

## General Terms and Conditions (GTC)

of Gustav Gerster GmbH & Co. KG, Memminger Straße 18, 88400 Biberach an der Riss - Germany

### § 1 Scope of Application

1. These Terms and Conditions shall apply exclusively to transactions between merchants (business-to-business transactions).
2. All deliveries and services of the Seller shall be governed exclusively by the following Terms and Conditions. The Seller does not recognize any terms and conditions of the Buyer unless the Seller has expressly agreed to their validity in writing. This shall also apply if the Seller performs delivery or services without reservation in knowledge of conflicting or deviating terms and conditions of the Buyer.

### § 2 Place of Performance, Delivery and Acceptance

1. The place of performance for all obligations arising from the supply contract shall be the Seller's registered place of business.
2. Delivery shall be made ex works (domestic plant). Shipping costs shall be borne by the Buyer. The Buyer may designate the carrier. Goods shall be shipped uninsured. Advance shipping notice may be agreed.
3. Costs for special packaging shall be borne by the Buyer.
4. We reserve the right to deliver quantities deviating by plus/minus 10% from the ordered quantity.
5. Sorted partial deliveries suitable for resale in case of combined orders must be made promptly and announced in advance. Unsorted partial deliveries require the Buyer's consent.
6. If acceptance is delayed due to the Buyer's fault, the Seller shall be entitled, after granting a grace period of four (4) weeks, at its discretion, to issue an invoice with immediate maturity (backlog invoice), withdraw from the contract, or claim damages.

### § 3 Jurisdiction

At the claimant's option, the place of jurisdiction (including actions relating to checks) shall be either the location of a German commercial branch of one of the parties or the registered office of the professional or cartel organization responsible for the Seller (Stuttgart). The court first seized shall have exclusive jurisdiction.

### § 4 Contractual Content

1. The scope of delivery shall be determined by the respective contract, framework agreement, or binding offer concluded with the customer, provided such offer has been accepted in due time. If no scope of delivery is specified therein, it shall be governed by the customer's written call-off orders unless the Seller objects within one week.
2. Delivery shall take place on specified dates (working day or calendar week). All sales are concluded for specific quantities, items, qualities, and fixed prices. Both parties are bound thereby. Commission transactions are excluded.

3. Blanket orders are permissible and must specify a time limit at contract conclusion. The acceptance period shall not exceed twelve (12) months.

4. The Seller's obligation to deliver is subject to timely and proper self-supply.

## **§ 5 Interruption of Delivery**

1. Delivery dates and deadlines shall be determined by the applicable framework supply agreement or binding offer, provided accepted in due time. Otherwise, written call-off orders shall apply unless objected to within one week.

2. Agreed delivery periods commence upon contract conclusion, but not before complete clarification of execution details and technical questions to be provided by the Buyer. Delivery periods shall be extended by the period during which the Buyer is in payment default. Compliance with delivery periods requires timely and proper performance by the Buyer. In case of contractual amendments initiated by the Buyer affecting delivery, delivery periods shall be extended reasonably.

3. Delivery periods shall be deemed met if the circumstances effecting transfer of risk have occurred within the period.

4. In cases of force majeure, labor disputes not attributable to either party, or other operational disruptions beyond control lasting more than one week, delivery or acceptance periods shall be extended by the duration of the impediment, up to a maximum of five (5) weeks. The extension applies only if the other party is promptly informed once delay becomes foreseeable.

5. If the Buyer defaults in acceptance or payment, the Seller may, after expiry of a legally required and reasonable grace period, withdraw from the contract and/or claim damages in lieu of performance. Without proof of actual damage, compensation may be claimed:

- 20% of the purchase price for standard or serial products; or
- 100% of the purchase price for custom-made products manufactured according to Buyer specifications, provided production expenses have been incurred.

6. Both parties retain the right to prove higher or significantly lower actual damages. Statutory rules on damage calculation remain unaffected. In case of default in acceptance, the Seller may charge incurred costs, particularly storage costs at customary local rates.

7. If delivery or acceptance has not occurred within the extended period, either party may withdraw after granting an additional grace period of twelve (12) calendar days.

