

General Terms and Conditions of Sale and Delivery of GPS Gesellschaft für Produkt und Service GmbH & Co. KG

Albrechtweg 11 | 56462 Höhn ,
Telephone: 0 26 61 / 983 77 - 0 | Facsimile: 0 26 61 / 983 77 - 29
E-Mail: info@gps-germany.com | Internet: www.gps-germany.com

I. Application of these General Terms and Conditions

1. All sales and delivery agreements of GPS Gesellschaft für Produkt und Service GmbH & Co. KG with its business partners (Buyers), who are entrepreneurs within the meaning of section 14 of the German Civil Code (Bürgerliches Gesetzbuch – BGB), legal entities under public law or special funds under public law, shall be governed exclusively by these General Terms and Conditions of Sale and Delivery (GTSD). These GTS shall apply in particular to contracts concerning movable goods.

2. Unless otherwise agreed, these General Terms and Conditions of Sale and Delivery shall apply in the version effective on the date when the order was placed by the Buyer as a framework agreement also for similar future contracts, even if this is not stated explicitly.

3. We shall not accept any general terms (e.g. purchase, order, or assignment terms) that conflict with, deviate from or make additions to our General Terms of Sale unless we have expressly consented to their application. An unconditional execution of the delivery despite knowledge of the Buyer's general terms and conditions shall not constitute consent.

4. Any references to the applicability of provisions of the law shall solely serve for the purpose of clarification. Provisions of the law shall apply unless they have been directly amended or expressly ruled out in these General Terms and Conditions of Sale and Delivery.

II. Conclusion of contracts

1. Our offers are subject to change without notice and non-binding. This shall apply even if we have supplied the Buyer with catalogs, technical documentation such as drawings, plans, calculations, costings, references to DIN standards, other product descriptions or documents, to which we retain title and copyrights.

2. The order for the merchandise shall constitute a binding offer to enter into a contract. Unless otherwise specified in the order, we shall be entitled to accept this offer within two weeks after receipt; this shall also apply to call-offs. Acceptance may be declared either in writing (e.g. by confirmation of an order) or by delivery of the ordered merchandise. The written form requirement shall also be deemed met in the case of communication by e-mail or facsimile.

III. Delivery, delivery terms and passage of risk

1. Delivery shall be effected at the location of our warehouse in Höhn. At the Buyer's request and expense the merchandise shall be sent to a different destination (sale to destination).

2. The risk of accidental loss and accidental deterioration as well as delay shall pass to the Buyer on hand-over at the latest, or in

the case of sale to destination on delivery of the merchandise to the carrier, freight forwarder or other person appointed to ship the merchandise; if an acceptance inspection has been agreed, it shall be decisive. This shall even apply if franco domicile delivery has been agreed.

3. Unless otherwise agreed, we shall have the right to determine the manner of shipment (including but not limited to the transport company, shipping route, packaging) ourselves. The Buyer may return transport packaging to us

at the Buyer's expense; in the event of contamination or soiling of the transport packaging, the Buyer shall bear the disposal costs. We shall only offer a consideration for removal and/or disposal by the Buyer subject to an express agreement.

4. The term of delivery shall be individually agreed or specified by us on acceptance of the order; however, the delivery term shall commence at the earliest after all technical questions have been completely clarified. Technical modifications requested by the Buyer after confirmation of the order shall extend the delivery term correspondingly. If the Buyer suffers damages due to our default, our liability shall be limited to 0.5 per cent of the net price per week of the delay, but no more than 5 per cent of the net price. The limitation of liability shall not apply in the case of gross negligence on our part or willful intent. Should we fail to comply with the delivery term due to force majeure, labor disputes or other events beyond our control, the delivery term shall be appropriately extended. We shall immediately notify the Buyer of the beginning and end of such circumstances.

