

§ 1 General conditions / scope of validity

- All deliveries and services shall be subject to these conditions as well as any other contractual agreements made separately. Conditions of purchase of the ordering party that are at variance to these will not form part of the agreement even following acceptance of the order and acknowledgement unless their validity is agreed to expressly in text form.

A contract is established - in the absence of any special agreement - with order confirmation in text form from Gronemeyer.

The text form requirement corresponds to the legal text form according to § 126 b BGB (German Civil Code), for instance by fax or by e-mail transmission. Such text form requirement according to the aforementioned regulation and according to the regulations stated hereafter shall be deemed met where sent by e-mail or fax shall suffice, where no other form, e.g. written form, is required by law or by regulations stated hereafter.

- Gronemeyer retains property rights and copyright over samples, cost proposals, drawings, and similar information of a physical and non-physical nature, including in electronic form; they must not be made accessible to third parties. Gronemeyer is obliged to make information and documents marked by the ordering party as confidential accessible to third parties with the ordering party's consent.

§ 2 Conclusion of contract

- Our offers are non-binding. We reserve the right to make reasonable technical changes and changes in form, colour and/or weight.
- By ordering an item, the customer makes a binding declaration that he will purchase the ordered item.

We shall be entitled to accept the contractual offer contained within the order within 2 weeks after receipt. Acceptance can be confirmed either in text form or by the delivery of the goods to the customer.

- The contract is concluded subject to the correct and timely delivery of the item to ourselves by our suppliers. This does not apply to instances in which non-delivery is not our fault, especially in cases of the conclusion of a specific hedging transaction with our supplier.

The customer will be notified without delay about the non-availability of the service. The consideration will be reimbursed immediately.

§ 3 Prices and payment

- Prices are quoted, in the absence of any other agreement, ex works including loading at the factory, but exclusive of any packaging, unloading, assembly or commissioning services. The prices are quoted exclusive of Value Added Tax at the prevailing legal rate.

- Unless agreed otherwise, payments must be made to the account of Gronemeyer as follows:

- For conveyor systems:
 - 1/3 of the payment following receipt of the order confirmation
 - 1/3 as soon as the ordering party has been notified that the main components are ready for shipping
 - 1/3 (remainder) within one month following the transfer of risk
 All payments must be made net.

- For individual components:
 - within 10 days with a 2% discount or
 - within 30 days net after the date of invoice

- For assembly and contracted work:
 - within 10 days net after the date of invoice

- The customer is obliged to pay due partial sums within a deadline of 10 days once the above conditions have been met. Following expiry of this deadline, the customer shall be deemed in arrears.

The customer acting as a business must pay interest on the sum due during the period of arrears amounting to 8% above the base rate of interest. Gronemeyer expressly reserves the right to demonstrate higher damages caused by the arrears and enforce these.

- The right to withhold payments or offset payments against counter-claims shall only be granted if such counter-claims are determined to be undisputed or legally binding. The right to exercise entitlement to withhold payment shall only be admissible if the counter-claim relates to the same contractual relationship.

§ 4 Delivery period / delayed delivery

- The delivery period arises from the agreements between the parties to the contract. Compliance with this delivery period by the supplier requires all commercial and technical queries to have been answered by no later than 8 days following confirmation of the order and that the ordering party has met all of his obligations, such as the provision of required authority certificates or approvals, and the agreed first payment has been received within 14 days by Gronemeyer. If this is not the case, the delivery period shall be extended commensurately. This does not apply if the delay is the responsibility of Gronemeyer.

Pre-existing provisions also apply to any agreed contractual penalties.

- The delivery period shall be deemed to have been complied with if the object of the delivery has left the factory of Gronemeyer by the expiry of the deadline or its readiness for shipping has been notified. If acceptance is to take place, apart from in cases of justified refusal of acceptance, the date of acceptance shall be determining date, alternatively the date on which willingness to accept is notified.

- If the shipment or acceptance of the object of the delivery is delayed for reasons for which the customer is responsible, costs arising from the delay will be charged to him starting one month following notification of the readiness or willingness for acceptance.

