

## General Terms and Conditions of Delivery and Service of VTI Ventil Technik GmbH (04/2024)

### 1. General, scope of application

- 1.1 Our deliveries, services and offers are based exclusively on these general terms and conditions of delivery and service. Our general terms and conditions of delivery and service shall apply exclusively; we do not accept contradictory terms and conditions of Customer or ones deviating from our general terms and conditions of delivery and service, unless we have expressly agreed to their validity in writing. In particular, reference to correspondence of the customer or a third party containing or referring to terms and conditions shall not mean recognition of said terms and conditions. Our general terms and conditions of delivery and service shall apply even if we implement delivery to Customer without reservation despite knowledge of contradictory terms of Customer or ones deviating from our general terms and conditions of delivery and service.
- 1.2 If any clause in these general terms and conditions of delivery and service or any clause in the context of other agreements is or becomes invalid the validity of all other regulations or agreements will not be affected.
- 1.3 Our general terms and conditions of delivery and service shall only apply towards enterprises within the meaning of § 14 German Civil Code, to corporate bodies who are liable to public law and special funds under public law.

### 2. Quotation, quotation documents

- 2.1 Our offers are without engagement, subject to change and also subject to prior sale, unless they are denoted explicitly to be binding. For standards and specifications quoted, the latest issue shall apply in each case insofar as no issue date or review number has been stated. The purchase order of the purchaser shall be deemed to be a binding contract offer. Unless specified differently in the order, we are entitled to accept this contract offer within two (2) weeks after receipt.
- 2.2 The documents (data, drawings, patterns, models or the like) provided by Customer are decisive for us; Customer is liable for them to be correct in substance, technically feasible and complete; we are not obliged to perform examination of those.
- 2.3 We reserve ownership and copyrights to illustrations, drawings, calculations and other documents. This shall apply especially to written documents marked "confidential". Before forwarding them to third parties, Customer shall require our express written approval. At our request Customer shall pass the complete documents back to us and destroy copies which may have been made, if they are not needed in the proper course of business anymore or if negotiations do not lead to the conclusion of a contract.

### 3. Changes to the contract, power of representation

- 3.1 Subsequent changes of the contract including changes of these general terms and conditions made through our employees need to be confirmed by our representatives (manager, procurator or authorised agent with sufficient actual authority).
- 3.2 Legally relevant declarations of Customer, which have to be submitted to us (e.g. cancellation, withdrawal) after the conclusion of contract, must be drawn up in writing.

### 4. Deviations

- 4.1 A deviation in quantity customary in the branch of up to ± 10% shall be permitted, both with a view to the total final quantities and also for any part deliveries, insofar as they do not impair the usability for the contractually intended purpose.
- 4.2 We reserve the right to make slight deviations or changes in colour, shape, function or finish of our quoted commodities, these in any case being customary in the branch and insofar as they do not impair the usability for the contractually intended purpose.

### 5. Prices, payment terms

- 5.1 To the extent that nothing to the contrary results from the order confirmation, our prices shall apply "ex works", exclusive of packaging; the latter shall be charged separately.
- 5.2 We reserve the right to increase our prices adequately if in contracts, where there are more than three months between conclusion of the contract and the agreed delivery or the last partial delivery, cost increases occur, which were not foreseeable to us and for which we are not responsible, especially due to material costs, the increase in prices of raw materials, auxiliary material prices, collective agreements, freight or public charges. We will balance cost reductions and cost increases against each other. On request of Customer we will prove the change of costs.
- 5.3 Statutory Value Added Tax shall not be included in our prices; it shall be stated separately on the invoice to the statutory amount on the date of invoicing.
- 5.4 To the extent that nothing to the contrary results from the order confirmation, our invoices shall be due for payment net (without deduction) within 30 days from the delivery and the date of the invoice.
- 5.5 Payment by cheque or by bill of exchange shall only be admissible by agreement and shall be deemed as payment on account of performance only.
- 5.6 Customer has the right to retain payments if his/her counterclaims have been acknowledged, are undisputed or have been established by a final non-appealable court decision (res judicata) or arise from the same contractual relationship under which the delivery in question was made. Rights to offset with counterclaims from other legal relationships shall only accrue to Customer if they have

been acknowledged, are undisputed or have been legally established by a final non-appealable court decision (res judicata) or arise from the same contractual relationship under which the delivery in question was made. If the delivered product is defective, Customer's counterclaims in particular with respect to no. 11.7 of these conditions shall remain unaffected.

