

General Terms and Conditions of Sales and Delivery GERHARDI ALUTECHNIK GMBH

1. Validity and general information

1.1. The following general terms and conditions of sale and delivery (hereinafter "SALES GTC") of Gerhardt AluTechnik GmbH apply to all offers, contracts and deliveries of movable objects (hereinafter "GOOD(S)" or "PRODUCT(S)") as well as all other services provided by Gerhardt AluTechnik GmbH (hereinafter "GERHARDI") to contractual partners who are not consumers within the meaning of § 13 BGB (hereinafter "ORDERER(S)").

1.2. The current version of the General Terms and Conditions of Sale also applies as a framework agreement to future contracts for the sale and / or delivery of GOODS and / or other services by GERHARDI to the same ORDERER, without GERHARDI's express notification being required in each individual case; the current version of the SALES Terms and Conditions is available at www.gerhardi2alu.de. The ORDERER is obliged to find out about the current status of the General Terms and Conditions of Sale prior to placing an order or concluding a contract.

1.3. All deliveries, services and offers are made exclusively on the basis of GERHARDI's General Terms and Conditions of Sale. Any deviating, conflicting or supplementary regulations, in particular general terms and conditions, of the CUSTOMER are contradicted. This also applies in the event that the ORDERER has stipulated a certain, also different form for the objection. Deviating conditions only apply if GERHARDI has expressly agreed to their validity in writing before or at the latest with the conclusion of the contract.

1.4. Individual agreements made with the ORDERER in individual cases (including side agreements, additions and changes) take precedence over these General Terms and Conditions of Sale. However, a written contract or written confirmation from GERHARDI is required and decisive for the content of such agreements.

1.5. Oral side agreements are ineffective unless they have been confirmed by GERHARDI in writing before or at the latest with the conclusion of the contract.

2. Prices and conclusion of contract

2.1. Offers are generally non-binding.

2.2. Samples and prototypes are provided at the expense of the CUSTOMER, unless otherwise expressly agreed in writing.

2.3. Offers from GERHARDI are subject to confirmation and non-binding until the order is confirmed by GERHARDI after the order has been placed by the ORDERER.

2.4. We reserve the right to make technical changes within reasonable limits, as well as adapting the products to a later standardization.

2.5. By ordering a product, the ORDERER makes a binding declaration that it wishes to purchase the ordered product ("contract offer"). GERHARDI is entitled to accept the contract offer within two weeks from the day it has been received. The acceptance by GERHARDI takes place through an order confirmation in text form.

2.6. When orders are sent electronically, their confirmation of receipt does not constitute a binding declaration of acceptance, unless the confirmation of receipt also expressly declares acceptance of the order (order confirmation).

2.7. Drafts, calculations and other documents provided by the seller remain the property of the seller. These may only be used to process the seller's offers and may not be made accessible to third parties.

3. Pricing

3.1. All prices quoted by GERHARDI are based on the prices valid at the time and are net (excluding sales tax) in euros ex works (Incoterm 2020 EXW – Ex Works) plus freight, packaging, insurance and customs clearance.

3.2. The prices stated in the specific order confirmation plus the applicable statutory sales tax are always decisive. This also and especially applies to reorders of similar GOODS / PRODUCTS.

3.3. If there are more than three months between the day of the order confirmation and the delivery, GERHARDI is entitled to demand an increase in prices in accordance with the increased wage and / or material costs, which are decisive for the price calculation. GERHARDI will provide evidence of the increase in wage and / or material costs to the ORDERER on request. If the increase amount exceeds 10% of the originally agreed price, the ORDERER is entitled to withdraw from the contract within a period of seven days after its announcement.

3.4. The tool costs to be borne by the customer are due for payment immediately after the tools have been manufactured. By paying tool costs, the customer does not acquire any right to the tools. Rather, these remain the property of GERHARDI's plant. We store the tools for a period of 2 years. If no further orders are placed within this period, the tools will be scrapped.

