

# WEFA's General Terms and Conditions of Sale

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- Hereafter referred to as "WEFA" -

## § 1 | General, Scope of Application

(1) These General Terms and Conditions of Sale (GTCS) apply to all WEFA business relations with WEFA customers (hereafter referred to as "buyer"). The GTCS are only valid if the buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a separate estate under public law.

(2) These GTCS apply in particular to contracts for the sale and/or delivery of movable items (hereafter also referred to as „goods“), irrespective of whether the WEFA Group produces the goods themselves or purchases these from suppliers (§§ 433, 651 BGB). In so far as not otherwise agreed upon, the GTCS shall apply in the version valid at the time of the buyer's order or in any case in the most recent version they have received in written form as a framework agreement. This shall also be valid for similar future contracts for the sale and/or delivery of movable goods with the same buyer, without WEFA having to refer to them again in each individual case; in this case, the buyer will be informed immediately of any changes to WEFA's GTCS.

(3) WEFA's GTCS shall apply exclusively. Any deviating, contradictory or supplementary General Terms and Conditions of the buyer shall only become part of the contract if and insofar as WEFA has expressly consented to this in writing. This consent requirement shall be valid in all cases, for example even if WEFA, knowing the buyer's terms and conditions, makes delivery to the buyer without reservation or if the buyer refers to its terms and conditions in the course of placing an order and WEFA does not expressly object.

(4) Any individual agreements made with the buyer in a special case (including collateral agreements, amendments and changes),

e.g., WEFA's framework supply agreements, quality assurance agreements, information in the order confirmation, shall in any case take precedence over this GTCS. The content of such agreements shall be governed by a written contract or WEFA's written confirmation. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms<sup>®</sup> published by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.

(5) Any legally relevant declarations and notifications, which are to be submitted to WEFA by the buyer after conclusion of the contract (e.g., setting of deadlines, notification of defects, declaration of cancellation or reduction) are to be made in writing. Written form in the sense of this GTCS includes written and text form (e.g., letter, e-mail, fax). Legal formalities and additional verification, especially in cases of uncertainty about the legitimacy of the declaring party, shall remain unaffected.

(6) All references to the applicability of statutory references shall solely serve the purpose of clarification. Even without such clarification, the statutory references shall also apply unless directly amended or expressly excluded in these Conditions.

## § 2 | Conclusion of Contract

(1) WEFA's offers are non-binding and subject to change. This shall also apply even if the buyer has been supplied with technical documentation (such as drawings, plans, calculations, references to DIN-standards), other product descriptions or documents – including those in electronic form – to which WEFA reserves ownership rights and copyrights.

(2) The ordering of goods by the buyer shall be deemed as a binding offer of contract. Unless otherwise stated in the order, WEFA shall be entitled to accept this offer within 3 days of its receipt by WEFA.

(3) The acceptance can either be expressed in writing (e.g., via contract confirmation) or by delivery of the goods to the buyer.

### § 3 | Delivery Deadline and Delivery Delay

(1) The delivery deadline shall be agreed upon in a case-by-case manner or stated by WEFA upon acceptance of the offer.

(2) Insofar as WEFA is unable to meet binding delivery deadlines for any reasons for which WEFA cannot be held accountable (unavailability of the service), the buyer shall be informed immediately and, at the same time, informed of the new estimated delivery time. If the service is not available within the new delivery deadline, WEFA shall be entitled to cancel the contract in full or in part; any payments made by the buyer shall be reimbursed without undue delay. In particular, if WEFA's suppliers fail to deliver punctually, this shall be deemed as unavailability of service, if a congruent covering transaction has been entered into, neither WEFA nor the third party was at fault, or for other disruptions in the supply chain, such as those due to force majeure or WEFA is not obliged to procure in the individual case.

(3) The occurrence of delays in delivery on WEFA's part is determined by the provisions of law. In each case however, a reminder from the buyer is required. If WEFA is in delay in delivery, the buyer shall be entitled to demand a lump sum compensation for the delay. This lump sum shall be 0.5% of the net price (delivery value) for each full month, however not exceeding 5% of the value of the goods delivered late. WEFA reserves the right to prove that the buyer incurred no damage at all or considerably lower damages than the aforementioned lump sum.

