



Terms and Conditions of Sale – ViscoTec Pumpen- u. Dosiertechnik GmbH

1. General

These General Terms and Conditions of Sale shall apply exclusively in business transactions with our customers who are entrepreneurs within the meaning of Section 14 BGB (German Civil Code), an association, a foundation, a legal entity under public law or a special fund under public law. We shall only deliver in accordance with the terms and conditions of sale, payment and delivery below. The General Terms and Conditions of Sale (GTC) shall apply as amended for future contracts concerning the sale and delivery of products with the same customers. Amendments shall be declared in the same way that these GTC are declared. Our GTC shall apply exclusively. General terms and conditions of the purchaser that deviate from, are in conflict with, or add to these GTC shall only become a component part of the contract if and to the extent that we have expressly given our consent to their validity. This consent requirement shall apply in every case; for example, even if we make a delivery to the customer without reservation in full knowledge of the GTC of the customer. Individual agreements made with the supplier in individual cases (including ancillary agreements, additions and amendments) shall have priority over these GTC in every case. Subject to counterevidence, the content of such agreements shall be determined by a written contract or our written confirmation.

References to the validity of statutory provisions shall be purposes of clarification only. Unless directly amended or expressly excluded in these GTC, statutory provisions shall thus apply even without such clarification.

2. Conclusion of contract, subject matter of the contract

Our quotation shall not be binding unless we have declared a validity period to the customer in our quotation. This shall also apply to parts to parts of the quotation such as prices and delivery times, which are independently subject to variation. Orders placed by the customer shall therefore only be deemed to be accepted if they have been confirmed by us in written within 14 days.

If we provide an expressly binding quotation including a validity period, the contract can only come into effect through formal acceptance by the customer within the validity period. We shall no longer be bound to our quotation once this period has lapsed. Acceptance by the customer shall then constitute an offer which we can accept by written confirmation.

Verbal ancillary agreements, promises, amendments or additions to the written contract, to the order confirmation or to these terms and conditions can only be agreed to be in effect by our managing directors or employees with written authorisation. If such agreements are made between the customer and unauthorised employees, they shall become binding when we confirm them in writing.

All documentation relevant to the quotation, such as illustrations, drawings, statements of weight, dimension, power consumption and performance data are only approximations unless we expressly refer to them as being binding. We shall reserve proprietary rights and copyrights to cost estimates, illustrations and other documentation. They may not be made accessible to third parties. We shall not allow a third party to access any plans marked as confidential by the customer without the customer's permission.

3. Scope of delivery and preliminary work



The scope of delivery shall be determined by our written order confirmation or our binding quotation. Technical modifications shall be permissible as long as they do not impair the suitability of the product for the intended purpose.

Any safety or protective devices or other type of equipment that is required by law or stipulated by the authorities will only be included in the scope of delivery if this is explicitly agreed upon.

In any case, even if we have undertaken assembly and commissioning at a lump-sum price, the following in particular shall not be included in the delivery: Groundwork and masonry work, lifting gear, scaffolding, roof flashing, materials and installation work, connecting heating, gas, fresh water, drainage or power, or the installation of oil and gas burners, fire extinguishing and electrostatic systems and the like.

The customer shall be responsible for the timely provision of the preliminary work, which shall also include unpacking the delivery.

4. Delivery, transfer of risk, acceptance

Delivery shall be made ex works without loading. If collected by the customer, risk shall transfer to the customer upon provision of the parts for delivery and, in the event of delivery, upon handover to the freight company, forwarding company or other person or body otherwise tasked with shipping the goods. This shall also apply even if we have assumed other payments or services such as shipping costs or delivery and installation.

Where no special agreement has been made, the parts for delivery shall be sent on behalf of the customer and at their own expense and risk. Unless otherwise agreed, we shall be entitled to determine the type and method of shipment (in particular the transport company, route and packaging). At the request of the customer, as part of the order and at the expense of the customer, we shall insure the consignment against theft, breakage, transport, fire and water damage as well as against other insurable risks.

If the shipment is delayed due to circumstances for which we are not responsible, risk shall transfer to the customer when the customer is informed that the goods are ready for dispatch.

5. Delivery period

Our delivery period shall only begin upon receipt of our order confirmation but not before the provision of documentation, permits and approvals to be supplied by the customer and upon receipt of agreed payment, guarantee, and so on. Adherence to the delivery period shall be a requirement for the fulfilment of the contractual obligations of the purchaser.