5. If the Buyer defaults on accepting the merchandise, the merchandise shall be deemed handed over or accepted. If the Buyer is in default of acceptance, fails to perform an act of cooperation or our delivery is delayed for other reasons caused by the Buyer, we shall be entitled to claim compensation for the thus arising damages, including additional expenses (e.g. storage costs). For this we shall charge compensation of 0.25 per cent of the net price per complete calendar day but no more than 5 per cent of the net price, starting with the delivery term or – in the absence of a delivery term – on communication that the merchandise is ready for dispatch. The flat compensation shall be offset against further claims. This shall apply without prejudice to evidence of greater damages and our statutory claims (e.g. reimbursement of additional expenses, adequate compensation, termination). The Buyer shall be at liberty to prove that we did not suffer any damages at all or only damages worth a substantially lower amount than the aforementioned flat rate.

IV. Prices and terms of payment

1. Unless otherwise agreed, our prices valid at the time of conclusion of the contract shall be effective. Unless otherwise agreed, in the case of sale to destination the Buyer shall also bear the transport costs ex warehouse and the costs of transport insurance, where requested. In the case of a destination outside Germany we shall bear no more than the transport and packaging costs free up to the German border or a seaport or airport in Germany. Additional costs shall always be charged for express or special shipping. Any customs, official charges, taxes and other public dues shall be borne by the Buyer.

2. Receipt of payment is due and shall be effected within 14 calendar days from the date of invoicing and delivery or acceptance of the merchandise without deduction. Checks shall only be accepted as conditional payment.

3. On expiry of the aforementioned payment deadline the Buyer shall be in default. We reserve the right to claim further default damages. This shall apply without prejudice to our claim to commercial maturity interest (section 353 of the German Commercial Code (Handelsgesetzbuch – HGB)).

4. The Buyer shall only be entitled to set-off or retention rights due to claims which are uncontested or have been held to be final and absolute by a court of law.

5. If there are indications after conclusion of the contract that payment obligations will not be met or that our payment claim is at risk or much deteriorated due to a lack of solvency of the Buyer (in particular in the case of a filing for insolvency), we shall be entitled to refuse performance and – possibly after setting a deadline – to withdraw from the contract. In the case of contracts for the production of non-fungible goods (custom-made items) we may immediately give notice of withdrawal; this shall apply without prejudice to the statutory regulations on the dispensability of setting a deadline. However, we shall be entitled, in particular, to make our delivery conditional upon the Buyer's providing either security or an advance payment for our contractual claims at our discretion.

V. Retention of title and copyrights

1. Until the full settlement of all our current and future claims under the concluded contract and on-going business relationship (secured claims) we shall retain title to the sold merchandise.

2. The merchandise subject to the retention of title may neither be pledged nor assigned as security before the full settlement of the secured claims. The Buyer shall immediately notify us in writing if any petition is filed for the initiation of insolvency proceedings or any seizure (e.g. attachment) of the merchandise belonging to us is effected by third parties.

3. In the event of resale and/or processing of the merchandise subject to the retention of title (reserved merchandise), the retention of title shall also apply to the products resulting from processing, mixing or a combination of our merchandise at their full value. If in the event of processing, mixing or a combination with merchandise of third parties the latter should retain title to such merchandise, we shall gain joint title in the ratio of the invoice value of the processed, mixed or combined merchandise. The resulting product shall also constitute reserved merchandise. The Buyer shall assign any receivables from third parties arising from the resale of reserved merchandise to us in full or in the amount of our possible joint title as security; we shall accept this assignment. The obligations under clause 2 shall also apply. The Buyer shall be revocably empowered to collect the claimed receivables alongside us. As long as the Buyer meets its payment obligations towards us, no substantial deterioration of the Buyer's financial circumstances has occurred and no (preliminary) insolvency proceedings have been initiated against the Buyer and/or we do not assert the retention of title by exercising a right, we shall not collect the claimed receivables. Otherwise we may revoke the permission

to resell and process the reserved merchandise and demand that the Buyer immediately disclose the assigned receivables and the debtor to us, provide all the details necessary for collection, hand over the associated documents and notify the debtor (third party) of such assignment. In this case we shall also be entitled to take possession of or demand the surrender of the reserved merchandise without granting a grace period; this shall apply without prejudice to the right of withdrawal. Should the realizable value of the securities exceed that of our receivables by more than 15 per cent we shall at our discretion release the excess securities at the Buyer's request.

