

# General Conditions of Sale and Delivery (GC)

## MEMMINGER-IRO GmbH, Jakob-Mutz-Strasse 7, 72280 Dornstetten, Germany

These General Conditions of Sale and Delivery apply to our sale contracts and to all other agreements, statements and transactions referred to in these General Conditions. They apply exclusively between us as entrepreneurs (Section 14 of the German Civil Code (BGB)). With the exception of Clause 6, they do not apply to consumers (Section 13 BGB). These General Conditions shall apply in particular to contracts for the sale and/or delivery of movable goods ("goods"), irrespective of whether we manufacture the goods ourselves or purchase them from suppliers (Sections 433 and 650 BGB). These General Conditions shall apply to the same extent to all future contracts without any explicit reference to these conditions being required. Our General Conditions apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Purchaser shall only become part of the contract if and to the extent that we have expressly agreed that they shall apply. This requirement of agreement shall apply in all cases, for example even if the Purchaser refers to its general terms and conditions with the order and we do not expressly reject them. Individual agreements (e.g. framework agreements and quality assurance agreements) and details in our order confirmation take precedence over these General Conditions.

### 1. Quotations

The offers are subject to change and are non-binding. Quotation prices shall be calculated on the cost basis on the day of quotation and shall therefore be subject to price adjustment in the event of a change in a cost factor before the order is placed. In all cases, the right to sell the goods in the meantime is reserved. In particular, the delivery times specified in the quotation assume immediate placement of the order.

### 2. Conclusion of contract

All orders shall only become effective once we have confirmed them in writing. This also applies to amendments and additions to supply contracts that have already been concluded. If it becomes apparent after the contract has been concluded that the fulfilment of the payment obligations is at risk due to a failure of performance by the customer, we shall be entitled to withdraw from the contract unless the customer provides us with security or cash payment on delivery.

### 3. Call-off orders

For call-off orders, unless otherwise agreed, we grant a period of 3 months starting from the day of the order confirmation. If the acceptance period has expired, we shall be entitled to either invoice the goods or cancel the order.

### 4. Prices

In the absence of any other agreement, our prices are ex works MEMMINGER-IRO GMBH. In the Federal Republic of Germany, value added tax shall also be added to the prices at the applicable statutory rate. Prices shall be calculated using the cost basis at the time the order is confirmed. For contracts where there is an agreed delivery period of more than 4 months, we reserve the right to increase the prices in line with any cost increases that may occur due to industrial agreements or increases in the price of materials. If the increase is more than 5% of the agreed price, the Purchaser shall have the right to withdraw from the contract.

### 5. Packaging

The packaging is calculated based on net cost price. Unless expressly agreed otherwise, packaging costs are not included in the price. The supplier shall take back the packaging within the scope of its obligations under the German Packaging Ordinance (VerpackV). The Purchaser may return the packaging to the premises of the supplier during normal business hours and with prompt prior notice, unless it has been notified of a different acceptance/collection point. The Purchaser shall assume any transportation costs for used packaging. The returned packaging must be clean, free from contaminants and sorted by packaging type. Otherwise, the supplier shall be entitled to demand the additional disposal costs incurred from the Purchaser.

### 6. Payment

6.1 Unless otherwise expressly agreed, invoices must be paid net without deduction within 30 days of the invoice. Any deviations must be noted by us in the order confirmation. Repair costs, assembly costs and additional individual parts must be paid for in full without any deduction within 7 days of receipt of the invoice. Default interest shall be calculated at 9% above the applicable base interest rate in accordance with Section 288(2) BGB. Invoices shall be issued in EURO. Payment shall also be made in EURO and without additional costs to us. The Purchaser shall only be entitled to retain payment or to offset outstanding payments in the event that its counter-claims have been established in law and are undisputed or recognised by us.

6.2 If the conditions for the VAT exemption of outgoing invoices are not met, we shall be entitled to subsequently charge the German VAT.

### 7. Retention of title

7.1 The delivered goods shall remain our property (reserved goods) until the complete payment of all our current and future claims arising from the purchase agreement and the ongoing business relationship (secured claims) or until the redemption of any given cheques and bills of exchange.