5.7 If Customer is in default we charge interest amounting to 9% above the base interest rate and a lump sum in the amount of Euro 40.00, unless otherwise has been agreed. The assertion of the further damage caused by delay is reserved. The lump sum of Euro 40.00 must be settled with additional damages claimed by us if such damages result in costs of recovery. 5.8 If Customer does not provide necessary information timely and if thereby extra costs arise we are entitled to charge them to Customer's account. This applies if we interrupt the order processing at the request of Customer.

#### 6. **Calculations and amortisation of the shares in tooling costs**

6.1 For parts for which we do not yet possess toolings, we charge for the toolings the share of our production costs stated in our order confirmation at our cost price.

6.2 In the event of changes of toolings caused by Customer, the costs shall be charged separately.

6.3 The mould costs charged shall be a share, as a result of which the expenditures for design, construction, trials, storage and repair are not covered. For this reason, handing over of toolings cannot be demanded. Toolings remain our property.

#### 7. **Delivery period**

7.1 Unless expressly agreed otherwise information on delivery times are only approximate. A delivery deadline does not begin until all details of the completion have been clarified and till both parties have mutually agreed to the conditions of the order. Agreed delivery dates are extended accordingly.

7.2 The start of the delivery period stated by us shall presuppose clarification of all technical questions.

7.3 Compliance with our delivery duty shall further presuppose punctual and proper performance of the duties incumbent on Customer. The right to the defence of unperformed contract shall remain reserved.

7.4 If and to the extent that we have entered into a covering transaction before the conclusion of the contract with the Customer, which, in case of proper implementation, would have enabled us to fulfil our contractual delivery obligations, and if we are not correctly delivered/are not delivered in time by our supplier of no fault of our own, we are entitled to withdraw from the contract. If delivery is not correctly effected and/or is not effected in time, we will immediately inform the Customer.

7.5 If we are prevented from punctual delivery by force majeure, industrial disputes, unrest, official measures by the authorities, lack of deliveries by downstream suppliers, disturbances in the sequence of operation with us or our downstream suppliers for which we are not answerable and which can be proven to be of considerable influence or by other unforeseeable, unavertable and severe incidents, the delivery period shall be extended accordingly. If delivery becomes impossible as a result of this, our delivery duty shall no longer apply without any liability for damages. If Customer proves that later performance is of no interest to him/her as a result of the delay, he/she can withdraw from the contract without any liability for damages. If the prevention lasts for longer than three months, each contracting party can withdraw from the contract with a view to the part of the contract not yet performed. The event of force majeure or any other disturbance shall be notified to the other contracting party immediately.

7.6 If we are in default, Customer shall be entitled to withdraw from the contract under the terms of § 323 German Civil Code. Customer can only claim for damages in accordance with §12 of these conditions.

7.7 If delivery is to be on call order by Customer, the latter must call the commodities within the next twelve months from receipt of the order if not expressly agreed to the contrary; otherwise - after setting of an appropriate deadline - we shall be entitled to deliver the commodities even without a call order by Customer.

#### 8. **Passage of risk, deliveries - packaging**

8.1 If nothing else has been agreed, delivery will be "ex works". Place of delivery and place of fulfilment is our factory in Menden. This shall apply even if we have agreed to pay the costs of transport or if we have advanced them for Customer or if part deliveries take place.

8.2 If dispatch was agreed the risk of accidental destruction and accidental deterioration is transferred to Customer with the delivery to the forwarder, the carrier, or whoever else is responsible for the execution of the shipment. This also applies if we have agreed to pay the costs of transport or if we have advanced them for Customer or if part deliveries take place. If shipment or delivery is delayed for reasons which are attributable to Customer, the risk is transferred to Customer on that day, on which the goods are ready for delivery and when Customer has been informed.

