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## General Terms and Conditions of CP Tech GmbH

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#### I. General, Scope

- (1) These terms and conditions apply to all current and future business relationships.
- (2) Differing, conflicting or additional terms and conditions - even if known - are not part of the contract unless their validity is expressly agreed upon in writing.
- (3) Consumers in the sense of these conditions are natural persons, with whom a business relationship is entered, and who are not involved in any commercial or independent professional activity.
- (4) Entrepreneurs in the sense of these conditions are natural or legal persons or legal partnerships who will enter into a business relationship with CP Tech GmbH, and who - in case of an execution of a legal transaction - act in the exercise of their commercial or independent professional activity.
- (5) Customers in the sense of these Terms and Conditions are both consumers and entrepreneurs.

#### II. Offers and Order Placement

- (1) Our offers are always subject to change. Validity of the contract starts after receipt of a written order confirmation, if such is issued. Offers plus attachments may not be made available to third parties.
- (2) Subsidiary agreements, amendments, supplements or annulments to the contract require our written confirmation.
- (3) Our sales representatives are only entitled to sign contracts or to perform collections if a written power of authority is presented. (4) The pictures and data displayed in our price lists, brochures, cost estimates and quotations and information, in particular weight or dimensions or other technical data, as well as data related to DIN-, VDE- or other operating and corporate norms and patterns, only indicate the subject of the contract and shall only confirm certain characteristics after written confirmation.
- (5) The customer takes over the responsibility for the information administered and for the parts provided by him.
- (6) Price check in sub-orders concerning public contracts: agreements for the submission of a price check in public procurements according to VOPR No 30/53 are only part of an order, if we expressly declare this to the client in the order acceptance.

#### III. Prices and Payment Terms

- (1) Our prices are net without any cash discount or other reduction in Euro, ex works, excluding packaging. Freight and insurance plus the VAT applicable on the day of delivery. A granting of a cash discount shall require the written agreement of the contracting parties.
- (2) In case of changes in relevant costs for pricing factors of production materials, energy, supplies, wages, salaries, freight, handling charges, duties, taxes or alike, during the time of completion of the contract and to the contractually agreed delivery date, we are entitled to charge the surplus load and subsequently increase the agreed price accordingly. The price increase is limited to the extent of the enforceable market price. In case of a fixed price agreement, we are authorized to ask the client to accept a new higher price. In case no agreement is reached, we are entitled to withdraw from the contract. If the buyer is not a merchant, our claw-back contract applies only to an agreed delivery time of 4 months or if there is a permanent debt ratio.
- (3) Our invoices are deemed accepted if there is no contradiction in writing within 30 days after invoice date. We will inform the customer about this in any invoice.
- (4) Payments must be made within 8 days after receipt of the invoice without deduction and cash discounts. In the case of maturity or delay of payment, we charge interest at the bank lending rates calculated by us, however, at least in the amount of 5% above the base rate as well as any further other damages caused by the delay. The dedication of check or draft is account of performance and convenience and needs our express approval.
- (5) In case of a delay of more than one liability, our total claims against the buyer are due for immediate payment.
- (6) The customer has the right to offset only if his counterclaims have been legally established or have been accepted by us. A lien can only be exercised by the buyer, if his counterclaim is based on the same contractual relationship.
- (7) Our claims are assigned to BFS finance GmbH, Verl, if the invoices contain a respective note. Payments can be made with debt-discharging effect to the BFS only. The bank details can be taken from the reference on the invoice.

#### IV. Supplies, Risk

- (1) Unless otherwise agreed upon, the delivery period shall begin upon receipt of the order confirmation, but not before delivery of the material to be processed, if all contractual-, technical- and organizational details are fixed and binding at these times.

(2) Unpredictable, unpreventable or other serious events at us, at a supplier or at a subcontractor, such as strikes, lockouts, breakdown of equipment, energy- or material shortage, human failures, government regulations or procedures, natural disasters, lack of transportation etc., which lead to delays in delivery or performance or even the impossibility of performance and which are not caused by us, extend the agreed delivery deadlines for the duration of the disability and entitle both sides to withdraw from the contract in case of impossibility.

