

# General Terms and Conditions of Sale and Delivery of the company Hermann Schnierle GmbH

## § 1 Scope, Form

(1) These General Terms and Conditions of Sale (hereinafter: GTC) shall apply to all contracts concluded for goods presented in our product range between Hermann Schnierle GmbH, Dieselstraße 43 in 86368 Gersthofen, registered with Augsburg Local Court HRB 7256 and Schnierle Safety Belts GmbH, Dieselstraße 43, 86368 Gersthofen, registered with Traunstein Local Court HRB 24170 (hereinafter jointly also referred to as Seller) and you as our customer (hereinafter also referred to as Buyer). The GTC apply only if the Buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.

(2) The GTC apply in particular to contracts, offers, order confirmations and to the sale and/or delivery of movable goods ("goods"), irrespective of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the GTC in the version valid at the time of the Buyer's order or, in any case, in the version last notified to the Buyer in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.

(3) Our GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity in writing. This requirement of consent shall apply in any case, for example even if we carry out the delivery to the buyer without reservation in the knowledge of the buyer's GTC.

(4) Individual agreements made with the Buyer in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these GTC. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.

(5) Legally relevant declarations and notifications by the buyer **with** regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in written or text form (e.g. letter or e-mail). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declarant, remain unaffected.

(6) References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.

## § 2 Conclusion of contract

(1) The presentation and advertising of items in our range do not constitute a binding offer to conclude a purchase contract. A purchase contract is concluded with the acceptance of our offer through the buyer's order and the written order confirmation sent by the seller to the buyer.

(2) By sending an order by e-mail to our e-mail address or to our sales department, you place a legally binding order.

(3) A contract is only concluded when we accept your order by means of a declaration of acceptance (written order confirmation) or by delivering the ordered items.

(4) If the delivery of the goods ordered by the customer is not possible, for example because the corresponding goods are not in stock, cannot be procured or cannot be produced, we shall refrain from issuing a declaration of acceptance. In this case, a contract is not concluded. We will inform you of this immediately.

(5) Commission business shall not be transacted.

### **§ 3 Delivery period, delay in delivery and partial deliveries**

(1) The delivery period shall be agreed individually or stated by us upon acceptance of the order. If this is not the case, the delivery period is usually at least 8 weeks from the conclusion of the contract.

(2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible, we shall inform the Buyer of this without delay and at the same time notify the Buyer of the expected new delivery deadline. Non-availability of performance due to, among other things, force majeure, industrial disputes, riots, official measures, pandemics, non-delivery of supplies and other unforeseeable, unavoidable and serious events shall release the contractual partners from their performance obligations for the duration of the disruption and to the extent of its effect. This shall also apply if these events occur at a time when the affected contractual partner is in default, unless it has caused the default intentionally or through gross negligence. The contracting parties are obliged to provide the necessary information without delay within the scope of what is reasonable and to fulfil their obligations in good faith in accordance with the changed circumstances. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part; we will immediately refund any consideration already paid by the buyer. A case of non-availability of the performance in this sense shall be deemed to be in particular the non-timely self-delivery by our supplier if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case.

(3) The rights of the Buyer pursuant to § 9 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of fulfillment and/or subsequent fulfillment), shall remain unaffected.

(4) The Seller shall be entitled to partial performance provided that it is reasonable for the Buyer and the Buyer has been notified in advance.

(5) If it has been agreed with the buyer that the seller will deliver a fixed quantity or fixed numbers of items within a fixed period of time and it is left to the buyer to request the whole or parts of the delivery on specific dates within the fixed period of time, the delivery or partial delivery must be called off at least twelve weeks before the desired delivery date. At the end of the fixed period, the seller shall be entitled to deliver and invoice the quantities and numbers of items not yet called up by that time without calling them up.

(6) If prepayment has been agreed as a payment condition, the delivery date can only be determined after the prepayment invoice has been received in full.

### **§ 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance**

(1) Delivery shall be made to the delivery address specified in the order. If no delivery address is given, the goods will be shipped to the billing address. The standard delivery time from our warehouse to the destination is 3-5 working days for national shipments. Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves. At the request of the buyer, the goods can be collected from our warehouse.

(2) The risk of accidental loss and accidental deterioration of the goods shall pass to the buyer at the latest upon handover. In the case of sale by delivery, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. No liability on the part of the seller. The transfer of risk to the customer takes place before the goods touch the ground. The customer is advised to take photos of the freight in the truck before unloading, if necessary.

(3) If a collection of the goods has been agreed between the seller and the buyer, the consignment must be taken over at our warehouse without delay. If the delivery or handover does not take place on the agreed date for reasons for which the buyer is responsible (default of acceptance), the risk of accidental deterioration or accidental loss of the object of the order shall pass to the buyer upon receipt of the notification of readiness for delivery or provision for collection. From this point in time, the Seller may additionally demand reasonable remuneration for the storage of the subject matter of the order.