8.3 If acceptance of the goods has been agreed the legal regulations governing acceptance under the German law of contracts for work and services ("Werkvertragsrecht") shall apply to the acceptance.

8.4 If Customer is in default of acceptance or if delivery delays for reasons that are attributable to Customer, we are entitled to claim compensation for the damage resulting from it including additional expenditures.

8.5 We shall be entitled to make part deliveries as long as they are reasonable acceptable for Customer considering Customer's interests.

8.6 We shall take transport packaging back at our registered office during customary business hours. Customer shall bear the costs of recycling.

8.7 When forwarding the goods – unless agreed otherwise - they are only insured at the express request of Customer and at his cost. Unless agreed otherwise we are entitled to determine the kind of shipping (especially freight carrier, the route and packaging).

## 9. Retention of title

9.1 We reserve title to the commodities supplied until receipt of all payments due from the business relationship with Customer.

9.2 Customer shall treat with care the goods subject to retention of the title; he/she shall especially insure them at his/her own expense at sufficient reinstatement value. If maintenance and inspection work is necessary, Customer shall perform it on time at his/her own expense.

9.3 Before the full payment of the secured claims Customer shall neither pledge nor transfer the goods subject to retention of title as collateral without our explicit written approval. In case of distraints or any other interventions of third parties Customer shall notify us in writing immediately, so that we can take legal action according to § 771 ZPO. If the lawsuit is successful and the third party is not able to replace the judicial and extrajudicial expenses Customer shall be responsible for costs incurred.

9.4 Customer shall be entitled to sell the delivered commodities in the ordinary course of business, Customer here and now assigns to us all claims in the amount of the final invoice amount (including VAT) of our claims accruing to him/her against his/her customers or third parties from the resale, regardless of whether the object of purchase has been resold without or following processing. Customer shall remain entitled to collect said claim even after the assignment. Our power to collect the claim ourselves shall remain unaffected hereby, although we engage not to collect the claim as long as no protests against cheques or bills occur, Customer complies with his/her payment duties from the income received, is not in arrears of payment and in particular does not make any application for opening of insolvency proceedings or payments have been ceased. But if this is the case, we can demand that Customer notifies us of the assigned claims and their debtors, gives all the information necessary for collection, hands over the pertinent documents and informs the debtors (third parties) of the assignment.

9.5 Processing or transformation by Customer of the goods delivered by us subject to retention of title shall always be done on our behalf. If the goods delivered subject to retention of title are processed with other objects / materials not belonging to us, we shall acquire co-title to the new object in the ratio of the value of the goods delivered subject to retention of title to the other processed objects / materials at the time of the processing. Apart from this, the same shall

apply to the object originating from the processing as for the goods delivered subject to retention of title.

9.6 If the goods delivered subject to retention of title are inseparably mixed with other objects / materials not belonging to us or this is done in such a way that they become integral components of a single object, we shall acquire co-title to the new object in the ratio of the value of the goods delivered subject to retention of title to the other mixed or combined objects / materials at the time of the combining or mixture. If the mixture or combining is done in such a way that Customer's object is to be regarded as the main object, it is here and now agreed that Customer assigns co-title to us pro rata. Customer shall keep the co-title originating in this way on our behalf. Apart from this, the same shall apply to the object originating from the mixture or combining as for the goods delivered subject to retention of title.

9.7 In case of loss or damage of the goods subject to retention of the title Customer shall, as additional safety, assign in advance eventual existing claims to insurance benefits in the amount of the final invoice value (value added tax including) of our claims.

9.8 We are obliged to release, upon Customer's request, the collaterals which we are entitled to to the extent that the realisable value of our collaterals exceeds the claims to be secured by more than 10%; the selection of the collaterals to be released shall be incumbent on us.

