



General Terms and Conditions of Business of PCW GmbH

As of January 2018

I. Scope of application

1. Our General Terms and Conditions ("GT&Cs") apply to all of our offers, deliveries and other services. Our GT&Cs apply exclusively. We do not acknowledge the purchaser's contradictory or differing conditions, even if they were not expressly rejected or we unconditionally render performance in awareness thereof.
2. Our GT&Cs likewise apply to future transactions with the purchaser, in the version current on the date the respective tender is made.
3. To the extent reference is made in the order confirmation or other correspondence to commercial contract forms, the "International rules for the interpretation of commercial terms" (Incoterms® 2010) shall apply.
4. Our GT&Cs apply only to entrepreneurs for purposes of Section 14 BGB [German Civil Code], a legal entity under public law or special fund under public law for purposes of Section 310(1)(1) BGB.
5. We are authorized to assign claims arising from our business relationship with the purchaser.

II. Delivery

1. Unless expressly agreed otherwise, delivery shall be made Ex Works (EXW).
2. Unless otherwise agreed, our delivery deadlines are nonbinding.
3. When guaranteeing an agreed delivery period or delivery deadline the purchaser must grant us a reasonable grace period in writing if we are in default. A period of one (1) week shall be deemed reasonable. Following the expiration of this period without results, the purchaser may withdraw from the contract with respect to those goods that were affected by such default prior to the expiration of the grace period. The purchaser may only withdraw from the entire contract if the performance rendered in part is not of interest to him. In addition, the purchaser may assert a claim for damages, provided the provisions of Art. VII of these GT&Cs are fulfilled.
4. Force Majeure, involuntary internal labour disputes, involuntary official measures taken in Germany and abroad, involuntary power outages and unforeseeable, involuntary and severe operational disruptions and limitations on our part, including those which are attributable to an involuntary impairment of the agreed raw materials supply, shall entitle us to extend the delivery dates for the duration of the disability plus a reasonable start-up period. It shall be a condition precedent hereto, however, that we have previously made all reasonable efforts and arrangements to avoid or remedy the consequences of the disruption in supply. If, due to the aforementioned circumstances, the delivery will be delayed by more than three (3) months, both contracting parties shall have the right to withdraw from the contract. Claims for compensation of damages for nonfulfilment or untimely

fulfilment shall be precluded in such cases. The purchaser must be informed immediately once a delivery delay of the foregoing type becomes apparent.

5. Partial deliveries are permitted without special agreement, provided they are reasonable to the purchaser. This shall be the case if the partial delivery is usable by the purchaser as part of the intended purpose under the contract, delivery of the remaining goods on order is guaranteed and no significant extra effort or additional costs accrue to the purchaser due to the partial delivery, unless we declare ourselves willing to assume such costs. Under or over-performance by up to 10% shall be considered fulfilment of contract in the case of delivery amounts up to 10 tons, beyond that by 5%.
6. Unless otherwise agreed, contracts with agreed partial deliveries (call orders) shall oblige the purchaser to accept partial deliveries in approximately equal monthly amounts.
7. For intra-Community deliveries in an EU-member state other than Germany, the purchaser must provide an entry certificate (Gelängensbestätigung) meeting the requirements of Section 17(a) of the Turnover Tax Implementing Ordinance, as amended, in which it confirms that the delivery item has entered the other Community territory. Unless otherwise specified by us, the entry certificate must contain at least the purchaser's name and address, the quantity of the delivery item and its industry-standard designation; in case of carriage or shipment by us or in case of shipment by the purchaser, the location and month of receipt of the delivery in the other Community territory or, in case of carriage of the item by the customer, the location and month of the termination of the carriage of the item in the other Community territory and the date of issue of the confirmation. Unless otherwise specified by us, the purchaser must use a form provided by us to make the entry certificate. The entry certificate must be handsigned by the recipient or a representative authorised by the recipient to sign. In the case of electronic transmittal of the entry certificate, no signature is necessary provided it can be recognised that the electronic transmission was initiated within the purchaser's or representative's sphere of authority.

III. Risk transfer

For all deliveries, the risk of accidental loss and accidental deterioration of delivery items shall pass to the purchaser according to Art. II No. 1. Goods not timely accepted shall be stored at the purchaser's risk and expense. In case of discrepancies in weight or quantity that are not attributable to us or the purchaser, the starting weight or filling quantity that was determined at our plant shall apply.



