

General Sales Terms and Conditions GfE – Group Companies

1. General

The following terms and conditions of GfE shall exclusively apply to all present and future deliveries and work/performance by GfE and they are hereby accepted by the customer with the order, even if they are not expressly referenced, but received by customer with the order confirmation of GfE. Contradicting or deviating terms and conditions of customer attached to the order are not applicable, even if GfE has not explicitly objected. Changes and amendments of the terms and conditions shall only be binding if explicitly confirmed in writing by GfE.

2. Offers/Contracts

Offers are non-binding. Supply contracts shall be binding upon GfE confirming the purchase order and / or upon performing delivery of the goods.

3. Passing of Risk

The provisions of agreed terms of delivery according to the defined Incoterms shall be applicable.

4. Delivery Dates

4.1 Delivery dates are non-binding, unless they are agreed in writing with an express reference to delivery at a fixed date ("Fixgeschäft"). Agreed delivery periods commence on the date of the order confirmation.

4.2 Part deliveries are permissible.

4.3 In cases of force majeure such as war, pandemic, natural disasters, government measures due to such events or other unforeseeable impediments for which GfE is not responsible (e.g. interruption of operations or transport, raw material shortages, shortage of resources such as gas, delays by suppliers, strikes, etc.), which prevent GfE from performing the delivery, ("events of force majeure") the delivery periods shall be extended by the duration of the impediment plus a reasonable start-up period. Sentence 1 shall also apply if an event of force majeure occurs at a supplier of GfE. Sentence 1 shall apply, despite knowledge of the Corona pandemic and the Ukraine war, if these events or government measures in this connection (e.g. interruption or reduction of the gas supply) prevent GfE from the performance of the delivery. GfE will inform the customer of the event of force majeure and its expected duration as early as possible.

GfE can demand that the parties agree in good faith on a proportionate adjustment of the purchase price if the cost expenditure of GfE under the supply contract increases by more than 5% due to the event of force majeure (e.g. in the case of increased production, purchasing, raw material, energy or logistics costs due to force majeure). At the request of the customer, GfE will grant an auditor appointed by GfE insight into the cost expenditure of GfE. The auditor may check the cost expenditure and the increase and inform the customer of the result of the audit; however, the auditor may not pass on details of the cost expenditure to the customer.

If the event of force majeure lasts one month or longer, GfE may also demand that the parties agree in good faith on other reasonable adjustments to the supply contract. If the event of force majeure lasts two months or longer, GfE may rescind from the supply contract affected by means of a written notice.

5. Payments

5.1 Unless otherwise agreed, payments must be made in due time and without deduction.

5.2 In case of default of payment, GfE is entitled to charge default interest in the amount of 8 % above the applicable base interest rate according to § 247 of the German Civil Code ("BGB"). If the default results in a manifest higher loss, GfE is entitled to claim such loss.

5.3 Bills of exchange and payment by check are accepted subject to prior agreement and only as provisional performance and shall only be deemed payment upon redemption in cash.

5.4 The customer shall only be entitled to the rights of set-off or retention, if its counter-claims are conclusively adjudged, undisputed or accepted by GfE.

5.5 In the event customer is in default with any payment obligations towards GfE, all existing payment claims shall be immediately payable.

5.6 GfE shall be entitled to transfer claims resulting from the relationship with the customer.

6. Reservation of Title

6.1 GfE retains title to the goods supplied until payment in full of all claims resulting from the ongoing business relationship with customer.

6.2 The customer shall only be entitled to resell, pledge, transfer title as security to, lease or send the goods abroad upon the prior written approval of GfE. If the resale to third parties is part of the customer's customary business operations, then by way of exception, customer shall be entitled to resell the supplied goods in the ordinary course of its business.

6.3 The customer herewith assigns to GfE all claims and compensation rights to which customer is entitled with regard to the goods subject to GfE's reservation of title in the amount of the invoiced value of such goods. GfE accepts the assignment. The customer is entitled to collect these claims as long as customer meets its payment obligations in a due and orderly manner and is not in default of payment.

6.4 The treatment and processing by the customer of the goods subject to GfE's reservation of title shall always be performed in the name and on behalf of GfE. If such processing is performed with items not belonging to GfE, then GfE shall acquire title in the new object in the proportion of the value of the goods supplied by GfE to the value of the other items processed. The same shall apply if the goods are mixed with other items that do not belong to GfE.

