances to third parties for financing purposes.

## III. Supply and supply period

1. Insofar as this is not specifically agreed on the individual contracts, contractual products are supplied deemed ex works.

2. Where shipping has been agreed upon, supply periods and dates shall always refer to the time of transfer to the shipping agent, freight forwarder or other third party entrusted with transport.

3. Without effect to its rights from any delay on the part of the Customer, the Contractor may demand from the Customer an extension of supply and performance periods or postponement of supply and performance dates equivalent to the period in which the Customer fails to meet its contractual obligations toward the Contractor.

4. The Contractor shall not be liable for the impossibility of performance or delays in supply insofar as these are due to force majeure or other occurrences that are unforeseeable at the time the Contract is concluded (e.g. operational interruptions of all types; difficulties in obtaining materials or energy; transport delays, strikes, legal lockouts, lack of labor; energy or raw materials; difficulties in obtaining required official permits; official actions or missing, incorrect or late delivery by suppliers) for which the Contractor is not responsible. Insofar as such events significantly impair the Contractor in supply or performance or make this impossible and the impairment is not merely temporary, the Contractor shall be entitled to withdraw from the Contract in whole or in part. However, the prerequisite for withdrawal is that the Contractor shall inform the Customer without delay of the non-availability and/or the other circumstances and reimburse any considerations already received from the Customer relating to the Contractor's outstanding performance without delay. In the case of temporary impairments, the supply and performance periods shall be extended and the supply and performance dates postponed by the period of the impairment plus an appropriate run-up phase. If the Customer can no longer be reasonably expected to accept the supply or performance as a consequence of the delay, he can withdraw from the Contract by issuing an immediate written declaration to this effect to the Contractor.

5. The Contractor shall only be entitled to render partial supply if the Customer is able to use the partial supply within the context of the contractual purpose, the remaining supply and performance is assured and no additional effort or costs are incurred for the sales company thereby, unless the Contractor declares its willingness to assume these latter costs. Should the Contractor fall behind with a supply or performance or if a supply or performance should become impossible for whatever reason, the Contractor's liability shall be limited to compensation of losses pursuant to this Contract.

## IV. Place of fulfillment, packaging, shipping, transfer of risk

1. The place of fulfillment for all obligations arising out of this contractual relationship is the Contractor's works in 57489 Drolshagen, Germany, provided that nothing else is expressly specified between the parties in any individual case.

2. The type of shipping and the packaging shall be determined at the Contractor's reasonably discretion.

3. Deliveries are always effected ex Contractor's works for the Customer's account and risk. Insofar as not otherwise stipulated in writing, the delivery clause "EXW" (Incoterms 2010) shall apply. This shall also apply in the event that the Contractor has undertaken to assume the transport costs in any individual case. In the case of pick-up by the client, the risk shall transfer to the Customer with delivery. The Contractor shall not be liable for damage or losses during transport, even in the event that delivery is not carriage-free.

4. Should the shipping or transfer be delayed as a consequence of a circumstance originating with the Customer, the risk shall transfer to the Customer as of the date on which the contractual product is ready for shipment and the Contractor has so notified the Customer.

5. The Contractor shall insure the shipment against theft, breakage, transport, fire and water damage and other insurable risks only at the express wish of the Customer and at the latter's expense.

6. The Customer shall bear storage costs as of the transfer of risk. For storage by the Seller, the storage costs shall amount to 0.25 % of the invoice amount for the contractual items to be stored for each full week. Both parties shall have the right to assert and prove greater or lesser storage costs.

7. For contracts with continuing delivery, the Seller is to be informed in good time of type and assortment apportionments. If the order is not called up and apportioned in good time, the Seller, after a set

grace period has expired without result, shall be entitled to undertake apportionment and supply himself or to withdraw from the unfulfilled portion of the contract pursuant to the further preconditions of III. (4.) above and demand compensation of the resulting loss. The assertion of a further loss by the Seller shall remain unaffected.

## V. Warranty, material defects

1. Irrespective of the further duties of inspection and complaint entailed in a mutual transaction (Sec. 377 German Commercial Code HGB), the Customer shall be obligated to inspect the supplied merchandise for visible defects and render notification of such visible defects – as well as for incomplete or incorrect deliveries – in writing within five working days from receipt of the merchandise and for such defects that subsequently become apparent within five working days from detection by the Customer; otherwise the merchandise shall be deemed approved with respect to inspection of visible defects and the Customer can no longer derive any rights with respect to the Seller to this extent. On the demand of the Seller, the deficient contractual item shall be returned to the Contractor carriage free. Where the complaint of defects is justified, the Seller will reimburse the cost for the least expensive mode of transport; this shall not apply should the costs increase because the supplied object is at a location other than that of its use for its intended purpose.