4. Due date of purchase price / remuneration, payments

4.1. The purchase price for deliveries of goods or payment for services by GERHARDI is due within 30 days of the invoice date without any deductions. This assumes that the purchase price / remuneration as well as all other possibly due claims by GERHARDI against the ORDERER are fully covered by the GERHARDI trade credit insurance for the ORDERER. If the trade credit insurance refuses to insure the deliveries of goods / services to the ORDERER or if the insurable limit is insufficient to cover, we reserve the right to deliver only after mutually agreed security before the start of production and GERHARDI is no longer obliged to make any advance payments.

4.2. If the ORDERER does not pay within 30 days of the invoice date, he will be in default even without a reminder. If the time of receipt or receipt of the invoice itself is uncertain, the ORDERER shall be in default no later than 30 days after the due date and receipt of the consideration. The statutory default interest in accordance with § 288 (2) of the German Civil Code (BGB) applies. The assertion of further damage caused by default (including higher interest damage) remains unaffected.

4.3. A payment is only deemed to have been made when GERHARDI can dispose of the amount. GERHARDI is not obliged to accept bills of exchange and checks as means of payment; it requires written confirmation from GERHARDI. If bills of exchange or checks are accepted, payment is only

deemed to have been made when the check or bill of exchange is cashed. Costs and expenses are borne by the ORDERER.

4.4. Deviating from the principle of section 4.1. sentence 1 and regardless of the payment agreements agreed in individual cases, all claims by GERHARDI to which it is entitled by the business relationship with the ORDERER are due immediately, if on the part of the PURCHASER it is possible that it becomes unreasonable to adhere to the payment agreements made, because of justified indications of an earlier divergence in the PURCHASER's financial position. Such signs apply in particular to the cessation of payments, check and bill protests, default in payment or changes to GERHARDI's trade credit insurance with regard to the ORDERER within the meaning of section 4.1. sentence 3. In this case, GERHARDI is also entitled to request advance payment or the provision of other securities. Further legal rights remain unaffected.

4.5. The ORDERER is only entitled to offset if the counterclaim is undisputed, legally established or ready for a decision.

5. Delivery times, delays in delivery, self-supply

5.1. Delivery times are non-binding unless they are expressly designated as binding by the seller in writing. Delivery times are extended if there is a delay in self-delivery for which the seller is not responsible. The extension of the delivery period corresponds to the duration of the delay.

5.2. The delivery period / the delivery date is deemed to have been met if the goods are handed over for transport / dispatched or readiness for dispatch has been indicated within the agreed delivery period.

5.3. Impairment of delivery and performance through force majeure, unforeseeable operational disruptions, pandemics, industrial disputes (e.g. strike, lockout), unforeseeable shortages of raw materials or other circumstances for which GERHARDI is not responsible (e.g. official orders or other sovereign measures, significant disruptions in the energy supply or transport and traffic routes, pandemics, etc.) entitle GERHARDI to postpone the delivery or service for a reasonable period, but at least for the duration of the impairment.

5.4. The same applies if the impairment within the meaning of section 5.3. occurs at a GERHARDI sub-supplier.

5.5. If GERHARDI makes the delivery due to a situation according to section 5.3. or section 5.4. impossible or unreasonable, GERHARDI is also entitled to withdraw from the contract in whole or in part because of the not yet fulfilled part.

5.6. If the impairment persists in accordance with section 5.3. or section 5.4 longer than two months, the ORDERER is entitled, after setting a reasonable grace period, to withdraw from the part of the contract that has not yet been fulfilled.

5.7. If the delivery time is extended in accordance with the preceding paragraphs or if GERHARDI is released from the performance obligation in accordance with the preceding paragraphs, the ORDERER cannot derive any claims from this, in particular claims for damages.

5.8. If the agreed delivery date or the delivery period is not met by GERHARDI without this being based on a situation described in section 5.3 or section 5.4, the ORDERER is obliged to set an appropriate subsequent delivery period in writing.

5.9. GERHARDI is not responsible for the delay resulting from late delivery by a sub-supplier, provided GERHARDI is not at fault for the organization.

