

General Terms and Conditions of Sale, Delivery and Payment

I. General – Scope

1. Our goods and services are delivered subject exclusively to the following General Terms of Sale. They apply equally to all future business transactions between the Contract Parties without necessitating renewed indication. They also apply, if we do not expressly refer to them in future contracts, in particular also if we deliver goods and provide services to the purchaser without reservation, despite being aware of the purchaser's terms and conditions that oppose or deviate from our General Terms of Sale.
2. Purchaser's references to his Terms of Sale are hereby refuted. We do not recognise any terms from the purchaser that oppose or deviate from our Terms of Sale, even when the contract is implemented unconditionally.

II. Offers and conclusion of contract, scope of services

1. Our offers to the purchaser are subject to change. Offers shall only become binding when the order is placed. We may choose to accept this offer either by sending an order confirmation or by unconditionally providing the goods and services ordered.
2. Technical data and descriptions in our product information or advertising material and technical bulletins as well as specifications from the manufacturer or its agent in terms of § 434 (1) no. 3 BGB [German Civil Code] are neither guarantees of property nor durability of the goods delivered by us unless the specifications have been agreed in individual contracts. Identified uses under the European Chemicals Regulation REACH relevant to the goods shall neither represent an agreement of a contractual property of a product nor a designated use according to the contract.
3. Sales as per model or sample merely describe professional compliance to the sample specifications, however, they do not constitute a guarantee of the quality and durability of the goods to be delivered by us.
4. We shall give technical advice on the application to the best of our knowledge. All information about suitability and application of our goods does not release the purchaser from conducting own examinations and tests to determine if the products are suitable for the intended purposes.

III. Prices, terms of payment, default

1. The prices agreed on conclusion of each contract, in particular the prices listed on the order form or order confirmation shall apply. Should a price not be specified, the prices in our price list valid at the time of conclusion of contract shall apply. Prices shall be calculated on the basis of the weights and quantities determined by us, unless the purchaser objects immediately on receipt of goods. In addition, the statutory amount of value added tax valid on the day of delivery is added as well as the cost of packaging necessary for proper dispatch, transport costs ex our works or ex our warehouse, cost of cartage and – if agreed upon – the cost of transport insurance. In the case of international deliveries, other country-specific charges may be due.
2. We reserve the right to adjust our prices appropriately, if changes in costs occur after conclusion of contract due to collective bargaining agreements, price increases by the sub-suppliers or fluctuations in the exchange rates. These changes in prices shall be communicated in writing at least four weeks before the new prices become valid. If the purchaser does not object within one week of notification of new prices, they shall be considered accepted. This does not apply in the case where a fixed price was agreed upon.
3. Our invoices are due – unless a different payment date was agreed upon - 30 days after receipt without deductions. When the due date stated on the invoice has passed, the purchaser is in default of payment pursuant to § 286 II no. 2 BGB. If payment is made within 10 days of invoice date, we shall grant a 2% discount on the discountable amount shown on the invoice. The discountable amount is the invoice amount less packaging, freight, logistics costs and value of pallets.
4. Payment by SEPA business direct debits is possible in case of positive credit rating. Prenotification can also announce several direct debits. The deadline for the transmission of the prenotification is reduced from 14 days to one day. It occurs electronically by specifying the respective information on the invoice and/or the transmission of the data (together with the invoice data).
5. The purchaser shall only have a right to offset or withhold claims or receivables which are undisputed and have been legally established.
6. If the purchaser does not pay due invoices, exceeds the allowed payment date, or the purchaser's financial situation deteriorates after conclusion of contract or we receive unfavourable reports about the purchaser after conclusion of contract that question the purchaser's ability to pay or its creditworthiness, we are entitled to make the entire balance of the debt due for payment or, by changing the agreement, to demand prepayment or securities or, after delivery, immediate payment of all claims based on the same legal relationship. This applies, in particular, if the purchaser stops payments, a cheque from the purchaser is not honoured, a bill of exchange issued by the purchaser is not paid by the purchaser, insolvency proceedings have been applied for or instituted against the purchaser's assets or insolvency proceedings were not opened due to a lack of assets.
7. In case of substantiated doubt regarding the solvency of the Purchaser, particularly in case of default of payment, we may - subject to further claims - revoke previously granted terms of payment as well as make further deliveries subject to the provision of other securities.
8. Non-payment of the purchase price at the due date represents an essential violation of contractual obligations.
9. In the event of default of payment by the Purchaser we are entitled to demand default interest by invoicing in Euro the amount of 8 percentage points above the base interest rate applicable at the time of the commencement of default and specified by the Deutsche Bundesbank and, in case of any other currency, the amount of 8 percentage points above the discount rate of the highest bank institute of the country in which currency the invoice is written, applicable at the time of default.

