

## General Sales Conditions of

### B. Strautmann & Söhne GmbH & Co. KG

#### § 1 Scope of Application

- 1.1 Our terms and conditions of sale apply exclusively; we do not recognise any conditions of the customer to the contrary or those which deviate from our conditions of sale except when we have specifically agreed in writing to their validity. Our conditions of sale apply even if we carry out a delivery to the customer without any reservation when we are aware of contrary conditions of the customer or those which deviate from our conditions of sale.
- 1.2 Our terms and conditions of sale apply solely to entrepreneurs as defined in § 310 BGB (German Civil Code).
- 1.3 Our terms and conditions of sale shall also apply in their respective version for all future business transactions of a similar type with the customer, without any need for us to refer to them again in each individual case; we will inform the customer of any alterations at the latest upon conclusion of the respective contract.

#### § 2 Offers – Prices – Conditions of Payment

- 2.1 Our offers are non-binding and subject to confirmation, unless exceptionally a specific legal intention to be bound has expressly arisen from the offer. We may accept orders or purchase orders within 30 days of their receipt. A contract has not been concluded until we submit our order confirmation and only under the conditions confirmed by us in writing, or through deliveries. Our sales staff and factory representatives are only authorized to initiate contracts, not to conclude them.
- 2.2 The prices do not include statutory value-added tax for delivery ex works (Incoterm 2020) of our supplying plant / warehouse.
- 2.3 Unless otherwise agreed in the order confirmation, the date of payment is 14 days' net. Any discount deduction which may be agreed on new invoices is inadmissible if older invoices due have not yet been settled. The date of payment is considered to be the date on which we can dispose of the value of the cash receipt. If down-payments or payments in advance have been agreed, the statutory sales tax is added to the down-payment or payment in advance.
- 2.4 It can be agreed between the contractual parties that the customer has to open a documentary credit via his bank (or another bank acceptable to us). In this case, it is laid down that the opening of the documentary credit is carried out in accordance with the Uniform Customs and Practice for Documentary Credits, revision 2007, ICC-Publication No. 600 ("ERA").
- 2.5 The customer is only entitled to make payment with set-off or counter-claims or withhold payments on account of such claims if the counter-claims are undisputed or established as final and absolute or where they arise from the same order under which the delivery in question is performed.
- 2.6 Subsequent amendments of, or additions to, the contract or major results therefrom will be set out in writing and confirmed by both parties. In cases in which we perform services for which no fixed price has been agreed, we will calculate the price using the standard accounting rates valid at the time that the service was performed. Moreover, we can take into account all costs which arise including an appropriate surcharge. We will document the surcharge upon request.

#### § 3 Delivery and Performance

- 3.1 Any deadlines or time periods promised with respect to the delivery of goods and/or services are always to be understood to be approximate except in cases where a fixed time period or fixed deadline has been confirmed or agreed. When shipment has been agreed, delivery periods and delivery deadlines refer to the time at which the consignment is handed over to the carrier, freight forwarder or other third party entrusted with the transportation service.
- 3.2 Compliance with all our obligations of delivery and fulfilment assumes the prompt and proper fulfilment of the customer's obligations and the prior clarification of all technical questions.
- 3.3 The delivery item gets dispatched ex works ('ex works', Incoterm 2020) from our supplying plant / warehouse. Our warehouse uses the most reasonable shipping method and at the risk and expense of the customer. Should the customer so wish, we will cover the delivery with a transportation insurance policy. The resulting costs are to be borne by the customer.
- 3.4 The customer is free to collect the delivery item from us himself and at his own expense. In this case, the delivery item must be collected by the purchaser immediately, but no later than 14 days after Strautmann's notification of completion. In the event of late collection, the customer shall be in default of acceptance if he is responsible for the delay, and shall bear the costs for storage of the delivery item until final collection. The risk of accidental loss or accidental deterioration of the delivery item shall also pass to the customer at the time at which the customer is in default of acceptance. The storage costs shall amount to a flat rate of [0.25] % of the net purchase price of the delivery items to be stored per expired week. Both parties reserve the right to assert and prove further or lower storage costs.

