

General Terms of Purchase of Gather Industrie GmbH

I. Validity of the terms

1. These General Terms of Purchase (AEB) apply without exception. The seller's general business conditions which deviate, contradict or supplement these terms do not become a component of contract unless we have specifically agreed to their validity in writing. This requirement of approval applies in all cases, even if, for example, we accept the seller's delivery without reservation despite knowledge of its general conditions of business.
2. These AEB only apply to merchants, legal entities under public law or public law special trusts in the sense of § 310 Para. 1 BGB. These AEB apply to all contracts concerning deliveries and services made between the supplier of the goods or provider of the services ("seller") and ourselves ("buyer"), without regard to whether the seller manufactures the goods itself or buys them in from other suppliers (§§ 433, 650 BGB).
3. Unless agreed otherwise, the AEB apply in the version notified at the time of the buyer's purchase order as a framework agreement to contracts of the same type in the future, without the buyer having to refer to them again in each case.
4. Individual agreements made with the seller in a stand-alone case (including auxiliary accords, supplements and changes) always have priority over these AEB. On the proviso of counter-evidence, a contract in writing or text form or confirmation in writing or text form is decisive for the content of such agreements.
5. The seller's declarations and notices with legal significance that relate to the contract (e.g. setting deadlines, dunning, withdrawal) must be submitted in writing, i.e. in writing or text form (e.g. letter, e-Mail, fax). Legal regulations of form and further proof remain unaffected, especially in case of doubts about the legitimization of the declaring party.
6. References to the validity of legal provisions only have a clarifying meaning. Therefore, the legal provisions apply even without such clarification, unless they have been directly changed or specifically excluded in these AEB.

II. Conclusion of contract

1. The buyer's purchase order applies as binding at the earliest upon confirmation in writing or text form. The seller must point out obvious mistakes (e.g. spelling mistakes and calculation errors) or incompleteness of the purchase order - including the order documents - for the purpose of correction or completion before acceptance; otherwise the contract is regarded as not concluded.
2. The seller must confirm the purchase order in writing within 5 work days or, in particular, execute it without reservation by shipping the goods (acceptance). Delayed acceptance is regarded as a new offer and requires acceptance by us.

III. Delivery time and default of delivery

1. The delivery time stated in the buyer's purchase order is binding. In case of goods deliveries, the delivery of the faultless goods to the buyer during normal business hours along with the necessary shipping papers at the place stated in the purchase order ("destination") is decisive for complying with the delivery date. Premature deliveries/services or part deliveries/part services require prior permission from the buyer in writing.
2. The seller is obliged to notify the buyer, without delay in writing or in text form, if it fails to fulfil its

contractual obligation, in full or in part, or if it cannot do so on time. In addition, it shall state the reasons and the likely duration of the delay. Acceptance without reservation of a late (part) delivery/(part) service does not represent any waiver on the part of the buyer to rights or claims due to a (part) delivery/(part) service that was not on-schedule.

3. Changes to the object of delivery or performance require prior release from the buyer in writing or text form.

4. If the seller fails to provide its services, does not do so within the agreed delivery time or if it is in default, the rights of the buyer - especially to withdrawal and recompense of damages - are determined by legal provisions.

IV. Performance, delivery, transfer of risk, delayed acceptance

1. Unless agreed otherwise, the delivery is made DAP destination (Incoterms 2020) / the destination stated on the order letter - to our headquarters. The respective destination is also the place of fulfilment for the delivery and any subsequent fulfilment (obligation to fulfil).

2. Unless something different has been agreed, the delivery shall be accompanied by a single copy of the delivery note, test certificates pursuant to the agreed specifications and all other necessary documents.

3. Legal provisions apply to the commencement of default of acceptance. The seller must also offer its services expressly to the buyer if a certain or determinable calendar time has been agreed for action or cooperation on the part of the buyer (e.g. provision of material). If the buyer is in default of acceptance, the seller can demand recompense for its added expenditure in accordance with legal provisions (§ 304 BGB). If the contract concerns a product to be made to specifications by the seller (custom-made item), the seller only accrues further-going rights if the buyer is obliged to cooperate and is responsible for the failure of cooperation.

V. Invoice/payment

1. The agreed prices are net prices, plus any value-added tax owed by law. The prices stated in the buyer's purchase order are binding.

Invoices shall be made out for the deliveries and services made, which correspond to the valid legal requirements on invoices under the value-added tax law of the state, whose value-added tax law the deliveries/services itemised in the invoice are subject to. All the necessary documents must be attached to invoices.