(3) If the extension of the delivery time causes a considerable change of the regarding cost situation in the respective offer at the date of the offer, or if the performance of services is unreasonable in any other manner, we are entitled to withdraw under the exclusion of claims for damages.

(4) The delivery time is met, if the delivery item has left the company or if the shipment has been communicated to the client before expiring the delivery date. Furthermore, the delivery time is regarded to be approximate, so that the customer is granted rights only by special agreement, should the delivery time not be met.

(5) If the customer gets into default concerning its deployment duty or its duty to cooperate, we are - after a reminder in writing - entitled under a written respite of 14 days to withdraw from the contract or to claim damages for non-performance.

(6) Partial deliveries are permissible.

(7) If the customer is entrepreneur in the sense of § 1, he bears the risk of loading, transport and unloading from the time of handing over of the goods to the carrier at the latest. This also applies even if we take over the transportation costs. If the customer is a consumer in the sense of § 1, the risk goes over to him only with the transfer of the goods to him. If the goods to be processed are picked up by us according to the customer's wishes, the customer bears the transport risk. It is up to the customer to insure these risks. The mentioned regulations are valid even if we have assured carriage free deliveries.

(8) If the goods are ready for shipment and the shipment or acceptance is delayed for reasons outside our responsibility, the risk shall go over to the customer with receipt of the notice of readiness for shipment. Goods which are ready for shipment have to be called by the customer without delay or after a period of 10 days after notification the latest. If there is no call, we are entitled to store the goods at our own discretion at the expense and risk of the customer. Finally, storage money in the amount of 1% of the invoice amount for each month or part thereof can be charged, whereby the storage costs are limited to 5% of the invoice amount, unless we can prove higher storage costs.

(9) Unless otherwise agreed the customer bears the cost of unloading the goods. If the goods are not discharged immediately by the customer, he bears the damage respectively the additional expenses caused by these delays. A discharge by a crane mounted on a delivery vehicle crane is upon request and expense of the customer.

#### V. Inspection and Approval

If inspection or approval is agreed upon, this can only be done at the supplying plant. The inspection shall be done immediately after informing the client about the completion. If there is no approval despite appointment provision of our site, we are entitled to send the goods without inspection or to store them at the expense and risk of the customer. The goods shall be contractually delivered and inspected with their dispatch or storage if the buyer does not explain himself within a reasonable deadline explicitly stated by us. When we are setting a deadline, we will explicitly inform the buyer about the consequences in case of his silence.

#### VI. Retention of Title and Security Interest

(1) For contracts with consumers, we reserve title to the goods until full payment of the purchase price. For contracts with companies we reserve title to the goods until full settlement of all claims from the current business relationship and of future claims related to the object of purchase. The customer is required to report if a third party has access to the goods during the period of retention, as in the case of a distress. He has to report any damage or destruction of the goods immediately and to provide us with necessary information and assign necessary documents to take legal action. A change of ownership of goods has to be reported to us immediately.

(2) For the items handed over to us, we shall have a statutory contractors' lien. Independent of that, the customer appoints a contractual lien for all items handed over, which serves for the security of all claims arising from the business relationship. If parts are delivered to the customer before full payment, it is thereby agreed upon with the client, that he gives us property transfers at the value of these parts in our demand for safety of our claims and that the ownership transfer is replaced by the fact that the client will retain the parts for us. The same applies in terms of the expectant right of the customer to objects handed over to us, which have been supplied to the customer by a third party under retention of title. We are entitled to effect the abolition of reservation of ownership. Restitution claims of the customer against a third party, which he previously pledged the items handed over to us for security, have to be assigned to us. Hereby, we accept the assignment.



a Nedschroef company

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(3) The customer must not bond or assign objects as security, to which we have a lien or which are in our title or securing possession. However, he may resell or process objects as part of usual business transactions, unless he assigned the claims against his contractual partners to a third party in advance. Any processing of the goods in our title or securing property through the customer to a new movable item happens on our account, without any liabilities arising for us. We already now give the customer co-ownership in proportion to the value of the new item to the value of our service. The customer has to keep the new thing with the due diligence and without charge.

