

## General Terms and Conditions of Sale and Deliveries (As of March/2022)

### I. Scope of application

1. The following general terms of sales and deliveries (“**GSTC**”) shall be valid for all offers, declarations of acceptance and contracts of *Dradura Group GmbH* and *Dradura Altleiningen GmbH* and shall apply to sale and delivery of movable property of any type by us, irrespective of whether manufactured by us or purchased from third parties, in particular of goods, replacement parts and components including advice and other ancillary services (“**Products**”) to companies, legal entities under public law and public-law special funds (“**Customer**”).

2. The legal relationships between us and the Customer in connection with the sale and delivery of Products shall be governed exclusively by the provisions of these GSTC. To the extent that legal transactions of a related type are concerned, this shall also apply to future business relationships even if there the application of the provisions of these GSTC is not again expressly agreed upon. Customers’ stipulations that differ from or contradict these, in particular their own terms and conditions of purchase, shall apply only if these were acknowledged by us expressly and in writing before conclusion of the contract. A separate additional objection on our part is not required.

### II. Contract conclusion, documents and materials

1. If we make a binding offer and if it is not accepted by the Customer within the validity period stated in the offer or, in the event of no such period being stated, within a period of two (2) weeks from receipt of the offer, the offer shall lapse. The offer and these GSTC shall be deemed to have been accepted by the Customer in their entirety and without amendments if the Customer accepts the offer by its order and/or by a call-off of a delivery.

2. We reserve the title and copyrights to all drawings, illustrations, calculations, prospectuses, catalogs, models, tools and other documents and resources given — including in electronic form — to the Customer in connection with the conclusion of the contract. These documents and objects must not be made available to third parties, used or duplicated by the Customer itself or by third parties, unless we grant our express written consent for this. In case an offer is not accepted pursuant to this Section II. or if the documents or objects are no longer needed by the Customer in the regular course of business, these are to be returned to us immediately and any copies made are to be destroyed.

### III. Delivery and delay in acceptance

1. Unless agreed otherwise contractually or in the order confirmation, our delivery is ex plant or warehouse.

2. Delivery times that are not expressly designated as binding are nonbinding. Delivery periods begin no earlier than after performance of all agreed-upon duties of cooperation on the part of the Customer, in particular the receipt of all documents, supplies and information required for the specification of the order contents, to the extent that the Customer must procure these pursuant to the agreement. If these prerequisites are not fulfilled on time or properly or if the delivery is delayed by other circumstances for which the Customer is responsible, the agreed-upon delivery period or the agreed-upon delivery date shall be extended accordingly. The same shall apply in cases of force majeure and other disruptive events pursuant to Section VI., in which case we shall inform the Customer of the occurrence of such events without delay. The statutory regulations on the exclusion of the duty of performance if performance is impossible shall remain unaffected.

3. If the shipment or delivery of the Product is delayed at the Customer’s request or due to circumstances that originate in the Customer’s scope of risk and responsibility, the Customer must reimburse us for the costs actually incurred for storage. For storage, the claim is at least 0.5 % of the outstanding invoice amount for each outstanding month, beginning one month after notification of the shipment’s readiness for delivery; proof of lesser damage remains possible. However, we shall be entitled, after the setting of a reasonable grace period and its expiration without action, to dispose of the Product otherwise.

4. Partial deliveries and corresponding invoices shall be permissible, unless they are unreasonable for the Customer.

### IV. Prices, payment, set-off, retention, creditworthiness

1. Unless agreed otherwise in writing, our prices are ex plant exclusive of packaging, plus statutory value-added tax in the amount applicable on the date of invoicing and exclusive of all other taxes, duties, fees and insurance. All taxes, duties and fees in connection with the delivery of the Product are to be borne by the Customer or must be reimbursed to us.

2. In the event of unforeseeable changes in the price of raw materials, wages, energy and other costs for the occurrence of which we are not responsible, we reserve the right to make appropriate price adjustments to the extent that said changes have a significant effect on the profitability or the order. In this case we shall immediately inform the Customer of the price adjustments and their cause.

3. Unless otherwise agreed, our invoices shall be due for payment no later than within ten (10) days after the delivery of the Product or the invoice. Payment terms cited on the order confirmation or invoice, in particular also for calculation of the term for cash discounts, shall begin with the invoice date. Agreed-upon cash discounts shall be permissible only if the Customer is not in arrears with the payment of invoiced amounts already due from the business relationship.

4. In the case of a reciprocal commercial transaction, if the Customer does not make payment when it is due, the outstanding amounts are to be subject to interest at the statutory interest rate (Section 352 Par. 2 HGB [*Handelsgesetzbuch = Commercial Code*]). Aside from that, in the event of delay in payment on the part of the Customer we shall be entitled to default interest in the statutory amount (Sections 288, 247 BGB [*Bürgerliches Gesetzbuch = Civil Code*]). We shall not pay interest on prepayments or payments on account.