(4) The rights of the buyer, according to § 8 of this GTCS and WEFA's legal rights in particular in the event of an exclusion of the performance obligation (e.g., due to the impossibility or unreasonableness of the performance and / or supplementary performance) shall be unaffected.

### § 4 | Delivery, Transfer of Risk, Acceptance, Delay in Acceptance

(1) Delivery is made ex works, which is also the place of performance for the delivery and any subsequent performance. The goods will be sent to another destination at the request and expense of the buyer (so-called "Versendungskauf"). Unless otherwise agreed, WEFA is entitled to determine the manner of shipping (in particular the carrier, routing and packaging) themselves.

(2) The risk of accidental loss and/or deterioration of the delivered item shall be transferred to the buyer at the latest upon delivery. However, in the case of sales shipment, the risk of accidental loss and accidental deterioration of the item, as well as the danger of delay shall be already transferred to the forwarder, freight carrier or any person or organization engaged with performing the shipment. If acceptance has been agreed upon, this shall be authoritative for the passing of risk. The statutory provisions of the law on contracts for services shall apply analogously in other respects to an agreed acceptance. It is deemed equivalent to the handover or acceptance if the buyer is in default with the acceptance.

(3) If the buyer is in default with the acceptance, fails to act in cooperation, or, in the case that delivery is delayed for any other reasons for which the buyer is responsible, WEFA shall be entitled to claim compensation for the damages resulting thereof, including any additional expenditures (e.g., storage costs). The proof of higher damages and WEFA's statutory claims (in particular reimbursement for additional expenses, reasonable compensation, cancellation) remain unaffected; the flat rate however is to be offset against further monetary claims. The buyer reserves the right to prove that WEFA did not suffer any damages at all or substantially less than the aforementioned flat rate.

### § 5 | Prices and Payment Conditions

(1) Unless otherwise agreed upon in an individual case, WEFA's prices valid at the time of the contract conclusion shall apply ex works plus the additional legal VAT.

(2) In the case of sales shipment (§ 4-1), the buyer shall be

responsible for transport costs ex works and the costs of any requested shipping insurance. The buyer shall also be responsible for any customs duties, fees, taxes or other public duties. Transportation and other packaging shall not be returned to WEFA according to the German Packaging Ordinance; they shall become property of the buyer. The only exception is pallets.

(3) The purchase price is, unless otherwise agreed upon, normally due and to be paid within 30 days from invoicing and delivery or acceptance of the goods. However, WEFA shall be entitled at any time, also within the scope of an ongoing business relationship, to make a delivery in whole or in part only upon advance payment. WEFA shall declare a corresponding reservation at the latest upon order confirmation.

(4) Upon the expiry of the aforementioned term of payment, the buyer will be in default. Interest is to be paid on the purchase price at the respective, applicable interest rate for default during the default period. WEFA reserves the right to claim any further damages from default. WEFA's claim for the commercial maturity interest (§ 353 HGB German Commercial Code) against merchants remains unaffected.

(5) The buyer is only entitled to set-off or to exercise any right of lien or retention to the extent that its claim is legally valid or undisputed. In case of defects in the delivery, the reciprocal rights of the buyer, in particular in accordance with § 7 (6) sentence 2, remain unaffected.

(6) If, after the contract has been completed, it becomes apparent that WEFA's claim to the purchase price is at risk due to a lack of solvency on the part of the buyer (e.g., as the result of an application to open insolvency proceedings) – if applicable after setting a deadline – WEFA shall then be entitled to withdraw from the contract (§ 321 BGB). For contracts regarding the manufacturing of non-substitutable items (custom-made products), WEFA may withdraw from the contract immediately; the legal provisions concerning the dispensability of setting a deadline remain unaffected.

## § 6 | Retention of Title

(1) WEFA reserves the right to the property of all sold goods until the full payment of all current and future claims from the purchase contract and a current business relationship (secured claims) has been received.

(2) The goods subject to retention of title may not be pledged to third parties nor assigned as a collateral security until full payment has been made. The buyer is required to notify us immediately in writing in the event that an application for the opening of insolvency proceedings has been filed or and insofar as third parties (e.g., seizures) have access to goods belonging to WEFA.

