

VGS Marketingservice GmbH Bärensteiner Str. 23 / 25 01277 Dresden	General Terms and Conditions (AGB) Sales VGS Marketingservice GmbH (hereinafter referred to as VGS)	
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§ 1 General Terms

All offers and services performed by VGS are performed exclusively on the basis of these Terms and Conditions. These therefore also apply to all existing and future business relationships, even if they should not have been agreed upon again explicitly. These General Terms and Conditions shall apply to business enterprises as defined in § 14 BGB (German Civil Code). These conditions shall be deemed to have been accepted upon acceptance of the goods or service at the latest. Any contradictory stipulations of the purchaser and references to its own general terms and conditions shall only then attain validity should VGS have confirmed them in writing. This shall also apply to any deviations from these General Terms and Conditions.

VGS shall retain without restrictions its proprietary and copyright exploitation rights to all documents. The documents compiled by VGS may only be made available to third parties with the prior consent of VGS and are to be returned immediately upon demand should no order be placed.

§ 2 Offer / Conclusion of Contract

The offers submitted by VGS are subject to change and non-binding. Drawings, illustrations, measurements, weights and any other performance data shall only be binding if this has been explicitly agreed in writing. Employees of VGS shall not be authorised to conclude oral side agreements or give any oral assurances that go beyond the contents of a written contract. Contracts, additional agreements and amendments to AGB may only be realised by the management of VGS and attain legal effectiveness exclusively by way of a written confirmation from the management of VGS. An order to VGS shall only materialise upon the issuing of a written order confirmation of VGS.

§ 3 Dispatch/ Insurance / Transfer of Risk

Dispatch shall as a general rule be effected ex works from VGS for the account and at the risk of the customer using a means of transport selected by VGS. The risk shall be transferred to the customer at the time of the handing over to the transport company, independent of any later acceptance on the part of the customer. The same shall apply should the customer collect the goods from the premises of VGS. Upon leaving said premises the risk shall also be transferred to the customer in cases in which the goods are conveyed to the customer's in vehicles owned by VGS. Dispatch goods or goods that have been notified as ready for assembly that are not accepted by the customer within 5 days can be stored by VGS at the cost and risk of the customer. Insurance shall only be taken out at the explicit (written) request of the customer and for the latter's account.

§ 4 Prices / Payment Conditions

Unless anything to the contrary has been agreed, VGS shall consider itself bound to the prices quoted in its offer for a period of 30 days from the date of that offer. Those prices shall be decisive that are quoted in the offer or order confirmation of VGS plus the rate of VAT valid at the given time. Additional deliveries and services will be charged for separately. The prices shall apply ex works without packaging.

All invoices are payable immediately without deductions. Should any payment conditions deviating from this be agreed with VGS, these shall require a separate written confirmation from VGS. In the event of default on payment or should there be signs that the customer is threatened with insolvency, VGS shall be entitled to charge statutory default interest and to declare payable all outstanding invoice amounts, including such that have already been deferred, and to demand sureties. VGS shall retain the right to provide proof of a still greater amount of interest damage. The customer shall not be entitled to withhold payments due to warranty claims or to offset the purchasing price against counterclaims of its own that have not been either recognised or legally established. Payments are to be effected free of charges to VGS.

Should a bonus be granted the settlement shall exclusively be effected by way of a credit note from VGS. The corresponding sum may then be deducted from the next payments. A claim to a bonus shall only be given in the case of an existing business relationship and should the customer not be in default of any payments towards VGS.

§ 5 Default and the Consequences thereof

The payment period granted on the invoice results in the determination by the calendar of the maturity of the customer's counter performance. An additional reminder shall not be necessary in order to establish default. Should the customer be in default pursuant to an invoice either entirely or in part, VGS shall be entitled to demand cash in advance for all further orders. This shall also apply to all orders already accepted and being worked upon. Should the customer be in default pursuant to an invoice either entirely or in part, VGS shall be entitled to declare all remaining claims relating to services already rendered, regardless of whether an invoice has already been issued or not, due for immediate payment or to demand reasonable sureties. The above regulations shall also apply in the event of a worsening of the customer's economic situation.

