

Martin Engineering GmbH general delivery conditions

1. Validity

- 1.1 The following general delivery conditions shall apply to all delivery obligations of Martin Engineering GmbH (hereinafter referred to as "Martin Engineering") towards its customers. This applies in particular to delivery obligations arising from purchase contracts and contracts for work.
- 1.2 The customer agrees to these general delivery conditions when placing the order. These shall also apply to all future offers, deliveries and services to the customer, even if they are not separately agreed again.
- 1.3 All the customer's terms and conditions of business or purchase are hereby rejected. Amendments and supplements to these general terms and conditions are only binding if they have been confirmed in writing by Martin Engineering. This shall also apply to any amendment of this requirement for the written form. Transmission by telecommunication, in particular by fax or by e-mail, shall be sufficient to comply with the written form, provided that a copy of the signed declaration is sent.

2. Conclusion of contract

- 2.1 Quotations from Martin Engineering are subject to change without notice. The placement of an order by the customer shall be deemed a binding offer of contract. Martin Engineering is entitled to accept this offer of contract within 14 days of its receipt. A contract shall only become effective upon dispatch of a written order confirmation by Martin Engineering or upon performance of the service.
- 2.2 Technical information sent in connection with the offer, such as weight and dimension specifications as well as other descriptions of properties and services, shall only be binding if they are expressly designated as binding in the order confirmation.

3. Confidentiality

The customer shall maintain confidentiality of information and documents, such as cost estimates, weights and dimensions, illustrations and drawings, which were transmitted to them in connection with the offer and were designated as confidential or are otherwise clearly recognisable as business or trade secrets; such confidentiality shall also be preserved beyond the end of the contract. In particular, the customer shall not record, exploit or forward this information and documents to third parties unless this is necessary for the intended use of the delivered goods. The customer shall treat and protect confidential information and documents with at least the same degree of care that it applies in its own comparable matters, but at the very least to the standard of care that would be expected of a prudent businessperson. The customer shall ensure that its employees and contractual partners are also bound by the confidentiality obligations of this Clause 3.

4. Delivery

- 4.1 Delivery dates and deadlines are only binding insofar as they are expressly designated as binding in the order confirmation. Delivery periods shall commence on the date of the order confirmation, but not before the customer has carried out all acts of cooperation or other services incumbent upon them prior to the commencement of delivery, such as the transmission of technical data, obtaining approvals and not before receipt of payments contractually due. Delivery dates and deadlines shall be deemed to have been met and delivery shall be deemed to have taken place if, on the due date, the risk has passed to the customer in accordance with clause 5 of these general delivery conditions. Martin Engineering is only entitled to make partial deliveries if the partial delivery is usable for the customer within the scope of the contractual intended purpose, the delivery of the remaining ordered goods is assured and the customer does not incur any significant additional expenses or costs as a result, unless Martin Engineering agrees to bear such costs.
- 4.2 Events beyond Martin Engineering's control which delay delivery and for which Martin Engineering is not responsible, such as force majeure, delays in delivery and transport in the case of subcontracting, official directives, industrial disputes, or pandemics, release Martin Engineering from its obligation to deliver on time for as long as the effects of such events persist. Delivery periods shall be extended by the duration of these events. Martin Engineering will notify the customer of the occurrence and cessation of such events by reasonable means. If such events last longer than three months, either party shall be entitled to withdraw from the contract. The customer shall not be entitled to claim damages in this respect.
- 4.3 If the customer suffers damage due to a delay caused by Martin Engineering, the customer shall be entitled to claim as damages for the delay the foreseeable damage demonstrably causal to such delay and actually incurred by them, but not more than half a per cent for each full week of delay, and not more than five per cent in total of the value of the parts of the delivery which cannot be used in time or in accordance with the contract as a result of such delay. No further claims may be asserted, unless such delay is due to intent or gross negligence on the part of Martin Engineering. Delays caused by public holidays, pandemics or company holidays are not considered to be culpable reasons.
- 4.4 If the customer defaults in acceptance or if delivery is delayed for other reasons for which the customer is responsible, Martin Engineering shall be entitled to withdraw from the contract if such default is not remedied after expiry of a reasonable grace period. Martin Engineering shall have the option to otherwise dispose of the goods intended for delivery, or to deliver the contractually agreed service with a reasonably extended period of time. Further rights remain unaffected.