IV. Prices, payment

1. Prices shall be derived from the order confirmation. Unless otherwise agreed, prices shall be understood as Ex Works plus value added tax in the respective amount due according to law.
2. If, subsequent to the time of order confirmation and prior to delivery, the raw materials prices, manufacturing costs, customs costs or other fiscal obligations verifiably increase significantly and such increase is not the fault of the supplier, then the latter shall be entitled to use reasonable discretion to adjust its prices.
3. Unless otherwise agreed, the amount invoiced shall be due and payable within 30 days of the invoice date, without discount, according to the agreed conditions. Payment is timely only when we have the funds available to us as of the due date in the account designated by us. Discounts and rebates shall be granted only on the basis of special agreements.
4. In the case of default of payment, default interest in the amount of 9% above the applicable base interest rate shall be paid, without the necessity for any specific warning. We remain free to prove greater damages.
5. The customer shall bear all fees, costs and expenses connected with any legally successful litigation instituted against the purchaser inside or outside of Germany.
6. The issuance of bills of exchanges is permitted only with prior approval by us. Discount and bill of exchange fees shall be charged to the purchaser.

V. Retention of title

1. Title to all delivered goods is reserved until full payment of all claims against the purchaser pertaining to the business relationship, regardless of legal basis. The foregoing shall likewise apply in particular where payments are made against specially designated claims. In the case of current invoices, the retained title shall be considered as collateral against our current account balance claims.
2. Any processing by the purchaser of goods subject to retention of title shall be performed on our behalf. Should the processing occur with items not owned by us, we shall acquire co-ownership of the new item in that proportion which the value of the goods subject to retention of title bears to the other processed items at the time of processing. The new item created by such processing shall be stored for us free of charge. The same shall apply if goods subject to retention of title are mixed, combined or joined with other items that do not belong to us. Should the purchaser acquire sole ownership through mixing, combining or joining of the goods subject to retention of title with other items, then it shall immediately transfer co-ownership to us according to that proportion which the value of the goods subject to retention of title bears to the other goods at the time of such joining, mixing or combining.

3. The purchaser is entitled to dispose of the goods subject to retention of title in the ordinary course of business. Extraordinary dispositions for the benefit of third parties such as pledges, security agreements etc., are prohibited.
4. Should the purchaser dispose of the goods subject to the retention of title - regardless of their condition - then the purchaser shall assign to us all accounts receivable from such resale, together with all associated rights, as security for our claims. We hereby accept such assignment.
5. In case the goods subject to retention of title are sold by the purchaser together with other goods not belonging to us, whether without processing or subsequent to processing, then such assignment of the purchase price claim shall be in the amount of the value of the goods subject to retention of title. We hereby accept such assignment now.
6. The purchaser is authorized to recover the claim out of the resale despite such assignment, provided the purchaser is not in default and has not applied for the opening of insolvency proceedings. Should this nevertheless be the case, at our request, the purchaser must identify the debtors of the assigned claims and notify the debtors of such assignment, provide all information necessary for collection and turn over the associated documents.
7. The purchaser must notify us immediately concerning a pledge or any other impairment of our rights by a third party.

VI. Warranty

- We shall be liable for defects in our goods as follows (deviation from the agreed specification):
1. All parts or services that display a defect within the limitation period - without regard to operating time - shall, at our discretion, be repaired or replaced at no cost, provided the cause thereof already existed at the time the risk of loss was transferred.
 2. Colour deviations in the raw materials caused by weather conditions do not represent a defect. If we are at fault for the colour deviation caused by weather conditions, the purchaser's claims against us remain unaffected.
 3. Claims by the purchaser for defects shall lapse within 12 months of delivery of the item. Claims for damages that the purchaser asserts as part of the warranty are exempted therefrom. The statutory limitation periods for warranty claims shall apply to such claims for damages.
 4. The limitation period of 12 months stated in No. 3 shall not apply to the extent the law according to Section 438(1)(2) BGB (Buildings and items used in buildings) or according to Section 479(1) BGB (Recourse claims) provides for longer periods, and in the case of fraudulent concealment of a defect. The statutory provisions on suspension of expiry, suspension and resumption of limitation periods shall remain unaffected.
 5. The purchaser must immediately cease any processing and notify us as to any defect at least in text format: obvious defects at the latest within



