**Terms of Sale and Delivery (T&C) between Two Companies**
**- International -**

## 1. General

1.1 Insofar as nothing to the contrary was expressly agreed in writing, our Terms of Sale and Delivery (hereinafter abbreviated as “TSD”) apply to all current and future orders for products and other contracted services, including consultancy services, and to the supply and delivery of these products.

1.2. Any terms of the customer contradicting our TSD are not applicable to the legal transactions realised with him. At the same time, we expressly contradict these terms with reference to number 1.1. of these TSD.

1.3 If, in a single case, we fail to exercise the rights we are entitled to, this should not be construed as a waiver of such rights for the future.

1.4 We sell exclusively to companies in the meaning of § 14 BGB (German Civil Code), public-law corporations and public trusts. By ordering, the customer confirms that he is a merchant or that he realises the transaction for a public-law corporation or such public trusts.

## 2. Conclusion of the contract

2.1 Our tenders are without obligation.

2.2 The contract comes into force through our confirmation of order via means of communication in the meaning of § 312 b BGB (acceptance) or through delivery within three weeks from the date of receipt of the order.

2.3 Subject-matter of the contract is exclusively the distributed products with their properties and characteristics as well as the intended purpose according to the product description submitted by us. All information on sizes, weights, technical data, descriptions and illustrations in brochures, catalogues or price lists in connection with the products or with our offers, only serve the purpose of describing the products and should neither be understood as quality information nor as assurance of quality, assurance of a characteristic, or promise of a guarantee. Other or additional characteristics and/or features or an additional intended purpose must be expressly confirmed by our management.

2.4 As a matter of principle, we only conclude contracts from a minimum net order value of EUR 120,-.

## 3. Prices

3.1 Unless otherwise agreed with us in writing, we only sell our products from our headquarters according to the prices specified in the current price list, exclusive of VAT.

3.2 Confirmed prices only apply upon acceptance of the confirmed quantity of goods.

3.3 We are entitled to change prices if, for the agreed price, determinative conditions have subsequently changed and demonstrably increased, or the supplier justifiably and demonstrably subsequently increased his prices, in which case we do not fail to inform our contractual partner. Insofar as this results in the price specified in the current price list at the time of ordering being exceeded by more than 10%, we and our contractual partner shall be entitled to cancel the contract. Further claims, especially damage claims, are excluded.

3.4 We charge packaging at cost, however, we do not take it back.

## 4. Delivery and bearing of the risk

4.1 Partial deliveries are permissible.

4.2 Delivery times or delivery dates are without obligation and should be understood as likely, even in the absence of any explicit details. There is no entitlement to delivery at the latest on the specified date. Any default in delivery is subject to a written demand of the contracting party upon setting a reasonable time for delivery. Any other rights of the contracting party than cancellation after setting a reasonable time for delivery, especially claims for compensation of



**FRITSCHE GMBH & CO. KG**
Elsterbogen 12-14
DE - 21255 Tostedt

Tel. +49 (0) 4186 888 29 0
Fax +49 (0) 4186 888 29 99
Email: info@fritsche-gmbh.de
www.fritsche-gmbh.de
www.centrallubrication.com

VAT.DE 262.239.982
St.Nr. 15.205.13302
Geschäftsführer/in MD
Gerald K. Fritsche
Katharina Hess
Amtsgericht Tostedt HRB

Bank: Hamburger Sparkasse
IBAN:DE05 200 505 50 1383 1338 06
SWIFT (BIC): HASPDEHH
Konto/Account No. 1383 1338 06
BLZ/Routing No. 200 505 50

damage caused by delay are excluded unless we are responsible for the non-observance of the set time as a result of gross negligence or intent.

4.3 Delivery to the delivery territory is effected by one of our contractors. Even if delivery is free of charge, the risk then passes to the customer as soon as the item was handed over to the contracted company for delivery. The same applies if we deliver the items ourselves. Return deliveries are also at the risk and expense of the contracting party.

4.4 If the customer gave special instructions on the type of dispatch, and if we depart from it without good reasons, we shall be liable to the customer for any damage occurred.

4.5 If, at the request of the contracting party, we send the products to a third party, the latter also bears the shipping risks and the risk of timely delivery even if shipping to the location of the contracting party would have been free.

4.6 The contracting party is responsible for the conclusion of an insurance policy, especially transit insurance. We insure the products against damage in transit at the written request and expense of the customer.