5. Transfer of risk

- 5.1 Risk shall pass to the carrier when the goods are handed over. This also applies if Martin Engineering undertakes performance obligations that go beyond the handover

of the goods to the carrier, such as undertaking shipment or the installation of the goods. Martin Engineering shall insure the goods at the request and expense of the customer against theft, breakage, transport, fire and water damage and other insurable risks. If the customer defaults in acceptance or if delivery of the goods is delayed for other reasons for which the customer is responsible, risk shall pass to the customer from the day the goods are ready for delivery.

- 5.2 Delivered goods shall be accepted by the customer unless they have significant defects. Clause 9 of these general delivery conditions shall remain unaffected.

6. Remuneration, terms of payment, rights of set-off and retention

- 6.1 Delivery remuneration are calculated according to the price list valid on the date of the order confirmation. Prices are ex works including loading. They do not include packaging, value added tax at the respective statutory rate and Customs duty in the case of export deliveries. Payments are due in cash and without deduction within the payment period specified in the order confirmation. If the customer is in default of payment, default interest shall be due at the respective applicable statutory default interest rate for legal transactions in which no consumer is involved. Rights to make further valid claims are unaffected.
- 6.2 The customer may only assert rights of retention or set-off to the extent that such claims by the customer are undisputed or have been established as legally valid or arise from the same order under which the relevant delivery was made.

7. Retention of title

- 7.1 Martin Engineering retains title to the delivered goods as well as to the goods resulting from their treatment or processing until all existing or future claims against the customer have been satisfied in full. The customer shall process the delivered goods on behalf of Martin Engineering without Martin Engineering incurring any obligations as a result.
- 7.2 The customer hereby assigns to Martin Engineering co-ownership rights resulting from the processing, combination, blending or mixing of the delivered goods with third party goods. Martin Engineering accepts this assignment.
- 7.3 The customer shall hold the goods that are the sole or joint property of Martin Engineering as custodian for Martin Engineering with due commercial care.
- 7.4 The sale of goods owned or co-owned by Martin Engineering by the customer is only permitted in the ordinary course of the customer's business. The customer hereby assigns claims to which the customer is entitled from the sale of these goods, or from any other legal entitlement concerning these goods, as security for all existing or future claims of Martin Engineering against the customer. Martin Engineering accepts this assignment by way of security. The customer is revocably authorised to collect the assigned claims on trust for Martin Engineering.
- 7.5 If the customer defaults on any obligations to Martin Engineering, Martin Engineering may, without prejudice to any other rights, and after setting a reasonable deadline, take back the goods covered by this retention of title and dispose of them elsewhere in order to satisfy claims due from the customer. In this case, the customer shall immediately grant Martin Engineering access to the goods covered by this retention of title and surrender them. This demand for surrender shall not be deemed to be a withdrawal from the contract unless the Consumer Credit Act applies.
- 7.6 Martin Engineering is entitled to insure the goods covered by the extended retention of title against appropriate risks at the expense of the customer until full transfer of title to the customer, unless the customer can demonstrate that they have taken out such insurance themselves. If the customer takes out such insurances, they hereby assign to Martin Engineering any benefits from the respective insurance policy proportionate to Martin Engineering's proportion of ownership; Martin Engineering accepts this assignment.
- 7.7 The customer shall at all times provide all requested information about the goods covered by this retention of title and the related claims assigned to Martin Engineering. The customer shall immediately notify any seizures or claims by third parties with regard to these goods and hand over such documentation as may be necessary. They shall notify such third parties of the existing retention of title. The costs of a defence against such accesses and claims shall be borne by the customer.
- 7.8 If Martin Engineering delivers to countries in which the extended retention of title does not afford the same security benefits as in the Federal Republic of Germany, the customer shall do everything necessary to create comparable security rights for Martin Engineering without delay. The customer shall cooperate in all measures necessary or conducive to the effectiveness and enforceability of such security interests, such as registrations, publications, etc.
- 7.9 If the realisable value of the securities granted in or pursuant to this Clause 7 shall exceed Martin Engineering's secured claims by more than 20 percent, the customer shall be entitled to demand the release of existing security above that threshold. Furthermore, Martin Engineering may revoke the customer's authorisation to sell the goods covered by this retention of title pursuant to Clause 7.4 of these General Delivery Conditions if the customer fails to fulfil its obligations under the extended retention of title.

8. Warranty

Martin Engineering shall be liable for defects in the goods delivered, to the exclusion of further claims by the customer, as follows:

- 8.1 Martin Engineering shall repair or replace the defective parts of the delivery free of charge at their discretion. The spare parts used for repair are subject to retention of title in accordance with Clause 7 of these General Delivery Conditions. Replaced parts remain or become the property of Martin Engineering. The customer shall only be entitled to remedy defects themselves or have them remedied by third parties at the expense of Martin Engineering if this is necessary in urgent cases of danger to operational safety

or to prevent disproportionately large damage, or if Martin Engineering is in default in remedying the defect. If the rectification fails or if further attempts at rectification are unreasonable for the customer, the customer shall be entitled to a reduction in price or to withdraw from the contract.