- seven (7) days from receipt of the goods, hidden defects at the latest within seven (7) days of their discovery. The purchaser shall bear the entire burden of proof for all conditions precedent to eligibility, particularly with respect to the defect itself, at the point in time when the defect was discovered and for timely reporting.
6. Should the purchaser fail to provide notification of the defect or should the purchaser use or mix the product, then our performance shall be deemed properly rendered.
 7. Upon request, the purchaser must allow us the opportunity to inspect the goods complained of and verify whether they are, in fact, defective. In so doing, the purchaser must also give us time and space to conduct such work. The purchaser must provide us with the opportunity for subsequent performance within a reasonable time.
 8. Should such subsequent performance fail, the purchaser may - notwithstanding any claim for compensation according to Art. VII - withdraw from the contract or reduce the remuneration.
 9. Warranty claims shall not exist in the case of natural damage due to wear and tear or damages which come about subsequent to the transfer of risk due to faulty or negligent handling, excessive loads, inappropriate equipment or which arise as a result of particular external influences which are not assumed according to the contract. Should improper alterations or repair work be undertaken by the purchaser or third parties, there shall likewise exist no warranty claims for these and the consequences thereof. The foregoing shall not apply if the purchaser proves that the defect asserted by it was not caused due to the aforementioned circumstances.
 10. In the case that non-compliant products accrue during production, we shall be entitled to re-use these without the customer's request for approval, unless otherwise expressly agreed

VII. Liability

1. We shall be liable for damages caused by us, our legal representatives or our agents, regardless of legal basis, exclusively according to these GT&Cs.
2. We shall bear unlimited liability for culpable injury to life, limb or health ("personal injury"), for intentional acts and for gross negligence of our managing bodies or executive staff.
3. Notwithstanding our unlimited liability for personal injury, we are otherwise liable only for damages caused by the gross negligence of our other agents who are not members of our managing bodies or executive staff, as well as for damages accruing from material contractual obligations resulting from simple negligence. Material contractual obligations include such obligations, the fulfilment of which makes fulfilment of the contract possible at all, and upon the fulfilment of which the purchaser normally relies and may rely. Liability according to this No. 3 shall be limited to the typically foreseeable damages.

4. To the extent our liability is precluded or limited in No. 1 or No. 3, the same shall apply to the purchaser's damages claims against our managing bodies, leading executives or other agents.
5. The exclusion of liability according to No. 1 or the limitation of liability according to No. 3 shall cease to apply if we have made assurances or guarantees of quality, or have fraudulently concealed a defect. Our liability under product liability law likewise remains unaffected.
6. In the case of delivery according to customer specification, the customer will only provide us with information that do not infringe any industrial property rights of third parties. The customer is obliged to carry out a corresponding examination of the information for existing industrial property rights of third parties prior to transmission to us. If the customer violates his duty to inspect, he will compensate us for all damages resulting from this, unless he proves that he is not responsible for the breach of duty.

VIII. Technical application instructions

1. Our instructions are only general guidelines. Owing to the variety of uses of the individual product and owing to the respective specific circumstances, it is the purchaser's responsibility to carry out individual testing and examination of our products for their suitability for the intended processes and purposes.
2. Even in the case of technical support of the purchaser by us - including with respect to any third-party intellectual property right - the purchaser shall bear the risk of success of its work. Any claim by the purchaser against us under Art. VII. is excluded thereby.

IX. Invoicing

The purchaser may offset our payment demand only by means of undisputed or legally enforceable counterclaims. The prohibition on offsetting shall not apply to purchaser's claims for defects in our performance and/or if we are in default. A right to withhold payment or to refuse performance shall likewise be available to the purchaser only if our claims are countered with legally enforceable or undisputed demands by the purchaser.

X. Venue and place of fulfilment

1. The law of the Federal Republic of Germany shall apply exclusively to this contract. Application of the UN Convention on the international sales of goods (CISG) or other conventions on the sale of goods shall be excluded.
2. If the contract partner is a merchant, a legal entity under public law or a special fund under public law, then venue shall, at our option, be our location or within the general jurisdiction of the purchaser. This shall likewise apply to disputes in documentary, exchange or cheque procedures or where the purchaser has no court of general jurisdiction in Germany or, after the contract is concluded, maintains or transfers residence or usual place of abode outside of the Federal Republic of Germany.



XI. Prevailing version

In cases of doubt, the German version of these GT&Cs shall prevail.

XII. Final provisions

1. There are no oral side agreements.
2. Invalidation of any individual provision of these GT&Cs shall not affect the validity of the remaining provisions.