4.7 We select packaging, shipping type and route as it appears fair.

4.8 In the event of a solely slightly negligent breach of contract caused either by us or our vicarious agents, our liability is limited to contract typical foreseeable damage in all conceivable cases.

**5. Performance impediments**

5.1 The contract is concluded subject to the necessary import and export licences and other necessary official permits.

5.2 In case of force majeure as well as in circumstances in which we neither acted intentionally nor in gross negligence, especially in cases in which our supplier could not supply us in spite of placing our order in due time, we are entitled to postpone delivery until expiry of a reasonable period after eliminating the impossibility or the incapability to deliver without the contracting party having any recourse against us. If the impairment lasts longer than three months, the contracting party is entitled to cancel the contract regarding the unfulfilled part of the contract after setting a reasonable additional time for delivery. Further claims, especially damage claims, are excluded insofar as we are not liable for gross negligence or intent.

**6. Payment, maturity, default, setoff, retention**

6.1 In the absence of any other agreement, our invoices are due immediately and payable within 30 days after receipt without deduction.

6.2 In case of payment within eight days of invoice date, we grant a 2% cash discount if all other invoices were settled.

6.3 Installation and repair invoices are due within ten days of invoice date without cash discount.

6.4 We do not accept bills of exchange in payment of the amounts invoiced; cheques are only accepted with our express permission and then only on account of performance.

6.5 Any payment other than cash payment is only deemed effected on the day we get informed that we can actually dispose of the amount paid. We are not responsible for the timely submission of cheques which we accepted as a method of payment.

6.6 Default of payment occurs without a reminder after expiry of 30 days from receipt of the invoice. Subject to further claims, we are entitled to charge a flat fee of EUR 5,00 exclusive of applicable VAT for every demand notice issued.

6.7 In case of default, all outstanding claims are due immediately without deduction.

6.8 We are entitled to charge default interest of 8% above base rate.

6.9 Insofar as the contracting party does not pay an invoice amount without 30 days of receipt of invoice, or postpones acceptance of the products, or the cheques provided on account of payment cannot be cashed, or other facts become known after submitting the offer or after the conclusion of the contract, which cast doubt on the creditworthiness or payment willingness of the contracting party or also the party to a cheque or bill, we are, at our option and after setting an additional period for payment of 2 weeks, entitled to cancel the contract or to demand



**FRITSCHE GMBH & CO. KG**
Elsterbogen 12-14
DE - 21255 Tostedt

Tel. +49 (0) 4186 888 29 0
Fax +49 (0) 4186 888 29 99
Email: info@fritsche-gmbh.de
www.fritsche-gmbh.de
www.centrallubrication.com

VAT.DE 262.239.982
St.Nr. 15.205.13302
Geschäftsführer/in MD
Gerald K. Fritsche
Katharina Hess
Amtsgericht Tostedt HRB

Bank: Hamburger Sparkasse
IBAN:DE05 200 505 50 1383 1338 06
SWIFT (BIC): HASPDEHH
Konto/Account No. 1383 1338 06
BLZ/Routing No. 200 505 50

damages in lieu of performance in addition to demanding immediate payment of all outstanding invoices.

**7. Retention of title**

7.1 We reserve the right to retain ownership of all products delivered by us until full payment of all – also future - claims from the business relationship, regardless on which legal grounds, even if a purchase price payment for specific deliveries was effected. For current accounts, the retention of title serves as surety for the balance claim.

7.2 The contracting party is entitled to dispose of the products during the ordinary course of business. In this respect, the contracting party is entitled and authorised to resell the goods acquired subject to retention of title only to the extent that he makes a written declaration towards his customer by way of reserve that ownership shall only pass to him upon the contracting party´s paying us in full, and the collected amounts are safekept and paid out to us immediately. The contracting party already agrees to assign to us his claim against his customer from the resale of the goods acquired subject to retention of title. We already accept this assignment.

7.3 As long as the contracting party fulfils his payment obligations towards us, he is entitled to collect the claims assigned to us in advance. However, the collection authorisation can be revoked at any time without stating any reasons.

7.4 The contracting party undertakes to name his debtors and the due accounts receivables by request.

7.5 In case of default or maturity, we are entitled to request immediate return of our products. The contracting party undertakes to store the goods sold subject to retention of title separately, to label them as our property, and to refrain from using them. He must separate any owned goods acquired subject to retention of title on our demand immediately. Furthermore, the contracting party undertakes to notify us immediately in writing or in text form of any seizure of our property or any other impairment of our property and/or our rights to claim.