9.9 If Customer behaves in a way contrary to agreement, especially in case of default of payment, we are entitled to withdraw from the contract in accordance with the statutory regulations and to reclaim the goods. After the goods have been returned to us, we are entitled to their utilization, the proceeds of the realization - reduced by reasonable utilisation costs - will be set-off against Customer's debts.

## 10. Acquisition of title by processing or machining of objects provided by Customer

10.1 If Customer provides us with an object for processing or machining and if the value of our processing or machining is considerably lower than the value of the object, it shall here and now be deemed to be agreed that Customer assigns co-title to us pro rata in the ratio of the value of our processing or machining (final invoice amount including VAT) to the value of the object provided at the time of the processing.

10.2 If the object is mixed or combined with objects / materials belonging to us in the processing or machining in such a way that they become integral components of a single object, we shall acquire co-title to the new object in the ratio of the value of our objects / materials to the value of Customer's object provided at the time of mixture or combining.

10.3 If mixture or combining is done in such a way that Customer's object is to be regarded as the main object, it is here and now agreed that Customer assigns cotitle to us pro rata in the ratio of the value of our machining or

processing (final invoice amount including VAT) to the value of the object provided at the time of the blending or combining.

10.4 To this extent, Sections 9.1 to 9.9 of the present terms shall apply accordingly to objects of Customer to which we have acquired co-title according to the aforementioned provisions.

## 11. Warranty

11.1 To the extent that we have to work on the basis of drawings, specifications, samples, requirements etc. of Customer, the latter shall bear the risk of suitability for the envisaged purpose.

11.2 Customer's claims for defects become time-barred within one year. This shall not apply to claims based on a culpable injury of life or limb or health or to claims based on a wilful or grossly negligent conduct, including wilful or grossly negligent conduct of our legal representatives or vicarious agents. These shall be barred in the statutory periods. The mandatory longer limitation periods according to § 438 section 1 no. 1 German Civil Code (rights in rem), §§ 438 section 1 no. 2, 634a section 1 No. 2 German Civil Code (buildings, building materials, parts of buildings and planning services for buildings), § 478 section 4, 479 German Civil Code (recourse to suppliers) as well as in case of fraudulent concealment of a defect through us (§ 438 sub-section 3 German Civil Code) and for claims because of the assumption of a guarantee through us shall remain unaffected. The limitation periods shall begin to run in accordance with the German statutory provisions. The limitation periods applying to claims because of defects in quality or title apply mutatis mutandis to competitive contractual and non-contractual damage claims of Customer that are based on a defect of the contract goods. If, in a given case, the application of statutory limitation periods leads to a prior limitation of the competitive claims, the statutory limitation period applies to the competitive claims. In any case the statutory limitation periods according to the Product Liability Act shall remain unaffected. If and to the extent that the limitation period is shortened towards us, this shortening shall apply mutatis mutandis for any claims against our legal representatives, employees, staff as well as our vicarious and performing agents, based on the same legal basis.

11.3 Customer's warranty rights shall presuppose that he/she has properly complied with his/her duties to examination and notification of defects pursuant to § 377 German Commercial Code. A claim must be made in writing. If the contractual relationship between Customer and ourselves is a contract for work and services, § 377 German Commercial Code applies mutatis mutandis.

11.4 If acceptance of the goods ("Abnahme") or examination of first samples has been agreed with Customer, a later notification of defects which Customer could have established in a careful acceptance of the goods or examination of first samples shall be ruled out.

11.5 We shall be given an opportunity to examine a defect complained about on site. If unauthorised changes or improper repairs have been carried out by Customer and/or third parties, we are not liable for the consequences resulting therefrom.

11.6 As far as our performance is the processing of a material that has been provided by Customer we are not liable for defects in the processed goods, which can be attributed to defects of the delivered material. Nor may we be held liable for defects that arise from the compliance of instructions of Customer for the execution of our performance. Further legal rights that are due to us remain unaffected by these regulations.