The delivery period shall be deemed to have been adhered to if the deliverable has left the factory or readiness for dispatch has been announced prior to the lapsing of the delivery period. The delivery period shall be given a reasonable extension should unforeseeable obstacles arise that we have been able to avoid despite have taken care that is reasonable for the circumstances of the event. Such obstacles shall include unforeseeable business disruptions, strikes, lockout, unavoidable shortages of energy or raw materials. This shall apply regardless of whether these circumstances arise in our factory or with our sub-suppliers.

We shall also not be responsible for the aforementioned circumstances if they arise during an existing delay. We shall inform the customer of the occurrence and the foreseeable duration of such disruptions immediately. The delivery period shall be extended by a duration appropriate to the circumstances.

If, as a result of these circumstances, the fulfilment of the contract becomes impossible or no longer economically reasonable for us or our customer, both we and our customer may rescind from the contract



in part or in full. The customer shall have no claims for compensation for damages as a result of rescinding from the contract for this reason. If we exercise this right to rescind from the contract, we shall immediately inform the customer of this upon finding the scope of the event and also if an extension of the delivery data was initially agreed with the customer.

6. Default in delivery, storage costs in the event of default in acceptance

If the customer incurs damage for which we are responsible as a result of slight negligence, the customer shall be entitled to demand compensation for delayed completion. This compensation shall amount to 1/2 of the value of the part of the complete delivery that cannot be used on time or for the intended purpose as a result of the default for every complete week of default. Compensation for delayed completion shall be limited to 10 weeks. Our liability according to Items 9 and 11 of these terms and conditions shall remain unaffected.

If binding agreed delivery dates are not adhered to, the customer undertakes to first set us a reasonable grace period in writing before being entitled to rescind from the contract once said grace period has lapsed. The customer may, however, dispense with this obligation to set a grace period if a fixed-date transaction was agreed.

If shipment is delayed at the request of the customer, the storage costs incurred shall be charged to the customer starting one month after readiness for dispatch was announced. If, however, the goods are stored in our factory, this amount shall be 1/2 of the invoice amount for each month. Our right to prove higher damage and our statutory claims (in particular for reimbursement of additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum is to be offset against further monetary claims. The customer shall be permitted to furnish proof that we have not incurred any damages or the amount is significantly lower than the aforementioned lump sum. After the setting and fruitless expiry of an appropriate period of grace we shall, however, be entitled to otherwise dispose of the deliverable or to deliver the goods to the customer within a reasonably extended delivery period. We shall immediately inform the customer of this process.

7. Prices and payment

Prices shall apply ex works, excluding packaging. Packaging materials shall only be taken back if the customer bears the costs for their return. In Germany, statutory value added tax shall be added to the agreed prices. Our invoices shall be payable immediately without discount. Payment dates specified on the invoice shall not delay maturity.

Should there be a rise in material or labour costs before the delivery date, we shall be entitled to pass on part of the cost increase to the price on the basis of our original price calculation.

If, after conclusion of the contract and prior to delivery of the goods, we should become aware of circumstances that give rise to doubt about the creditworthiness of the customer at the time of entering into the contract, we shall be entitled to request, at our discretion, matching payment with delivery or an appropriate security payment, should the doubt still exist up to the delivery time. If the customer refuses concurrent payment or refuses to provide the requested security deposit, we shall be entitled to rescind from the contract either in part or in full. This shall also apply in the event of a legal change in borrower if there are justified doubts concerning the creditworthiness of the new borrower.

The customer shall not be entitled to set-off against our claims unless the counterclaims of the customer are expressly acknowledged by us or are legally established



8. Retention of title

Current account

The delivery item shall remain our property until the fulfilment of all claims arising from the business relationship with the customer. These shall include any future claims that may arise, also those from contracts concluded concurrently or later, as well as all balance claims from any current account due to us, now or in the future.

Insurance and maintenance

Until the transfer of title, the customer must take care of the goods subject to retention of title and insure these at their own cost and to our benefit against fire, water and theft damage, with the insured sum being adequate to cover the replacement value. The customer must prove the conclusion of such an insurance policy on request. All claims against the insurer arising from this contract with regard to the goods delivered subject to retention of title shall be deemed to be assigned to us. We shall accept the assignment.

Maintenance and inspection work that become necessary shall be carried out in a timely manner by the customer at their expense.

Resale

The customer shall be entitled to resell the goods during the ordinary course of business provided that they are not in default of payment. In the event of resale and further processing, the property right of the customer shall be reserved against the third party.

The customer hereby assigns to us all claims from the relevant legal transaction to the amount of our invoice value, including all ancillary rights, incurred against the purchaser or a third party arising from the resale. This shall be irrespective as to whether the retained goods are resold without or after processing. We shall accept the assignment. The customer shall also be entitled to collect these claims after assignment until revoked by us; this revocation shall be permissible at any time. We undertake not to collect claims as long as the customer duly fulfils the payment obligations. Upon request, the customer shall be obligated to disclose the assignment to their purchasers, provide us with the information necessary to exercise our rights against the purchasers and hand over the necessary documentation.

