

# General Conditions of Sale and Delivery (GTC)

Applicable to business transactions with entrepreneurs carrying out their commercial or independent professional activities, with legal entities under public law and with special funds under public law.

## 1. General

- 1.1. Our General Conditions of Sale and Delivery (hereinafter referred to as "GTC") apply exclusively. Any terms and conditions of the buyer that are contrary or additional to or differ from our GTC shall not be recognised unless we have expressly and in writing agreed to their validity. Our GTC shall apply even if we carry out the delivery to the buyer without reservation and in the knowledge that the buyer's terms and conditions are contrary or additional to or differ from our GTC.
- 1.2. Our GTC shall also apply to all future deliveries made and services provided for the buyer until a newer version of our GTC enters into force.
- 1.3. Individual contractual additions to and deviations from these GTC shall only be valid with our explicit consent.
- 1.4. Terms such as "seller", "we", "us", etc. that are used in these GTC, refer to FUCHS LUBRITECH GmbH.

## 2. Quotations and orders

- 2.1. Our quotations are non-binding.
- 2.2. First orders are only deemed to be accepted if they have been confirmed in writing or if they have been carried out. Follow-up agreements shall not become valid unless they have been confirmed in writing.

## 3. Withdrawal, Force Majeure

- 3.1. We may withdraw from a contract if the buyer, after expiry of an adequate period of grace, fails to fulfil his payment obligations towards us or towards an entity affiliated with us pursuant to section 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*). Otherwise, the statutory rights of termination of the seller and/or buyer remain unaffected. Any further claims of ours shall also remain unaffected.
- 3.2. If an outside event that is unrelated to our business and that even despite us proceeding with the greatest reasonably expected care could not have been prevented, such as natural events, war, terror, sabotage, labour disputes, lack of raw materials and energy, non- and/or insufficient deliveries by suppliers, transport and loading problems, production stoppages, obstructions caused by cyber-attacks, fire and explosion damage or measures taken by the authorities (hereinafter referred to "Force Majeure"), the parties (hereinafter referred to as "Parties") shall, for the duration of such events and to the extent that such events affect them, be exempt from their duty to provide goods or services. The Parties are obliged to inform one another without undue delay in writing as far as they can be reasonably expected to do so. As far as we are released from our delivery obligations, we shall reimburse the buyer for any prior payments that may have been made. If the

restrictions caused by Force Majeure last longer than three months, we are – irrespective of our other rights – authorised to fully or partially withdraw from the contract.

## 4. Liability

- 4.1. We shall be fully liable for any damage/loss resulting from a breach of guarantee or bodily injuries including death and other impairments to health. The same applies to wilful misconduct and gross negligence or as far as we have accepted a risk of procurement. If it is a matter of slight negligence, we shall only be liable as far as essential duties that result from the nature of the contract and are of special importance to fulfil the contractual purpose, have been violated. If such duties have been violated, if there has been a default and/or an impossibility, our liability shall be limited to such damage/loss that is typically expected to arise in connection with this contract. Any mandatory statutory liability for product defects shall be unaffected.
- 4.2. As far as our liability is excluded or restricted, this shall also apply to the personal liability of our employees, workers, co-workers, representatives and vicarious agents.

## 5. Delivery, transfer of risk, determination of quantities

Delivery including transfer of risk takes place according to FCA (INCOTERMS in the version valid upon contract conclusion) unless otherwise agreed in these GTC or elsewhere. If shipping and/or delivery is delayed due to reasons that are attributable to the buyer or if the buyer, for other reasons, delays acceptance, risk shall in such cases pass to the buyer upon his delaying acceptance of the goods. The quantity of the goods shall be determined by us. It is the basis for the price calculation.