8. Claims for damages are excluded in the cases of clause 1 if the respective party has fulfilled its obligations therein.

## **§ 6 Additional Delivery Period**

1. Upon expiry of the delivery period, a grace period of four (4) weeks shall commence automatically. After its expiry, the Buyer may withdraw in writing. Claims for damages due to late or non-delivery are excluded unless liability is mandatory by law for intent or gross negligence.

2. Prior to expiry of the grace period, claims for delayed delivery are excluded unless § 8 clauses 2 and 3 apply.

## **§ 7 Notice of Defects and Other Complaints**

1. Notice of apparent defects must be sent no later than twelve (12) calendar days after receipt of goods. Hidden defects must be reported immediately upon discovery.

2. After cutting or commencing processing, complaints regarding apparent defects are excluded.
3. Minor, technically unavoidable deviations in quality, color, width, weight, finishing, or design shall not constitute defects. This also applies to customary trade deviations unless sample conformity was expressly confirmed in writing. Samples are non-binding.
4. Normal wear and improper handling are excluded from warranty.
5. Returns require prior express consent. Custom-made and short-length goods are generally excluded from return.
6. Claims are excluded for clearance goods, special lots, or second-grade goods sold at reduced prices.
7. In case of justified claims for apparent defects, the Seller may choose to repair or deliver defect-free replacement within twelve (12) calendar days after return receipt. Freight costs shall be borne by the Seller. If supplementary performance fails, the Buyer may reduce the purchase price or withdraw, subject to § 8 clauses 2 and 3.
8. In case of hidden defects, the Buyer may only reduce the purchase price or withdraw, subject to § 8 clauses 2 and 3.
9. If notice of defects is not given in time, goods shall be deemed approved.
10. The limitation period for material defects is one (1) year, except in cases of injury to life, body or health attributable to the Seller, or intent and gross negligence, where it shall be two (2) years.

### **§ 7a Product Liability and Compliance**

1. The Seller warrants compliance with applicable statutory provisions at the time of delivery.
2. The Seller assumes no responsibility for further processing, combination, or other use of the goods by the Buyer.

### **§ 8 Damages**

1. Claims for damages by the Buyer are excluded unless otherwise provided herein.
2. Exclusion does not apply in cases of liability under product liability law, intent, gross negligence of owners or senior executives, fraudulent intent, breach of guarantee, injury to life/body/health, or breach of essential contractual obligations. In case of breach of essential obligations, liability is limited to foreseeable, typical contractual damages unless otherwise required by law.
3. No reversal of the burden of proof to the detriment of the Buyer is intended.

### **§ 9 Payment**

1. Invoices are issued on the date of delivery or availability. Deferred maturity is excluded. Payment shall be made according to agreed terms.
2. Payments may be made by bank transfer or direct debit.
3. Payments shall be applied to the oldest outstanding debt plus accrued default interest.
4. Timeliness depends on final credit to the Seller's account.
5. Default occurs automatically upon expiry of the payment deadline.

## **§ 10 Payment After Due Date**

1. Interest shall accrue at 9 percentage points above the base rate pursuant to § 247 German Civil Code (BGB). § 288 BGB applies.
2. Until full settlement of due amounts including interest, the Seller is not obliged to perform further deliveries under ongoing contracts.
3. In case of substantial deterioration of financial circumstances (e.g., impending insolvency or default), the Seller may refuse performance or withdraw after granting twelve (12) calendar days' grace. § 321 BGB and § 119 German Insolvency Code remain unaffected.

## **§ 11 Set-Off and Retention**

Set-off and retention are permissible only with undisputed or legally established claims, except for claims closely connected to the Buyer's right to defect-free performance.