7.2 The goods subject to retention of title may not be pledged to third parties or assigned as security before the full payment of the secured liabilities. The Purchaser must notify us immediately in writing if an application to open insolvency proceedings has been made or in the event of third-party interference (e.g. seizure) of the goods to which we retain title. If we have a claim, we shall be entitled to request from the Purchaser at any time information on which goods delivered under retention of title are still in its possession and where these are located.

7.3 The Purchaser shall bear the risk for the goods delivered by us and must store them carefully and provide adequate insurance cover for loss (theft, fire etc.). The Purchaser hereby assigns to us its claim against the insurance company in the event of damage, which is a first-priority partial amount equal to the purchase price of the reserved goods delivered by us. This shall also apply if the insurance does not cover the full amount of the claim so that, in such a scenario, we do not merely receive proportional compensation.

7.4 In the event of conduct by the Purchaser in breach of contract, in particular non-payment of the purchase price due, we shall be entitled, according to statutory provisions, to withdraw from the contract and/or to demand surrender of the goods, on the basis of retention of title. The demand for surrender is not at the same time a declaration of withdrawal; we shall be entitled to demand surrender of the goods and reserve the right to withdraw. If the Purchaser does not pay the purchase price due, we may only assert these rights if we have previously, and without success, set the Purchaser a reasonable deadline to make the payment or if setting such a deadline is unnecessary in accordance with statutory provisions.

7.5 The Purchaser is entitled until withdrawal in accordance with (c) below, to continue to sell and/or process the goods subject to the retention of title in the ordinary course of business. In this case the following provisions shall apply in addition.

a) The retention of title shall extend to products created from the processing, mixing or combining of our goods at their full value, whereby we shall be the manufacturer. If, in the event of processing, mixing or combining with the goods of third parties who have title, then we shall acquire co-ownership in relation to the invoice value of the processed, mixed or combined goods. Otherwise, the same applies to the created product as to the goods delivered subject to retention of title.

b) The Purchaser shall assign in full any third-party claims arising from the resale of the goods or products and/or equal to any proportional joint title we hold in accordance with the paragraph above to us as security. We hereby accept the assignment. The Purchaser's obligations under clause 7.2 shall also apply in respect of the assigned claims.

c) In addition to us, the Purchaser shall remain authorised to collect these claims. We undertake not to collect the claim, provided that the Purchaser complies with its payment obligations to us, there is no deficiency in its capacity to pay and we do not assert retention of title by exercising a right in accordance with clause 7.4. If this is not the case, we may then demand that the Purchaser notifies us of the assigned claims and their debtors, provides all the necessary information for collection, hands over the associated documentation and notifies the debtors (third parties) of the assignment. We shall also be entitled in this case to withdraw the Purchaser's entitlement to sell on and process the goods subject to retention of title.

7.6 If the realisable value of the securities exceeds our claims by more than 10%, at the Purchaser's request we shall release securities of our choice.

### 8. Delivery times and default

The delivery time is always ex works MEMMINGER-IRO GMBH. Unless expressly agreed otherwise, the stated delivery times are approximate and without guarantee. A written declaration from the supplier shall be required as proof that a binding delivery or hand-over deadline was agreed.

a) For an agreed delivery time, the delivery time shall commence with the sending of the order confirmation, but not before the provision of all documents, licences and clearances to be obtained by the Purchaser or before receipt of any agreed down payment or letter of credit.

b) If we are unable to meet binding delivery deadlines for reasons which are not our responsibility (non-availability of service), we shall inform the Purchaser of this immediately and at the same time communicate the expected new delivery deadline. If performance is also not possible within the new delivery period, we shall be entitled, in full or in part, to withdraw from the contract and we shall immediately reimburse any consideration that the Purchaser has already rendered. Non-availability of a service for this purpose is in particular the late delivery to us by our supplier, if we have entered into a matching transaction to cover our obligations, there is no fault on our part or on the part of the supplier or we are not obliged to procure in the individual case.

c) In the event that we are unable to provide the performance owed due to force majeure (in particular natural disasters, pandemics and epidemics), we shall be released from our obligation to perform for the duration of the obstacle. We expressly reserve any further legal rights.