Invoices should be sent to the invoice address stated in the buyer's purchase order.

2. Unless something different is agreed in an individual case, the price includes all the seller's services and supplementary work (e.g. erection, assembly) and all auxiliary costs (e.g. proper packaging, transport costs, including any transport and indemnity insurance).

3. The agreed price is due for payment within 30 calendar days from the completed delivery or service (including any acceptance that has been agreed) and receipt of a proper invoice. If the buyer pays within 14 calendar days, the seller shall grant 3 % discount on the net sum of the invoice. The foregoing regulations apply unless something different has been agreed.

In the case of bank remittances, payment is made on time if the remittance order is received by the buyer's bank before the payment deadline has expired; the buyer is not responsible for delays caused by the banks involved in the payment process.

4. Payments do not signify any recognition of the conditions and prices detailed in the invoice. They do not affect the buyer's rights due to an improper delivery/service, the buyer's rights of examination nor the right to complain of an invoice for other reasons.

5. Rights of offsetting and retention and the objection of a non-fulfilled contract are accrued by the buyer in the scope prescribed by law. In particular, the buyer is entitled to withhold due payments for as long as it still has claims against the seller due to incomplete or defective services.

6. The seller only has a right of offsetting or retention due to counter-claims established by a court of law or which are not disputed.

VI. Secrecy

1. The buyer reserves the ownership and the copyrights to illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents, which the buyer provides to the seller. Such documents may be used solely for the contractual service and returned to the buyer after the contract has been completed. The documents must be kept secret from third parties, even after the contract has ended. The duty of secrecy only expires if and insofar as the knowledge contained in the documents provided has become generally known.

2. The foregoing provision applies accordingly to substances and materials (e.g. software, manufacturing products and semi-finished products) and to tools, specimens, patterns and other objects, which the buyer provides to the seller for the purpose of manufacture. As long as they have not been processed, such objects shall be safeguarded separately at the seller's expense and insured against destruction and loss in the necessary scope.

VII. Reservation of title

1. The transfer of the ownership of the goods to the buyer must be unconditional and without regard to payment of the price. However, if the buyer accepts an offer of transfer of ownership made by the seller conditioned by payment of the purchase price in a stand-alone case, the seller's reservation of title expires at the latest upon payment of the purchase price for the delivered goods. Even before payment of the purchase price, the buyer remains entitled to resell the goods in regular business processes, thereby assigning the resulting claims in advance (by way of assistance, validity of the simple reservation of title and of the reservation of title extended to the resale). All other forms of the reservation of title are excluded, especially the extended reservation of title, the forwarded reservation of title and the reservation of title extended to further processing.

2. Processing, mixing or combining (further processing) objects provided by the seller is done on behalf of the buyer (see VI. Item 2). The same applies if the delivered goods are further processed by the buyer, so that the buyer is regarded as the manufacturer and acquires ownership of the product at the latest upon further processing in accordance with legal provisions.

VIII. Quality of the delivery/services, rights in case of defects

1. The seller owes the faultless condition of the delivery or service, especially compliance with the specifications agreed for the product or service. Moreover, the seller owes the presence of contractually guaranteed characteristics and features. In addition, the seller shall ensure that the deliveries and services are the state-of-the-art and – insofar as relevant – comply with the generally recognised state of safety engineering and conform to all legal provisions prevailing at the destination. If machines, devices or systems are the object of the delivery, these must correspond to the requirements of the special safety regulations for machines, devices and systems valid at the date of contractual fulfilment.

2. Unless regulated otherwise below, legal provisions apply to the buyer's rights in the case of material defects and legal deficiencies in the goods (including false deliveries, short deliveries, improper erection, defective erection, erroneous operating manuals or instructions) and in case of other violations of duty by the seller.

3. In deviation to § 442 Para. 1 Clause 2 BGB, the buyer also accrues claims to defects without limitation if it is unaware of the defect upon conclusion of contract due to gross negligence.

4. Legal provisions apply to the buyer's commercial duty of examination and complaint (§§ 377, 381 HGB) in accordance with the following: the buyer's duty of examination is restricted to defects, which become apparent during the control of incoming goods under outer inspection, including the delivery papers (e.g. transport damages, false deliveries and short deliveries) or which can be recognised by random testing during quality controls. Insofar as acceptance has been agreed, there is no duty of examination. For the rest, it depends on the extent to which an examination is advisable in consideration of the circumstances of the particular case in a regular business process. The buyer's duty of complaint for defects discovered at a later date remains unaffected. Without prejudice to the duty of examination, the complaint (notification of defect) is always regarded as having been made without delay and in good time if it is sent within 10 work days from its discovery or, in the case of obvious defects, from the arrival of the goods.