8.2 The customer shall carefully inspect the delivered goods upon receipt and shall notify Martin Engineering promptly in writing of any immediately obvious defects and of any defects that become apparent upon careful inspection, but no later than ten days after delivery. Defects that are not immediately apparent must be reported to Martin Engineering in writing immediately after discovery. If the customer fails to properly inspect the goods and/or give notice of defects, our liability for any defects not reported, or not reported in time, or not properly reported shall be excluded in accordance with statutory provisions. A rejected delivery item must be returned to Martin Engineering on their request, carriage paid. In the event of a justified rejection, Martin Engineering shall reimburse the costs of the most favourable shipping route; this shall not apply to the extent that any costs increase is due to the delivery item being located at a place other than the place of intended use. If a notice of rejection proves to be unjustified, the customer shall reimburse Martin Engineering for all expenses incurred by them as a result of this notice of defect, unless the customer could not have reasonably known that the rejection was unjustifiable.

8.3 The warranty period shall be twelve months from delivery; insofar as acceptance has been agreed, the limitation period shall begin with acceptance. This limitation period shall not apply if longer periods are prescribed by law pursuant to Sections 438 para. 1 No. 2 (buildings and items for buildings), 478, 479 (supplier's recourse) and 634 para. 1 No. 2 BGB (German Civil Code – Building Defects), as well as in cases of injury to life, body or health, in the event of a wilful or grossly negligent breach of duty by Martin Engineering and in the event of fraudulent concealment of a defect. Martin Engineering accepts no liability for defects arising from the following: Improper use, faulty assembly or commissioning by the customer or third parties, normal wear and tear, faulty or negligent handling, unsuitable operating materials or replacement materials, defective construction work or unsuitable building ground or chemical, electrochemical or electrical influences. This applies only insofar as these reasons are not due to Martin Engineering's fault.

9. Liability

9.1 Martin Engineering's liability for damages, irrespective of the legal grounds, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations and tort, shall be limited in accordance with this Clause 9, insofar as fault is relevant in each case.

9.2 Martin Engineering shall not be liable in the event of simple negligence on the part of its executive bodies, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of material contractual obligations. Material contractual obligations are the obligation to deliver and install the delivery item in due time, its freedom from defects of title as well as such material defects that impair its

functionality or usability more than insignificantly, as well as advisory, protective and custodial obligations that are intended to enable the customer to use the delivery item in accordance with the contract or are intended to protect life and limb of the customer's personnel or to protect the customer's property from significant damage.

9.3 Insofar as Martin Engineering is liable on the merits for damages in accordance with Clause 9.2, this liability is limited to damages which Martin Engineering foresaw as a possible consequence of a breach of contract at the time of the conclusion of the contract or which Martin Engineering should have foreseen by exercising due care. Indirect damage and consequential damage resulting from defects in the delivery item are also only eligible for compensation insofar as such damage is typically to be expected when the delivery item is used as intended.

9.4 In the event of liability for ordinary negligence, Martin Engineering's liability to pay compensation for damage to property and further financial loss resulting therefrom shall be limited to the amount of US\$ 1,000,000 per claim covered by Martin Engineering's public liability insurance, even if it involves a breach of material contractual obligations.

9.5 The above exclusions and limitations of liability apply to the same extent in favour of Martin Engineering's corporate bodies, legal representatives, employees and other vicarious agents.

9.6 Insofar as Martin Engineering provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by Martin Engineering, this is done free of charge and to the exclusion of any liability.

9.7 The limitations of this Clause 9 shall not apply to Martin Engineering's liability for wilful misconduct, for guaranteed qualities, for injury to life, body or health or under the German Product Liability Act (Produkthaftungsgesetz)

10. Final clauses

10.1 Should the contract or these General Delivery Conditions contain unintended loopholes, legally effective provisions to fill these loopholes, which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Delivery Conditions had they known about the loophole, shall be deemed to have been agreed.

10.2 The customer is not entitled to assign their rights arising from this contract.

10.3 The place of performance for all deliveries is the place of delivery, i.e. the place to which the goods are to be contractually delivered by Martin Engineering.

10.4 The laws of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

10.5 The place of jurisdiction for all disputes arising from the contract and these General Terms and Conditions is Wiesbaden. However, Martin Engineering is also entitled to sue the customer at the legal places of jurisdiction applicable to the customer.