d) A bindingly agreed delivery deadline has been met if the delivery item has left the factory before it expires or the customer has been informed that it is ready for dispatch. The delivery time shall be extended by a reasonable period in the case of measures taken within the context of industrial disputes, in particular strikes and lockouts and if unanticipated obstacles occur which are outside the control of the supplier, if such obstacles are proven to have a significant impact on the completion or delivery of the item. This shall also apply if such circumstances occur at subcontractors.

e) If the Purchaser suffers damage or loss due to a delay resulting from the fault of the supplier, it shall be entitled to claim compensation for delay, excluding further claims. This shall be 0.5% for every full week of delay but not more than 5% of the value of the entire delivery. This limitation of liability shall not apply to cases in which the supplier has demonstrated intent or gross negligence. The supplier shall reserve the right to provide proof that the Purchaser incurred no, or only a substantially smaller loss, than the above fixed rate.

### 9. Warranty

9.1 Unless otherwise agreed below, the statutory provisions shall apply to the rights of the Purchaser in the event of material defects and defects of title (including incorrect and under-deliveries, incorrect assembly or defective assembly instructions). The provisions of clause 11 shall apply to claims for defects asserted by the Purchaser for compensation or reimbursement of unnecessary expenditure. The special statutory provisions regarding the final delivery of the unprocessed goods to a consumer remain unaffected in all cases, even if the consumer has further processed them (supplier recourse in accordance with Sections 478 BGB). Claims under supplier recourse shall be excluded if the defective goods have been further processed by the Purchaser or another entrepreneur, e.g. by incorporation into another product.

9.2 The basis of our liability for defects shall primarily be the agreement made regarding the condition and quality of the goods. The agreement regarding the condition and quality of the goods shall be all product descriptions which are the object of the individual contract or which have been publicly disclosed by us (in particular in catalogues or on our website) at the time of conclusion of the contract.

9.3 If the condition and quality of goods was not agreed, then it must be assessed in accordance with the statutory provision regarding whether there is a defect or not (Section 434(1) sentences 2 and 3 BGB). However, we shall assume no liability for public statements by third parties (e.g. advertising statements). Third parties in this meaning also include the respective manufacturer of the goods, if we did not manufacture the goods ourselves. Wear and tear damage or damage which is based on previous wear does not constitute a material defect. Damage also does not constitute a material defect if it is causally related to the fact that:

- the goods have been defectively commissioned by the Purchaser or third party or have been incorrectly assembled (in particular not in accordance with the operating instructions); or
- the goods have been used incorrectly, inappropriately or excessively; or
- the goods have been insufficiently maintained and serviced; or
- the goods have been previously changed by the customer or by a third party without our consent or have been improperly repaired; or
- incorrect spare parts (in particular incompatible parts or parts not designated by the manufacturer) have been incorporated or add-on parts have been added; or
- unsuitable operating materials have been used or the goods have been exposed to damaging (e.g. physical, chemical, electrical) influences.