- 3.5 Partial deliveries are acceptable if:
- the customer can use the partial delivery within the scope of the contractually intended purpose
  - delivery of the remainder of the goods ordered is ensured and no major extra expense or additional costs result (unless we express our willingness to bear these).
- 3.6 Deviations of the delivery item from the order confirmation which are customary in the trade, offers/quotations, samples, brochures, data sheets, trial deliveries and pre-deliveries are permissible according to the relevant valid DIN-/EN norms or other applicable technical norms.
- 3.7 Goods forming part of properly executed deliveries can only be taken back if we agree to the return, in which case the customer has to meet the costs of the return.
- 3.8 We accept no liability for the impossibility of delivery or for delays in delivery where these have resulted from force majeure or other events over which we have no control, which were not foreseeable at the time the contract was concluded (e.g. business interruptions irrespective of their nature; pandemics; difficulties concerning the acquisition of materials or energy; transportation delays; strikes; lawful lockouts; labour, energy or raw material shortages; difficulties procuring required official permits; official measures; or failure on the part of suppliers to deliver required items, whether correctly or in time). Should such events significantly impair or make it impossible for us to deliver the goods or services and should the duration of the impediment not be temporary in nature, we shall be entitled to withdraw from the contract. In the case of impediments of a temporary nature, the delivery periods for goods or services shall be extended or the delivery deadlines for goods or services shall be postponed by the amount of time that the impediment prevails, plus an appropriate start-up period. Where the delay makes it unreasonable for the customer to accept the delivered goods or services, the customer may withdraw from the contract by immediately notifying us in writing of such withdrawal.
- 3.9 We are liable in the event of impossibility or delay in performance, where this is due to intent or gross negligence, including intent or gross negligence of our representatives or vicarious agents under statutory regulations. In cases of gross negligence our liability is however limited to typical and foreseeable damage.
- 3.10 In cases of slight negligence our liability because of impossibility of performance is limited to damages, and compensation of wasted expenditure is similarly limited to typical and foreseeable damage. Further claims of the customer because of impossibility of performance are excluded. The customer's right to withdraw from the contract remains unaffected.
- 3.11 Should we fall into arrears with a delivery of goods or services or should the delivery of any goods or services be rendered impossible, irrespective of the grounds giving rise to such impossibility, our liability is limited to the damages stipulated in § 7 and § 9 of these General Sales Conditions.
- 3.12 The limitations under the above § 3.7 to 3.10 do not apply where there is liability for wrongful death, personal injury or health impairment, or for the infringement of major contractual obligations. Major contractual duties are those, the fulfilment of which shapes the contract and upon which the customer can depend. An amendment of the burden of proof to the disadvantage of the customer shall not be associated with this.

#### **§ 4 Sanction regulations/export**

- 4.1 The customer shall not sell, export or re-export, directly or indirectly, any goods supplied by us as part of or in connection with contractual services, to countries subject to the export control regulations of the European Union, the United States and the Federal Republic of Germany, or for use in these countries.
- 4.2 The customer shall ensure that these export control regulations, in particular the trade bans on delivery and use in the Russian Federation, are not circumvented by third parties in the trade chain. The customer shall establish effective monitoring mechanisms to check any actions of third parties in this respect and to detect and prevent violations.
- 4.3 The customer shall inform us immediately of any anomalies in relevant activities and shall provide us on request with the information and documents required to prove compliance with the aforementioned export control regulations.
- 4.4 The customer shall indemnify us in full against all claims and damages asserted against us due to culpable breach of the above obligations by the customer. Any breach of the obligations shall constitute a material breach of the contract, whereby we may demand termination of the business agreement without notice.

#### **§ 5 Reservation or Right to Modify Prices and to Self-Delivery**

- 5.1 The contractually agreed price is understood to be with reservation. At the time of delivery, we are entitled to raise the agreed price within reason in the event that, in the time between the order being placed and the delivery occurring, the costs of raw materials, energy, salaries and wages, customs tariffs or duties, etc. should rise by more than 10% through no fault of our own (e.g. as a result of the coronavirus pandemic), thus elevating the cost of manufacturing the goods to be delivered to the customer. The customer is to be notified of any increase in price at least six weeks prior to delivery; the customer may reject the price increase within ten days of receiving the notification. Should the increase be rejected, we shall, at our discretion, be entitled to withdraw from the contract or deliver the goods at the originally agreed price. We are obliged to notify the customer of our decision without delay. The customer shall not be entitled to assert any further claims in the event that we opt to withdraw from the contract.

