

I. Offer and Conclusion

1. All conclusions of agreements and agreements – this applies also, if concluded by a representative – shall become binding only, in particular with a view to the scope of the delivery/performance, when confirmed by means of a contract signed by both parties.
2. Any data mentioned in Vertex's offer as well as any pertaining documents, such as illustrations, drawings, plans, calculations, tables or declarations of weight, shall be authoritative only to the extent that the product is a standard make. Customer knows that in the case of any special models or non-mobile products the concrete development work is carried out during the manufacturing process during which unforeseeable circumstances may arise necessitating changes in the construction and/or model. Therefore, the data and information mentioned in the 1st sentence can only serve the purpose of facilitating orientation regarding functionality, components and cost of a product.
3. Vertex retain their title to and copyright in all documents pertaining to the offer, which have to be returned on demand if contract negotiations fail. Vertex will release any design drawings to customer only upon special agreement.

II. Prices

1. All prices shall be ex works inclusive of loading in works, exclusive of packaging, unless otherwise agreed. Prices do not include any charges for taxes, fees, work permits, licenses or other charges imposed by government or quasi-governmental bodies.
2. Any necessary packaging will be charged separately. Returning of packaging shall take place at the factory of Vertex at the expense of customer. On customer's request, packaging can be returned at a different location at the expense of customer to a company entitled to take back and recycle industrial and commercial packaging.
3. Customer shall bear the risk of any increases in material costs, wage costs, salary costs, or transport costs that have actually occurred at the time of the respective transaction, unless a fixed price has explicitly been agreed on. The same shall apply to public dues which on the day of the offer or the confirmation of the order could not yet have been taken into consideration but directly or indirectly raise the price of the delivery/performance.

III. Terms of Payment

1. Unless otherwise agreed, all payments have to be effected net 30 days from date of invoice, without any deduction. Vertex shall be entitled to make out partial invoices based on the progress in performance.
2. Customer shall be obliged to pay interest of 8 % above the base rate on any money debt he is in arrears with. Vertex reserves the right to demonstrate and assert greater damage caused by said default in payment.
3. Both customer's rights to set-off and retention shall be confined to those counterclaims either recognized by Vertex or recognized by declaratory judgment.
4. If Vertex becomes aware of any circumstances customer is responsible for calling into question the creditworthiness of customer, in particular, if customer fails to honour a cheque or stops payments, Vertex shall be entitled to demand as due all claims arising from their current business relationship and stop work on any or all elements of the contract and customer shall be liable for all cost or schedule impacts caused by such stop work. The same shall apply if customer defaulting on his payments fails to fulfill his obligation to pay in spite of a reasonable grace period granted to him. In addition, such circumstances shall entitle Vertex to effect any outstanding performance against security or advance payment only or to rescind the contract. Moreover, Vertex, after having declared its rescission of the contract, shall be entitled to demand compensation for any damage incurred.

IV. Reservation of Title

1. The title to the delivery item shall pass to customer only when all current and future claims of Vertex, irrespective of their legal grounds, have been fully paid. The same shall apply if any claims of Vertex have been included in a current invoice with the balance being established and recognized.
2. Any transfer of the ownership in the delivery item or disposal of it by customer shall be subject to the written consent of Vertex.