5. The Customer shall be entitled to set-off only if the counterclaim is undisputed or recognized by declaratory judgment. This restriction shall not apply to counterclaims for defects or (partial) non-performance of the contract to the extent that these counterclaims of the Customer result from the same contract as our claim. The Customer shall be authorized to exercise a right of retention only to the extent that its counterclaim is based on the same contractual relationship.

6. If after the conclusion of the contract circumstances become known according to which our claim to payment is jeopardized through inability to perform on the part of the Customer, we shall be entitled to set a reasonable deadline by which the Customer must pay for the products against delivery or provide appropriate security in the amount of 110 % of the respective invoice amount including value-added tax.

#### **V. Changes, relocation, contracting with third parties**

1. A change request by the Customer with regard to the Product, the specifications or processes is to be presented to us by means of suitable documentation. Change requests shall be implemented by us after we have agreed with the Customer on any necessary adaptation and change to dates, prices, or other terms and conditions, particularly quality requirements and processes.

2. We shall inform the Customer if the production or production sites for the manufacture of the Product or parts thereof must be relocated to another location. In this case the contracting parties shall agree on any necessary adjustment with respect to dates, prices or the like.

3. We shall be entitled without the prior consent of the Customer to subcontract with third parties. Contracting with third parties shall leave our direct legal responsibility vis-à-vis the Customer unaffected.

#### **VI. Force majeure**

In the event of force majeure, as well as in the event of shortages of energy or raw materials, labor disputes, official orders, traffic or operational disruptions, we shall be released from our delivery and performance obligations. This shall also apply if sub-suppliers or companies affiliated with us within the meaning of Section 15 et seq. AktG [*Aktiengesetz = Companies Act*] are affected by one of the above events or if these events occur at a time when we are in default. We shall inform the Customer without delay of the occurrence of such events and their anticipated duration.

#### **VII. Transfer of risk**

1. Unless otherwise agreed, the risk of accidental destruction or accidental deterioration of the Product shall pass to the Customer upon leaving the supplier's plant or the warehouse from which the shipment takes place, but no later than with the handover to the transport person. The statutory transfer of risk in the case of delay in acceptance shall remain unaffected.

2. Unless otherwise agreed, the risk shall also pass exclusively to the Customer if the Products are stored with us at the latter's request. We shall exercise exclusively due diligence, but not take any additional security measures for the Customer.

3. The Customer shall bear the risk during the return transport of Products to the extent that the return transport takes place after our rescission due to a breach of duty on the part of the Customer or as a gesture of goodwill.

#### **VIII. Product information, testing obligations, quality, incoming goods inspection, claims for defects**

1. Unless otherwise agreed in writing, the contractually owed quality of the Products follows exclusively from our respectively applicable product specifications. Quality, durability and other information constitute guarantees only if they are agreed upon and identified as such in written form. Technical application and other advice on our part shall be nonbinding.

2. It is the responsibility of the Customer to test the Products with regard to their suitability for the purpose intended by the Customer as well as for the anticipated conditions of use. This shall also apply if the Products are generally recommended for a particular purpose. The above shall not apply if the intended purpose of the Products follows directly from a quality agreement. We shall not be liable, regardless of legal grounds, if any damage results from a breach of the Customer's aforementioned testing obligations.

3. With regard to the Products we shall comply with the current state of the art and technology as of the time of the beginning of the delivery, along with the agreed-upon specifications, quality, environmental, emission, safety and testing provisions and the agreed-upon technical data. The Customer shall be informed in writing of any quality problems arising with the products. Moreover, the contracting parties shall inform one another of potential improvement of the product quality. The Customer shall be obliged to comply with any third-party proprietary rights (patents, utility models, etc.) and with statutory provisions in the machining or processing of the Products.

4. In the case of a product defect – subject to the stipulations in Section VIII.5. – the Customer shall have the statutory warranty rights with the proviso that claims for damages shall exist only in the scope specified under Section IX. The assignment of claims for defects shall be excluded.

5. All complaints, particularly notices of defects and shortfall, must be received by us in writing without delay, but no later than within ten (10) days after delivery – and for concealed defects, if these appear within the limitation period, no later than within five (5) days – after their discovery. For complaints not made in time, corresponding claims by the Customer shall be excluded, with the exception of intentionally concealed defects and shortfalls. If a notice of defect proves to be unjustified, we shall be entitled to demand from the Customer the reimbursement of expenses incurred by us, unless the Customer proves that even with the exercise of the required due diligence it was not obvious to him that no defect was present.

6. The warranty period shall be twelve (12) months from delivery of the Product. By way of derogation, for claims for damages based on intent or gross negligence, in the case of supplier regress as well as for claims based on culpable injury to life, limb or health, the statutory warranty period shall apply.