## 6. (Returnable and buyer's) containers, tank trucks

- 6.1. Returnable containers that are made available free of charge for up to 90 days shall remain our property. They must not be used for other purposes and must be returned to our warehouse upon expiry of the agreed time, i.e. at the latest 90 days after delivery (hereinafter referred to as "End of Provision Period") undamaged, empty, with all bolting and faucets in place and free of charge. The term "empty" with regard to returnable containers means that they contain no more than 1 percent of the original filling quantity. If the container has not been adequately emptied and cleared of any residues, the buyer shall bear the resulting costs unless the inadequate emptying is not due to the buyer. Any further claims of ours shall remain unaffected. Furthermore, the buyer is obliged to reimburse us for any damage to the returnable containers arising while the containers are made available to him even if the damage has been caused by Force Majeure. Replacement costs for all returnable containers that have not been returned by the End of the Provision Period and after expiry of the period of grace granted may be charged unless the buyer is not responsible for the failure to duly return the containers on time. Any further claims of ours

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- shall remain unaffected.
- 6.2. Buyer's containers (containers owned by the buyer or procured by the buyer from a third party) must be sent to our filling facility free of charge, clean and ready to be filled. We are not obliged to examine the containers provided by the buyer for suitability or cleanliness. They are used at the buyer's risk. We shall not be responsible for any contaminations of the goods resulting from dirty or unsuitable containers provided by the buyer.
- 6.3. In the event of deliveries made by tank trucks, the buyer must ensure that immediate unloading can take place. He shall be liable towards us for all costs and damage/loss arising from the delayed unloading of the tank truck unless the delayed unloading is not due to him. Any further claims of ours shall remain unaffected.
- If the buyer fails to accept the ordered goods in full, he shall be charged for the costs arising from shipping the goods to him and returning them back to us unless he is not responsible for the incomplete acceptance. Any further claims of ours shall remain unaffected.

### 7. Quality details, approval

- 7.1. Analytical data and details concerning other quality features reflect, to the best of our knowledge, the current level of findings and our development. Samples and specimens that are made available to the buyer prior to contract conclusion are only of approximate relevance and only reflect the current average quality of the goods. If, on the basis of the samples and specimens, certain parameters are listed in the product specifications, data sheets or other contractual documents, they are binding and final. They are final even if the samples or specimens feature further parameters beyond those mentioned in the product specifications, data sheets and other contractual documents.
- 7.2. The buyer is responsible for complying with the safety and environmental regulations in connection with the acquisition, storage and use of the goods following handover. We are under no obligation vis-à-vis the buyer to obtain regulatory approval.

### 8. Claims resulting from defects

- 8.1. Obvious defects, i.e. legal or material defects, over-delivery, under-delivery or incorrect delivery as well as situations where the goods or services provided by us lack the quality or durability that may have been guaranteed by us (defects) must be reported in writing without undue delay but at the latest 14 days after delivery. Any defects that remain undetected during regular goods-receiving inspections must also be reported in writing without undue delay after such defects have been discovered. The buyer must ensure that any potential rights of recourse against the transport company be maintained. In the case of quality-related complaints, a sample in sufficient quantity must be sent to us without undue delay; the remaining goods in their original containers as well as any goods that may have been in use must be secured and stored separately. The seller must be given the opportunity to undertake all

necessary measures to inspect the item to which the complaint refers in situ.

- 8.2. In the case of justified complaints, we shall have the choice to either remedy the defect or provide the buyer with a product that is free from defects (supplementary performance). If supplementary performance were to fail or if the buyer cannot be reasonably expected to accept such performance, the buyer may either withdraw from the contract or ask for a lower purchase price or claim damages or ask for his costs to be reimbursed.
- 8.3. The period of limitations for complaints submitted by the buyer is one year unless the last contract in the delivery chain refers to the purchase of consumables (end customer is a consumer). The one-year period of limitations also applies to claims resulting from unlawful acts that are based on a defect of the items in question. The one-year period of limitations does not apply to our unlimited liability for any damage/loss arising from a breach of warranty or from bodily injuries including death and other impairments to health, for wilful misconduct and gross negligence and for production-related faults or as far as we have accepted a procurement risk. If the defective goods have been used for a construction project in accordance with their customary use and have caused its defectiveness or if it is a case concerning a defective structure, the period of limitation is five years. The period of limitation starts as soon as the goods have been delivered.