3. Customer has to maintain the delivery item and handle it with care. Customer shall carry out any necessary maintenance work and services on a regular basis and at his own expense.
4. Customer undertakes to immediately inform Vertex of any seizure of, damage to or destruction of the delivery item or if same gets lost. In addition, customer shall immediately inform Vertex of any change of possession of the delivery item as well as of any change of company seat.
5. Customer shall bear any and all costs of measures to protect Vertex's legal position, e.g. of any remedies against any seizures. On Vertex's demand, customer shall release all information and documents necessary to recover the delivery item. Customer shall also, on demand disclose the debtors of the assigned claims to Vertex.
6. Customer shall insure at his own expense the delivery item for the benefit of Vertex against theft, destruction and damage effective from the time the risk passes until the ownership is transferred.
7. In the event that the reserved goods are treated or processed within the meaning of § (Section) 950 BGB (Civil Code) by Vertex, customer or a third party, Vertex's reservation of title shall also include the finished product. In this case Vertex shall directly become the owner of the finished product without any acquisition of ownership on the part of processor.
8. If a union is formed between the delivery item and any other movable items which within the meaning of § (Section) 947 Subsection 2 BGB (Civil Code) are to be considered the "principal item" and are not owned by Vertex, Vertex shall acquire co-ownership in the new movable item based on the ratio of the value of the delivery item supplied by Vertex to the other processed items. The same shall apply in the case of any intermingling. The ownership based on the formation of a union or intermingling shall also be subject to the full settlement of all claims arising from the current business relationship with customer.
9. Vertex reserves its right of rescission in case of a gross breach of any of the duties stipulated under items 2 - 6 of this Section. Its right to claim damages shall remain unaffected by any rescission pursuant to § (Section) 325 BGB (Civil Code).

V. Extended Reservation of Title

1. If customer, contrary to Section IV item 2, has disposed of Vertex's ownership in a manner that it was transferred to a third party, Vertex shall be entitled to approve this transaction subsequently. In this case customer's claims arising from said transaction up to the invoiced amount shall be considered assigned to Vertex taking effect from the time the ownership passes. After the assignment, customer shall be authorized to collect the debt. Vertex reserves the right to collect the debt itself as soon as customer defaults on its payments.
2. Any claims of customer against any insurer or other third parties based on damage, reduction, loss or destruction of the reserved goods shall be considered assigned in advance.
3. In the event that customer includes in current accounts regarding his own costumer his claim arising from a resale, union or installation of the reserved item, the advance assignment shall extend to the current accounts claim. Following the balancing of accounts, the advance assignment shall up to the amount of the prior current accounts claim on a pro rata basis include the final balance.
4. The assignment of the claim shall be effective up to the amount of the invoice value of the respective reserved item which was resold, formed part of a union or installed. In the case of goods in which Vertex holds co-owner's shares the assignment shall be effective up to the amount of the co-owner's shares. On Vertex's request, customer shall inform his debtors of said advance assignment.
5. Vertex binds itself to release on demand any securities existing in its favour at its own choice to the extent that their value exceeds the claims to be secured by more than 15 %.

VI. Delivery Periods

1. Contractual delivery periods shall start running from the time a contractual instrument is signed by both parties, unless expressly provided otherwise. The periods shall not start running prior to the receipt of the documents, permissions, releases to be provided by customer and not prior to the receipt of any agreed deposits.

- If customer fails to fulfill his contractual obligations on time or in case of any interruptions in the performance of the contract caused by customer, the delivery period shall be extended by the time the delay or interruption last.
- The delivery period shall also be extended, if any obstacles occur for which Vertex is not responsible. This shall apply irrespective of whether said obstacles have occurred at Vertex's or at its sub-suppliers' facility. Said obstacles within this meaning may include, but are not limited to, (a) acts of God or of the public enemy, (b) war (whether an actual declaration thereof or not), (c) acts of terrorism or threats thereof, (d) acts of a Government in either its sovereign or contractual capacity, (e) sabotage, (f) insurrection, (g) riot or other act of civil disobedience, (h) atmospheric disturbances, (i) fires, (j) floods, (k) plagues, pandemics or epidemics, (l) quarantine restrictions, (m) labor disputes or strikes, (n) failure or delay in transportation due to transportation workers strike or freight embargoes, (p) shortage of labor, fuel, raw material or machinery, (q) violent storms or unusually severe weather, (r) interruptions of operations, or (s) rejects batches. If the delay is caused by Seller's subcontractor and if such delay arises out of causes beyond its reasonable control, and without its fault or negligence, then Seller shall not be liable for any delay in performance, excess costs or other damages unless the Product to be furnished by the Seller or subcontractor was obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules and at comparable prices. The delivery period shall be extended by a mutually agreed time period during which the obstacle has persisted.
- Vertex shall immediately notify customer of any such circumstances.
- If the dispatch of goods is delayed by more than one week from notification of readiness for dispatch for reasons Vertex is not responsible for, Vertex shall be entitled at its own discretion to store the goods to be dispatched at the expense of customer and demand payment for them.
- The risk passes to customer and the warranty period begins to run both at the time the goods are set aside in the factory.
- Vertex shall not be obliged to test for their suitability any plans, calculations, materials, etc. provided by customer.
- Partial deliveries shall be permitted.

