



The English translation of the General Terms and Conditions (AGB) is provided for information purposes only; in cases of doubt, the German language, German law and the content of the German version of the General Terms and Conditions take precedence.

General Terms and Conditions of Heute + Comp. GmbH & Co., Kaiserstraße 186 to 188, 42477 Radevormwald

I. General

1.

All of our deliveries, services or offers are made based exclusively on the following General Terms and Conditions. Only these terms and conditions apply. The General Terms and Conditions of our contracting party shall apply only if they have been explicitly accepted by us.

2.

All offers are subject to change and only become binding for us when we have confirmed an order in writing. In particular, we are not bound by past prices in the event of new orders.

3.

Any dates quoted for delivery are not fixed dates. In general, these are only estimations and not binding. Notwithstanding the aforesaid, any deviating agreement on a fixed date of delivery must expressly be made



in writing. Should we be unable to meet a delivery date, we shall immediately inform the contracting party.

4.

Information provided on our goods is only approximate and rough (technical data, etc.) It is not a guarantee for the condition and nature of the goods unless we have expressly provided a guarantee of this kind in writing.

II. Prices and Terms of Payment:

1.

Unless otherwise agreed upon in writing, all prices quoted by us are ex works or warehouse. Our prices are exclusive of value added tax; the value added tax is added separately on the invoice.

2.

Should the delivery be made later than three months after the date on which the contract was concluded, we are no longer bound by the prices that were agreed upon. In this case, we shall adjust the prices as negotiated with the contracting party to our mutual satisfaction, should the costs carried by us increase due to price increases by suppliers, etc.

3.



The payment term is within 30 days of receipt of goods net. Discounts are only applied if they were explicitly agreed upon. If payment remains outstanding after the due date we have the right to charge interest at the statutory interest rate. We reserve the right to prove that greater damage was sustained by delayed performance.

4.

Should the contracting party fall behind on outstanding payments either in whole or in part, we shall have the right to terminate the contract after expiration of a reasonable deadline fixed for payment should payment not have been made by the deadline. We also have the right to terminate the contract in the event that we become aware of circumstances that are apt to reduce the creditworthiness of the purchaser. Should the contract be terminated by us, we have the right to store the goods we have already delivered at a separate location and have them collected. The contracting party herewith grants its explicit consent that persons we hire to collect the goods may enter and drive across the premises on which the goods are located for this purpose.

5.

The contracting party has no right of retention based on claims arising from any other contractual relationship. The contracting party also has no rights of retention based on claims arising from the same contractual relationship, provided that the counterclaim is contested or not legally valid or is not in a close synallagmatic relationship to our claims. The contracting party is not entitled to offset payments with counterclaims as long as these claims are contested or not legally valid or are not in a close synallagmatic relationship to our claims.



III. Obligation to Deliver / Accept Goods, Force Majeure:

1.

Should we not be able to keep a binding date of delivery for reasons that are within our control, our contracting party is obligated to grant us a reasonable extension of time.

2.

Should delivery not be possible because we were not supplied by our supplier for reasons beyond our control despite explicit contractual obligations being in place, we have the right to terminate the contract. In this case we will immediately notify the contracting party that the goods we have agreed to deliver are no longer available and immediately refund any payments already received.

3.

Should the contracting party not fulfil its obligation to accept the goods despite having been requested to do so within a reasonable period of time, we are not bound by the provisions governing self-help sales, but may sell the goods by private contract after prior notification of the customer – regardless of other rights. We reserve the right to make additional claims.



4.

Force majeure events give us the right to extend the period of delivery by the period of the impediment plus a reasonable start-up time, or to terminate the contract either in part or in whole due to nonfulfilment of a part of the contract. Force Majeure events are strikes, lockouts, unforeseeable, unavoidable circumstances (interruptions in operations or delays or interruptions in transport beyond the control of the company, raw materials or power shortages beyond the control of the company), which would make it impossible for us to deliver on time despite having made reasonable efforts to do so. This also applies if the aforementioned impediments occur during a delay in performance or to one of our subcontractors.

IV. Claims Based on Defects:

1.

The condition and nature of the ordered goods is solely dependent on the technical delivery specifications both parties agreed upon. Our contracting partner bears the risk that the goods may or may not be appropriate for the intended purpose.

2.

The period of limitation for claims made by the contracting party is 12 months following the transfer of risk; the statutory periods shall apply for wilful or malicious conduct as well as for claims pursuant to the



Product Liability Act. Later fulfilment of the contract does not involve the start of a new period of limitation.

3.

In order to be able to assert claims of defects, the contracting party must have fulfilled its obligation to inspect and give notice of defects as set out in section 377 of the German Commercial Code (Handelsgesetzbuch, HGB). Should the contracting party or a person the contracting party assigned to carry out this task accept the goods unconditionally, then it shall no longer be possible to register a complaint about the exterior condition of the goods or any discrepancies in quantity. Notice of other defects that would not have been discernible to our contracting party even after careful inspection must immediately be submitted to us in writing. Otherwise, the goods shall be deemed to have been accepted free of defects.