5.2 Where we are unable to meet delivery deadlines for reasons beyond our control (non-availability of performance), we will inform the customer immediately and simultaneously notify the customer of the anticipated new delivery time. Should performance not be possible within the newly-defined delivery period, we shall be entitled to withdraw from the contract – whether in whole or in part – and shall immediately reimburse any counter-performance that may have already been rendered by the customer. To this effect, non-availability of performance shall especially apply in the event that we do not receive our own deliveries from our suppliers in time. This only applies, however, if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault, or we have no obligation to procure in individual cases.

## **§ 6 Due Date – Interest – Consequences of Delay**

- 6.1 In the event of payment after expiry of the term of payment of 14 days, interest is due to be paid to us at the rate laid down in legislation.
- 6.2 For as long as the customer is in default of payment, we are not obliged to make any further deliveries, irrespective of the legal basis on which our duty of delivery is based.
- 6.3 In the event that a major deterioration should occur in the customer's financial circumstances, especially if insolvency proceedings are requested, we can demand, irrespective of the due payment date, cash or other security for deliveries still to be made before the goods are delivered.
- 6.4 Where payments by instalments and/or payments on account have been agreed between the customer and ourselves, the following also applies: in the event that the customer falls totally or partly or into arrears by one instalment or one payment on account for longer than three days, then the remaining sum still unpaid becomes immediately and totally payable in one instalment.
- 6.5 In the event that security for the payment of the purchase price is provided by a bank or another third party, and delivery of the goods cannot be made for reasons beyond our control, we are authorised to demand payment of the remaining due purchase price from the bank or another third party against presentation of proof that the goods have been put in storage. Such storage of the goods takes place at the customer's risk and expense. The date on which the goods are placed in storage by us counts as the date of delivery. All delivery and other documents which have to be handed over by us in order to obtain payment from a bank or from another third party are to be passed to us without delay by the person(s) originating these documents.

## **§ 7 Retention of Title**

- 7.1 We retain ownership of the items to be delivered until the fulfilment of all our claims against the customer resulting from the business relationship. In the event of behaviour contrary to the contract by the customer, in particular of default of payment, we are entitled to withdraw from the contract after the fruitless expiry of a reasonable period of grace. After such a withdrawal, we have the right to demand return of the goods, to sell them elsewhere or to dispose of them in any other way.
- 7.2 The customer is obliged to treat the delivery items in a careful manner: he is especially obliged to insure these adequately at replacement value at his own cost against fire, water and loss through theft. If maintenance and inspection work is necessary, the customer must carry this out at the correct time at his own cost.
- 7.3 Despite the retention of title, the customer is entitled to further sell the delivery item in the course of normal business activity. Any claims against the supplier by the subsequent buyer from the customer's disposal of the delivered goods are transferred to us in the sum of the final invoice amount agreed with us (including value added tax). This transfer is valid irrespective of whether the delivery item is sold on without processing or after processing. The customer remains authorised to collect the amount receivable even after the transfer. Our power to collect the receivables ourselves remains unaffected by this. We will, however, not collect the receivables as long as the customer meets his obligation to pay from the collected proceeds, if he is not in default of payment and especially if no petition for the opening of insolvency proceedings has been submitted or payments have been suspended.
- 7.4 In the event of seizures or other actions by third parties, the customer must inform us immediately and in writing so as to enable us to file a suit in accordance with § 771 ZPO (German Code of Civil Procedure). If the suit in accordance with § 771 ZPO is successful and if the legal enforcement concerning third parties to cover the legal and non-legal costs of such a suit be conducted unsuccessfully, the customer is liable to us for the default incurred by us.
- 7.5 The processing or conversion of the delivery item by the customer is always undertaken for us. In the event that the delivery item is processed together with items which do not belong to us, then we acquire co-ownership of the new item in proportion to the value of the of the delivery item (final invoice amount including value-added tax) to the other processed items at the moment the processing took place. With regard to the item arising from the processing, the same conditions shall apply, in all other respects, as if the item were a delivery item supplied with reservation.
- 7.6 In the event that the delivery item is inseparably mixed together with items which do not belong to us, then we acquire co-ownership of the new item in proportion to the value of the delivery item (final invoice amount including value-added tax) to the other mixed items at the moment the mixing took place. In the event that the processing occurs in such a way that the customer's item is to be seen as the main item, then it is deemed to have been agreed that the customer transfers to us co-ownership pro-rata. The customer preserves for us the sole ownership or co-ownership so created.