(3) If the buyer acts in breach of the contract, particularly in the event of default in payment, WEFA shall be entitled, in accordance with statutory provisions, to withdraw from the contract and/or demand that the goods are returned on the basis of retention of title. The claim for return shall not simultaneously contain a declaration of withdrawal from contract; WEFA shall rather be entitled to claim return of the goods and reserve the right of withdrawal. If the buyer does not pay the purchase price, WEFA may only assert these rights after having set a reasonable grace period for the buyer to pay or where the setting of such grace periods is not required by law.

(4) The buyer is authorized until revoked according to (c) below to sell or process the goods under retention of title within accepted business practices. In this case, the following provisions shall apply additionally:

(a) The retention of title shall extend to the products created by processing, mixing or combining WEFA's goods at their full value, with WEFA being deemed the manufacturer. If, in the event of processing, mixing, or combining with goods of third parties, the latter's title remains, WEFA acquires co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

(b) The buyer hereby assigns to WEFA by way of security all claims against third parties resulting from the resale of the goods or products in total or in the amount of in the amount of our possible co-ownership according to the aforementioned paragraph. WEFA accepts the assignment. The obligations of the buyer stated in par. 2 shall also apply to the claims assigned.

(c) The buyer shall remain authorized to collect the claim in addition to WEFA. WEFA agrees not to collect the claim as long as the buyer meets their payment obligations, there is no deficiency in their ability to pay, and they do not assert the retention of title by exercising a right pursuant to para. 3. However, if this is in

fact the case, WEFA can request that the buyer informs WEFA of the assigned claims and their debtors, provides all necessary information and documents for collection and informs the debtors (third parties) of the assignment. In addition, WEFA shall be entitled to revoke the buyer's authority to further sell and process the goods subject to retention of title.

(d) If the realized value of the collaterals exceeds the claims by more than 10%, WEFA shall, upon the buyer's request, release collateral items of WEFA's choice.

## § 7 | Warranty Claims for Buyers

(1) The statutory rights shall apply to the rights of the buyer in case of defects of quality and title (including incorrect and short deliveries as well as improper mounting/installation or inadequate instructions) insofar as not otherwise determined below. In all cases, the statutory provisions on the sale of consumer goods (§§ 474 et seq. BGB) and the rights of the buyer from separately issued guarantees, in particular on the part of the manufacturer, shall remain unaffected.

(2) The primary basis for WEFA's liability for defects shall be the agreement made concerning the quality and the assumed use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by WEFA (in particular in catalogs or on WEFA's website) at the time of the conclusion of the contract shall be deemed to be an agreement on the quality of the goods.

If no agreement has been made concerning the quality specifications of the goods, the presence or absence of defect shall be made according to statutory regulations (§ 434 - para. 3 BGB). Public statements made by the manufacturer or on their behalf, in particular in advertising or on the label of the goods, shall take precedence over statements made by other third parties.

(3) In the case of goods with digital elements or other digital content, WEFA shall only be obliged to provide and, if necessary, update the digital content if this is expressly stipulated in a quality agreement pursuant to para. 2. However WEFA assumes no liability for claims or assertions made in public by the manufacturer or third parties.

(4) As a matter of principle, WEFA shall not be liable for defects of which the buyer is aware at the time of conclusion of the

contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the buyer's warranty claims require that it has observed its statutory obligations to inspect the goods and to give notice of defects (§§ 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. Should any defect be found during delivery, the inspection or at any later point in time, WEFA must be notified of this immediately in writing. In any case, obvious defects must be reported in writing within 7 working days from delivery, and defects that are not visible during the inspection must be reported within the same period from discovery. If the buyer fails to carry out the proper inspection and/or report of defects, WEFA's liability for the unreported defect or improperly notified defect in accordance with the statutory provisions is excluded. In the case of goods intended for integration, attachment or installation, this shall also apply if the defect became apparent as a result of the breach of one of these obligations only after the corresponding processing; in this case, in particular, there shall be no claims by the buyer for reimbursement of corresponding costs ("removal and installation costs").