- If the delivery period cannot be met due to force majeure, industrial action or other events that are outside the control of Gronemeyer, the delivery period shall be extended commensurately. Gronemeyer will notify the customer of the start and end of such circumstances as soon as possible.

- The customer may withdraw from the contract without setting a grace period if Gronemeyer is unable to fulfil the entire service completely prior to the transfer of risk. The customer shall also be entitled to withdraw from the contract if the execution of part of the delivery becomes unworkable in the context of an order and if the customer has a justified interest in refusing partial deliveries. If this is not the case, the customer must pay the contractual price due upon receipt of the partial delivery. The same applies to inability on the part of Gronemeyer. § 8, Paragraph 2 of these provisions also applies.

If the impossibility or inability occurs during the acceptance delay or if the customer is solely or largely responsible for these circumstances, he shall remain obliged to effect payment.

- If Gronemeyer is in arrears and the customer suffers damage as a result of this, the customer shall be entitled to demand a flat-sum arrears compensation payment. For every full week of delay this shall be 0.5 %, in whole, but no more than 5% of the value of the relevant part of the overall delivery that could not be used in a timely manner or in a manner consistent with the agreement as a result of the delay.

If the customer provides Gronemeyer - taking account of legal exceptions - an appropriate deadline for performance following the original due date and if the deadline is not met, then the customer shall be entitled to withdraw from the contract in the context of the legal provisions.

Further claims arising from delayed deliveries will not be entertained, provided § 8, Paragraph 2 of these conditions does not specify otherwise.

§ 5 Transfer of risk / acceptance

- Risk is transferred to the customer when the object of the delivery leaves the company premises of Gronemeyer and also if partial deliveries are made or Gronemeyer has assumed other services, such as the shipping costs or delivery and setup. This applies both to the risk of accidental destruction and accidental deterioration of the goods.

If acceptance is to be carried out, this determines the transfer of risk. It must be carried out without delay on the date of acceptance, alternatively following notification by Gronemeyer of the readiness for acceptance. The customer shall not be entitled to refuse acceptance in the presence of an insignificant defect.

- The customer is obliged to accept the work as soon as its completion has been notified to him and any testing provided for in the contract has taken place. If an insignificant defect is present, acceptance cannot be refused.

The effects of acceptance also begin to apply if the customer has started to use the system against the wishes or without the knowledge of Gronemeyer.

This also applies if the customer does not complete acceptance despite being prompted to do so within a deadline of 10 days.

- If shipping or acceptance is delayed or made impossible as a result of circumstances for which Gronemeyer cannot be held responsible, the risk is transferred to the ordering party from the day on which the readiness for shipping or acceptance is notified. Gronemeyer shall be obliged to take out insurance policies at the customer's expense should these be required.

- The risk is also always transferred if the customer is in arrears of acceptance.

- Partial deliveries are permitted provided these are reasonable for the customer.

§ 6 Retention of ownership

- Gronemeyer retains ownership of the goods until the full payment of all receivables from an ongoing business relationship.

- The customer is obliged to handle the goods with care. If maintenance and inspection work is required, the customer must perform this work on a regular basis at its own expense.

- The customer is also obliged to notify Gronemeyer immediately of any access by third parties to the goods, for example in cases of seizure, as well as of any damage to or destruction of the goods. A change of ownership of the goods, as well as a change of the customer's domicile, must be notified immediately.

- In the event of a conduct of the customer that is not in conformity with the contract, especially in cases of delayed payment or non-fulfilment of the obligations set out in § 6 Point 2 and 3 of these conditions, Gronemeyer shall be entitled to withdraw from the contract and demand return of the goods.

- Gronemeyer shall be entitled to insure the object of the delivery against theft, breakage, fire, water and other damage at the expense of the ordering party unless the customer has provided proof of having taken out such insurance himself.

- The customer is entitled to resell the delivery item in the ordinary course of business.