6. Acceptance

If the goods are to be checked according to special conditions, the acceptance takes place in the seller's factory. All acceptance costs, travel and accommodation costs are borne by the ORDERER.

7. Delivery contracts on demand

7.1 In the case of contracts with continuous delivery on demand (framework contracts or similar), in addition to the total amount of the contract (contractually agreed amount of the PRODUCTS to be delivered by GERHARDI during the contract period – hereinafter "TOTAL QUANTITY") or the amount within an agreed time period ("CALL-OFF PERIOD") PRODUCTS to be delivered (e.g. the annual quantity) also call-off quantities (quantities of the individual call-offs) and delivery dates for these to be specified when the contract is concluded. If a determination is not made when the contract is concluded, Gerhardi is entitled to produce the TOTAL QUANTITY according to its own production planning at any point in time of the agreed delivery period, unless otherwise expressly agreed. If it has been manufactured according to section 6.1 sentence 2, subsequent changes to the ordered goods are not possible.

7.2 The ORDERER has the contractual obligation to divide and accept the TOTAL QUANTITY of the PRODUCTS stated in the order and the order confirmation or in the framework contract during the contract period.

7.3 Unless expressly agreed otherwise, the respective call-off quantity is limited in a CALL-OFFPERIOD based on the quotient of the TOTAL QUANTITY (dividend) and the divisor, which in turn results from the CALL-OFF PERIOD (numerator) and the total contract term (denominator), i.e. an average quantity based on TOTAL QUANTITY and contract duration. Deviating agreements require written confirmation by GERHARDI.

7.4 If the average release quantity has not been accepted within an agreed period in accordance with the above calculation in the CALL-OFF PERIOD, GERHARDI is entitled, without prejudice to further legal rights, to demand that the ORDERER accept and pay the entire remaining quantity produced in the expired release period.

7.5 If a call-off period has not been specified, GERHARDI is entitled, in the event that the ORDERER has not made any retrieval within a common period for call-off, to set a deadline for further retrieval and, after its unsuccessful expiry, to demand payment of the usual release quantity without prejudice to further legal rights. If there are justified indications that the ORDERER will not (no longer) meet his call obligation for the entire remaining quantity (TOTAL QUANTITY minus calls made) during the term of the contract, GERHARDI can request the acceptance (and payment) of the total remaining quantity already manufactured or the portion thereof manufactured and otherwise withdraw from the contract and claim damages.

7.6 When calling off GOODS from call orders / framework agreements, the prices valid on the day of delivery plus sales tax apply, unless the parties have expressly agreed otherwise.

7.7 In the case of an order / order confirmation of a delivery on demand / conclusion of a framework contract for a period of more than three months, GERHARDI is entitled to demand an increase in prices in accordance with the extent to which the wage and / or material costs involved in the price calculation are relevant, have increased from the day of the order to the day of delivery, provided that the increase in these costs is not compensated by declining other costs. GERHARDI will provide evidence of this cost increase to the ORDERER on request. If the increase amount exceeds 10% of the originally agreed price, the ORDERER is entitled to withdraw from the contract within a period of seven days after its announcement.

8. Delivery, packaging, transport, transfer of risk

8.1 All deliveries and services on the part of GERHARDI are carried out in accordance with Incoterms2020 EXW, unless otherwise expressly agreed or confirmed by GERHARDI.

8.1. GERHARDI is entitled to make partial deliveries to a reasonable extent even without an express agreement.

8.2. The risk is transferred to the ORDERER as soon as the shipment has been handed over to the person carrying out the transport or has left GERHARDI's warehouse for the purpose of shipment.

8.3. This also applies if the delivery costs are borne by GERHARDI in individual cases.

8.4. In addition, the risk is transferred to the ORDERER as soon as he is in default of acceptance.

8.5. The choice of the packaging, the type of dispatch and the transport route is made by Gerhardi, unless express (different) instructions have been given by the customer.

8.6. Transport damage must be reported to the forwarding agent or carrier immediately upon receipt of the shipment. A certificate must be issued for this.