Further processing, intermixture and combination

The processing of the goods subject to retention of title shall be carried out for us as the manufacturer within the meaning of Section 950 BGB, but without any obligation for us. The processed goods shall be considered as goods subject to retention of title within the meaning of these provisions. If the goods subject to retention of title are processed or irreversibly intermixed with other objects not belonging to us, we shall acquire joint ownership of the new item in the proportion of the invoice value of the goods subject to retention of title to the invoice value of the other goods used at the time of processing or intermixture. The resulting joint ownership rights shall be considered as goods subject to retention of title within the meaning of these provisions.

If our goods are combined or intermixed with other movable property to become a single item, and the other item is to be regarded as the main item, it shall be agreed that the customer shall transfer joint ownership to us proportionately if the main item belongs to the customer. We shall accept this transfer. In all other respects, the same shall apply to the item resulting from the processing, combination and intermixture as to the goods subject to retention of title.



If the retained goods are integrated or installed on the premises of a third party or otherwise, the customer shall assign to us in advance the first part of their payment claim for the services or their claim on whatever legal grounds, to the amount of the invoice value of the retained goods. We shall accept the assignment.

Should the value of the existing securities to which we are entitled exceed our claim by more than 10% in total, we shall undertake to release securities at our own discretion if requested by the customer or any third party affected by the overcollateralisation.

Seizures and interventions by third parties

The customer may neither pledge nor collateralise the deliverable. The customer must immediately inform us in the event of pledges as well as seizures or other disposals by third parties.

Surrender of goods

If material contractual obligations are breached, in particular in the event of default in payment, we shall be entitled to take back the goods after having set a reasonable notice period or having issued a warning. Taking back, requesting the return of or seizing the goods subject to retention of title shall represent a rescission from the contract and shall obligate the customer to surrender the goods subject to retention of title. For this purpose, the customer must irrevocably grant us or our officers access to the premises where the goods subject to retention of title are located. Until surrendered, the customer must store the goods owned or jointly owned by us for us separately from other goods, label said goods as our (joint) property, abstain from any disposition and provide us with a list of the (joint) property.

Once we have taken back the goods, we shall be entitled to resell said goods by private contract or put them up for auction without first setting a deadline. The return of the retained goods shall be effected to the amount of the proceeds obtained, after deduction of the realisation costs, not exceeding, however, the agreed delivery costs. Further claims for compensation, in particular regarding lost earnings, shall remain reserved.

9. Warranty

Notice of defects

Upon receipt, the customer must immediately carefully inspect the deliverable and immediately inform us of defects in writing once discovered (by fax or e-mail shall also be permitted).

Supplementary performance

If the event that notices of defects are justified, we shall be entitled to choose to either remedy the defect or replace it free of charge within a reasonable period. Our right to refuse supplementary performance under statutory requirements shall remain unaffected.

We shall be entitled to make the supplementary performance due dependent on the customer paying the purchase price owed. However, the customer shall be entitled to withhold a portion of the purchase price proportionate to the defect.

The customer must provide us with the time and opportunity necessary for the supplementary performance due and shall in particular provide the goods in question for inspection purposes. In the event that a replacement is delivered, the customer/purchaser must return the defective object to us in accordance with



the statutory regulations. Supplementary performance shall include neither removing the defective object nor reinstalling it unless we were originally obligated to install it.

The customer shall only be entitled to remedy the defect themselves or through a qualified third party and demand reimbursement of the costs from us, if circumstances make such action necessary; i.e. urgent cases of danger to operational safety and the prevention of excessive damages, whereby we should be informed of this immediately, or if we are in default in remedying the defect.

We shall bear the expenses required for the purposes of inspection and supplementary performance, in particular transportation, road, labour and material costs (not removal and installation costs) if there actually is a defect. However, if the customer makes a request for the remedying of a defect from the customer without it being justified, we may demand that the customer compensate us for the costs incurred if the customer has recognised or has failed to recognise as a result of negligence that the purchased item is not defective and that they are responsible for the problems.

We shall not be liable for the consequences of modifications and/or maintenance work carried out on the goods by the customer or third parties without authorisation, for example.

We may refuse to remedy defects if the customer has breached contractual obligations or has not fulfilled them in violation of the contract. The customer shall be obligated to provide services for the supplementary improvement or replacement deliver to the same extent as in the main order. Replaced parts shall become our property.