### 9. Services

- 9.1. Any services or advice that we provide, any information or approvals or recommendations that we issue are based on the information, samples or test series made available to us by the buyer in line with the state of the art valid at the time of contract conclusion as well as according to the best of our knowledge. Any services and/or advice, information, approvals and recommendations provided by us refer exclusively to the facility- and device-specific use indicated by the buyer.
- 9.2. The buyer shall provide us with all the necessary data on time. We shall not examine the information provided to us by the buyer or by third parties for factual accuracy and completeness of data. Any additional costs that may result from a breach of these duties of information and cooperation must be borne by the buyer. Any further claims of ours shall remain unaffected.
- 9.3. Details and information about the suitability and use of the goods do not exempt the buyer from carrying out his own tests and checks.
- 9.4. The buyer shall be obliged to observe the advice, instructions and specifications included in approvals, tests or other reports as well as other documents relating to the goods in question; the buyer must, in particular, only use the goods for the facilities and/or devices that the services and/or advice, information, approvals or recommendations refer to.

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## 10. Unauthorised use

- 10.1. Our goods must not be used for aircraft/spacecraft and/or parts thereof without our explicit prior consent unless our goods are removed in their entirety prior to the commissioning of such aircraft/spacecraft.
- 10.2. Our goods must not be used in connection with the primary circuit of nuclear energy.
- 10.3. If our goods are used contrary to the specifications set forth in paragraph 1 and/or 2, the buyer must indemnify us from any potential resulting damage/loss as well as from any associated costs (including legal costs) without undue delay unless the buyer is not responsible for the use of the goods contrary to the specifications set forth in paragraph 1 or 2. Any further claims of ours shall remain unaffected.

## 11. Prices

- 11.1. Unless a fixed price has been agreed, the buyer will generally be charged the price that is valid on the day of order placement.
- 11.2. Prices quoted shall – unless otherwise agreed – be valid for the duration of 30 days.
- 11.3. With respect to deliveries, all prices are quoted FCA (Free Carrier; INCOTERMS in the version valid on the day of contract conclusion) unless otherwise agreed.
- 11.4. Unless explicitly otherwise agreed in a contract, we shall not be obliged to undertake customs clearance and declare and pay any levies, fees, taxes, duties and other charges that arise outside the country where our company is based. We shall only adhere to the weight and measuring systems, packaging, labelling or other identification regulations that are applicable at the place of delivery known to us.
- 11.5. All prices are net prices and do not include the sales tax applicable from time to time. As far as sales tax arises, it shall be calculated separately at the rate applicable from time to time.

## 12. Payment

- 12.1. In Germany payments are due net without deductions within 30 days of invoicing. We reserve the right to offer different payment conditions primarily to customers based outside Germany.
- 12.2. Delays in payment are subject to the statutory rules and regulations.
- 12.3. Set-offs against us are only permitted as far as they refer to claims that have been recognised as final and binding or are indisputable. Rights of retention may only be exercised against us if they refer to claims from the same contractual relationship.
- 12.4. Only those appointees who have been authorised by us to collect payments may collect invoiced amounts.

## 13. Retention of title

- 13.1. Until full payment of the invoiced value has been made, we retain title to all goods that have been supplied. The buyer shall therefore not be authorised to dispose of the goods

outside his regular business, pledge them to third parties or transfer title by way of security. The buyer shall assign to us his claim to the payment of the invoiced value that he obtains by selling goods in which we retain title, so that our claim to the payment of the invoiced value is secured. We herewith accept such assignment. If such an assignment is not permitted, the buyer herewith instructs the third-party debtor to make any potential payments to us only.