VII. Acceptance

- If acceptance of the delivery items is stipulated by contract, the acceptance has to be performed at the place of manufacture immediately after notification of readiness of acceptance. At the latest twelve working days after notification of readiness of acceptance, the work shall be considered accepted within the meaning of § (Section) 640, 1st subsection, 3rd sentence BGB (German Civil Code).
- All expenses regarding the subject matter of acceptance shall be borne by Vertex, all personal acceptance costs and the charges of any consulted third parties shall be borne by customer.

VIII. Faulty Delivery Item

- For any faults in the delivery item, Vertex shall firstly warrant at its choice by rectification of defects or replacement if such fault occurs within twelve (12) months of delivery. Only if this has failed, shall customer be entitled to demand a reduction in price or, if the subject matter of the contract is not the performance of a construction, at its choice rescission of the contract. In the case of only a minor breach of contract, in particular any minor faults, customer shall not be entitled to rescission.

IX. Liability of Vertex

- Vertex shall only be liable without restriction for any damage occurring at the customer – irrespective of the legal ground of said liability - if caused willfully or by gross negligence by Vertex, its legal representatives or vicarious agents (person employed by the debtor in the performance of his obligation). Vertex's liability for misconduct which is not caused by intent or gross negligence shall be excluded with exception of a violation of cardinal obligations. In the latter case Vertex shall however only compensate for the damage typically occurring with respect to transactions of the kind in question. In no event shall Vertex's liability exceed the value of the contract.
- The unrestricted liability according to mandatory legal regulations, in particular liability for any personal injury or in accordance with the German Product Liability Act shall remain unaffected.
- In all cases the liability is limited to the real insurance policy.

X. Confidentiality

The documents pertaining to the offer mentioned under I.2 must at no time be made available without the written consent of Vertex to any persons (third parties) other than representatives, vicarious agents or vicarious agents with respect to tortious liability within the company of customer or of Vertex.

XI. Place of Performance, Place of Jurisdiction

- Place of performance for the mutual obligations shall be the headquarters of Vertex in Duisburg.
- Exclusive place of jurisdiction for any dispute arising out of the contractual relationship, including special procedures deciding claims arising out of a bill of exchange and actions for assertion of a claim concerning payment of a cheque, shall be the court having jurisdiction at the headquarters of Vertex.
- Vertex shall also be entitled to bring action before a court at the legal places of jurisdiction applicable to customer.
- German law shall apply exclusive of the UN Convention on Contracts for the International Sale of Goods.
- Should any single provisions of this contract be invalid, the validity of the remaining provisions shall not be affected.

XII. FCPA-Clause

- The Seller specifically represents and warrants that it has not and will not, in connection with this Agreement and its performance hereunder, directly or indirectly, offer, pay, promise to pay, or authorize the giving of, any money or thing of value to any Government Official or to any Person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a Government Official, for the purpose of influencing any act or decision of such official, including any act or decision to fail to perform his lawful duty, or for the purpose of inducing such Government Official to use his influence with any government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality to obtain or retain business for any Person.
- The Seller acknowledges that no employee of the Company (or any of its affiliates) has the authority to give any direction, written or oral, in connection with the making of any such payment or commitment by the [Seller] to any third party in contravention of the foregoing.
- The Seller will keep accurate books and records of its business relating to this Agreement. The purpose of this clause is to ensure compliance with U.S. Law including but not limited to the Foreign Corrupt Practices Act (FCPA). A copy of the FCPA is available upon request.

XIII. Final Clause

- The customer's general purchase terms and conditions shall not be applicable. They shall not be binding on Vertex, even if he fails to explicitly object on conclusion of the contract.
- Any deviations from these General Conditions of Sale must be confirmed in writing by the Vertex in order to be valid.