(4) If the reserved goods are processed by the customer to a new movable item, the processing shall be on our account and behalf. If processing is done with objects not belonging to us, we acquire co-ownership of the new item in proportion to the value of the goods supplied by us to the other processed goods. The same applies if the goods are mixed, blended or combined with other goods not belonging to us. If the customer achieves sole ownership by combining, mixing or blending, he already transfers co-ownership to us in the value of the reserved goods to the other goods at the time of combining, mixing or blending. In these cases, the customer has to keep all goods in our ownership or co-ownership as well as reserved goods in the sense of the following provisions, free of charge.

(5) If the reserved goods are resold by the entrepreneur, the entrepreneur shall already now assign to us the claims against third parties arising from the resale in the value of the reserved goods; we accept the assignment. If we have co-ownership of the sold goods subject to retention, the assignment of the claims extends to the equivalent amount of the value of our co-ownership. After the assignment, the contractor is entitled to collect. We reserve the right to collect the debt ourselves if the contractor fails to do properly enforcement. In this case, the contractor is obligated to appoint the debtors of the assigned demands and to notify them of the assignment.

(6) At our request, the customer shall prove the claim separately and shall display the ensued assignment to third parties with the request to pay up to the amount of our claims. We shall be entitled to notify the subsequent purchasers of the assignment itself and to collect receivables at any time. We will not, however, make any use thereof and collect the demand, as long as the customer meets his payment obligations properly.

(7) The customer is obliged to inform us of the enforcement measures of third parties' regarding our security interests or our property without delay. Furthermore, the customer is obliged to insure our property properly and to assign any claims against the insurance in the case of claims. If requested by the customer, all securities in the sense of the foregoing provisions are entitled to be released in so far, as their value exceeds the claims to be secured by more than 20%.

(8) All our claims, also from other contracts, are due immediately even in the case of deferred payment, as soon as the customer is in default against us with the performance of other liabilities, he suspends payment, is over-indebted, the court opened bankruptcy proceedings against its assets or the opening of such proceedings is rejected because of insufficiency or circumstances become known which are likely to reduce the creditworthiness of the client significantly. In such a case we are entitled according to our choice, to perform any outstanding deliveries and services only against advance payment or security, or to withdraw from the contract after previous unsuccessful reminder, even if the counter performance is not yet due.

### VII. Warranty

(1) If the customer is an entrepreneur, customary break and loss are not regarded as material defect. If the customer is an entrepreneur, we guarantee for defects in the goods by further fulfilment (at our option repair or replacement). If the customer is consumer, the statutory provisions shall apply.

(2) If subsequent performance fails, the customer can demand a reduction of the remuneration (reduction) or a cancellation of the contract (withdrawal). For a minor contravention of contract, especially in case of minor defects, the customer has no right to withdraw.

(3) Entrepreneurs must report obvious defects immediately after receipt of the goods in writing; otherwise, the assertion of warranty rights is excluded. To keep the term, a punctual sending is sufficient. The entrepreneur bears the burden of proof for all eligibility criteria, in particular for the defect itself, the time of detection of the defect and the timeliness of the complaint. Consumers must inform us about obvious defects in writing within a period of two months after the date on which the anti-contractual condition of the goods is detected. Essential for the preservation of the period is the receipt of information at our house. If the consumer fails to submit this information, the warranty rights expire two months after discovery of the defect. This does not apply if we can be accused of bad faith. The burden of proof of the date of discovery of the defect is on the consumer's side. If the consumer was convinced to purchase the item by inaccurate information of the manufacturer, he has the burden of proof concerning his purchase. For used goods, the consumer bears the burden for the defectiveness of the item.

(4) If the customer chooses withdrawal from the contract due to a legal- or material defect after failed cure, he shall not be entitled to claim damages

for the defect. If the customer chooses compensation for damages after failed cure, the goods shall remain with the customer if this is reasonable. The compensation is limited to the difference between the purchase price and the value of the defective item. This does not apply if we have caused the breach of contract fraudulently.

(5) If the customer is an entrepreneur, only the product description of the manufacturer is agreed for the condition of the goods. Furthermore, public statements, recommendations or advertising by the manufacturer do not constitute a contractual specification of the goods.