## **§ 12 Retention of Title**

1. Goods remain the Seller's property until full settlement of all claims arising from the entire business relationship.
2. If the reserved goods are combined, mixed, or processed by the Buyer into a new movable item, such action shall be deemed to be carried out on behalf of the Seller without creating any obligations for the Seller. The Buyer shall not acquire ownership of the new item pursuant to Sections 947 et seq. of the German Civil Code (BGB) as a result of such combination, mixing, or processing. If the goods are combined, mixed, or processed with items not owned by the Seller, the Seller shall acquire co-ownership of the new item in proportion to the invoice value of the reserved goods relative to the total value of the new item.
3. If a central settlement agency assuming del credere liability is involved in the transaction between Seller and Buyer, the Seller shall transfer title to the central settlement agency upon dispatch of the goods, subject to the suspensive condition of payment of the purchase price by such agency. The Buyer shall be released from its payment obligation only upon receipt of payment by the Seller from the central settlement agency.
4. The Buyer shall be entitled to resell or further process the reserved goods only subject to the following conditions:
  - a) The Buyer may resell or process the reserved goods only in the ordinary course of business, provided that its financial situation has not materially deteriorated thereafter.
  - b) The Buyer hereby assigns to the Seller all claims arising from the resale of the reserved goods, including all ancillary rights and any balance claims. The Seller hereby accepts this assignment.
  - c) If the goods have been combined, mixed, or processed and the Seller has thereby acquired co-ownership in the amount of its invoice value, the Seller shall be entitled to a proportionate share of the purchase price claim corresponding to the value of its rights in the goods.
  - d) If the Buyer has sold the receivable within the framework of genuine factoring, the Buyer hereby assigns to the Seller the claim against the factor replacing the original receivable and shall forward the proceeds of sale to the Seller proportionally to the value of the Seller's rights in the goods. The Buyer shall disclose the assignment to the factor if it is more than ten (10) calendar days in default with payment of an invoice or if its financial circumstances materially deteriorate. The Seller hereby accepts this assignment.
  - e) The Buyer shall be authorized to collect the assigned receivables as long as it duly complies with its payment obligations. This authorization shall expire in the event of payment default or material deterioration of the Buyer's financial situation. In such case,

the Buyer hereby authorizes the Seller to notify the Buyer's customers of the assignment and to collect the receivables directly. For the enforcement of the assigned receivables, the Buyer shall provide all necessary information and permit verification thereof. In particular, the Buyer shall, upon request, provide the Seller with a detailed list of receivables including names and addresses of customers, amounts of individual claims, invoice dates, etc.

5. If the value of the securities held by the Seller exceeds the total claims by more than ten percent (10%), the Seller shall, at the Buyer's request, release securities of its choice to that extent.
6. Pledging or transferring the reserved goods or the assigned receivables as security is prohibited. The Seller must be notified immediately of any attachments or seizures, specifying the attaching creditor.
7. If the Seller repossesses the goods in exercise of its retention of title rights, such repossession shall not automatically constitute withdrawal from the contract. The Seller may satisfy its claims by private sale of the repossessed reserved goods.
8. The Buyer shall store the reserved goods for the Seller free of charge. The Buyer shall insure the goods against customary risks such as fire, theft, and water damage in customary coverage amounts. The Buyer hereby assigns to the Seller any insurance claims or claims against third parties arising from such damage in the amount of the invoice value of the goods. The Seller hereby accepts this assignment.
9. All claims and rights arising from the retention of title in all special forms set out in these Terms shall remain in force until the Seller has been fully released from any contingent liabilities (e.g., checks) assumed in the Buyer's interest. In such case, the Buyer shall generally be entitled to engage in factoring of its receivables; however, it must inform the Seller prior to entering into any contingent liabilities.

### **§ 13 Third-Party Intellectual Property Rights**

If the goods are manufactured in accordance with the Buyer's specifications (e.g., drawings, models, samples) and such manufacture infringes third-party intellectual property rights, the Buyer shall indemnify and hold the Seller harmless from and against all claims asserted in this respect.

### **§ 13a Electronic Communication**

The Seller shall be entitled to transmit offers, invoices, and other communications in electronic form. Such communications shall be deemed received once they have entered the Buyer's electronic sphere of control.

### **§ 14 Applicable Law**

The laws of the Federal Republic of Germany shall apply. The United Nations Convention on Contracts for the International Sale of Goods (CISG) dated 11 April 1980 shall be excluded.

### **Gustav Gerster GmbH & Co.KG**

Memminger Straße 18  
88400 Biberach an der Riss  
Deutschland

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