8.7. Reusable transport load carriers (reusable pallets, racks, wooden boxes) are made available on loan free of charge for a maximum of 3 months and must be returned to GERHARDI carriage paid. If the goods are not returned within three months of delivery, these will be charged separately at cost.

9. Defects, obligation to examine, notification of defects, warranty, return of goods

9.1. The customer is obliged to check and examine the delivered goods immediately upon receipt of the goods. Complaints must be made immediately in writing, but no later than within two weeks. They must contain as precise information as possible on the PRODUCT complained about (designation, possibly article and serial number, production order number) as well as the type of defect or the reported deviation between the actual and the target quality.

9.2. If defects occur, processing must be stopped immediately. Otherwise, § 377 of the German Commercial Code (HGB) applies.

9.3. The purchaser must immediately give the seller the opportunity to convince himself of the defect.

9.4. Returns are only permitted with written consent of the seller. Agreed returns for reworking must be packed and delivered by the ORDERER in an appropriate condition.

9.5. In the case of an intended installation of the goods in or an intended attachment of the goods to another item, the customer is obliged to check the (internal) properties of the goods that are relevant for the use before installation / attachment. If a defect is discovered, it must be reported to GERHARDI immediately in writing or in text form.

9.6. Reasonable excess or short deliveries in the industry do not count as a defect. The ORDERER is obliged to accept them. As a rule, deviations less than 1.000 kg, up to 20% are common and above 1.000 kg up to 15% of the order or call-off quantity are common in the industry.

9.7. If a defect is discovered during installation, assembly or processing, it must be stopped immediately. Otherwise, section 9.6 sentence 2 and sentence 3 as well as section 9.1 apply.

9.8. Claims for defects do not exist in the case of insignificant deviations from the agreed quality and insignificant impairment of usability.

9.9. Furthermore, claims for defects do not exist in the case of natural wear and tear or damage that occurs after the transfer of risk as a result of incorrect or negligent handling or processing, excessive use, unsuitable equipment, unsuitable assembly work, unsuitable work materials, unsuitable storage, disregard of operating regulations, poor maintenance or due to special external influences (including chemical or electrolytic) arise that are not required by the contract.

9.10. If GERHARDI delivers a defect-free item for the purpose of supplementary performance, the CUSTOMER has to surrender the defective item at GERHARDI's request. This applies accordingly to defective components if these are replaced by faultless ones as part of the rework.

9.11. If GERHARDI is not able to repair or make a subsequent delivery or is GERHARDI entitled to refuse to repair or make a subsequent delivery in accordance with § 439 (4) BGB, or if the subsequent improvement or subsequent delivery is delayed beyond a reasonable period, Gerard is responsible for, or if the subsequent delivery or repair fails twice, the customer can, at his option, request a reduction in the remuneration or withdraw from the contract.

9.12. If improper changes or repair work are carried out by the ORDERER or a third party, no claims for defects exist for these or the consequences arising from them.

9.13. If the complaint is justified, GERHARDI is entitled, at its own discretion, to rectify the defect or to make a subsequent delivery.

9.14. The CUSTOMER's legal rights of recourse against GERHARDI only exist to the extent that the legal requirements (including the purchase of consumer goods) are met. Therefore, there are in particular no rights of recourse if the ORDERER has made agreements with his customer that go beyond the statutory claims for defects as part of a guarantee or as a gesture of goodwill.

9.15. Insofar as the statutory provisions on the purchase of consumer goods (§§ 474 ff. BGB), in particular with regard to recourse liability (§ 478 BGB), do not apply due to the lack of the legal requirements, a one-year warranty period applies. § 438, (1, No. 2) and (3) of the German Civil Code (BGB) remain unaffected.

9.16. Clause 10 also applies to claims for damages. Any further claims or claims other than those regulated in clause 9 and clause 10 of the CUSTOMER against GERHARDI and its vicarious agents due to a material defect are excluded.