2. In the case of a justified complaint of defects, the Seller shall initially be obligated and entitled to remediation or substitute supply, to be chosen within an appropriate period. In the case of an unsuccessful attempt, i.e. the impossibility, unreasonableness, refusal or inappropriate delay of remediation or substitute supply, the Purchaser may withdraw from the Contract or appropriately reduce the purchase price.

3. If a defect is the fault of the Seller, the Purchaser may demand compensation for loss under the preconditions set forth in VII. below.

4. For defects in components from other manufacturers which the Seller cannot remedy for license-related or actual reasons, the Seller will, at his discretion, assert his warranty claims against the manufacturers and suppliers for the Customer's account or assign these to the Customer. Warranty claims against the Seller for defects of this type exist under the other preconditions and pursuant to these General Terms of Delivery only if the assertion of the aforementioned claims against the manufacturer and supplier through legal action was unsuccessful or, e.g. in the case of insolvency, appears unpromising. The statute of limitations for the Customer's corresponding warranty claims against the Seller shall be suspended for the duration of the legal dispute.

5. The warranty shall be void if the Customer modifies the contractual item or causes it to be modified by a third party so as to render remediation of defects impossible or unreasonably difficult. In any case, the Customer shall bear the additional costs of remediation of the defect resulting from the modification.

6. Claims for defects shall not exist should the fault be due to a violation of operating, storage, maintenance or installation instructions, unsuitable or improper use, faulty or negligent handling by the Customer or normal wear and tear. The same shall apply if products of the Seller are incorrectly assembled, negligently treated or subject to greater than normal strains or faults arise due to unsuitable operating equipment, replacement materials, mechanical, chemical, electrochemical or electrical effects.

7. Any supply of used objects agreed on with the Customer shall be executed under exclusion of all warranty for material defects, insofar as the Seller has not maliciously concealed them.

8. Justified defects affecting only a part of supply may not be used to object to the entire supply.

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## VI. Industrial property rights

1. Pursuant to this section VI., the Seller declares that the contractual item is free of third-party industrial property rights or copyrights in the country of the agreed place of supply. In the absence of any other express written agreement, the sole place of supply shall be Drolshagen, Germany. Each party to the Contract shall notify the other party in writing without delay in the event that claims of infringement of such rights are asserted against him. The provision of sentence 1 does not constitute a warranty, but rather represents only an agreement on a quality within the meaning of the statutory warranty provisions.

2. In the event that the contractual item infringes on a third-party industrial property right or copyright, the Seller shall, at his own discretion and expense, modify or replace the contractual item such that no third-party rights are infringed upon any longer but the contractual item continues to fulfill the contractually stipulated function, or obtain a right of use for the Customer through conclusion of a license agreement. Should the Seller be unsuccessful in this undertaking within a reasonable period, the Customer shall be entitled to withdraw from the Contract or appropriately reduce the purchase price. Any claims for damages on the part of the Customer against the Seller shall be subject to the limitations of Section VII. of these General Terms of Supply.

3. In the event of legal infringements by products of other manufacturers supplied by the Seller, the Seller shall at his discretion assert his claims against the manufacturers and sub-suppliers for the Customer's account or assign these to the Customer. Pursuant to Section VII., claims against the Seller shall only exist in such cases if the assertion of the aforementioned claims against the manufacturers and sub-suppliers through legal action was unsuccessful or, e.g. in the case of insolvency, appear unpromising.

4. If goods are supplied according to drawings or other Customer specifications and infringe on third-party industrial property rights for that reason, the Customer shall bear the responsibility for the correctness and thus for ensuring that third-party industrial property rights are not infringed upon. He shall correspondingly indemnify the Seller against all claims of a holder of an industrial property right, but in the case of claims for damages only if the Purchaser fails to show that he is not responsible for the inadequacy of his drawings or other specifications or the infringement on the industrial property right. If in such a case the Seller is prohibited from manufacturing or supplying to third parties with respect to an intellectual property right belonging to him, the Seller shall, after unsuccessful expiration of a grace period set for the Purchaser in which the latter has been called upon to eliminate the prohibition effected by the third party, be entitled to cease work and withdraw from the Contract. The assertion of a corresponding claim for damages by the Seller against the Purchaser on the basis of statutory provisions shall remain unaffected.