7. If the Product is proven within the warranty period to exhibit a defect of quality the cause of which was already present at the time of the transfer of risk, then by way of rectification we shall – at our choice – either remedy the defect or supply a defect-free product. The Customer’s claims for the expenditures necessitated for the purpose of rectification, particularly transport, travel, labor and material costs, shall in principle be determined by the statutory provisions. This shall not apply if the expenditures increase because the product had subsequently been brought to a location other than the Customer’s original delivery location, unless the transfer was in accordance with the intended use of the Product. Should the rectification fail, be impossible or unreasonable, or should it be refused, then notwithstanding any claims for damages according to Section XIII.4., the Customer may make use of its right of rescission or rights of reduction in price in accordance with the statutory provisions.
8. There shall be no material defect claims on the part of the Customer for merely an insignificant deviation from the agreed-upon quality or merely insignificant impairment of usability. Furthermore, no material defect shall be deemed to exist in the case of: (a) natural wear and tear; (b) defects that arise due to force majeure, in particular external influences for which the contract made no provision, or based on the use of the product outside the use provided by the contract or the customary use; and (c) defects that arise after the transfer of risk as a result of unsuitable or improper use, handling, the use of unsuitable operating means, unsuitable storage or set-up, noncompliance with installation or handling provisions or excessive stress or use, or through climatic and other effects. Furthermore, the Customer shall have no material defect claims if the Products are altered by the installation of third-party parts unless the defect is not causally connected to the alteration.
9. We shall not be liable for the qualities of the Product that are based on the construction or the choice of material if the Customer prescribed the construction or the material.
10. Claims by the Customer in addition to or other than those stipulated in this Section VIII. based on material defects shall be excluded. For defects of title the provisions pursuant to Section VIII.7. shall apply analogously; however, for the infringement of third-party rights, Section IX.2. shall apply by way of supplement.

#### **IX. Liability and proprietary rights**

1. Our liability according to the statutory provisions to pay damages, of whatever type and on whatever legal basis, shall be unlimited to the extent that any breach of duty attributable to us is based on intent or gross negligence. To the extent that a breach of duty attributable to us is based on simple negligence and a cardinal contractual obligation was culpably breached, the liability is limited to the foreseeable damage that typically occurs in comparable cases. The Customer must take responsibility for any expenditures and any statutory and contractual recourse claims vis-à-vis third parties within the scope of its claim to damages. Aside from that, liability is excluded. The liability according to the provisions of the Product Liability Law shall remain unaffected. The liability for injury to life, limb and health, as well as for the lack of warranted properties shall also remain unaffected to the extent that the warranty specifically intended to protect the Customer against damage that did not result to the Product itself. To the extent that our liability according to this Section VII.1. is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff members, legal representatives and vicarious agents.
2. We shall be liable for the infringement of third-party rights only if the Products supplied by us were used in accordance with the contract and at least one proprietary right from the family of proprietary rights was published either by the European Patent Office or in one of the following countries: Germany, Italy, Poland or the US, and we did not have knowledge of the existence of the proprietary right for other reasons. Furthermore, we shall assume liability only if the Customer informs us without delay of the assertion of third-party claims for alleged infringement of proprietary rights, does not acknowledge an alleged infringement of proprietary rights and leaves all defensive measures to us. The claims shall be excluded if the Products were manufactured according to drawings, models or other equivalent descriptions or information given to us by the Customer and we did not know or did not have to know that third-party rights are infringed thereby or the Customer must otherwise be solely responsible for the infringement of proprietary rights. Furthermore, the stipulations included in Sections VIII.7. and IX.1. shall apply analogously in the event of infringements of proprietary rights.

#### **X. Reservation of title**

1. Until the fulfillment of all claims arising from the business relationship, we retain ownership of the Products (“**Reserved Goods**”).
2. If the Reserved Goods are machined or processed by the Customer, our reservation of title shall extend to the entire new article. In the event of processing, combining or mixing with foreign articles by the Customer we shall acquire co-ownership to a fraction of the new article that corresponds to the ratio of the invoice value of our Reserved Goods to that of the other articles used by the Customer at the time of the processing, combination or mixing.
3. If the Reserved Goods are combined or mixed with a principal article of the Customer or of third parties, the Customer further assigns to us already now its rights to the new article. If the Customer combines or mixes the Reserved Goods with a principal article of third parties, it hereby assigns to us already now its claims to compensation vis-à-vis third parties.
4. The Customer shall be entitled to resell the Reserved Goods or the new article in the course of regular business operations. If the Customer sells Reserved Goods or new articles for its part, without receiving the full purchase price in advance or in stages against delivery of the Reserved Goods or the new article, it must agree with its own customer on a reservation of title that corresponds to these terms and conditions. The Customer already now assigns to us its claims arising from this resale as well as the rights arising from the reservation of title agreed upon. The Customer shall be obliged, at our request, to notify the acquirers of the assignment and to give us the information and documents required to assert our rights against the acquirers. The Customer shall be authorized to collect the claims arising from the resale despite the assignment only as long as it properly fulfills its obligations to us.