7.6 In case of default of payment, we are entitled to dispose of the goods acquired subject to retention of title freely and without prior threat of sale or auction. Furthermore, we are entitled to take back the products for our own use against crediting of the invoice amount minus 30% lump-sum damages. The contracting party and we reserve the right to furnish proof of a lower or higher damage.

7.7 The assertion of the retention of title and the seizure of the item delivered by us shall not be construed as a cancellation of contract.

7.8 We are entitled to ask the contracting party for information about the whereabouts of the delivered products, to access the business premises of the contracting party for the purpose of checking this information and to inspect the account books of the contracting party at any time. The contracting party allows us irrevocable access to his business premises already now.

7.9 If the value of the existing sureties exceeds our claim by more than 20% in total, we are obliged, in this respect at our option, to release any additional sureties on the contracting party's demand.

7.10 We are entitled to cancel the purchase contract if a petition to open insolvency proceedings is filed against the contracting party. Our obligation to deliver expires. Insofar as we already delivered, the contracting party must already refer to the existing reservation of title and claim assignments in our favour in the insolvency petition.

**8. Warranty**

8.1 The recipient of the goods agrees to check the goods for completeness and noticeable damage immediately upon receipt. Incomplete deliveries and/or noticeable damage must be notified to us in writing at the latest within five working days after receipt of the goods, failing which we can no longer be held liable. In the case of noticeable and timely communicated complaints and in the case of hidden defects notified within the legal warranty period, the customer only shall initially only have the rights regulated in the following. This regulation does not affect the allocation of the burden of proof in case of a defect.



**FRITSCHE GMBH & CO. KG**
Elsterbogen 12-14
DE - 21255 Tostedt

Tel. +49 (0) 4186 888 29 0
Fax +49 (0) 4186 888 29 99
Email: info@fritsche-gmbh.de
www.fritsche-gmbh.de
www.centrallubrication.com

VAT.DE 262.239.982
St.Nr. 15.205.13302
Geschäftsführer/in MD
Gerald K. Fritsche
Katharina Hess
Amtsgericht Tostedt HRB

Bank: Hamburger Sparkasse
IBAN:DE05 200 505 50 1383 1338 06
SWIFT (BIC): HASPDEHH
Konto/Account No. 1383 1338 06
BLZ/Routing No. 200 505 50

8.2 By negotiating about defect notices, we do not dismiss the objection that the notice of a defect was not timely or not sufficient.

8.3 If the delivered products were altered in any way, all warranty claims expire unless the said changes lie solely in the inauguration of the products in accordance with the contract. The purchaser shall bear the risk that in cases of subsequent product changes, any granted certification may lose its validity. In particular, no liability will be assumed for cases of inappropriate or improper use, incorrect installation or commissioning, incorrect or negligent handling, improper maintenance by the customer or third parties, unsuitable production equipment, defective building work, unsuitable building ground, chemical, electrochemical or electrical impacts, insofar as they cannot be attributed to us.

8.4 Ordinary or technically unavoidable minor deviations with respect to assortment, quality, colour, width, weight, equipment, or design of the goods, shall not substantiate a warranty claim.

8.5 If a notice of defects is justified, we may, at our option, undertake a rectification of defects or ensure the subsequent delivery of a faultless item (supplementary performance) within a reasonable period. If supplementary performance fails or cannot be expected of us, the contracting party is entitled to reduce the price or to cancel the contract to the same extent as we are. Damage claims and/or claims for reimbursement of expenses are excluded unless we are responsible for the failed supplementary performance due to intent or gross negligence.

8.6 The contracting party is not authorised to return to us products objected to. Rather we shall collect these products following a notice of defect within a reasonable period at our risk and expense. In this respect, we are entitled to verify the complaint on site. Our take-back obligation no longer applies if the complaint was submitted wrongly. Travel expenses are to be reimbursed. If after taking back and checking the products, we find out that the notice of defects was not justified, we return the products. In this respect, we are entitled to demand payment of the shipping costs incurred for collection and of the costs for the new delivery before we redeliver the products. We may assert a remuneration of 10% of the net retail value, however, at least EUR 25,-, for checking and processing the complaint, where the contracting party reserves the right to furnish proof of a lower damage. We are not obliged to redeliver before payment settlement. This shall not affect our entitlement to payment of the purchase price.