5. Subsequent fulfilment also includes the disassembly of the defective goods and their renewed assembly, insofar as the goods have been assembled in another item or installed on another item depending on their nature and intended purpose; the buyer's legal claim to recompense of the relevant expenditure remains unaffected. The expenditure required for the purposes of testing and subsequent fulfilment are borne by the seller, even if it transpires that there is actually no defect. The buyer's liability to recompense damages in case of unjustified demands for rectification of defects remain unaffected; however, the buyer is only liable insofar as it recognises that there was no defect or fails to recognise this due to gross negligence.

6. Without prejudice to the rights under law and the regulations in Para. 5, the following applies: If the seller fails to meet its obligation of subsequent fulfilment – by rectification of the defect (rework) or by delivering a faultless item (substitute delivery) at the buyer's discretion – within a reasonable deadline set by the buyer, the buyer can rectify the defect itself and demand the necessary recompense

from the seller or a corresponding advance. A deadline does not need to be set if subsequent fulfilment by the seller fails or if it is unreasonable for the buyer (e.g. because of a particular urgency, a hazard to operational safety or the threat of incurring disproportionate damages); the buyer shall inform the seller of such circumstance without delay, if feasible in advance.

8. In addition, in case of a material defect or a legal deficiency, the buyer is entitled to a reduction in the purchase price or to withdraw from the contract in accordance with the provisions of law. Furthermore, the buyer has a claim to recompense for damages and added expenditure.

IX. Supplier recourse

1. The claims to recourse within a supply chain determined by law (supplier recourse pursuant to §§ 445a, 445b, 478 BGB) accrue to the buyer without restriction as well as the claims concerning a defect. In particular, the buyer is entitled to demand exactly the type of subsequent fulfilment (rework or substitute delivery) from the seller, which the buyer itself owes to its purchaser in a particular case. The legal choice of law (§ 439 Para. 1 BGB) is not restricted by this.

2. Before the buyer recognises or fulfils a claim to a defect pursued by its purchaser (including recompense of expenditure pursuant to §§ 445a Para. 1, 439 Para. 2 and 3 BGB), it shall inform the seller of this, thereby briefly describing the facts of the case, and request a response in writing. If the buyer does not receive a substantiated response within a reasonable period and if a mutual solution is also not brought about, the claim concerning defects actually pursued by the buyer is owed to its purchaser. In this case, the seller is obliged to provide counter-evidence.

3. The claims from supplier recourse also apply if the defective goods have been further processed by the buyer or by another merchant, e.g. by assembly into another product.

X. Producer liability

1. If the seller is responsible for product damage, it must release the buyer from third party claims insofar as the cause is determined to be within its sphere of control and organisation and is itself liable in the external relationship.

2. Within the framework of its obligation of release, the seller must recompense expenditure pursuant to §§ 683, 670 BGB, which results from or is connected with pursuit by third parties, including call-back campaigns conducted by the buyer. The buyer shall inform the seller of the content and scope of call-back measures – insofar as possible and reasonable – in order to give the seller the opportunity to respond. Further-going claims under law remain unaffected.

3. The seller must conclude and maintain product indemnity insurance.

XI. Expiry by limitation of time

1. In deviation to § 438 Para. 1 No. 3 BGB and 634 a BGB, claims concerning defects expire by limitation of time in 3 years from the transfer of risk. Insofar as acceptance has been agreed, expiry by limitation of time starts upon acceptance. The 3-year deadline for expiry also applies to claims concerning legal deficiencies, whereby the limitation period under law for the real rights of a third party to demand return (§ 438 Para. 1 No. 1 BGB) remains unaffected; in addition, claims concerning legal deficiencies do not expire by limitation of

time as long as the third party can pursue the right against us – particularly due to the lack of limitation by time.

2. For the rest, the limitation periods prescribed by law apply.

XII. Choice of law and place of jurisdiction

1. German law shall prevail over these AEB and the contractual relationship between the buyer and the seller, to the exclusion of UN commercial law.

2. If the seller is a merchant in the sense of the German commercial code, a legal entity under public law or a public law special trust, the sole place of jurisdiction – also in international terms – is Düsseldorf for all disputes arising directly or indirectly from the contractual relationship. The same applies if the seller is a merchant in the sense of § 14 BGB.

3. The language of contract is German.