- 9.4 In the case of goods with digital elements or other digital content, we only owe provision of such and, if applicable, updates of the digital content insofar as this expressly results from an agreement on quality in accordance with clause 9.2.
- 9.5 The Purchaser's claims for defects presuppose that it has complied with its statutory obligations to inspect and give notice of defects (Section 377 and 381 of the German Commercial Code (HGB)). If a defect becomes apparent at the time of delivery, on examination or at any other future point in time, then we must be immediately notified of the defect in writing. In all cases, notice of obvious defects must be made in writing within 2 working days of delivery and notice of hidden defects must be given with the same period, but from discovery. If the Purchaser fails to carry out due and proper examination and/or give notice of a defect, then, in accordance with statutory provisions, our liability is excluded for the defect of which notice was not given within the time period or not given properly.
- 9.6 If the delivered item is defective then we may initially choose whether to provide supplementary performance by removing the defect (reworking) or by delivering a defect-free item (replacement delivery). This shall not affect our right to refuse supplementary performance under the statutory conditions.
- 9.7 We shall be entitled to make the owed supplementary performance contingent on the customer paying the purchase price due. However, the Purchaser shall be entitled to withhold part of the purchase price that is appropriate in relation to the defect.
- 9.8 The Purchaser must give us the requisite time and opportunity for the owed supplementary performance, in particular must hand over the goods subject to the complaint for testing purposes. In the case of a replacement delivery, the Purchaser shall return the defective item to us in accordance with the statutory provisions. The supplementary performance shall not include disassembly of the defective item or assembly again if we were not originally under obligation to carry out such assembly.
- 9.9 If there is in fact a defect, we shall assume and/or reimburse any requisite expense incurred for the purpose of inspection and supplementary performance, in particular any transport, travel, labour and material costs in accordance with the statutory provisions. Otherwise, we may request reimbursement from the Purchaser of the costs incurred as a result of the unjustified demand to correct a defect (in particular inspection and transport costs) unless it was not possible for the Purchaser to identify the lack of defect. Notwithstanding Section 349(3) BGB, we shall not reimburse any assembly or disassembly costs if the goods delivered by us are to be inserted or installed in a structure (building material), in a way not intended in accordance with its customary use.
- 9.10 In urgent cases, for instance in the event of a risk to operational safety or to avoid excessive loss/damage, the Purchaser shall have the right to correct the defect itself and to request reimbursement from us of the objectively required expenses. We must be informed immediately, if possible in advance, if the Purchaser is to undertake such work to correct a defect itself. This right to correct the defect itself shall not apply if we would have been entitled to refuse applicable supplementary performance in accordance with statutory provisions.
- 9.11 If the supplementary performance fails or if a reasonable extension period set by the Purchaser for the supplementary performance has expired unsuccessfully or is unnecessary in accordance with statutory provisions, the Purchaser shall have the right to withdraw from the purchase agreement or reduce the purchase price. However, the Purchaser shall not have a right of withdrawal for a minor defect.
- 9.12 Claims of the Purchaser for compensation and/or reimbursement of unnecessary costs shall only apply in the event of defects in accordance with clause 10 and are otherwise excluded.

#### 10. Returns

If a return delivery (return) is required due to warranty claims, incorrect deliveries or repairs, our customer service must be notified using the corresponding form "Notification of return delivery" (<https://www.memminger-iro.de/en/support/index.php?thisID=277>). After the return has been checked and approved by customer service, the customer will receive a consignment note which must be enclosed with the return. If the described procedure is not followed, we reserve the right to charge a service fee of €50 per return delivery for the additional work involved in processing.

#### 11. Limitations of liability

- 11.1 Unless specified otherwise in these General Conditions of Sale and Delivery, including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 11.2 We shall be liable for compensation – irrespective of the legal reason – on a fault basis, for intent or gross negligence. In the event of simple negligence, we shall only be liable, subject to a more favourable standard of liability, in accordance with the statutory provisions (e.g. with the same care as in our own affairs):
- for damage resulting from injury to life, body or health;
  - for damage arising from a non-negligible infringement of an essential contractual obligation (obligation the due and proper fulfillment of which enables implementation of the contract at all and on compliance with which the contractual partner typically relies and is entitled to rely; in this case however our liability is restricted to compensation for foreseeable damage or loss that typically occurs).
- 11.3 The limitations of liability under clause 10.2 shall also apply to breaches of obligations by or for the benefit of persons for whose fault we have responsibility under statutory provisions. They shall not apply if we fraudulently withheld a defect or assumed a guarantee for the condition and quality of the goods and for the claims by the Purchaser in accordance with the German Product Liability Act (ProdHaftG).
- 11.4 For a breach of obligation which does not constitute a defect, the Purchaser may only withdraw or terminate the contract if we are responsible for the breach of obligation.

#### 12. Limitation period

- 12.1 Notwithstanding Section 438(1) No. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. If an acceptance is agreed, the limitation period starts on acceptance.
- 12.2 However, if the goods are a building or an object which has been used for a building in accordance with its customary use and has caused it to be defective (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provision (Section 438(1) No. 2 BGB). Other special statutory provisions on limitation (in particular Section 438(1) No. 1 and (3) and Sections 444 and 445b BGB) also remain unaffected.
- 12.3 The above limitation periods based on the law of purchasing shall also apply to any contractual and non-contractual claims for damages asserted by the Purchaser which are based on a defect in the goods, unless the application of the ordinary statutory limitation period (Sections 195 and 199 BGB) would result in a shorter limitation period in the specific instance. However, claims by the Purchaser for damages in accordance with clause 10.2(2) sentence 1 and sentence 2a and in accordance with the German Product Liability Act (ProdHaftG) shall only expire after the statutory limitation periods.