IV. Delivery and service times, delays

1. Delivery times are only approximate unless a fixed time was expressly agreed upon in writing. Statements of delivery times are, in principle, subject to contractual participation on the part of the purchaser.
Should agreed delivery times be exceeded due to circumstances for which we are responsible, the purchaser may withdraw from the contract after unsuccessfully setting a reasonable period of grace. The withdrawal must be in writing. Deliveries on Saturdays are only possible on special arrangement and carry an extra charge.
2. Our delivery shall be considered delayed only after the reasonable grace period set by the purchaser, which must be at least 15 working days, has expired unsuccessfully. In the event of force majeure and other unforeseen, extraordinary circumstances for which we are not responsible, such as fire, water and similar circumstances, production plant and machinery stoppages, delivery default or failures on the part of our suppliers as well as work stoppage due

to lack of raw material, energy or workforce, strike, lock-outs, difficulties in procuring modes of transport, traffic disruptions, official interventions, we are entitled to postpone the delivery of goods or provision of services for the duration of the obstruction plus a reasonable start-up period, provided we were prevented from fulfilling our delivery obligations on time by the circumstances mentioned and were not at fault. Should the provision of goods or services be delayed by more than one month, we as well as the purchaser are entitled to withdraw from the contract in writing with regard to the quantity affected by the delivery disruptions, without being entitled to any type of claim for damages and under the conditions laid out in Section VIII 1 – 6 of these Terms of Sale.

3. Our liability for damages in all cases of delay is limited pursuant to the regulations in Section VIII, 1 – 6.
4. We are entitled to provide partial deliveries and partial services within the agreed upon delivery and service times, if this is reasonable for the purchaser.
5. Fulfilling our delivery and service obligations requires the timely and proper fulfilment of obligations on the part of the purchaser. We reserve the right to claim the defence of nonperformance of contract.
6. If the purchaser is in delay with regard to call-offs, acceptance or collection or if the purchaser is responsible for a delay of dispatch or delivery, we are entitled, without prejudice to further claims, to charge a flat fee in the amount of the usual local storage costs irrespective of the goods being stored with us or a third party. The purchaser reserves the right to prove that no or lower damages have been incurred.

V. Transfer of risk, transport and packaging costs

1. Unless otherwise expressly agreed in writing between ourselves and the purchaser, delivery is made ex our works or warehouse and must be collected there by purchaser at its risk and expense. In this case, the risk of accidental destruction and incidental deterioration of the contractual delivery items passes to the purchaser when the goods are ready for collection and notification of readiness has been received by the purchaser. For the rest, the risk of accidental destruction and incidental deterioration of the delivery items passes to the purchaser when the goods are handed to the freight forwarder (also in case of carriage paid or transport insured deliveries by us). The purchaser exclusively is responsible for loading the items safe for transport and safe to operate.
2. If the purchaser requests packaging that deviates from the standard, this will be charged at cost price.
3. If the dispatch of goods is done on pallets, these will be invoiced; when pallets are returned carriage paid in an undamaged condition to our works, they will be credited with a credit note.
4. As far as other loading aids (such as safety harnesses, load safety angles or anti-slide pads) are procured by us instead of the purchaser or freight forwarder, we reserve the right to charge these to the purchaser at the current price of brand new loading aids with the same features.
5. The Purchaser is obligated to assert complaints due to transport damages directly to the transport company with copy to us within the respectively specified applicable periods of notice.
6. Unless otherwise agreed in individual cases, the Purchaser is responsible for the adherence to legal and official regulations regarding import, transport, storage and utilisation of the products.