- 13.2. The buyer shall be authorised to collect the assigned claims for as long as he meets his contractual payment obligations towards us. If the buyer fails to meet this obligation, the collected amounts are due to us and must be kept separately.
- 13.3. If the buyer proceeds to work with or process the goods that are subject to title, he works with and processes the goods on our behalf without this resulting in any obligations for us. Whenever the goods are processed, combined, mixed or blended with other goods that have not been supplied by us, we acquire co-ownership of the new goods the ratio of which shall be based on the difference between the invoiced value of the supplied goods and the other processed goods at the time of their being processed, combined, mixed or blended. If the buyer, by law, acquires sole ownership of the goods, he herewith grants us co-ownership of the new goods based on the aforementioned ratio and undertakes to store these goods for us free of charge. Paragraph 1 and 2 shall apply accordingly.
- 13.4. If the value of the assignments and securities given to us exceeds our claims by more than 10 per cent in total, we undertake, at the buyer's request, to release the corresponding securities at our discretion.

## 14. Export

- 14.1. Due to statutory embargo regulations (e.g. in Germany, the EU or the US) we expressly point out that the products supplied by us may be subject to certain export restrictions. Breaching such export restrictions may have consequences under criminal law.
- 14.2. We are not obliged to assist the buyer in any way in connection with the export of the goods. If there is an agreement according to which we assist the buyer with the export of the goods, this shall only apply to the export of the goods to the agreed place of delivery. This applies in particular to the drawing up of documents that are relevant for export purposes.

## 15. Assignment

Rights and claims may only be assigned by the buyer with our prior written consent. This does not apply to monetary claims.

## 16. Confidentiality

- 16.1. All mutually disclosed commercial or technical information (including quotations) must be kept secret and must not be divulged to third parties as long as and as far as the information is verifiably not in the public domain, and it

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must, within the company of the receiving Party, only be made available to such persons who, for the purpose of fulfilling contractual duties, must necessarily be involved and who are therefore obliged to comply with the rules of confidentiality (general duties of confidentiality in employment contracts, etc. are sufficient). The duty of confidentiality shall apply while there is a business relationship between us and the buyer as well as for a period of three years after termination of the business relationship. Without the prior written consent of the disclosing Party in text form pursuant to section 126b of the German Code of Civil Law (*Bürgerliches Gesetzbuch*) such information must not be copied or used for commercial purposes. Upon request, all information originating from the disclosing Party (where applicable including copies and records made) and any items that have been provided by way of a loan must be returned without undue delay in full to that Party or be destroyed. Exempt are automatically produced backup files as well as cases where the receiving Party, due to statutory or regulatory provisions, is obliged to store information, on the proviso that the receiving Party, for an unlimited period of time, handles that information confidentially in line with the aforementioned provisions and does not make use of it.

- 16.2. We retain title to the information referred to in paragraph 1. We reserve all rights (including copyrights and the right to register industrial property rights such as patents, design patents, trademarks, etc.) concerning such information.

## 17. Data protection

- 17.1. As far as the performance of the contract is concerned, the Parties are obliged to observe the statutory provisions concerning data protection and, in particular, adhere to the General Data Protection Regulation (GDPR) issued by the EU and to impose the obligation to comply with these regulations on their employees.
- 17.2. The Parties process the personal data they receive (names and contact details of the respective contact persons) exclusively for the performance of the contract and shall protect them with security measures (Article 32 of the GDPR) that are adjusted to the current state of the art. The Parties are obliged to delete the personal data as soon as its processing is no longer required. Any potential statutory duties of storage remain unaffected hereby.
- 17.3. If, during the performance of the contract, one Party were to process personal data on behalf of the other Party on a contract basis, the buyer and we shall enter into an agreement about contract processing pursuant to Article 28 of the GDPR.

## 18. Applicable law, jurisdiction, place of performance

- 18.1. The contractual relations shall be exclusively governed by German law to the exclusion of the provisions concerning the conflict of laws and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 18.2. If the buyer is a merchant pursuant to the German Code of Commercial Law (*Handelsgesetzbuch*), the place of jurisdiction is the registered office of our company; we shall,

however, have the right to sue the buyer, at our discretion, before a court of law where his business is registered or his subsidiary is located or before a court of law at the place of performance.

- 18.3. Place of performance for delivery is the place where, based on the contract, the goods must be delivered to and/or the services must be rendered. Place of performance for payment is our registered office.

## 19. Language

These GTC are available in German and English. In event of discrepancies, the German version of the GTC shall take precedence over the English one.