- 7.7 The customer also assigns to us the claims to safeguard our claims against him, which are due to the customer against a third party by joining the delivery item to a real estate property
- 7.8 We undertake to release, at the request of the customer, the securities due to us insofar as the realizable value of our securities exceeds the claims to be secured by more than 10%. The selection of the securities to be released is subject to our discretion.

## **§ 8 Liability for Defects**

- 8.1 Claims for defects by the customer require that the latter has properly carried out his obligations of inspection and complaint in accordance with § 377 HGB (German Commercial Code). The delivered items are to be carefully inspected immediately after arriving at the customer's location or that of a third party designated by the customer. In respect of apparent defects or other forms of defects which would have come to light in the course of a careful, immediate inspection, the delivered items are considered to have been accepted by the customer unless we receive a written notice of defects within ten days of delivery. For all other defects, the delivered items are deemed to have been accepted by the customer unless we receive a notice of defects within seven days from the time that the defect became apparent; if, under normal use, the defect in the item became apparent earlier than this time, the earlier time shall be taken as the start of the notice period.
- 8.2 We accept no liability for used machines. Used machines are sold together with the remaining available accessories in their "as is" condition at the time of concluding the contract.
- 8.3 Details of weight, dimensions, performance details, revenues and other data which is given in sales brochures, publicity and similar documentation are solely to be seen as a guide. The same applies to machines which have been provided as trial or demonstration machines.
- 8.4 Where there is a fault in the delivery item for which we are responsible, we have the choice of rectification by either repairing the fault or by providing a new, fault-free item. In the case of the rectification of a fault, we are obliged to bear the costs of all expenses necessary for the rectification, especially transport, travel-, labour and material costs as long as these have not been increased by the requirement to take the item to be delivered to a location other than the place of performance. In the case of companies abroad, the following shall also apply: in the case of disproportionate effort and costs which would result from a rectification carried out by ourselves, we can ask the customer to carry out, or have carried out, the necessary repairs. We then have to refund to the customer the costs which occur to the customer in carrying out the necessary repairs.
- 8.5 If the rectification is unsuccessful, which is not to be assumed until, at the earliest, the second attempt at repair or rectification, then the customer has the right to choose either cancellation or a reduction in price unless there is something to the contrary in the following (Serials 7.6, 7.7, and 7.8), and further claims by the customer are excluded – irrespective of the legal basis. Therefore, we are not liable for damage that does not occur to the delivery item itself; in particular, we are not liable for production downtime, business interruption, the costs of any recall action, missed earnings or other financial losses to the customer.
- 8.6 We are liable under statutory provisions if the customer asserts a claim based on intention or gross negligence, including the intention or gross negligence of our employees or our vicarious agents. Where we are not charged with any further contract infringement, the compensation is, however, limited to foreseeable, typically occurring damage.
- 8.7 We are liable under statutory provisions if we culpably infringe a major contractual duty; major contractual duties are those, the fulfilment of which shapes the contract and upon which the customer can depend. In such cases however, liability for compensation is limited to foreseeable and typically-occurring damage.
- 8.8 Liability on account of culpable injury to life, limb or health remains unaffected: this also applies to statutory liability under German Product Liability Law and from inadmissible acts.

## **§ 9 Rights to intellectual property and industrial property rights; confidentiality**

- 9.1 All rights to intellectual property and all industrial property rights relating to the products that we deliver, including the software that our products use ex works, e.g. patents, utility models, industrial designs, copyrights and trade mark rights, shall remain our property. The customer shall notify us of any infringements of our intellectual and/or industrial property rights of which it becomes aware.
- 9.2 In compliance with the terms of § 8, we hereby warrant that our products, including the software used by our products ex works, do not infringe any intellectual and/or industrial property rights held by any third parties. Each party to the contract is obliged to inform the respective other party immediately and in writing should any third parties assert such infringement claims against either party.
- 9.3 Should the subject matter of the contract infringe a third-party's intellectual and/or industrial property rights, we will, at our discretion and expense, either (i) modify or replace the corresponding subject matter in such a way that, whilst ceasing to infringe any third-party rights, it continues to fulfil the functions so agreed in the contract or (ii) procure the rights of use for the customer by concluding a license agreement. In the event that we are unable to achieve this within a reasonable period of time, the customer shall be entitled to withdraw from the contract or reduce the purchase price by a reasonable amount. Any claims for damages that the customer wishes to assert shall be subject to the restrictions defined under § 7.6 et seq. of these General Sales Conditions.
- 9.4 Should third-party intellectual and/or industrial property rights be infringed by products that we supply from other manufacturers, we shall, at our discretion, either assert our claims against the manufacturer in question