4. We shall retain copyrights in our offers, technical drawings, provided samples, illustrations, plans, calculations and patents and similar. Without our express permission they shall not be reproduced or disclosed to third parties in any form; even after termination of the contract. Within the Buyer's own business they shall only be made available to such persons who need to know them for the purpose of the order and who are also obliged to treat them confidentially. The confidentiality obligation shall expire if and insofar as the knowledge contained in the provided records has become public domain. The Buyer shall be permitted to use them internally within the contractual limits. This shall apply without prejudice to the statutory protection of company and trade secrets. To the extent that information was made available to us by third parties, this reservation of rights shall also apply in favor of such third parties.

VI. Claims for defects

1. The provisions of the law regarding defects of quality and defects of title – including wrong and short delivery as well as incorrect assembly, inadequate assembly instructions, operating or user manuals, or other breaches of obligations – shall apply including the statutory liability regulations, unless otherwise specified in the following. This shall apply without prejudice to the special statutory regulations on final delivery of the merchandise to a consumer (supplier recourse according to sections 478, 479 of the German Civil Code (Bürgerliches Gesetzbuch - BGB).

2. Our liability for defects shall be based in particular on the agreement made on the quality of the merchandise (quality agreement). All product descriptions, technical drawings, and calculations that have become part of the individual contract shall be deemed quality agreements. In this respect it makes no difference whether they originate from the Buyer, the manufacturer or from us. We shall not be held liable for any public statements by the manufacturer or other third parties (e.g. advertising statements).

3. Claims for defects require that the Buyer has met its statutory obligation to inspect the merchandise and report any defects (sections 377, 381 of the German Commercial Code (Handelsgesetzbuch - HGB). The Buyer shall report any obvious defects (including wrong and short delivery) within a term of two weeks from delivery of the merchandise and hidden defects within a term of two weeks from detection in writing. If the Buyer fails to perform a due and proper inspection and/or to report defects, we shall accept no liability for non-reported defects. In the case of a dispute the Buyer must provide evidence of the date of detection and the timeliness of the report.

4. If the delivered item is defective, we shall provide a supplementary performance at our discretion either by rectifying the defect (repair) or by delivering a non-defective item (replacement). This shall apply without prejudice to our statutory right to refuse a supplementary performance. The place of performance for any supplementary performance shall be at the location of our warehouse in Höhn.

5. We shall be entitled to make a supplementary performance conditional upon the settlement of a still outstanding payment. In return, the Buyer may withhold a portion of the purchase price that is proportionate to the defect.

6. The Buyer shall grant us the time and opportunity required for supplementary performance, and shall in particular hand over the merchandise in question for the purpose of inspection. In the case of a replacement the defective merchandise shall be surrendered to us. Supplementary performance shall neither include the dismantling of the defective merchandise nor the re-installation of the non-defective merchandise, if we were originally not obliged to install the merchandise; we shall not bear the costs of dismantling and installation.

7. In the event that there is no defect we shall not bear the expenses required for the purpose of inspection and supplementary performance, in particular transport costs, travel expenses, labor and material costs. We may demand a reimbursement of the costs incurred by an unjustified request for the rectification of defects (in particular inspection and transport costs) if the lack of defects was recognizable and/or should have been recognizable to the Buyer.

8. In urgent cases (e.g. if the safety of operations is endangered or to avert excessive damages) the Buyer shall notify us immediately. If we are entitled to refuse to self-remedy according to the provisions of the law, the Buyer shall not have the right, even in urgent cases, to remedy the defect itself and to demand a reimbursement of the objectively required expenses for this purpose.