VI. Purchaser's duties/Securing retention of title

1. The goods delivered remain our property until full payment of the purchase price and all other present or future claims we are entitled to against the purchaser from the business connection. The retention of title shall not be affected by including the purchase price claim against the purchaser in an open account and acknowledging a pertinent balance.
2. The purchaser is obligated to treat the purchased item with care until acquiring full ownership; in particular, the purchaser is obligated to adequately insure the goods at replacement value against loss and damage and destruction, such as against damage due to fire, water and theft. The purchaser now already assigns its claims from insurance contracts to us. We accept this assignment. Should maintenance and repair become necessary, the purchaser must implement these on its own account.
3. The purchaser may neither pledge our reserved goods nor use them as collateral. However, in accordance with the following conditions, the purchaser is entitled to resell the delivered goods within the normal course of business. The above entitlement is void, if the purchaser has pledged or assigned the claim against its contracting partner – in each case active - arising from the resale of the goods to a third party in advance, or agreed on a non-assignment clause with its contracting partner.
4. In order to ensure the fulfilment of all our claims mentioned in Section VI. 1, the purchaser already now assigns all income – including future and conditional claims – from the resale of the goods delivered with all ancillary rights to us as collateral in the amount of 110% gross of the value of the goods delivered ranked before the remainder of its receivables. We accept this assignment.
5. As long as the purchaser meets its payment obligations towards us, it is authorised to collect the receivables against its customers that have been assigned to us within proper business transactions. However, with regard to this claim, the purchaser is not entitled to enter into a current account relationship or a non-assignment clause with its customer or pledge or assign it to third parties. Should a current account exist between the purchaser and the buyers of our reserved goods contrary to sentence 2, the claim assigned beforehand also refers to the pertinent balance and in the case of insolvency of the purchaser, also to the balance existing at the time.
6. At our request, the purchaser must itemise the claims assigned to us and inform its debtors of the assignment with the request to pay an amount up to our claims to us. We are entitled to inform the purchaser's debtors ourselves about the assignment and to collect the outstanding debt. We shall, however, not exercise this right as long as the purchaser properly meets its payment obligations on time, the purchaser has not applied for insolvency proceedings to be instituted and the purchaser does not stop payments. On the other hand, if one of the above events should occur, we can demand that the purchaser informs us of the assigned claims and their debtors, supplies all data necessary to collect the debt and hands over the relevant documents.
7. In the case of pledges or other interventions by third parties the purchaser must inform us in writing without delay.
8. Should the goods delivered by us under retention of title be processed, mixed or combined with other items that do not belong to us, we shall acquire co-ownership of the new item in proportion of the value of the delivered goods (final invoice amount, including VAT) to the other items at the time of processing/mixing or combining. Otherwise, the same applies to the item created after processing as to the goods delivered under retention of title. If processing, mixing or combining occurs in such a way that the purchaser's item may be regarded as the main item, it shall be agreed that the purchaser assigns proportionate co-ownership to us. The purchaser is entitled to resell the new products created by processing or reshaping or combining or within the normal course of business without pledges or assignments, as long as it meets the obligations from the business relationship with us on time. The purchaser already now assigns its claims from the sales of these new products, in which we are entitled to co-ownership, as collateral to us in the amount of our share of ownership of the goods sold. Should the purchaser combine or mix the goods delivered with a main thing, it shall already now assign its claims against third parties to us up to the amount of the value of our goods. We herewith accept these assignments.
9. To secure our claims, the purchaser also assigns the claims that accrue against a third party from combining our goods with real property, in the amount of the value of our goods.
10. We undertake to release the securities due to us at our choice and at the purchaser's request to the extent that the realisable value of our collateral exceeds our claims against the purchaser to be secured by more than 20%.
11. In the event of contract breach by the purchaser, in particular payment default of more than 10 % of the invoice amount for a significant period of time, we are entitled – without prejudice to further (damages) claims due to us – to withdraw from the contract and demand the return of the goods delivered by us. After the goods delivered by us have been returned, we shall be authorised to sell them. The sale amount shall be offset against purchaser's payables due to us – less reasonable sales costs.

VII. Purchaser's rights in case of defects

1. The purchaser must notify us in writing immediately, however no later than 3 days after receipt of goods, of obvious defects, wrong deliveries or deviations in quantity. Non-obvious defects, regardless of type and delivery of a non-obviously different product from the ordered product or quantity have to be reprimanded immediately upon becoming evident with respect to merchants in terms of the HGB (German Commercial Code), however with respect to non-merchants within the warranty period as at the date of delivery at the latest. To comply with warranty claims, the Purchaser has to inspect the goods immediately with respect to their conformity, particularly types, quantities and weight deviations as well as discernible material defects and comply with the duties of inspection specified in the applicable DIN standards. This also applies

when components that were not acquired from us are mixed in. Should possible defects only be detected during processing, all work must be stopped immediately and the unopened original packaging that has not yet been processed, must be secured. This must be made available to us for inspection at our request. Claims from hidden defects are excluded three months after the transfer of risk to the purchaser in accordance with Section V. 1 and are considered late if they could reasonably be considered detectable. In case of a late or improperly asserted defect claims pursuant to Section VII. Sentence 1 to 3, the purchaser shall lose its rights to claim defects on condition of Section VIII. 1 to 6 of these General Terms of Sale, unless we maliciously concealed the defect.