§ 6 Delivery Periods

Supplies shall be effected – provided that nothing to the contrary has been explicitly agreed – within 30 days from clarity having been achieved regarding the order. This shall not constitute the agreement of a binding delivery date. That shall require an explicit agreement. Should a delivery, due to a circumstance for which VGS does not bear the responsibility, be wholly or partially impossible, VGS shall be entitled to annul its delivery obligations wholly or partially. Should agreed down payments not be effected by the customer in good time, VGS shall be released from all delivery date promises.

Should the customer be required to issue a release, this is to be granted within the period quoted in the release file. Should this not be done, VGS will, after this period has expired, assume that the release has been granted and may commence production on the basis of the available information from the order confirmation and the data. The consequences of any errors that occur due to releases that have not been corrected shall always be to the detriment of the client/customer

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§ 7 Complaints

In the case of evident defects complaints must be registered before usage or further processing in writing within 5 days of receipt of the goods giving a precise description of the defect otherwise the goods shall be deemed to have been accepted without any objections. In the case of hidden defects the period of 5 days shall commence on that day upon which the defect becomes evident. In the case of a justified complaint about defects VGS reserves the right to decide whether post-fulfilment, a price reduction or a substitute delivery combined with the return delivery of the goods is to ensue. Should VGS decide in favour of post-fulfilment and this be a failure, which may be assumed at the earliest after a second vain attempt, the customer shall be entitled to the right of transformation or reduction.

§ 8 Electrical and Electronics Devices Act (ElektroG)

The purchaser assumes the obligation to dispose of the goods delivered at the end of their working lives at its own costs in accordance with the statutory regulations.

§ 9 Reference Presentations as an Image or in Real Form

Upon placing its order the customer fundamentally grants VGS the right to use the manufactured products for its own reference presentations either as an image or in real form (for example for trade fairs, flyers, internet appearances etc.). This also applies to pictorial or video material of protected objects (e.g. subject to copyright, utility patents, registered design, patents etc.). The customer shall exempt VGS in this respect from any claims whatsoever that might be raised by its own client.

§ 10 Retention of Proprietary Rights / Assignment

VGS reserves its proprietary rights to all goods delivered and assembled by it until such time as all of its claims from the business relationship have been settled in full. This also applies in cases in which the agreed price for a specific delivery designated by the customer has been paid (extended reservation of proprietary rights). In the case of current invoices the reserved proprietary right is deemed to be surety for the account balance claim held by VGS.

If the goods delivered by VGS are processed or reformed, this is done on behalf of VGS. In the event of processing with items not belonging to VGS, VGS shall acquire co-ownership of the new item according to the value of its goods in relation to the other items. The customer shall store the co-owned item on behalf of VGS.

The customer is obliged to notify VGS of any accesses by third parties to the items delivered and assembled under retention of proprietary rights without delay by way of sending a seizure protocol and an affidavit pursuant to the identicalness of the item seized with the item delivered.

The customer shall be liable for any costs and damages incurred as a result of any such accesses. The customer may not resell any delivered items until such time as these have been paid for in full. In the event of a justified resale the customer hereby already assigns all claims resulting from this to VGS. It does, however, remain entitled to collect any such claims as long as it complies with its own contractual obligations (in particular its payment obligations) in an orderly fashion.

VGS shall be entitled to revoke the collection authorisation. VGS shall release sureties at the request of the customer inasmuch as their value should exceed that of the claims for which they represent surety by more than 20%.

VGS shall be entitled, in the event of default on payment or payment difficulties, to demand the immediate surrender of the items delivered. Until such time as the items have been surrendered the customer must refrain from any disposal of the items and goods which are in the ownership of VGS.

The customer shall be obliged to ensure the items sufficiently against the usual risks and to provide VGS upon demand with proof of the conclusion of such insurance. All claims held against the insurer from this contract pursuant to the items subject to proprietary rights are hereby deemed to have been assigned to VGS.