6.5 In the case of seizures by third parties of the goods subject to reservation of title or of the newly processed items, the customer must point out GfE's title rights without delay. In case customer's conduct is contrary to the terms of the contract, especially in case of default of payment, GfE is entitled - even without setting a reasonable period for performance - to withdraw from the contract, to collect the goods subject to reservation of title and to enter for such purpose the place of storage or use of the goods. The customer waives the right to prevent unlawful interference with possession and permits GfE access to the premises where the goods subject to reservation of title are located.

6.6 Claims assigned to GfE may be directly collected by GfE from the third party. The amount of the claims so collected minus the costs and interest incurred by GfE shall be set off against the purchase price. Any surplus shall be forwarded to the customer.

7. Liability

7.1 The statements contained in catalogues, brochures, circulars, advertisements, illustrations and comparable publicly made promotional declarations about performance, dimensions, weights, prices and the like are non-binding, unless they are expressly made an integral part of a contract.

7.2 GfE assumes liability for defects of the goods supplied (acc. to § 434 BGB). Goods showing a material defect within the limitation period shall at GfE's option be repaired, supplied anew or rendered anew free of charge. GfE is entitled to undertake several repair attempts as far as reasonably acceptable for the customer. Material defect claims shall be statute-barred 12 months after delivery.

7.3 The liability for defects of the goods expires if the customer alters, treats or uses the goods wrongly or treats or uses the goods contrary to the instructions.

7.4 Claims for damages by the customer, irrespective of the legal basis, in particular if based on violations of contractual obligations and on account of tort, are excluded, unless liability is compulsory based on the German Product Liability Act ("Produkthaftpflichtgesetz"), or in cases of willful intent, gross negligence, due to infliction of death, physical injury or damage to health or the infringement of fundamental contractual obligations.

7.5 GfE's liability shall be limited to the amount of the purchase price, unless there is willful intent or gross negligence or liability is based on infliction of death, physical injury or damage to health.

7.6 If the repeat performance according to 7.2. is unsuccessful, the customer can at its option demand a reduction of the purchase price or the rescission of the contract in lieu of performance. In the case of only a slight infringement of the contract, especially in the case of only slight defects, the customer shall, however, not be entitled to a withdrawal.

7.7 Insofar as the goods supplied by GfE are materials that will be physically, chemically or technologically treated or changed by the customer, their use as construction and/or structural material shall only be permissible with the prior written consent of GfE.

7.8 Consulting services are rendered to the best of GfE's knowledge, excluding any liability. Statements and information about suitability, application and use of the contractual topic are non-binding and for information only, unless they are expressly made an integral part of the contract acc. to 7.1. The customer remains obligated to perform his investigations.

7.9 Research and development work is performed by GfE with usual diligence and in accordance with the available scientific and technical knowledge. GfE gives no warranty and especially no assurances, that the results of the research and development work are economically usable and free from intellectual property rights of third parties.

8. Examination and Defect-notification Obligation

8.1 The customer must examine the goods after receipt without delay to the extent this is possible in the ordinary course of business. If a defect is apparent, GfE is to be notified without delay. The defect notification period is 14 days and ends with GfE's receipt of a written notification. If the defect for which GfE is responsible is only discovered at a later date, then notification must be made without delay after discovery of the defect.

8.2 GfE's liability expires if the customer does not comply with the obligations outlined in 8.1.

8.3 The contested goods shall be sent back to GfE in the original or equally suitable packaging at reasonable cost.

9. Export control clause

9.1 The Customer is obliged to comply with all applicable national and international export control regulations, in particular those of the Federal Republic of Germany, the European Union, the United Kingdom and the United States of America (USA), to ensure that the goods supplied by GfE are not used for purposes prohibited under the applicable export control regulations and

that the goods are not resold, transferred, exported or otherwise made available directly or indirectly in breach of export control regulations.

9.2 Upon conclusion of the contract, at the latest upon acceptance of the goods, the Customer warrants that the goods delivered by GfE:

- a) are not used for military purposes in countries subject to an arms embargo imposed by the EU, the OSCE or the United Nations
- b) are not used in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or for the development, production, maintenance or storage of missiles capable of delivering such weapons,
- c) are neither directly nor indirectly sold and/or delivered to territories or regions if the corresponding goods for these territories or regions are affected by applicable goods-related sanctions or would be affected in the hypothetical case of a sale or direct delivery by GfE to a contractual partner of the customer, and
- d) are not supplied directly or indirectly to persons, companies or organisations named in sanctions lists of the European Union, the United Kingdom and/or the United States of America or made accessible in any other way.

This obligation also extends to any delivery, transfer or making available of the goods within the customer's own organisation and group of companies.

9.3 Upon request, the Customer is obliged to provide GfE with appropriate and complete information on the end use of the goods or services to be delivered, in particular to issue or procure so-called end-use certificates (EUCs) and to send the originals to GfE in order to be able to verify the end use and intended purpose of the goods or services to be delivered and, if necessary, to provide evidence of these to the competent export control authority.