However, he herewith already assigns to us all claims to the amount of the invoice sum total which it accrues towards third parties due to the resale of the goods. We accept the assignment. After assignment, the customer shall be authorised to collect accounts receivable.

Gronemeyer reserves the right, however, to collect accounts receivable itself as soon as the customer fails to meet his payment obligations properly and falls into arrears.

- Processing and incorporation of the goods by the customer will always be effected for and on behalf of Gronemeyer. If there is incorporation of objects

that do not belong to Gronemeyer, then Gronemeyer shall acquire co-ownership of the new item in proportion to the value of the goods supplied by Gronemeyer relative to the other incorporated objects. The same applies if the goods are mixed with other objects that do not belong to Gronemeyer.

8. The application to commence insolvency proceedings shall entitle Gronemeyer to withdraw from the contract and demand the immediate return of the object of delivery.

§ 7 Warranty

In the case of material defects and defects of title regarding the delivery, Gronemeyer shall, subject to the exclusion of further claims - notwithstanding the provisions of § 8 of these conditions - provide warranty as follows:

Material defects

1. All components that are found to be defective as a result of circumstances prior to the transfer of risk shall be reworked or repaired, at Gronemeyer's choice, without charge.
2. The determination of such defects must be notified to Gronemeyer immediately in text form. Otherwise, the exercising of warranty claims shall be excluded. The entire burden of proof falls upon the customer for all qualifying conditions, especially for the defect itself, for the time at which the defect was discovered and for the timeliness of the notification of the defect.
3. The customer must grant Gronemeyer the time and opportunity required to carry out all of the improvements or replacement deliveries deemed necessary by Gronemeyer; otherwise Gronemeyer shall be exempted from any liability for the resulting consequences. Only in urgent cases of endangerment of operational safety or in order to prevent disproportionately major damage, of which Gronemeyer must be notified immediately, shall the customer be entitled to resolve the defect itself or have it resolved and compensation demanded from the supplier for the costs incurred for doing so.
4. Gronemeyer shall bear – as far as the claim is found to be justified – the necessary expenses for the purpose of supplementary performance, insofar as this does not result in a disproportionate burden for Gronemeyer. When purchasing a newly manufactured item, Gronemeyer also replaces, to the extent of its legal obligation, the expenses incurred by the customer within the scope of claims for recourse in the supply chain.

This provision relates only to the area of the Federal Republic of Germany, however. Gronemeyer will not pay costs also arising from the resolution of defects abroad.

5. The customer has, in the context of the legal provisions, a right to withdraw from the contract if Gronemeyer - subject to consideration of legal exceptions - fails to meet an appropriate deadline set for the improvement or replacement delivery of an object exhibiting material damage or if subsequent performance fails. If the defect is only minor, the customer shall merely be entitled to the right to a reduction on the contract price. Any rights to reduction remain otherwise excluded.
 - If the customer chooses to withdraw from the contract due to a material defect following failed performance, he shall also not be entitled to any claims for damages resulting from the defect.
 - If the customer chooses to receive compensation following failed performance, the goods shall remain with the customer if this is reasonable. The compensation is limited to the difference between the purchase price or work wages and the value of the defective object. This does not apply if Gronemeyer has caused infringement of the contract maliciously or fraudulently.
6. The characteristics of the goods shall be agreed solely as determined by the product description by Gronemeyer. Official statements, recommendations or advertising by the manufacturer also do not represent any contractual details of the quality of the goods.

If the customer receives defective installation and operating instructions, we are merely obliged to provide non-defective instructions and only to do so if the defect in the instructions prevents proper installation or operation.

We will not provide the customer with guarantees in the legal sense. Manufacturer warranties remain unaffected by this.

7. Our product description relates exclusively to the technical descriptions, samples, drawings, plans, pictures etc. provided to us at the time the contract was concluded. Any technical specifications and samples provided following conclusion of the contract have no impact on our delivery obligations. The samples provided to us remain in our possession until expiry of the warranty.
8. Gronemeyer systems are supplied in accordance with EC machinery regulations. Further trims, covers, drip trays, etc., the need for which only becomes apparent during assembly or the integration of the system on site, shall only be included in the scope of delivery if these are listed in the directory of services. Maintenance and operating platforms required to ensure accessibility of the systems do not form part of our scope of delivery.