4.

Should our contracting partner give notice of a defect within the stipulated period, we are entitled to either choose to rectify the defect or deliver replacement goods within a reasonable period of time should the reported defect not just insignificantly reduce the value or usability of the goods. Should our contracting party have claimed a defect without any justification, and costs were incurred for us through the inspection of the defect, rectification of the defect or delivery of replacements, we have the right to charge the contracting party for these costs and receive reimbursement.



5.

Any efforts made on the part of the contracting party or any third party engaged by it to remove defects are inadmissible without notifying us of the defect beforehand and leads to a loss of warranty should this work be carried out before receiving our written consent.

V. Limitation of liability:

1.

We are liable pursuant to the statutory regulations should we or one of our representatives or vicarious agents have acted intentionally or with gross negligence or if we are guilty of causing injury to life, limb or health. However, in cases of gross negligence, our liability shall be limited to foreseeable damages typical of such contracts, unless one of the exceptions described in sentence 1 or sentence 3 of this paragraph should simultaneously apply. Furthermore, we shall only be liable according to the Product Liability Act for a culpable breach of basic contractual obligations or should knowledge of the defects have been maliciously withheld or a guarantee for the condition and nature of the delivered goods have been given. However, the claim for damages for the breach of basic contractual obligations is limited to foreseeable damages typical of such contracts, unless one of the exceptions described in sentence 1 or sentence 2 of this paragraph should simultaneously apply.

2.



The provisions of the aforementioned paragraph 1 apply to all claims for damages, irrespective of the cause in law, in particular those due to defects as well as any breach of contractual obligations. They also apply to claims for compensation for expenses incurred in vain as well as any delay in performance on our part. The aforementioned provisions do not constitute a change in the burden of proof to the disadvantage of our contracting party.

VI. Retention of title:

1.

The delivered goods shall remain our property until the fulfilment of all claims we have against the contracting party on account of the business relationship.

2.

Our contracting party may process or transform the delivered goods. The processing can be described as being performed for us. Should we not subsequently acquire ownership of the new goods, our contracting party shall cede us co-ownership of the new goods in the ratio of the value of the delivered goods belonging to us to the other processed goods at the time of processing. The preceding sentence also applies should the delivered goods be permanently joined to goods that do not belong to us. Should we acquire either ownership or co-ownership as specified in these paragraphs, our contracting party will hold these in safekeeping with the due diligence expected of a prudent businessperson.



3.

Should the contracting party sell the delivered goods, the contracting party shall herewith assign to us as security those claims arising from the resale vis-à-vis the purchasing parties, including all ancillary rights, without the necessity of any further declarations to this effect. This assignment includes any balance-of-account claims. However, this assignment only applies up to the amount we invoiced for the delivered goods. The amount of the receivables assigned to us shall be settled first.

4.

Until we give notice of revocation, our contracting party shall be authorised to collect the receivables resulting from the retention of title. However, our contracting party shall immediately transfer to us payments received with respect to receivables assigned up to the amount of the secured debt. We are entitled to revoke the contracting party's right to collect payments on account of legitimate interests, in particular delayed payment, suspension of payments, initiation of bankruptcy proceedings, or in the event of reasonable grounds to suspect over-indebtedness or the imminent insolvency of our contracting party. If there is proof of a legitimate interest, we are entitled to be informed forthwith and receive the documents necessary to assert the aforementioned rights from our contracting party.

5.



As long as the retention of title remains valid, the contracting party shall not pledge the goods or assign the goods as security. The contracting party shall inform us forthwith of any seizures, confiscation or any other orders or interference by third parties.

6.

If the combined realisable value of the security interests we are entitled to exceeds the value of the total secured claims by more than 10%, we shall release the corresponding part of the security interest if so requested by the contracting party.

7.

In case of a dereliction of duty on the part of our contracting party, in particular by delaying payment, we are entitled to request that the delivered goods be surrendered even without setting a deadline and/or – if necessary after setting a deadline – to terminate the contract. In this case, our contracting party is obligated to immediately surrender the goods.

VII. Miscellaneous:

1.

The place of fulfilment and the place of jurisdiction is Radevormwald.

2.

**HEUTE +
COMP.**
GMBH + CO

This contract is governed exclusively by the national laws of the Federal Republic of Germany, even in the case of deliveries made outside of the country, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

3.

Should any provision or part of the aforementioned General Terms and Conditions become invalid or incomplete, this shall not affect the validity of the rest of the provisions. The contracting parties are obligated, within the scope of what is reasonable, to replace the invalid or incomplete provision with an effective provision that is equivalent to the presumed mutual interests of the parties and that does not significantly change the agreement.