9.4 If any necessary export or transfer licences or other foreign trade permits or approvals are not granted by the competent authorities or not granted in good time, or if there are other obstacles to the fulfilment of the contract or delivery due to the foreign trade and embargo regulations to be observed by GfE as exporter or transferor or by our suppliers, GfE shall be entitled to withdraw from the contract or from the individual delivery or service obligation.

9.5 This shall also apply if corresponding obstacles under export control and embargo law arise between the conclusion of the contract and the delivery or performance of the service as well as in the assertion of warranty rights, for example due to a change in the legal situation, and make the performance of the delivery or service temporarily or permanently impossible because necessary export or transfer licences or other approvals or releases under foreign trade law are not granted or are revoked by the competent authorities or other legal obstacles due to foreign trade and embargo law regulations to be observed prevent the fulfilment of the contract or the delivery or service.

9.6 Compliance with delivery deadlines may require the release or granting of export or transfer licences or other foreign trade authorisations by the competent authorities. If GfE is prevented from delivering on time due to the duration of the proper execution of an application or authorisation procedure under foreign trade law, the delivery period shall be extended appropriately by the duration of the delay caused by this official procedure.

9.7 GfE shall not be liable for delays in delivery resulting from the reasons listed in Clause 9 or for the fact that a delivery cannot be carried out due to the applicable export control regulations, unless GfE is guilty of intent or gross negligence in this respect. The same applies in cases of justified cancellation in accordance with Clauses 9.4 and 9.5.

9.8 Claims for damages by the Customer against GfE due to the aforementioned export control prohibitions and restrictions are excluded, as far as they are not caused by GfE intentionally or through gross negligence. The Customer shall indemnify GfE

against all claims, damages, costs (including for investigation proceedings and legal advice) or fines resulting from a breach by the Customer of the obligations specified in this export control clause or of applicable export control regulations, unless the Customer is not responsible for the breach.

10. "No Russia / No Belarus" clause

10.1 Upon conclusion of the contract, at the latest upon acceptance of the goods, the Customer undertakes not to sell, export or re-export, directly or indirectly, the goods delivered by GfE that fall within the scope of Article 12g of Regulation (EU) No. 833/2014 or Article 8g of Regulation (EC) No. 765/2006 to the Russian Federation or the Republic of Belarus or for use in the Russian Federation or the Republic of Belarus.

10.2 The Customer shall use its best endeavours to ensure that the purpose of Clause 10.1 is not frustrated by any third parties further down the commercial chain, including possible resellers.

10.3 The Customer undertakes to establish and maintain an adequate monitoring mechanism to detect any conduct by any third parties further down the commercial chain, including possible resellers that would frustrate the purpose of Clause 10.1.

10.4 Any violation by the Customer of the obligations under clauses 10.1, 10.2 and 10.3 shall constitute a material breach of an essential contractual obligation by the Customer. In the event of such a breach of material contractual obligations, GfE shall be entitled

- a) to withdraw from the contract or to terminate the business relationship immediately
- b) and to demand a contractual penalty in the amount of 20 % of the agreed purchase price from the customer.

10.5 The Customer shall inform GfE immediately of any problems in the application of Clauses 10.1, 10.2 and 10.3, including any relevant third-party activities that could frustrate the purpose of Clause 10.1.

The Customer undertakes to provide GfE with information on compliance with the obligations under Clauses 10.1, 10.2 and 10.3 within two weeks of GfE simple request of such information.

11. Intellectual Property Rights

11.1 If GfE has supplied goods made with drawings, models, and samples or acc. to customer's specifications or used components supplied by the customer, customer is liable for any infringement of third-party rights. Customer shall indemnify GfE against any third-party claims and reimburse incurred damages. Any charges incurred by GfE thus far are for customer's account. If a third party prohibits GfE to manufacture or deliver goods based on its intellectual property right, GfE is entitled to discontinue all contractual work without examining the legal merits. The costs of possible lawsuits are born by the customer.

11.2 All copyrights and industrial property rights to models, shapes, mechanisms, designs, and drawings designed by GfE or third parties on its behalf belong to GfE, even if paid by the customer.

12. Law and Jurisdiction

The supply contract concluded by GfE with the customer shall be governed by and construed according to German law. The application of the UN sales law (CISG) and EC law is excluded.

Place of jurisdiction for both parties is the registered place of business of GfE.

13. Validity

In case individual provisions of these terms are or become invalid, then this shall not affect the validity of the other provisions of these terms and conditions.