Failure of supplementary performance

The customer shall have the right to rescind from the contract or demand the reduction of the purchase price if supplementary performance is unsuccessful after two attempts or if we earnestly or finally reduce supplementary performance despite having been set an appropriately long deadline by the customer. If the customer rescinds from the contract, we may demand compensation for use from the customer in accordance with Sections 346 and 347 BGB.

Exclusion of warranty

Our warranty obligations shall no longer apply in the event of unsuitable or improper use as well as in the event of defects that have been caused by incorrect assembly or commissioning or third parties not commissioned by us. Neither shall we provide warranty in events of natural deterioration, incorrect or careless treatment, especially excessive loading, if unsuitable equipment and substitute materials are used, if the filling material, its composition or manufacturer source is changed or if the filling material is free of air and gas bubbles in the material supply system. We shall furthermore not grant warranty in cases of inadequate construction work not carried out by us, unsuitable foundation preparation, chemical, electrochemical or electrical interference, unless these are attributable to negligence on our part.

10. Limitation

Contrary to Section 438, Paragraph 1, No. 3 BGB, the general period of limitations for claims resulting from defects of quality and title shall be one year from delivery. If acceptance is agreed, the period of limitations shall begin upon acceptance.

If, however, the goods are a construction or object that has been used for a construction in accordance with its typical usage and has caused said construction to be defective (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provision (Section 438, Paragraph



1, No. 2 BGB). Special statutory provisions for tangible third-party surrender claims (Section 438, Paragraph 1, No. 1 BGB), in the event of fraud by the seller (Section 438, Paragraph 3 BGB) and for claims in supplier recourse in the event of final delivery to a consumer (Section 479 BGB) shall remain unaffected.

The aforementioned limitation periods of sales law shall also apply to contractual and non-contractual claims for compensation for damages of the customer that are based on a defect of the goods unless the application of the regular statutory limitation period (Section 195 and 199 BGB) would lead to a shorter limitation period in the individual case. In any case, the limitation periods of the German Product Liability Act shall remain unaffected. Otherwise the statutory limitation periods shall apply exclusively to claims for compensation for damages of the customer.

11. Liability

Unless specified otherwise in these GTC including the following provisions, in the event of a breach of contractual and non-contractual obligations, we shall be liable in accordance with the applicable statutory regulations.

We shall be liable to provide compensation for damages in the event of wilful intent and gross negligence – regardless of the legal grounds.

In the event of ordinary negligence, we shall only be liable for

- a) damages arising from injury to life, limb or health,
- b) damages arising from the breach of a material contractual obligation (an obligation that must be fulfilled for the proper execution of the contract to be possible and in which the contracting partner routinely trusts and can trust to be adhered to); however, in this event, our liability shall be limited to compensation for the foreseeable damage that typically occurs.

The limitations of liability arising from this Item shall not apply if we have fraudulently concealed a defect or assumed a guarantee for the properties of the goods. The same shall apply to claims of the customer in accordance with the German Product Liability Act.

The customer may only rescind from or terminate the contract due to a breach of obligation that does not consist of a defect if we are responsible for the breach of obligation. The customer shall not have a free right to termination (in particular in accordance with Section 651 and 649 BGB). In all other respects, the statutory requirements and legal consequences shall apply.

In the event of a claim for liability for defects according to Item 9 or due to a breach of duty according to the aforementioned provisions in Item 11, a contributory negligence on the part of the customer shall be appropriately considered.

No change of burden of proof to the disadvantage of the customer shall be connected with the preceding provisions.

12. Contract documents, property rights

We reserve our right of ownership and copyright over all contract documents. The customer may not copy or pass on these documents to a third party without our permission, even when these documents are not marked confidential. This also applies to patentable inventions and utility models etc., even if they have not yet been registered. The reproduction of our products is only permitted with the written approval of the management.



13. Place of fulfilment, place of jurisdiction, applicable law

If the customer is an entrepreneur within the meaning of HGB (German Commercial Code), a legal entity under public law or a special fund under public law, our company headquarters in Tögig shall be deemed to be agreed to be the place of fulfilment and the place of jurisdiction for all disputes arising from the contractual relationship. However, we shall also be entitled to file a suit in the customer's place of jurisdiction.

Our legal relationships with our customers shall be subject solely to the law of the Federal Republic of Germany, to the exclusion of the UN Sales Law (CISG).

14. Severability clause

Should individual provisions of this contract be void or impossible to execute or become void or impossible to execute once the contract has been concluded, this shall not affect the validity of the remaining provisions of the contract. The provision that is void or impossible to execute shall be replaced by a provision that is valid and executable. The effects of said provision shall come as close as possible to the economic objective that the contracting parties had intended with the provision that is void or impossible to execute.

As at: October 2016