(4) Insofar as an acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. The handover or acceptance shall be deemed equivalent if the buyer is in default of acceptance.

(5) If the buyer is in default of acceptance, fails to cooperate or delays our delivery for other reasons for which the buyer is responsible, we are entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs, see § 5 paragraph 5). Additional expenses shall be calculated specifically as incurred. The proof of a higher damage and our legal claims (in particular compensation for additional expenses, reasonable compensation, termination) remain unaffected. The buyer shall be entitled to prove that we have not incurred any damage at all or only significantly less damage than the damage calculated by us.

## **§ 5 Prices, terms of payment and default in payment**

(1) Unless otherwise agreed in individual cases, our current prices (net amounts) at the time of conclusion of the contract shall apply, ex warehouse plus statutory VAT. The freight costs shall be determined on the day of dispatch by the respective valid daily price and shown on the customer invoice.

(2) In the case of a sale by delivery (§ 4 para. 1), the buyer shall bear the transport costs ex warehouse.

(3) The purchase price is due and payable in accordance with the terms of payment shown on the customer invoice. However, we are entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation.

(4) Upon expiry of the aforementioned payment deadline, the Buyer shall be in default. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate (9% above the base interest rate pursuant to § 288 (2) BGB). We reserve the right to assert further damage caused by default. With respect to merchants, our claim to the commercial due date interest rate (§ 353 HGB) remains unaffected. In the event of default on the part of the buyer, if the buyer is not a consumer, the seller shall also be entitled to payment of a flat-rate reminder fee in the amount of 40.00 euros.

(5) In the event that the goods have to be stored for a longer period of time at the request of or due to a failure on the part of the Buyer to cooperate, the Seller shall be entitled to charge a rent per area, alternatively in m<sup>3</sup>, in the amount of € 15.00 per day from a storage period of more than 1 week.

(6) Payments received by the seller are first used for costs, then for interest and finally for the settlement of the oldest debt items within the meaning of §367 BGB.

(7) The buyer shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's counter rights shall remain unaffected, in particular pursuant to § 7 para. 7 sentence 2 of these GTC.

(8) If it becomes apparent after the conclusion of the contract (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardised by the buyer's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (customised products), we may declare withdrawal immediately; the statutory regulations on the dispensability of setting a deadline remain unaffected.

(9) The decisive factor for the timeliness of payment is the final credit entry on the Seller's account.

(10) Payments by bill of exchange are excluded.

(11) The seller is entitled to assign or sell his claims.

## § 6 Retention of title

(1) We retain title to the goods sold until full payment of all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims).

(2) The buyer shall store the goods subject to retention of title for the seller free of charge.

(3) For the duration of the retention of title, the buyer shall adequately insure the goods, in particular against fire, burglary and water damage.

(4) The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The buyer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.

(5) In the event of conduct by the buyer in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the buyer does not pay the purchase price due, we may only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.

(6) Until revoked in accordance with (c) below, the Buyer is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition:

(a) The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

(b) The Buyer hereby assigns to us as security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, in accordance with the preceding paragraph. We accept the assignment. The obligations of the buyer mentioned in paragraph 2 shall also apply with regard to the assigned claims.

(c) The buyer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the buyer meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to para. 3. If this is the case, however, we may demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the buyer's authority to further sell and process the goods subject to retention of title.

(d) If the realisable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the buyer's request.

## § 7 Claims for defects of the buyer

(1) The statutory provisions shall apply to the purchaser's rights in the event of material defects and defects of title (including wrong delivery and short delivery), unless otherwise stipulated below. In all cases, the special statutory provisions remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier's recourse pursuant to §§ 478 BGB). Claims from supplier recourse are excluded if the defective goods have been refined, otherwise processed or washed by the buyer or another entrepreneur.

(2) The basis of our liability for defects is above all the agreement reached on the quality of the goods. All product descriptions and manufacturer's specifications and sample parts which are the subject of the individual contract or which were publicly announced by us (in particular in catalogues or on our Internet homepage) at the time of the conclusion of the contract shall be deemed to be an agreement on the quality of the goods.

(3) Hidden defects must be pointed out to the seller in writing immediately after discovery. Hidden defects expire 2 years after the buyer has received the goods. Improper use, improper care and normal signs of use do not constitute defects. Minor deviations in surfaces (colour and structure) resulting from the type of materials used are not defects.

(4) Insofar as the quality has not been agreed, it is to be assessed according to the statutory regulation whether a defect is present or not (§ 434 para. 1 p. 2 and 3 BGB). However, we do not accept any liability for public statements made by the manufacturer or other third parties (e.g. advertising statements) to which the purchaser has not drawn our attention as being decisive for his purchase.

