



Ideen für eine saubere Umwelt



Stahlbehälterbau Greis

## General Terms and Conditions (GTC)

### Partnership of Stahlbehälterbau Greis GmbH / H&G Entsorgungssysteme GmbH

#### § 1 Scope of application

(1) These general terms and conditions apply exclusively to business persons, legal persons governed by public law or special funds governed by public law within the meaning of paragraph 310, section 1 of the German Civil Code. These terms and conditions apply to sales to private persons when no other regulations are applied by the legislator. Any terms and conditions to the contrary or those of the customer shall only apply after our express agreement in writing.

(2) These terms and conditions also apply for all future transactions with the customer, insofar as these involve legal transactions of a similar nature.

#### § 2 Offers and conclusion of contracts

All offers are without engagement. We abide by them for a period of 3 months after their dispatch. Any order that can be seen as an offer in acc. with parag. 145 of the German Civil Code can be accepted by us within two weeks.

#### § 3 Documents provided

We reserve all our property and copyrights on any documents, such as calculations, drawings etc., provided to the customer in connection with the placing of an order. These documents may not be made available to third parties unless we have given the customer our express agreement in writing. In the event of our not accepting the customer's offer within the period specified in parag. 2, these documents must be returned to us immediately.

#### § 4 Prices and payment

(1) If nothing to the contrary has been expressly agreed in writing, all our prices are ex works, excluding packaging, insurance plus the statutory rate of value added tax. Packaging costs will be billed separately and there is no obligation on us to take back the packaging materials.

(2) Payment of the purchasing price is to be made exclusively to the account specified on the invoice. The deduction of any discount is only permissible in the event of a special agreement in writing.

(3) Unless otherwise agreed, the purchase price is to be paid within 10 days of receiving delivery. The default interest rate shall be 8% above the respective base rate p.a. We reserve the right to assert claims for higher damages caused by delay.

(4) If no fixed price agreement has been made, we reserve the right to make reasonable price adjustments due to changes in wage costs, material costs and distribution costs for deliveries occurring 3 months or later after conclusion of the contract.

#### § 5 Set-off and Rights of retention

The customer is only entitled to the right of set-off if the counterclaim is uncontested or determined as final and conclusive. The customer is only authorized to exercise his right of retention if his counterclaim is based in the same contractual relationship.

#### § 6 Delivery time

(1) All delivery times given are approximate. The number of delivery days indicated are working days. The beginning of the delivery period stated by us is conditional upon the customer fulfilling his contractual obligations properly and in due time. The delivery period is deemed complied with when, before expiry, the delivery item has left the supplier's works or notification of readiness for shipment has been given. We reserve the right to make a plea of non-performance.

(2) Compliance with all delivery periods agreed shall be conditional on correct and punctual availability of supplies and raw materials. Non-compliance due to an Act of God, industrial action or other events outside the deliverer's sphere of influence, entitles the deliverer to a reasonable extension of the delivery period. The customer must be informed of any foreseeable delays as soon as they become apparent.

(3) In case of default in acceptance or other breach of cooperation obligations by the customer we are entitled to claim any resulting damage including but not limited to additional expenses, if any. Claims for further damages are reserved. Insofar as such aforesaid conditions apply, the risk of accidental loss or accidental deterioration of the purchased goods passes over to the customer at the precise point of time in which he is in default of acceptance or default of payment.

(4) The customer shall ensure that non-public access roads have a sufficiently solid surface (suitable for HGVs of up to 40 t) and that no danger, injury or damage to people or property can result from delivery. The customer is liable for any damage resulting from any deficiencies in the access roads.

(5) Partial deliveries shall be permissible, unless deemed unreasonable for the customer.

#### § 7 Right of repudiation

Unforeseen events (lack of raw materials and supplies, mobilization, war, civil disturbances, riots, etc.) entitle us to withdraw from the contract in part or completely. This also applies when other causes lead to changes in the circumstances known at the time the contract was concluded to such an extent that fulfilment thereof will be hampered or rendered extremely difficult.

#### § 8 Transfer of risks on shipment

When the goods are shipped to the customer on his request, the risk of their accidental loss or deterioration passes over to the customer with their dispatch to him, at the latest when they leave the works/warehouse. This applies regardless of whether shipment is made from the place of performance or regardless of who bears the freight costs.

#### § 9 Reservation of title

(1) All goods delivered shall remain our property until all claims arising from the delivery contract have been paid in full. This also applies to all future deliveries, even if we do not constantly and expressly refer to this fact. We are entitled to take back any goods delivered if the customer is in breach of contract.

(2) The customer is obliged to take due care of the goods until such time as title passes over to him. In particular he must take out adequate insurance for the reinstatement value of the products in the event of losses through fire, water and theft. Should any maintenance and/or inspections be required, the customer must have this work carried out in due time at his own expense. As long as title has not been transferred, the customer is obliged to inform us without delay in writing, if the delivered goods are distrained or otherwise subjected to the intervention of any third party. Should the third party not be in a position to refund the court and out-of-court costs resulting from a lawsuit in accordance with § 771 ZPO, the customer shall be held liable for the losses incurred by us.

(3) The customer may resell the goods subject to retention of title in the normal course of business. The customer shall now assign to us any claims he may have against third parties arising from the sale of the goods subject to retention in the amount agreed with us of the total sum invoiced (including VAT).