(6) If the customer receives defective assembly instructions, we are only obliged to deliver defectless assembly instructions, and then only if the defect in the assembly instructions is an obstacle to proper assembly.

(7) Customer's warranty rights become barred, each beginning with the date of delivery a) for a thing that has been used for a building according its common use and has caused a defect within five years, b) for other things of a contract with a consumer within two years; damage claims of the consumer because of a defect within one year c) for other things from a contract with an entrepreneur within one year.

(8) This does not apply if we are accused of fraud. In this case, the warranty rights of the customer are subject to the regular statute of limitations.

### VIII. Disclaimer

(1) In the case of slight negligence, our liability is limited to foreseeable, contractually typical, direct average damage regarding the type of goods. This also applies to slight neglect of duty by our legal representatives or vicarious agents. With entrepreneurs we do not have these obligations in case of slightly negligent breach of minor contractual duties.

(2) In the calculation of damage, an appropriate limitation applies in relation to the value of the delivered goods to the value of the product manufactured by the customer, to the special feature of the installation site and to the recognizability and avoidability of the occurrence of the damage by the customer. Damages that would have been avoided by appropriate product traceability measures by the customer are non-refundable.

(3) The maximum amount of liability on the part of CP Tech GmbH for the settlement of warranty or compensation claims is 5,000,000 € per calendar year.

(4) Furthermore, CP Tech GmbH is not liable for damages resulting from lost profits and business interruption damages. In the event of a delay in delivery, CP Tech GmbH shall only be liable for reimbursement of reasonable special transport costs.

(5) Excluded from this is only liability for grossly negligent or intentional conduct on the part of CP Tech GmbH.

This limitation of liability also applies in the relationship between the customer and the employees employed by CP Tech GmbH, vicarious agents and sub-suppliers.

(6) The above-mentioned limitations do not affect the customer's claims arising from product liability. The limitations of liability do not apply to personal health- and body damage or loss of life of the customer allocable to us.

(7) Contract penalties or lump sum damage claims are not accepted by CP Tech GmbH.

### IX. Copyright

(1) The customer shall release us from all claims of third parties in connection with commercial property rights, particularly copyright and related protective rights concerning drawings and documents provided to us. We commit ourselves to use produced photocopies and other reproductions only for purposes of calculation and production and not to disclose these to third parties.

### X. Drawings and other Documents

(1) We reserve the right of ownership and copyright to cost estimates, drawings and other documents which have been given to the customer. These documents may not be used for other purposes than stated by us and may not be made available to third parties. On request, the documents have to be returned.

### XI. Trade secret / Privacy

(1) The customer is obliged not to pass trade secrets, in particular procedural details of our products, to third parties. Drawings, production information and other agreements are subject to data protection. This data may not be disclosed to third parties, too. By his acceptance of these terms and conditions, the customer shows approval, that personal data is stored by computer and may be processed in a purpose-serving way.

### XII. Insurance

(1) For items delivered by the client or for transports executed by him, an insurance, for example against breakage, transport and fire damage and theft, is only completed if explicitly agreed upon and at the expense of the customer.



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### **XIII. Place of Performance, Place of Jurisdiction and Applicable Law**

(1) The law of the Federal Republic of Germany applies. The provisions of the UN Sales Convention shall not apply.

(2) If the customer is a merchant, a legal entity under public law or public law fund, it is hereby agreed upon, that the place of fulfilment for all claims arising from or in connection with this agreement is our registered office.

(3) If the customer is a merchant, a legal entity under public law or public law fund, the court in the district where our business is located in is responsible for all disputes arising from this contract. The same applies if the customer has no general jurisdiction in Germany or if his residence or habitual residence is not known at the time of the commencement of proceedings. The customer can also be sued at his place.

### **XVI. Severability Clause**

If any of the above provisions of these terms and conditions or any provisions of the contract concluded with the customer should be invalid or unenforceable for any reason, this shall not affect the validity of the remaining provisions of the underlying contract. In such a case, the parties are bound to agree upon a provision at the place of the replaced provision that is most likely to correspond to the ineffective provision.