(5) As a matter of principle, we shall not be liable for defects of which the buyer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the buyer's claims for defects presuppose that he has fulfilled his statutory obligations to inspect and give notice of defects (§§ 377, 381 HGB). If a defect becomes apparent upon delivery, inspection or at any later time, we must be notified thereof in writing without delay. In any case, obvious defects must be reported in writing as of receipt of the goods and defects which are not recognisable during the inspection must be reported within a reasonable period of time as of discovery. If the buyer fails to carry out the proper inspection and/or give notice of defects, our liability for the defect not reported or not reported in time or not reported properly shall be excluded in accordance with the statutory provisions.

(6) If the delivered item is defective, we may initially choose whether to provide supplementary performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). Our right to refuse supplementary performance under the statutory conditions remains unaffected.

(7) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer is entitled to retain a reasonable part of the purchase price in relation to the defect, but not more than 10% of the value of the goods.

(8) The buyer shall give us the time and opportunity required for the supplementary performance owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the buyer shall return the defective item to us in accordance with the statutory provisions.

(9) We shall bear or reimburse the expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, in accordance with the statutory provisions if there is actually a defect. Otherwise, we may demand reimbursement from the buyer of the costs incurred as a result of the unjustified request for rectification of the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognisable to the buyer.

(10) Customary or minor, technically unavoidable deviations in quality, dimensions, size, weight and equipment do not constitute a defect.

(11) If the supplementary performance has failed or if a reasonable deadline to be set by the buyer for the supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the buyer may withdraw from the purchase contract or reduce the purchase price. In the case of an insignificant defect, however, there is no right of withdrawal.

(12) Claims of the buyer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with § 9 and are otherwise excluded.

## § 8 Returns processing

Properly delivered goods that are free of defects can only be returned with the prior and written consent of the seller. In this case, the buyer shall bear the costs of the return transport and the risk of damage to the goods on their way to the seller. The buyer will finally receive a refund of the net value of the goods less a 20% restocking fee.



## **§ 9 Other liability**

(1) Insofar as nothing to the contrary arises from these GTC including the following provisions, we shall be liable in accordance with the statutory provisions in the event of a breach of contractual and non-contractual obligations.

(2) The Seller shall be liable for damages - irrespective of the legal grounds - within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, the Seller shall only be liable, subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), in the following cases

a) for damages resulting from injury to life, body or health,

b) for damages arising from the breach of an essential contractual obligation (obligation whose fulfilment is a prerequisite for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

(3) The limitations of liability resulting from para. 2 shall also apply to third parties as well as to breaches of duty by persons (also in their favour) whose fault we are responsible for according to statutory provisions. They do not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the buyer under the Product Liability Act.

(4) Due to a breach of duty that does not consist of a defect, the buyer may only withdraw or terminate if we are responsible for the breach of duty. A free right of termination of the buyer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

## **§ 10 Limitation**

The limitation period shall be governed by the statutory limitation periods.

## **§ 11 Rights of use to logos, item images, item descriptions, prototypes, product samples and copyrights**

(1) Irrespective of any commissioning, contributions or other suggestions by the Buyer, the Seller shall be the author within the meaning of Section 7 UrhG of the drafts, drawings, expert opinions, calculations and cost estimates prepared by it. The Seller reserves all copyrights to these works. The granting of rights of use, consents or agreements on exploitation rights and legal transactions concerning moral rights pursuant to Section 39 UrhG must always be in writing in order to be effective. Unless expressly agreed otherwise, only a simple right of use, Section 31 II UrhG, shall be granted.

(2) The works may neither be reproduced nor made accessible to third parties without the express consent of the Seller, even if this is necessary or useful in the context of placing or processing the order.

(3) If the Buyer violates these rights of use, the Seller may refuse deliveries and/or acceptance of orders.

(4) If the seller has produced or delivered goods according to drawings, models, samples, logos, prototypes or other documents handed over by the buyer, the buyer shall guarantee that the property rights of third parties are not infringed. If third parties prohibit the Seller from producing goods on the basis of property rights, the Seller shall be entitled to cease any further activity. The seller shall not be obliged to examine the legal situation and may claim damages if the buyer is at fault. The buyer also undertakes to immediately indemnify the seller against all related claims of third parties.

## **§ 12 Choice of law and place of jurisdiction**

(1) These GTC and the contractual relationship between the Seller and the Buyer shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

(2) If the Buyer is a merchant within the meaning of the German Commercial Code (Handelsgesetzbuch), a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Augsburg. The same shall apply if the buyer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, we are also entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a prior individual agreement or at the general place of jurisdiction of the buyer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.

### **§ 13 Severability clause, written form**

(1) Should individual provisions of this contract be or become invalid or void in whole or in part, this shall not affect the validity of the rest of the contract. The parties undertake to replace the invalid or void provision with a valid provision that comes as close as possible to the intended economic purpose. The same shall apply in the event of a loophole.

(2) Amendments or supplements to this contract must be made in writing.