2. Should the goods delivered by us be defective, we are obligated to remedy defects or deliver defect-free goods at our choosing (supplementary performance). If we are not willing or able to provide supplementary performance, in particular if this is delayed beyond a reasonable deadline for reasons we are responsible for, or if supplementary performance fails in any other way, the purchaser is entitled at its choice to withdraw from the contract or demand reduction of the purchase price. Supplementary performance shall be considered failed after the second attempt, unless the type of object or other circumstances indicate otherwise. If the purchaser incurs damages or futile expenses due to defects of goods delivered by us, our liability shall comply with Section VII. 1, Section VIII. 1 to 6 and Section IX.
3. Warranty claims of the merchant in terms of HGB (German Commercial Code) become statute barred one month following the rejection of the reprimand by us at the latest.

VIII. Our Company's rights and duties

1. Our Company shall only be liable for damages or futile expenses – irrespective of the legal basis –, if the damages or futile expenses
 - a) were caused by us or one of our agents in a culpable breach of an essential contractual duty, or
 - b) are attributable to a gross negligent or wilful breach of duty by us or one of our agents. According to Section VIII. 1 a) and b) we are liable for damages and futile expenses resulting from a consultation or information that is not separately invoiced only in the case of wilful or gross negligent breach of duty as long as this breach of duty does not represent a material defect pursuant to § 434 BGB.
2. Should we be liable according to Section VIII. a) for the breach of an essential contractual duty without gross negligence or intent being present, our liability shall be limited to the foreseeable, typically occurring damage. In this case we especially are not liable for the purchaser's loss of income and unforeseeable consequential damages. The above limitation of liability in Sentence 1 and 2 equally applies to damages caused by gross negligence or intent on the part of one of our employees or representatives.

We are not liable for indirect damages to the purchaser caused by asserting contractual claims against third parties.
3. The limitation of liability mentioned in the above Section VIII. 1. and 2. shall not apply, if our liability is mandatory based on the provisions of the Product Liability Act, or if claims are asserted against us due to injury of life, body or health. Should the goods delivered by us lack a guaranteed feature, we are only liable for such damages where this absence is the object of the guarantee.
4. Further liability for damages than envisaged in Section VIII. 1.-3. is excluded, irrespective of the legal nature of the asserted claims. This also applies, in particular, for damages claims due to culpa in contrahendo pursuant to § 311 (3) BGB, positive breach of contract pursuant to § 280 BGB or tort claims pursuant to § 823 BGB.
5. We are not liable in the case where fulfilling the obligation to deliver is impossible or delayed, if the impossibility or delay is based on the proper observance of obligations under public law in connection with the European Chemicals Regulation REACH initiated by the purchaser.
6. As far as this liability for damages is excluded or limited according to Section VIII. 1.-5., this also applies with regard to personal liability for damages of our staff, employees, co-workers, representatives and subcontractors as well as vicarious agents.