9. If the supplementary performance should fail or if a reasonable period set by the Buyer for the supplementary performance should expire fruitlessly or be dispensable according to the provisions of the law, the Buyer may withdraw from the sales contract or reduce the sales price. In the case of minor defects the right of withdrawal shall be ruled out.

10. In contrast, no claims for defects shall apply in particular if the defect is due to defective product descriptions, technical drawings or calculations of the Buyer, in the case of only minor differences from the agreed quality, in the case of only minor impairments of usability, in the case of normal wear and tear or damages occurring after the passage of risk due to incorrect or negligent handling, excessive wear, unsuitable equipment, repair efforts by the Buyer and/or due to special external influences not accounted for in the contract. Should the Buyer and/or a third party perform alterations or repairs incompetently, no claims shall apply for such alterations or repairs and/or the resulting consequences.

11. Claims of the Buyer for damages or the reimbursement of fruitless expenditure shall only apply, even in the case of defects, in accordance with section VII and shall otherwise be ruled out.

VII. Liability

1. Unless otherwise specified herein, we shall be liable in the case of a breach of contractual and non-contractual obligations solely according to the provisions of the law. We shall otherwise accept no liability for claims of the Buyer for damages and for the reimbursement of expenses.

2. We shall be liable for damages – regardless of the legal grounds – within the scope of fault-based liability only in the case of willful intent and gross negligence. In the case of ordinary negligence we shall be liable, subject to a milder standard of liability according to the provisions of the law, only for damages arising from an injury to life, body or health and damages arising from a major breach of an essential contractual obligation; in the latter case our liability shall be limited to typical foreseeable damages.

3. The limitations of liability in clause 2 shall also apply in the case of breaches of obligations by or in favor of persons, for whose fault we are responsible according to the provisions of the law; they shall not apply, however, if we fraudulently conceal a defect or have provided a guarantee for a quality of the merchandise and in the case of claims of the Buyer under the Product Liability Act.

4. The Buyer may only withdraw or terminate the contract due to the breach of an obligation that does not constitute a defect if we are responsible for the breach of the obligation; however, a free right of termination (in particular according to sections 651, 649 BGB) shall be ruled out.

VIII. Verjährung

1. The general limitation period for claims due to defects of quality or title is one year from delivery. If an acceptance inspection has been agreed the limitation period shall commence on the date of the acceptance inspection. This shall not apply if the merchandise has been used for a building, in compliance with its customary use and has caused the defectiveness thereof (construction material); in this case the limitation period shall be 5 years from delivery in accordance with the statutory regulations.

2. The above limitation periods shall also apply to contractual and non-contractual claims for damages of the Buyer based on a defect of the merchandise, unless the application of the regular statutory limitation period would result in a shorter limitation period in individual cases. Claims for damages according to clause VII. and arising from injury to life, body or health as well as in accordance with the Product Liability Act (Produkthaftungsgesetz) shall be subject exclusively to the statutory limitation periods.

IX. Data privacy

For the fulfilment of the contractual relationship the customer data collected in this context shall be processed and used according to German data privacy law. The data shall be processed and used solely for the purpose of contract fulfilment and not passed on to unauthorized third parties. However, we reserve the right to have data processed by carefully selected partner companies for the intended purpose.

X. General provisions

1. If any provision of these General Terms and Conditions of sale and the concluded further agreements should be or become ineffective, this shall not affect the validity of the General Terms and Conditions of sale. The contracting parties shall be obliged to replace the ineffective provision by a ruling that meets their economic interests as far as possible.

2. These General Terms and Conditions of Sale and Delivery and the contractual relationship between us and our business partners und Buyers shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular UN sales law.

3. The exclusive and also international legal venue for all legal disputes arising directly or indirectly from a contractual relationship and based on these General Terms and Conditions of sale, shall be Koblenz. Regardless of this, however, we shall also be entitled to take legal action at the place of performance of the delivery obligation or at the general legal venue of the Buyer. This shall apply without prejudice to overriding provisions of the law, in particular on exclusive jurisdiction.

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