

## **General Terms and Conditions of Sale of Göttele GmbH & Co. KG**

### **§ 1 General – Scope of Application**

Our terms and conditions of sale shall apply exclusively. We do not recognize any conflicting or deviating terms and conditions of the customer unless we have expressly agreed to their validity in writing. Our terms and conditions shall also apply if we execute delivery to the customer without reservation despite being aware of conflicting or deviating terms and conditions of the customer. All agreements made between us and the customer for the purpose of carrying out this contract are set out in writing in this contract. Our terms and conditions of sale shall apply only vis-à-vis entrepreneurs within the meaning of Section 310 (1) of the German Civil Code (BGB). These General Terms and Conditions shall also apply accordingly to supplementary and follow-up orders. They shall become effective at the latest upon acceptance of the respective delivery or service.

### **§ 2 Offer – Offer Documents**

If an order qualifies as an offer pursuant to Section 145 BGB, we may accept it within two weeks. We reserve ownership and copyright rights to illustrations, drawings, calculations and other documents. This also applies to written documents designated as "confidential". Such documents may not be disclosed to third parties without our prior express written consent.

### **§ 3 Prices – Terms of Payment**

Unless otherwise stated in the order confirmation, our prices are quoted "ex works", excluding packaging; packaging shall be invoiced separately. Statutory value-added tax is not included in our prices; it shall be shown separately on the invoice at the statutory rate applicable on the date of invoicing. Any deduction of cash discounts requires a separate written agreement. Unless otherwise stated in the order confirmation, the purchase price shall be due for payment net (without deduction) within 14 days of the invoice date. The statutory provisions regarding the consequences of default in payment shall apply. The customer shall be entitled to set off only if its counterclaims have been legally established, are undisputed or have been recognized by us. The customer may exercise a right of retention only insofar as its counterclaim is based on the same contractual relationship.

### **§ 4 Delivery Time**

The commencement of the delivery period stated by us requires that all technical matters have been clarified.

Compliance with our delivery obligations further presupposes the timely and proper fulfillment of the customer's obligations. The defense of non-performance of the contract remains reserved.

If the customer is in default of acceptance or culpably breaches other duties to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. Further claims or rights remain reserved.

We are entitled to partial deliveries to a reasonable extent.

If the requirements of paragraph (3) are met, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer at the time the customer falls into default of acceptance or debtor's default.

We shall be liable in accordance with statutory provisions if the underlying purchase contract constitutes a fixed-date transaction within the meaning of Section 286 (2) No. 4 BGB or Section 376 of the German Commercial Code (HGB). We shall also be liable in accordance with statutory provisions if, because of a delivery delay for which we are responsible, the customer is entitled to claim that's interest in further performance of the contract has ceased.

We shall further be liable in accordance with statutory provisions if the delivery delay is based on an intentional or grossly negligent breach of contract for which we are responsible; fault on the part of our representatives or vicarious agents shall be attributed to us. If the delivery delay is based on a grossly negligent breach of contract, our liability for damages shall be limited to the foreseeable damage typically occurring. We shall also be liable in accordance with statutory provisions if the delivery delay for which we are responsible is based on the culpable breach of a material contractual obligation; in this case, however, liability for damages shall be limited to the foreseeable damage typically occurring.

Further statutory claims and rights of the customer shall remain unaffected.

### **§ 5 Transfer of Risk – Packaging Costs**

Unless otherwise stated in the order confirmation, delivery shall be "ex works".

Separate agreements shall apply to the return of packaging.

If the customer requests, we ensure delivery by transport insurance; the costs incurred in this respect shall be borne by the customer.

### **§ 6 Liability for Defects**

Claims for defects by the customer presuppose that the customer has properly complied with its obligations to inspect and give notice of defects pursuant to Section 377 HGB.

If the purchased item is defective, the customer shall be entitled, at its discretion, to subsequent performance in the form of remedying the defect or delivery of a new, defect-free item. In the event of remedying the defect or replacement delivery, we shall be obliged to bear all expenses necessary for the purpose of subsequent performance, in particular transport, travel, labor and material costs, insofar as these are not increased by the fact that the purchased item has been taken to a place other than the place of performance.

If subsequent performance fails, the customer shall be entitled, at its discretion, to withdraw from the contract or to demand a reduction in the purchase price.

We shall be liable in accordance with statutory provisions if the customer asserts claim for damages based on intent or gross negligence, including intent or gross negligence of our representatives or vicarious agents. Unless we are accused of an intentional breach of contract, liability for damages shall be limited to the foreseeable damage typically occurring.