IX. Statute of limitations of claims

1. Claims from the purchaser due to defects of the goods delivered by us or due to services provided by us in breach of duty – including damages claims and claims for reimbursement of futile expenses – shall be subject to a statute of limitation of one year, unless otherwise provided in the following Section IX. 2. to 5. or the law pursuant to §§ 439 (1) No. 2 (items for buildings), 479 (1) (recourse liability) and 634 a (1) No. 2 (building defects) BGB prescribes longer terms.
2. If the purchaser is a merchant and he or another buyer in the delivery chain has fulfilled claims as a merchant due to defects of items newly produced by us that were also sold as newly produced items to the consumer, the statute of limitations for purchaser claims against us pursuant to §§ 437 and 478 (2) BGB shall commence at the earliest two months after the purchaser or other buyer in the delivery chain has fulfilled the consumer claims as merchant, unless the purchaser could have successfully pleaded the statute of limitations towards its customer/contract partner. The statute of limitations of purchaser claims against us due to defective goods delivered by us shall apply in all cases, where the claims from the customer/contract partner of the purchaser against the purchaser due to defects of the goods delivered to the purchaser by us have become time barred, however, at the latest 5 years after we have delivered the respective goods to our purchaser.
3. If we provided consultation and/or information that is not invoiced and is in breach of duty, without having delivered goods in connection with the information or consultation or without the consultation or information in breach of duty representing a material defect of the goods to be delivered or delivered by us pursuant to § 434 BGB, claims based on this become statute-barred one year after the start of the legal statute of limitations. Claims from the purchaser/customer against us due to breach of contractual, pre-contractual or legal duties that do not represent a material defect pursuant to § 434 BGB of the goods to be delivered or delivered by us, also become statute-barred one year after the start of the legal statute of limitations. Should the above breaches of duty represent a material defect pursuant to § 434 BGB of the goods delivered by us in connection with the consultation or information, the provisions in Sections IX. 1 and IX. 2 as well as IX. 4 shall govern the statute of limitations of the associated claims.
4. In the case of newly produced items delivered by us that were used in a building in accordance with their normal application and caused the defectiveness, the purchaser's claims become statute-barred five years after the start of the legal statute of limitations. Contrary to sentence 1, a statute of limitations of four years shall apply, if the purchaser used the items delivered by us to fulfil contracts that included the entire part B of the contracting rules for awarding building contracts, or two years if this covers material used purely for building repairs. The statute of limitations according to the above sentence shall apply at the earliest two months after the purchaser has fulfilled the claims from its contract partner arising from the defectiveness of the building caused by the item delivered by us, unless the purchaser could have successfully pleaded the statute of limitations toward its customer/contract partner. The statute of limitations of purchaser claims against us due to defective goods delivered by us shall apply in any case as soon as the claims from the purchaser's customer/contract partner against the purchaser due to defects of goods delivered by us to the purchaser become statute-barred, however, at the latest five years after we have delivered the respective goods to our purchaser.
5. The provisions established in Sections IX. 1 to IX. 4 shall not apply to the statute of limitations of claims due to injury to life, limb and health, if the statute of limitations for claims pursuant to the Product Liability Act, and due to legal defects of the goods delivered by us, are due to a material right of a third party, on the basis of which the goods delivered may be seized. Moreover, they do not apply to the statute of limitations on claims from our purchaser/customer based on the fact that we maliciously concealed defects of the goods delivered or we gross negligently breached a duty. The legal statute of limitations applies to the statute of limitations of claims arising from the cases mentioned in Section IX. 5.

X. Returns

Returning defect-free goods delivered by us is excluded. Should we exceptionally agree to the return of defect-free goods, a credit note shall only be issued, if we determine their unconditional reusability. The actual costs of testing, preparation, processing and new packaging shall be deducted, however, this shall be at least 20% of the invoice amount or a minimum 50 Euros. Such a credit note shall not be paid out but merely serves to offset future deliveries.

XI. Prohibition of assignment

Rights and claims against us, especially those arising from defects of the goods delivered by us or due to our breach of duty, may not be assigned or pledged, in part or in their entirety, to third parties without our express written consent; § 354 a HGB [Commercial Code] shall not be affected by this.

XII. Safety data sheets and performance declarations

1. If the directives (EC) No. 1907/2006 (REACH-directive) and/or (EC) No. 305/2011 (EUBuilding product ordinance) in their respectively applicable version apply to the delivery item, the Purchaser agrees to the download of the safety data sheet and/or the performance declaration under URL www.ganz-verfahrenstechnik.de.

XIII. Place of fulfilment, place of jurisdiction, applicable law, commercial terms

1. Place of fulfilment and exclusive place of jurisdiction for all claims between us and merchants and corporate bodies under public law or special funds under public law shall be Rosenheim or the seat of the respective delivery works or delivery warehouse, for payments it shall be the paying office stated on the invoice, unless mandatory legal provisions stipulate otherwise. However, we shall also have the right to file claims against the purchaser at its place of jurisdiction.
2. The legal relationship between us and the purchaser is subject exclusively to the laws of the Federal Republic of Germany that apply to German merchants and could be effectively agreed to in the country of delivery (see I of these Terms of Sale). The application of the provisions governing the international sale of goods (CSIG – UN Sales Law) and the German international private law are expressly excluded.
3. Should commercial terms pursuant to the International Commercial Terms (INCOTERMS) have been agreed upon, the latest version of the INCOTERMS shall apply in all cases (currently INCOTERMS 2010).

XIV. Final provisions

1. Should individual provisions of the above agreement be invalid, partially invalid or excluded by special agreement, the validity of the remaining provisions shall not be affected.
2. We store our purchasers' data within the context of our mutual business relationship in accordance with the Federal Data Protection Act.

Edition: September 2014