This transfer applies irrespective of whether the purchased goods are resold before or after processing. The Customer remains authorized for collection of these claims even after assignment. Our authorization to collect the claims ourselves remains unaffected by this. We will however not collect the claim as long as the customer fulfils the payment obligations arising from the collected revenues, is no in delay of payment or, in particular, has not filed an application to open insolvency proceedings or has stopped payment.

(4) The processing or reworking of the goods by the customer shall always be on behalf and by order of us. In this case, the reversionary interest of the purchaser in the goods purchased will continue in the reconstructed object. If the purchased goods are processed jointly with other items not being our property, then we acquire co-ownership in the new items in relation of the value of the purchased goods to the other objects processed at the time of processing. To secure our claims against the customer, the customer shall also assign to us such claims accruing to him from combination of the goods subject to retention with real property against a third party; we already accept this assignment with immediate effect.

(5) We undertake to release the securities owed to us at the customer's request in the event that their value exceeds the claims to be secured by more than 20%.

#### **§ 10 Defect rights and notice of defects and recourse / manufacturer recourse**

(1) Warranty claims of the customer are conditional on proper fulfilment of his obligations to inspect and complain as owed under §377 HGB (German Trade Code).

(2) The period of limitation for all claims (complaints) shall be 12 months after delivery of the goods supplied by us to our customer. Before any goods are returned, our agreement is required. If dispatch, installation or commissioning is delayed through no fault of the supplier, liability shall expire after 12 months at the latest.

(3) Indications of weight and volume are approximate and non-binding and therefore do not entitle the customer to any subsequent price discount in the event of deviation.

(4) In the event of a defect to the goods delivered already existing at the time of transfer of risk despite all exercised care, we shall, at our own choice repair or replace goods subject to due notice of defects. We must always be given the opportunity to render subsequent performance within a reasonable time. Recourse claims shall remain unaffected by the above regulation without restriction. The guarantee period for the replacement goods and the repair is three months or at least until expiry of the originally agreed warranty period.

(5) Claims for damages (including consequential damages), irrespective of the legal grounds from which they arise, in particular due to a breach of duties arising from the obligation or from unlawful acts, shall be excluded. This shall not apply in cases where the seller is mandatorily liable, e.g. according to the law on product liability, on account of acceptance of a warranty for the presence of a characteristic, for damages arising from injury to life, body or health,

which can be attributed to a negligent violation or wilful neglect of a duty by the seller or one of his legal representatives or vicarious agents or for any other damage which can be attributed to a negligent violation or wilful neglect of a duty by the seller or one of his legal representatives or vicarious agents. Claims for damages for the violation of important contractual obligations are, however, limited to contract-typical, predictable damages, provided there is no intent or gross negligence, or that liability is assumed on account of damage to life, physical injury or damage to health.

(6) Liability for negligent breaches of duty is limited to the level of the currently existing product liability insurance. Insofar as the damages claim is not settled by an insurer, liability is limited to compensation for the usual and typical damage predicable in such cases, amounting to a maximum of twice the contract value.

(7) The customer may not assert any claims for defect if the condition of the goods only slightly deviates from the agreed quality, if usability is only slightly affected or in cases involving natural wear and tear or damages occurring after the risk is passed as a result of erroneous or negligent use, excessive use, use of unsuitable production equipment, defective construction works, or inappropriate building ground or due to special outside influences, which are not provided for in the contract. If the customer or third parties carry out alterations or repair work improperly, no warranty claims shall be accepted for this work or for any consequences arising from it.

(8) The customer may not assert any claim with respect to expenses incurred in the course of supplementary performance, including costs of travel and transport, labour, and material, to the extent that expenses are increased because the goods delivery by us were subsequently brought to a location other than the Purchaser's branch office, unless doing so complies with the intended use of the goods delivered.

(9) The customer's rights of recourse against us are only admissible if the customer has not entered into any agreements with his own customers going beyond the mandatory statutory claims based on defects. Regarding the extent of the customer's recourse entitlements against the supplier, paragraph 8 shall be applied accordingly.

(10) In the event of fraudulent concealment of a defect or in the event that a warranty is given with respect to the condition of the goods at the time of transfer of risk within the meaning of § 444 German Civil Code, the customer's rights shall be exclusively governed by the statutory provisions.

#### **§ 11 Data protection**

In accordance with § 33 of the Federal Data Protection Law, we give notice to the customer that all necessary data for the performance of a commercial business transaction will be saved.

#### **§ 12 Miscellaneous**

(1) This contract and the entire legal relationship between the two parties shall be subject to the laws of the Federal Republic of Germany under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) Place of performance and exclusive court of jurisdiction for all disputes arising from this contract is Siegen, unless otherwise specified in the order confirmation.

(3) All changes and/or modifications of this contract (including those to this clause) shall be made in writing. No supplementary verbal agreements have been made.

(4) Should any individual provisions of this contract be or become invalid or contain any loopholes, all other provisions shall remain unaffected. The parties undertake to replace the ineffective provision or fill the loophole contained within it by agreeing on a legally permissible regulation which comes closest to the commercial purpose of the invalid provision.

Burbach, October 2009