11.7 If the delivered product is defective and if Customer has duly fulfilled his duty to examine the product and to give notice of defects according no. 11.3 of these conditions, Customer is entitled to the statutory rights in accordance with the following:

- (i) First of all, to our choice we have the right to either remedy the defect or to deliver a non-defective product to Customer ("Nacherfüllung" subsequent performance). §§ 439 section 3, 635 section 3 German Civil Code shall remain unaffected. For the execution of the subsequent performance Customer is obliged to give us enough time and opportunity within our usual working hours. We are obliged to pay all expenditures that are necessary to realize subsequent performance, including but not limited to costs of transport, routing, personnel and material costs, provided that the goods are actually defective. If Customer's request for defect remedy turns out to be unjustified we can demand the costs incurred by the request of Customer to be replaced from Customer. We shall be entitled to make subsequent performance dependent on Customer's payment of the due purchase price. However, Customer is entitled to withhold an adequate part of the purchase price. In case of substitute delivery or new construction / manufacture in case of a contract for works and services Customer is obliged to return the defective product back to us on our demand.
- (ii) If the subsequent performance fails or if we refuse it, Customer is entitled, after inefficient expiration of an adequate deadline, to rescind the contract or reduce the purchase price. If the defect is not significant or if the product has already been resold, processed or transformed Customer is only entitled to reduce the purchase price.
- (iii) For Customer's claims for damages or reimbursement of futile expenditures number 12 of these terms and conditions shall apply.

## 12. Exclusion of liability and limitation of liability

12.1 Subject to the regulations in clause 12.2 and 12.1 sentence 2 we are only liable for damages – in case of contractual, non-contractual or other claims for damages, regardless of any legal cause, including but not limited to claims for defects, default or impossibility of performance, culpa in contrahendo and tort – in case of wilful or grossly negligent

conduct, including wilful or grossly negligent conduct of our representatives and vicarious agents or other persons employed by us in the performance of our obligations (“Erfüllungsgehilfen”). Furthermore, we are also liable for simple negligence, including simple negligence of our representatives and vicarious agents or other persons employed by us in the performance of our obligations (“Erfüllungsgehilfen”), for damages caused by a breach of a fundamental contractual duty (“wesentliche Vertragspflicht”), i.e. a duty the fulfilment of which is an indispensable condition for the proper execution of the contract and on the fulfilment of which Customer is therefore regularly allowed to rely on (“Kardinalpflicht” cardinal duty). If and to the extent to we are not liable because of a wilful breach of duty, the liability for damages is limited to the typical foreseeable damage.

- 12.2 The exclusions and limitations of liability stipulated in no. 12.1 above so not apply to claims for damages resulting from an injury of life or limb or health as well as Customer’s claims according to the German Product Liability Act and the special German statutory provisions for the final delivery of the goods to a consumer (§§ 478, 479 BGB – German Civil Code). The preceding exclusions and limitations of liability do furthermore not apply insofar as we have fraudulently concealed a defect or we have given a guarantee for the quality of goods.
- 12.3 The limitations pursuant to no. 12.1 and 12.2 also apply as far as Customer claims for reimbursement of futile expenses incurred by him instead for damages.

12.4 To the extent that liability for damages against us is excluded or limited, this also applies as well with respect to the personal liability for damages of our employees, personnel, staff, representatives and vicarious agents or other persons employed by us in the performance of our obligations.

13. **Right of withdrawal/termination**

Due to a breach of duty on our part, which does not consist in a defect, Customer is only entitled to rescind from the contract if we can be made responsible for such breach of duty. Cancellation in the event of force majeure in accordance with Clause 7.6 is unaffected.

14. **Place of jurisdiction, Applicable law**

- 14.1 To the extent that Customer is a businessman, our registered office shall be the place of jurisdiction for all disputes directly or indirectly resulting from the contractual relationship; however, we shall also be entitled to sue Customer at the court competent for his/her place of residence.
- 14.2 The contractual relationship shall be governed by the law of the Federal Republic of Germany. The application of the CISG (Convention on Contracts for the International Sale of Goods) shall be ruled out. Legal terms in these conditions shall have the meaning ascribed to them under German Law.