#### 13 Delivery, transfer of risk, acceptance & default of acceptance

- 13.1 Delivery shall be ex works, which is also the place of performance for the delivery and any supplementary performance. At the request and expense of the Purchaser, the goods shall be sent to another destination (purchase of goods to be sent to a place other than the place of performance). Unless agreed otherwise we shall be entitled to determine the type of shipping ourselves (in particular the transport company, shipping route and packaging).
- 13.2 The risk of accidental loss and accidental deterioration of the goods shall transfer to the Purchaser at the latest on handover. However, for purchase to a destination other than the place of performance, the risk of accidental destruction or accidental deterioration of the goods as well as the risk of delay shall transfer on delivery of the goods to the freight forwarder, freight driver or to any person or body designated for performance of the shipment. If an acceptance has been agreed, this shall determine the transfer of risk. Otherwise, the statutory provisions relating to law on contracts for work and services shall also apply accordingly to the agreed acceptance. The Purchaser being in default of acceptance shall be equivalent to handover or acceptance.
- 13.3 If the Purchaser is in default of acceptance, fails to cooperate or our delivery is delayed for other reasons for which the Purchaser is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall calculate flat-rate compensation of 1/2 percent for every full week of delay, but not more than 5 percent of the value of the entire delivery. The proof of greater damage and our statutory claims (in particular reimbursement of extra costs, reasonable compensation and termination) shall remain unaffected; however, the flat-rate must be offset against further monetary claims. The Purchaser shall reserve the right to provide proof that we incurred no, or only a substantially smaller, loss or damage than the above flat-rate.
- 13.4 We shall be entitled to demand payment of a contractual penalty if the Purchaser terminates the contractual relationship without a justified cause. The contractual penalty in this case shall be 10 percent of the order value. There shall only be a justified cause for terminating the contract if the Purchaser has a statutory right to terminate the legal relationship. The proof of greater damage and our statutory claims (in particular compensation in lieu of performance) shall remain unaffected; however, the contractual penalty shall be offset against further monetary claims. The Purchaser retains the right to provide proof that the Purchaser incurred no, or only a substantially smaller, loss or damage than the above flat-rate.

#### 14. Purchaser's right to withdraw and further liability of the supplier

- The Purchaser may withdraw from the contract if it becomes ultimately impossible for the supplier to perform in full before the transfer of risk. This also applies in case of incapacity of the supplier. The Purchaser may also withdraw from the contract when, in the case of identical items being ordered, the completion of part of the delivery becomes impossible in terms of quantity and it has a legitimate interest in rejecting a partial delivery. If this is not the case, the Purchaser may decrease the consideration accordingly.
- If there is a delay in performance as set out in clause 8 of the General Conditions of Sale and Delivery and if the Purchaser grants an appropriate time extension to the supplier in default with the express declaration that, after expiry of that period, it will not accept performance, and the time extension is then not adhered to, the Purchaser shall be entitled to withdraw from the contract.
- If the impossibility of performance occurs during the default of acceptance or by fault of the Purchaser, then the Purchaser shall remain under obligation to pay the consideration.
- The Purchaser shall also have a right of withdrawal if the supplier, after having been granted a time extension to make a substitute delivery due to a defect for which it is responsible in accordance with the General Conditions of Delivery, allows the period to pass without success as a result of its own fault. The Purchaser shall also have a right of withdrawal in the event of the impossibility or inability of the supplier to make a replacement delivery.

#### 15. Place of performance, place of jurisdiction & applicability of German law

The place of performance and place of jurisdiction, if the Purchaser is a businessman or has no general place of jurisdiction within Germany, shall be Freudenstadt for all disputes arising out of the contractual relationship. The contract shall be subject to the procedural and substantive law of the Federal Republic of Germany, excluding its conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

#### 16. Contract language & severability

- 16.1 The contract language is German. In the event of any deviation and/or interpretation of this text, the German version alone shall apply.
- 16.2 If individual provisions of the contract or of the General Conditions of Sale and Delivery are or become wholly or partially ineffective or unenforceable, this shall not affect the validity of the remaining provisions. The parties undertaken, in the place of the ineffective or unenforceable provision, to come to an agreement which is as close as possible as permitted by law to the desired commercial and legal success of the provision. The same applies if any omission requiring a supplement to the contract is discovered.