9. Wear parts
Wear and tear are excluded from the warranty.

Defects of title

10. If use of the object of delivery results in the infringement of commercial protection rights or copyrights in Germany, Gronemeyer will procure at its own expense the right to continue using the object for the customer or modify the object of the delivery in a manner that is reasonable for the customer so that the infringement of protection law no longer occurs.

If this is not possible under economically appropriate conditions or within an appropriate deadline, Gronemeyer shall be entitled to withdraw from the contract.

It will also absolve the customer or any undisputed or legally binding claims by the relevant holder of the protection rights.

These regulations are final, subject to the provisions of § 8, Paragraph 2, for cases of infringement of protection or copyright. These only exist if:

- the customer notifies Gronemeyer immediately of asserted claims for property right or copyright infringements,
- the customer allows Gronemeyer to carry out modifications as listed above,
- Gronemeyer reserves the right to all defence measures including out-of-court settlements,
- the defect of title is not based on an instruction issued by the customer,
- the infringement of right is not caused by the customer modifying the object of delivery himself or using it in a manner not appropriate to the contract.

§ 8 Liability

1. If the object of delivery cannot be used by our customer for the contractually agreed purpose due to negligence or fault in the execution of suggestions or advice before or after completion of contract or by breach of other contractual subsidiary obligations, then the arrangements specified under §§ 7 and 8 shall apply correspondingly with the exception of further claims from the ordering party.
2. For damage which is not to the delivery item itself, Gronemeyer shall only be liable, for whatever legal reasons, in the following situations:
 - Wrongful intent;
 - Gross negligence on the part of the owner / board or senior employee;
 - Culpable injury to life, body or health;
 - Defects which were maliciously not revealed or the absence of which was guaranteed;
 - In the event of defects in the delivery item, insofar as liability exists under the German Product Liability Act for personal injury or property damage in privately used items.
3. In the event of culpable violation of significant contractual obligations, the supplier shall also be liable in the event of gross negligence of non-senior employees and in the event of slight negligence; in the latter case, liability shall be limited to reasonably foreseeable loss or damage typical of the contract.
4. Further claims are excluded.

§ 9 Statute of limitations

1. All claims by the customer - for whatever legal reason - shall expire one year from the delivery of the object in the case of purchase agreements or acceptance in the case of labour agreements. This also applies to the limitation period of claims for recourse in the supply chain in accordance with § 445 b para. 1 BGB (German Civil Code), unless the last contract in this supply chain is a purchase of consumer goods. The expiration inhibition from § 445 b para. 2 BGB (German Civil Code) remains unaffected. Furthermore, the aforementioned statute of limitations also applies to defects of a building or for objects of delivery that have been used in accordance with their normal manner of use for a building and have caused the defect.
2. The warranty relates to a period of operation by our systems of one shift per day (8 hours). In the case of multiple shifts, the period is reduced in an equal ratio to the number of additional shifts.
3. No warranty is offered for second-hand objects.

§ 10 Use of software

1. Provided the scope of delivery of the software includes it, the customer is granted a non-exclusive right to use the supplied software along with its documentation. It is provided for use on the object of delivery intended for this purpose. The use of the software on more than one system is prohibited.
2. All other rights to the software and documentation, including copies thereof, remain the property of Gronemeyer. The issuing of sub-licences is not permitted.

§ 11 Court of jurisdiction / applicable law

1. The law of the Federal Republic of Germany applies only.
2. The court of jurisdiction is the court responsible for Gronemeyer's official place of business. Gronemeyer shall however be entitled to file claims at the customer's official place of business.
3. If individual provisions of the agreement with the customer, including these general terms and conditions of business, are or become ineffective in whole or in part, the validity of the other provisions shall be unaffected. The provision that is wholly or partly ineffective must be substituted by a provision that most closely approximates the economic success of the ineffective one.

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