5. Any assertion of the reservation of title by us shall also constitute a rescission only if we declare this in writing. After the declaration of rescission, the Customer must grant us access to the Reserved Goods without delay and surrender them.

6. If the reservation of title or assignment is not valid in accordance with the law of the jurisdiction in which the Products are located, the security corresponding to the reservation of title or assignment in that jurisdiction shall be deemed to have been agreed upon. If the Customer's cooperation is required for this, it shall be obliged at its expense to take all reasonable measures (such as registration or publication requirements) required to establish and maintain such rights.

#### **XI. Samples and means of production**

Unless otherwise agreed, the manufacturing costs for samples and means of production (tools, molds, etc.) shall be invoiced separately from the Products to be supplied. If the Customer suspends or terminates the collaboration during the production time of the samples or tooling, all manufacturing costs incurred until then shall be charged to the Customer.

#### **XII. Export controls**

The performance of our contractual obligations shall be subject to the fact that there are no hindrances to the performance based on applicable export control provisions, in particular embargos or other sanctions according to the applicable law. Delays due to export inspection or approval processes shall not constitute any delay on our part. If required approvals are not issued or if the performance owed by us is not capable of approval, the contract shall be deemed as not having been concluded with respect to the Product in question. The Customer undertakes to provide all information and documents that are needed for the export or transfer, and for forwarding the products supplied by us to third parties domestically and abroad, to comply with the applicable provisions of national and international export control law.

#### **XIII. Confidentiality**

Each contracting party shall use all documents (including samples, models and data) as well as knowledge received from the other contractual party from the business relationship only for the purposes jointly pursued and keep them secret from third parties with the same care as corresponding documents and knowledge of its own if the other party has an obvious interest in maintaining their secrecy.

This obligation shall begin with the first receipt of the documents or knowledge and end 36 months after the end of the business relationship. This obligation shall not apply to documents and knowledge that are generally known or that were already known to the receiving party without it having been obliged to secrecy or that are subsequently communicated by a third party entitled to forward them or that are developed by the receiving contracting party without exploiting documents or knowledge of the other party that are subject to secrecy.

#### **XIV. Rescission, termination of the contract**

1. In the event the Customer acts contrary to the terms of the contract, particularly if payments are late, then we shall be entitled, without prejudice to our other contractual and statutory rights, to rescind the contract after the expiration of a reasonable grace period – unless such a grace period may be dispensed with according to the statutory provisions.

2. In the case of a breach of contractual obligations by us the Customer shall be entitled to rescind the contract under the statutory prerequisites.

3. If the contract concluded between the Customer and us is a long-term contract ("**Continuing Obligation**"), then in the event of the breach of cardinal contractual duties by the other party that, in the case of remediable breaches, are not remedied within a reasonable time despite written warning, each contractual party shall be entitled to terminate the Continuing Obligation for cause without notice. In the case of total or partial termination of the Continuing Obligation by notice of termination, the contractual parties shall come to an agreement concerning the processing of deliveries for which a call-off order has already been placed, the settlement of open receivables and cost contribution margins, the compensation of any open amortisation amounts, the delivery of Products already manufactured and the return of documents, records and materials owned by the respective other contractual party.

#### **XV. Form, place of performance, place of jurisdiction, applicable law, partial invalidity**

1. Within the meaning of these GSTC, "*written*" means text form (email, fax or computer-generated letters) and "*written form*" means a document signed by hand. Amendments or supplements to these GSTC including this Section XV.1. and the termination or mutually agreed-upon cancellation of a contract shall require written form. Other declarations or notices by the Customer must be made in writing.

2. The place of performance for all the contractual parties' liabilities arising from the contract, including our duty of rectification and the reciprocal restitution obligation in the case of rescission, is our registered office.

3. The place of jurisdiction for all disputes arising from or in connection with delivery shall be exclusively Altleiningen, Germany, to the extent that the Customer is a merchant. For the Customer this place of jurisdiction stipulation shall be valid exclusively under the aforementioned conditions. However, we shall be entitled to file suit against the Customer with the courts competent for the Customer's registered office as well.

4. The legal relationships between us and the Customer shall be governed by the law of the Federal Republic of Germany. The application of the *United Nations Convention on Contracts for the International Sale of Goods* (CISG) shall be excluded.

5. If any provision of these GSTC or the other agreements made is or becomes invalid, the validity of these GSTC or the other agreements made shall remain unaffected. The invalid provision shall be replaced by the corresponding statutory regulations.