for the customer's account or assign such claims to the customer. In compliance with the terms of § 8, claims may only be asserted against us if enforcement, through a court of law, of the aforementioned claims against the other manufacturer proves unsuccessful or, in the case of insolvency being declared by the other manufacturer, is futile.

- 9.5 All information and documentation that we supply to the customer shall remain our property; the customer may neither copy such information and documentation nor disclose it to any third parties and may only use it for the agreed purposes. If so requested, any and all drawings and other documents we have submitted as part of an offer are to be returned to us.
- 9.6 In the event that we have supplied products based on drawings, models, samples, or other documents provided by the customer, the customer hereby warrants that no third-party property rights have been infringed in the process. If, by invoking property rights, third parties should prohibit us in particular from manufacturing and supplying such products, we shall – without being obliged to examine the legal position – be entitled to cease all further activities related hereto and, should the circumstance be attributable to the customer, require the payment of damages from the same. The customer furthermore undertakes to indemnify us immediately from any and all third-party claims arising in this context.

## § 10 Exclusion of Further Liability

- 10.1 Any additional liability for compensation of damages other than that detailed in the preceding conditions is excluded, irrespective of the legal nature of the claims lodged. This applies in particular to claims for damages for fault arising upon the conclusion of the contract, because of other breaches of duty or because of claims in tort for indemnification of damage to property as defined by § 823 BGB (German Civil Code). In the case of a claim for compensation pursuant to culpa in contrahendo, the exclusion of liability mentioned above is equal to a subsequent waiver of liability due to the claim which had already existed on conclusion of the contract. Moreover, we are not liable if claims against the customer due to a breach of industrial property rights.
- 10.2 Limitation in accordance with Serial 10.1 shall also apply where the customer, in lieu of a claim to compensation for damages, demands compensation of unnecessary expenditures in lieu of performance.
- 10.3 Where liability for damages against us is excluded or limited, then the same applies with regard to personal liability for damages of our employees, staff representatives and vicarious agents.

## § 11 Period of Limitation

Customer claims against us – irrespective of the legal basis thereof – expire at the end of one year after they arise. This does not apply to §§ 438 sec. 1 No. 2 and 634a sec. 1 No. 2 BGB. This equally does not apply to intention or in the event of malicious concealment of a fault or where we have taken over a guarantee. For claims for compensation, this period of limitation is not valid in cases of loss of life, personal injury or damage to health or violation of liberty, with claims under the Product Liability Laws or grossly negligent breach of duty or breach of major contractual duty. Major contractual duties are those, the fulfilment of which shapes the contract and upon which the customer can depend. No change in the onus of proof to the disadvantage of the customer is associated with the preceding regulations.

## § 12 Other Provisions

- 12.1 Insofar as the customer is a merchant, a legal entity under public law or a special fund under public law, and insofar as the customer does not have a court of general jurisdiction in the Federal Republic of Germany, the court of jurisdiction for any and all disputes arising from the business relationship shall be that of our registered office in 49196 Bad Laer (Federal Republic of Germany).
- 12.2 The place of performance is also 49196 Bad Laer, Federal Republic of Germany.
- 12.3 The customer declares himself to be in agreement with our storing data in accordance with the German Data Protection Law and the General Data Protection Regulation. The customer will likewise receive separate information/instructions concerning this.
- 12.4 The customer is not permitted to transfer any rights of guarantee and warranty or any other rights granted to him within the scope of the contract unless we have agreed in writing to the transfer.
- 12.5 If the customer sells the products to third parties or exports them, he undertakes to observe at all times the import and export regulations for this type of sale.
- 12.6 The law of the Federal Republic of Germany applies with the exception of the reference provisions of German International Private Law and the UN Sales Convention.