## VII. Other liability (limitation and exclusion)

1. The Contractor shall be liable according to the statutory provisions provided that the Client claims compensation for damages based on intent or gross negligence including intent or gross negligence of the Contractor's representatives or vicarious agents. Insofar as intentional violation of the Contract cannot be imputed to the Contractor, the liability for damages shall be limited to the foreseeable damage typically occurring.

2. The Contractor shall be liable according to the statutory provisions insofar as he culpably violates a material provision of the Contract. In this case as well, however, the liability for compensation for damages is limited to the foreseeable typical damage occurring. A material contractual obligation shall be deemed to exist when the violation relates to an obligation on which the Client relied and was justified in relying upon.

3. Liability on account of culpable injury to life, limb or health shall remain unaffected; this shall also apply for mandatory liability in accordance with the German Product Liability Act.

4. Liability is hereby excluded insofar as no other provision has been stipulated in the foregoing.

5. Any further liability to compensation for damages is hereby excluded – without respect to the legal nature of the asserted claim. This shall apply in particular to claims for damages from culpability on conclusion of the Contract, due to other violations of obligations or on account of tortious claims to compensation for property damage pursuant to Sec. 823 German Civil Code BGB.

6. An exclusionary period of 18 shall apply for the limitation of actions respecting all claims that are not subject to limitation of actions on account of defects in the object. This period shall commence as of the date that the damage and the person causing the damage become known.

7. The limitation pursuant to VII.5 above shall also apply insofar as the Client demands compensation for useless expenditures in place of compensation of loss instead of performance.

8. Insofar as the Contractor's liability for damages is excluded or limited, this shall also apply with respect to the personal liability of regular employees of all types, representatives and vicarious agents of the Contractor.

## VIII. Statute of limitations, periods

1. All claims pursuant to V. and VII. shall become statute-barred one year from transfer of supply to the Purchaser.

2. As an exception to this, these claims shall become statute-barred within the statute of limitations in the event of

- intentional, malicious or grossly negligent violation of duties by the Seller, its legal representatives or vicarious agents;
- losses from mortal or bodily injury or impairment of health when these are the result of the Seller's own negligent violation of obligations or a deliberate or negligent violation on the part of one of its legal representatives or vicarious agents;
- claims arising from a guarantee for the quality of the object;
- insofar as the supplier is obligated to reimburse the costs that the Customer must bear for a downstream enterprise in the supply chain on account of the sale of a new object for the purpose of remediation (Sec. 478 (2) German Civil Code BGB);
- in the event that the object supplied by the Seller was used for a structure in accordance with its typical manner of use and caused it to be defective and the Contract as a whole was not based on Part B of the German Construction Contract Procedures (VOB).

3. In all cases, the statute of limitations shall commence in accordance with the statutory regulations. The statutory regulations regarding suspension of expiry, suspension and restart of periods shall remain unaffected. For claims for damages in accordance with the German Project Liability Act, the statutory statute of limitation provisions shall apply, as well as in the case of intentional or grossly negligent violation of duties.

## IX. Retention of ownership

1. The Seller shall retain ownership of the contractual item (goods supplied under reservation of title) until all claims against the Customer from the business transaction including claims arising in future, also from concurrently or subsequently concluded contracts, are settled. For running invoices, the reserved ownership and all rights shall be deemed security for the entire net claim including interest and expenses. In the event of attachment or other third-party interventions, the Customer shall notify the Seller without delay.

2. The Customer shall be entitled to work and sell on the contractual item within the proper course of business. This authorization shall be terminated if the Customer falls into arrears of payment, additionally through cessation of payment or if a petition for insolvency proceedings against his assets is lodged. He shall be obligated to sell on the goods supplied under reservation of title only with reservation of ownership and ensure that the claims from further sale pursuant to IX. 5. and IX. 6. are assigned to the Seller. Further sale shall also be deemed to include the use of the goods supplied under reservation of title to fulfill work or work and delivery contracts. He shall not be entitled to otherwise dispose of the goods supplied under reservation of title, in particular to pledge them or transfer them by way of security. Assignment of the claims from the onward transfer of the goods supplied under reservation of title is not permitted unless this constitutes an assignment in terms of factoring in the strict sense, of which the Seller is notified and in which the factoring proceeds exceed the value of the secured claims. The Seller's claim shall be due and payable immediately when the factoring proceeds are credited.