We shall be liable in accordance with statutory provisions if we culpably breach a material contractual obligation; in this case, however, liability for damages shall be limited to the foreseeable damage typically occurring. A material contractual obligation is an obligation whose fulfillment the customer relied upon and was entitled to rely upon.

Insofar as the customer is otherwise entitled to a claim for damages instead of performance due to a negligent breach of duty, our liability shall be limited to the foreseeable damage typically occurring.

Liability for culpable injury to life, body or health shall remain unaffected; this also applies to mandatory liability under the German Product Liability Act.

Unless otherwise stipulated above, liability shall be excluded.

The limitation period for claims for defects shall be 12 months from the transfer of risk. This shall not apply insofar as the purchased item is typically used for a building and has caused a defect.

The limitation period in the event of recourse claims pursuant to Sections 478 and 479 BGB shall remain unaffected; it shall be five years from delivery of the defective item.

### **§ 7 Overall Liability**

Any further liability for damages beyond that provided for in § 6 shall be excluded, irrespective of the legal nature of the asserted claim. This applies in particular to claims for damages arising from culpa in contravenendo, other breaches of duty or tortious claims for compensation for property damage pursuant to Section 823 BGB.

The limitation pursuant to paragraph (1) shall also apply if the customer claims reimbursement of futile expenses instead of damages in lieu of performance. Insofar as liability for damages is excluded or limited vis-à-vis us, this shall also apply regarding the personal liability for damages of our employees, staff members, representatives and vicarious agents.

### **§ 8 Retention of Title as Security**

We shall retain title to the purchased item until receipt of all payments arising from the delivery contract. In the event of breach of contract by the customer, in particular in the event of default in payment, we shall be entitled to repossess the purchased item. Repossession of the purchased item shall constitute withdrawal from the contract. After repossession, we shall be entitled to realize the purchased item; the proceeds of realization shall be credited against the customer's liabilities, less reasonable realization costs.

The customer shall be obliged to treat the purchased item with care; in particular, the customer shall be obliged to ensure it adequately at replacement value against fire, water and theft damage at its own expense. If maintenance and inspection work is required, the customer must carry out this due course at its own expense.

In the event of seizures or other interventions by third parties, the customer shall notify us immediately in writing so that we may bring an action pursuant to Section 771 of the German Code of Civil Procedure (ZPO). If the third party cannot reimburse us for the judicial and extrajudicial costs of such an action, the customer shall be liable for the loss incurred by us.

The customer shall be entitled to resell the purchased item in the ordinary course of business; however, the customer hereby assigns to us all claims in the amount of the final invoice amount (including VAT) of our claim which accrue to the customer from the resale against its customers or third parties, irrespective of whether the purchased item is resold without or after processing. The customer shall remain authorized to collect these claims even after assignment. Our right to collect the claims ourselves remains unaffected. However, we undertake not to collect the claims if the customer meets its payment obligations from the collected proceeds, is not in default of payment and, in particular, no application for the opening of insolvency or composition proceedings has been filed or payments have been suspended. If this is the case, however, we may require the customer to inform us of the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents and notify the debtors (third parties) of the assignment.

The processing or transformation of the purchased item by the customer shall always be carried out on our behalf. If the purchased item is processed together with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the purchased item (final invoice amount including VAT) to the other processed items at the time of processing. The same shall apply to the item resulting from processing as to the purchased item delivered under retention of title.

If the purchased item is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the purchased item (final invoice amount including VAT) to the other mixed items at the time of mixing. If the mixing is carried out in such a way that the customer's item is to be regarded as the main item, it shall be agreed that the customer transfers co-ownership to us on a pro-rata basis. The customer shall hold the sole or co-ownership thus created in trust for us.

The customer also assigns to us the claims securing our claims against the customer which arise against a third party as a result of the connection of the purchased item with a piece of land.

We undertake to release the securities to which we are entitled to the customer's request insofar as the realizable value of our securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released shall be at our discretion.

### **§ 9 Place of Jurisdiction – Place of Performance**

If the customer is a merchant, our registered office shall be the place of jurisdiction; however, we shall also be entitled to sue the customer at its place of jurisdiction.

The law of the Federal Republic of Germany shall apply; the application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

Unless otherwise stated in the order confirmation, our registered office shall be the place of performance.

### **\*\* Authoritative Language Clause**

**These General Terms and Conditions are provided in German and English. In the event of discrepancies or inconsistencies, the German version shall prevail and be legally binding. \*\***