The demand for the return, the taking back or the seizure of the retained items on the part of VGS shall not – inasmuch as the Instalment Payment Act is not applicable – represent rescission of the contract. VGS shall be entitled to assign claims arising from its business relationships.

§ 11 Offsetting / Retention / Reduction

The customer shall be entitled to rights of offsetting, retention or reduction, even in cases in which claims for defects or counterclaims are being assented, only if the counterclaims have been established legally or recognised by VGS.

§ 12 Rescission of the Contract

Should the customer rescind the contract without justification or for reasons for which VGS does not bear the responsibility and should VGS accept such an unjustified rescission, VGS shall be entitled to lump-sum compensation amounting to 15% of the order value. The assertion of a claim to further damages is not excluded by this. The customer is granted the right to prove a lesser amount of damage incurred, which sum shall then be the decisive one. Irrespective of this the entitlement of VGS to demand full payment for services already rendered remains unaffected. In this case the claim to compensation shall amount to 15% of the services not yet rendered.

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§ 13 Warranty

VGS shall assume warranty for the products manufactured or supplied by it in the context of the statutory regulations. The warranty period shall be 1 year.

After a defect has been rectified the warranty period for this shall also be 1 year, inasmuch as it is a matter of the same defect or of a consequence of faulty reworking. In such a case warranty shall only cover those parts and work connected with the post-fulfilment; in the event of a subsequent delivery the devices affected by that.

For lamps, fluorescent tubes, flash tubes and other illuminants, glass filters and colour filtering foils or any other parts subject to wear and tear the warranty period shall be determined according to the standard lengths of their working lives inasmuch as these should be less than 1 year. Defective or non-performed maintenance work or the failure to observe mandatory statutory or technical prescriptions on the part of the customer and/or person using the item may lead to the forfeiture of any warranty claims.

The customer is obliged to inspect the products before usage as to whether they are suitable for the use to which it intends to put them.

VGS cannot guarantee the suitability for certain types of usage as it does not have any influence upon the usage to which the goods delivered are put. If warranty, operating, assembly or maintenance instructions issued by VGS are not followed, alterations made to the products, parts substituted or expendable materials used that do not conform to original specifications, all warranty rights are forfeited. Liability for normal wear and tear is excluded. Warranty claims against VGS are only the entitlement of direct customers and are not assignable. The place of fulfilment for warranty claims is the domicile of VGS. The statutory regulations shall apply without restriction to claims for compensation in the context of warranty claims that are based upon the violation of life, body and health, or upon wilful intent or gross negligence on the part of VGS or a legal representative or vicarious agent of VGS.

For the purpose of reviewing warranty claims the goods are to be handed over to VGS at the place of fulfilment for warranty claims.

§ 14 Restrictions upon Liability

Pursuant to compensation claims of no matter what nature (e.g. default, impossibility, non-fulfilment, warranty etc.), liability shall be restricted to predictable and direct damage typical for this kind of contract, if the person using the item, its legal representatives or leading executives should be guilty of slight negligence. For damage that is the result of wilful intent or gross negligence the restriction upon liability does not apply. This restriction also does not apply in cases of the violation of life, body or health or to claims arising from the Product Liability Act.

§ 15 Court of Jurisdiction / Partial Invalidity

All contractual relationships with VGS are subject to the laws of the Federal Republic of Germany. The place of fulfilment is the domicile of VGS. Dresden is agreed to be the court of jurisdictions for all disputes.

The application of the Uniform Law on the International Sale of Goods, dated 17.7.1973, and the UN-convention on the International Sale of Goods dated 11.4.1980 is excluded.

Should one or more terms of the contract of the AGB should be or become wholly or partially ineffective, this shall have no influence upon the validity of the remaining stipulations of this contract. Any such invalid clause shall be replaced by a clause that comes closest to the purpose of the ineffective stipulation; the same shall apply to any loophole that might be discovered.