8.7 Any claims of the contracting party under a right of recourse are excluded if the contracting party did not - at all or in due time - fulfil his obligation to notify defects immediately under § 377§ HBG (German Commercial Code).

8.8 We reimburse any necessary and documented costs of supplementary performance which the contracting party incurred due to own customer claiming.

8.9 If, contrary to the provisions of these TSD, the contracting party nonetheless returned the products due to a complaint about defects, we may refuse to accept the products. Furthermore, we are entitled to inspect the products in the event of acceptance. If, during such inspection, it transpires that the complaint is unjustified, we are entitled to charge the contracting party the costs for the inspection besides the costs for the redelivery, and to base our claim on the redelivery of the previously invoiced items, regardless of further claims on our part.

**9. Distribution, copyright**

9.1 In the event that the contracting party resells the products, he undertakes to advertise for the contractual products only to a reasonable extent. The contracting party should be aware that misleading characteristic-related advertising may lead to warranty claims. Hence the contracting party hereby agrees to hold us harmless from the consequences of such advertising and to compensate us for any damage incurred as a result of the breach of this obligation.

9.2 The foregoing obligation does not apply insofar as the pictures and texts provided by us for advertising purposes are used with our prior explicit written and textual permission.

9.3 We own copyright and all intellectual property rights in the provided advertising material and our catalogue or parts thereof (especially illustrations). The contracting party is only entitled to use the advertising material without accruing independent rights in such material upon our explicitly



**FRITSCHE GMBH & CO. KG**
Elsterbogen 12-14
DE - 21255 Tostedt

Tel. +49 (0) 4186 888 29 0
Fax +49 (0) 4186 888 29 99
Email: info@fritsche-gmbh.de
www.fritsche-gmbh.de
www.centrallubrication.com

VAT.DE 262.239.982
St.Nr. 15.205.13302
Geschäftsführer/in MD
Gerald K. Fritsche
Katharina Hess
Amtsgericht Tostedt HRB

Bank: Hamburger Sparkasse
IBAN:DE05 200 505 50 1383 1338 06
SWIFT (BIC): HASPDEHH
Konto/Account No. 1383 1338 06
BLZ/Routing No. 200 505 50

granted prior written or textual permission. We may revoke our permission at any time without stating any reasons, in which case any damage claims of the contracting party are excluded.

**10. Prescription**

10.1 All warranty claims of the contracting party including any damage claims and compensation claims expire within a year of delivery of the products to the agreed place of destination.

10.2 This provision does not apply to claims arising under the Product Liability Act.

**11. Data storage**

11.1 The contracting party hereby explicitly agrees to our electronically storing and processing his data insofar as this is necessary for business purposes and within the frame permitted under the Federal Data Protection Act.

**12. Miscellaneous**

12.1 All contracts concluded with the contracting party are exclusively subject to German law to the exclusion of the UN purchase rights.

12.2 These TSD apply as from the date of publication and shall replace all previously valid TSD. Any legal transactions concluded within the scope of validity of the previous TSD are further subject to the previous TSD.

12.3 The place of performance for delivery and obligations of the contracting party is our registered office.

12.4 Insofar as the dispute refers to a legal relationship under these TSD, the legal venue for both parties is the competent court having jurisdiction in Buchholz i.d.N.; depending on the amount in controversy, either Tostedt local court or Stade regional court.

12.5 Should one or several of the foregoing provisions prove to be invalid or unworkable, this shall not affect the validity of the remaining provisions.

If necessary, please also include: See Fritsche TSD

X. Test items, moulds, tools
XI. Software use
XIV. Installation
Supplier declarations according to Council Directive EEC 3351/93



**FRITSCHE GMBH & CO. KG**
Elsterbogen 12-14
DE - 21255 Tostedt

Tel. +49 (0) 4186 888 29 0
Fax +49 (0) 4186 888 29 99
Email: info@fritsche-gmbh.de
www.fritsche-gmbh.de
www.centrallubrication.com

VAT.DE 262.239.982
St.Nr. 15.205.13302
Geschäftsführer/in MD
Gerald K. Fritsche
Katharina Hess
Amtsgericht Tostedt HRB

Bank: Hamburger Sparkasse
IBAN:DE05 200 505 50 1383 1338 06
SWIFT (BIC): HASPDEHH
Konto/Account No. 1383 1338 06
BLZ/Routing No. 200 505 50