9.17. Returns of goods that are not due to defects in the GOODS will only be accepted by GERHARDI with prior written consent. The costs of the return are at the expense of the ORDERER.

Unless expressly agreed otherwise, returned goods will be credited at scrap prices minus a customary discount of 15% for incoming goods inspection, storage and commercial handling.

10. Compensation / Limitation of Liability

10.1. Claims for damages by the CUSTOMER against GERHARDI, regardless of the legal reason, in particular due to breach of obligations from the contractual relationship, except in the following cases: (i) if a mandatory liability according to the Product Liability Act occurs, (ii) in cases of liability for intentional or grossly negligent behaviour, (iii) due to injury to life, limb or health, (iv) due to the breach of essential contractual obligations or (v) insofar as GERHARDI has given a quality guarantee.

10.2. The claim for damages for the breach of essential contractual obligations is limited to the foreseeable damage typical for the contract, unless a limitation is excluded for another reason due to intentional or grossly negligent behaviour or due to injury to life, body or health.

10.3. In the event that the purchaser's customer or the customer of the purchaser's customer is entitled to supplementary performance under the legal requirements, the purchaser must give GERHARDI the opportunity to carry out the supplementary performance itself within a reasonable period of time before the purchaser procures "replacement" in some other way. The ORDERER has to impose this obligation on his customer accordingly. If the ORDERER violates this obligation, GERHARDI reserves the right to reduce the reimbursement of expenses to the amount that would have resulted from its own supplementary performance. § 444 of the German Civil Code (BGB) remains unaffected.

10.4. Reimbursement of expenses for expenses incurred by the PURCHASER towards his customers in connection with the subsequent performance are also excluded if the PURCHASER has not exercised his right to refuse this type of subsequent performance or both types of subsequent performance due to disproportionate costs, contrary to his duty to minimize damage and / or has not limited the reimbursement of expenses to a reasonable amount.

10.5. Claims of the CUSTOMER due to the expenses necessary for the purpose of the supplementary performance, in particular transport, travel, labour and material costs, are excluded if the expenses increase because the object of the delivery was subsequently moved to a location other than the contractually agreed destination unless the shipment corresponds to its intended use. This applies accordingly to liability for recourse.

10.6. For claims for damages and reimbursement of expenses in connection with the defectiveness of the goods, the binding limitation periods for these claims apply (see clause 9).

11. Extended retention of title

11.1. GERHARDI retains ownership of the GOODS delivered until the purchase price / remuneration has been paid in full and all existing and future claims by GERHARDI against the ORDERER from the business relationship have been settled.

11.2. The ORDERER has to store the delivered GOODS separately from similar goods of other companies, to keep them safe and to mark them as originating from the delivery by GERHARDI.

11.3. The ORDERER must insure the GOODS delivered at his own expense and, if requested by GERHARDI, provide evidence of this and present it to GERHARDI.

11.4. The ORDERER is entitled to sell the (reserved) GOODS in the ordinary course of business, provided that he in turn reserves ownership of the (reserved) GOODS until they have been paid for.

11.5. The ORDERER is also entitled to install or process the (reserved) GOODS in the ordinary course of business, as long as he is not in default. The processing of the GOODS subject to retention of title is carried out by the ORDERER for GERHARDI. GERHARDI as the manufacturer within the meaning of § 950 of the German Civil Code (BGB) acquires ownership of the new goods, while the ORDERER keeps the new goods in safekeeping for the seller. In the case of processing with other goods not supplied by GERHARDI, GERHARDI is entitled to joint ownership of the new goods in the ratio of the value of the (reserved) GOODS to the other processed goods at the time of processing. For GERHARDI's co-ownership share in the goods resulting from the processing, the provisions on (reserved) GOODS that are subject to retention of title apply accordingly.

11.6. Processing, installation or sale to those customers who have agreed on a prohibition of assignment with the ORDERER is not part of the normal course of business.

11.7. Otherwise, the authorization in accordance with sections 11.4 and 11.5 can only be revoked if the ORDERER does not properly meet his payment obligations or the requirements of section 4.4. are present.