3. The Customer shall not acquire ownership of the new object pursuant to Sec. 950 German Civil Code BGB through the processing and working of the goods supplied under reservation of title. The working or reforming is deemed performed on behalf of the Seller, without obligating him. The goods so worked and processed shall be deemed goods supplied under reservation of title.

4. With the working, joining and mixing of the goods supplied under reservation of title with other goods, the Seller shall obtain co-ownership of the new object in proportion of the invoice value of the goods supplied under reservation of title to the invoice value of the other goods used. Should such working, joining and mixing extinguish the Seller's property, the Customer hereby assigns the Seller his due share of the new inventory or object to the extent of the invoice value of the goods supplied under reservation of title, in the case of working in the proportion of the invoice value of the goods supplied under reservation of title to the invoice value of the other goods, and shall store these for the Seller free of charge. His rights of co-ownership shall be deemed goods supplied under reservation of title.

5. Customer's claims from the onward sale of the goods supplied under reservation of title are hereby assigned to the Seller. They shall serve as security to the same extent as the goods supplied under reservation of title.

6. If the Customer sells the goods supplied under reservation of title onward together with other goods, the claim from the onward sale shall be assigned to the Seller in the proportion of the invoice value of the goods supplied under reservation of title to the invoice value of the other goods. In the case of onward sale of goods to which the Seller holds co-ownership shares pursuant to IX. 4. above, he shall be assigned a portion of the claims corresponding to his co-ownership share.

7. At the Seller's demand, the Customer shall render to him an exact enumeration of all his accounts receivable with names and addresses of the customers, notify his customers of the assignment and provide the Seller with all information necessary for asserting the assigned claims. The Customer hereby authorizes the Seller to notify the customers of said assignment and collect said claims himself as soon as the Customer falls into arrears of payment or his asset situation deteriorates. The Seller may demand a review of the portfolio of assigned claims by his designated agent on the basis of the Customer's accounting. The Customer shall provide the Seller with a list of all goods supplied under reservation of title still on hand.

8. Should the value of the existing security exceed the secured claims by more than 10 % in total, the Seller shall be required at the Customer's demand to release securities at his discretion to a

corresponding extent under consideration of the Customer's interests. For simple and subsequent reservation of ownership, the value of security shall be the invoice value at which the Customer obtains the goods from the Seller, and for extended reservation of ownership the invoice value at which the Customer sells the goods on.

9. On the basis of the reservation of ownership, the Seller can demand restitution of the supplied object if he has withdrawn from the Contract. Irrespective of the further prerequisites set out in Sec. 323 German Civil Code BGB, he shall be entitled to withdrawal, particularly without notice, as of the date on which the Customer is in arrears of payment in whole or in part. The same shall apply when the Customer suspends payment or when a petition for settlement or insolvency proceedings against his assets is lodged. The Customer shall bear all costs incurred through repossession of the contractual item. The Seller shall be entitled to realize the repossessed contractual item at his own due discretion.

## X. Data processing permission

The Seller shall have the right to process all data relating to the Purchaser in connection with the business relationship pursuant to the respectively valid statutory provisions.

## XI. Miscellaneous, concluding provisions

1. These General Terms and Conditions shall only apply to enterprises within the meaning of Sec. 14 (1) German Civil Code BGB.

2. Should a client located outside of the Federal Republic of Germany or his agent collect the materials worked by the Seller and transport or ship these abroad, the Customer shall provide the Seller with the proof of export required for tax purposes. If such proof is not provided, the Contractor shall be obliged to pay the rate of sales tax applicable for supply in the Federal Republic of Germany on the invoice amount.

3. The relationships between the Contractor and the Customer shall be subject solely to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) shall not apply.

4. The place of venue for any disputes arising out of the business relationship between the parties shall be Drolshagen or the registered offices of the Customer, at the Contractor's discretion. 57489 Drolshagen shall be the sole place of venue for suits against the Contractor. Compulsory statutory provisions respecting sole places of venue shall remain unaffected thereby.

5. Should the Contract or the General Terms and Conditions contain omissions, those provisions on which the parties to the Contract would have agreed in accordance with the economic objectives of the Contract and the purpose of these General Terms and Conditions if they had been aware of the omission shall be deemed agreed upon.