11.8. The CUSTOMER shall already now accept claims arising from a resale or any other legal reason with regard to the (reserved) GOODS have to be assigned. GERHARDI accepts the assignment. If the ORDERER includes the claim from a resale or any other legal reason in an existing current account with his customers, the balance claim in the amount of the invoice amount is assigned.

11.9. GERHARDI authorizes the ORDERER to collect the claims assigned to GERHARDI for the account of GERHARDI in his own name. The direct debit authorization can only be revoked if the ORDERER does not properly meet his payment obligations or a case of section 4.5. is present.

11.10. In the event of culpable breach of contract on the part of the CUSTOMER – in particular default in payment – GERHARDI is entitled to notify the debtor of the assignment of the above claims. In addition, GERHARDI is subject to clause 11.11. Clause 1 entitles to take back the (reserved) GOODS or, if necessary, to demand assignment of the claims for surrender against third parties. Any further legal claims remain unaffected.

11.11 Taking back the (reserved) GOODS does not constitute a withdrawal from the contract. § 449 (2) of the German Civil Code (BGB) is excluded.

11.12 GERHARDI must release the securities at the request of the ORDERER if and to the extent that the value of the securities exceeds the claims against the ORDERER by more than 20%.

12. Copyright / Transferability

12.1. The rights of the ORDERER from the delivery contract can only be transferred to a third party with the consent of the seller.

12.2. The ORDERER is responsible for ensuring that GOODS that are manufactured by GERHARDI in accordance with the ORDERER's specifications, drawings or samples do not infringe the property rights of third parties.

12.3. If claims are made against GERHARDI for the manufacture or delivery of GOODS that are manufactured by GERHARDI according to information, specifications, plans or samples provided by the ORDERER with the allegation of an infringement of property rights, the ORDERER shall indemnify GERHARDI from all claims and the resulting cost consequences. Defense processes are only carried out by GERHARDI in such cases if the ORDERER submits a corresponding binding declaration of cost assumption and asks GERHARDI to provide security for the entire process risk to conduct the process at its own expense.

12.4. The PURCHASER may only use documents and drawings provided to the PURCHASER as well as constructive services and suggestions for the design and manufacture of GOODS, in particular aluminium profile systems, provided by GERHARDI for the contractually agreed purpose. The ORDERER is prohibited from using them outside of the contractually agreed purpose or making them accessible to third parties or the subject of publications without GERHARDI'S express consent.

13. Data protection

The processing of the business relationship is supported by a data processing system. Accordingly, the data of the ORDERER (address, delivery products, delivery quantities, prices, payments, cancellations, etc.) are recorded in an automated file and stored until the end of the business relationship. The ORDERER is informed of this storage. Legal basis: §§ 27 ff, 33 BDSG. The processing of personal data of employees of the customer takes place in accordance with Art. 6 Para. 1 lit. b) and f) DSGVO for the processing and handling of already concluded business transactions and ongoing businesses, for the initiation of new contracts or for similar business contacts that are necessary to maintain serve the legitimate interests of GERHARDI. GERHARDI collects, processes, stores and deletes the personal data of the employees of the supplier exclusively according to the principles of Art. 5 DSGVO.

14. Place of performance, applicable law, place of jurisdiction

14.1. The place of performance for the mutual main and secondary obligations from the contractual relationship as well as all rights and obligations arising from the contractual relationship is the registered plant of GERHARDI.

14.2. The law of the Federal Republic of Germany applies to these terms and conditions and the entire legal relationship between GERHARDI and the ORDERER, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

14.3. The place of jurisdiction and place of performance for all disputes arising directly or indirectly from the contractual relationship is the registered plant of GERHARDI.

14.4. GERHARDI reserves the right to sue the ORDERER at his general place of jurisdiction.

15. Severability

If a provision in these General Terms and Conditions for SALE or a provision in the context of other agreements between GERHARDI and the ORDERER should be or become ineffective, this shall not affect the effectiveness of all other provisions or agreements.

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