(5) If the delivered good is found to be faulty, WEFA can initially choose whether to make performance by remedying the defect (rectification of defects) or by delivering a defect-free item (replacement delivery). If the method selected by WEFA to remedy the defect is in an individual case unreasonable for the buyer, they may reject this. WEFA's right to refuse the subsequent performance under the statutory preconditions remains unaffected.

(6) WEFA is entitled to make the owed subsequent performance dependent on the buyer having paid the due purchase price. The buyer is however entitled to withhold a reasonable part of the purchase price in proportion to the defect.

(7) The buyer shall allow WEFA the necessary time and opportunity for due subsequent performance and in particular shall hand over the goods concerned for inspection. In case of a replacement delivery, the buyer shall, upon WEFA's request and according to statutory regulations, return the faulty goods to WEFA. The buyer does not however have a right to return the goods. The subsequent performance does not include either the disassembly, removal or deinstallation of the faulty good or the new assembly, if WEFA was not originally obliged to carry out these performances. Claims of the buyer for reimbursement of corresponding costs ("removal and installation costs") shall remain unaffected.

(8) The expenses necessary for the purpose of inspection and subsequent performance, including transportation, travel, labor and material costs (as well as removal and installation costs, if applicable), shall be born or reimbursed by WEFA, if there actually is a defect. Otherwise, WEFA may demand reimbursement from the buyer of the costs incurred as a result of the buyer's unjustified request to remedy the defect if the buyer knew or could have known that there was actually no defect.

(9) Only in urgent cases, e.g., if operational safety is at risk or to prevent disproportionate damage, the buyer has the right to remedy the defect themselves and to claim reimbursement from WEFA for the objectively necessary expenses incurred. The buyer shall inform WEFA without delay, if possible beforehand, of any self-remedying of defects. The buyer's right to take action shall not apply if, according to legal stipulations, WEFA was entitled to refuse subsequent performance.

(10) If a reasonable deadline for subsequent performance set by the buyer has expired or, according to legal stipulations, is superfluous, the buyer shall be entitled to withdraw from the purchase agreement or reduce the purchase price. There shall however be no right to withdraw from the purchase agreement for any insignificant defects.

(11) Claims of the buyer for reimbursement of expenses according to § 445a para. 1 BGB are excluded, unless the last contract in the supply chain is a consumer goods purchase (§§ 478, 474 BGB) or a consumer contract for the provision of digital products (§§ 445c p. 2, 327 para. 5, 327u BGB). The buyer's claims for compensation or reimbursement for wasted expenses (§ 284 BGB) in case of defects of the goods shall only exist according to §§ 8 and 9.

## § 8 | Other Liability

(1) Insofar as not otherwise derived from this GTCS including the following provisions, WEFA shall be liable according to the legal statutes in case of a breach of contractual and non-contractual obligations.

(2) WEFA shall be liable – regardless of legal reasons – within the scope of fault liability in case of intent and gross negligence. In the event of simple negligence, WEFA shall be liable, subject to statutory limitations of liability (e.g., diligence in own affairs; insignificant breach of duty), only:

- a) For damages to life, body or health
- b) For damages from the breach of an essential contractual duty (an obligation, the fulfillment of which enables the proper execution of the contract and on which abidance the contract partner regularly relies upon); in this case, WEFA's liability is however limited to the reimbursement of foreseeable, typically occurring damages.

(3) The limitations of liability resulting from para. 2 shall also apply to third parties as well as in the case of breaches of duty by persons (also in its favor) whose fault WEFA is responsible for according to statutory provisions. The limited liability in par. 2 shall not apply insofar as a defect has been fraudulently concealed or a quality guarantee for the goods has been assumed and for claims of the buyer according to the product liability law.

(4) The buyer may only withdraw or terminate due to a violation of obligation, which is not a defect, if WEFA is responsible for the violation of the obligation. A free right of termination (in particular according to §§ 650, 648 BGB) is excluded. In all other cases the legal preconditions and legal consequences shall apply.

## § 9 | Statute of Limitations

(1) Notwithstanding § 438 para. 1 – 3 BGB (German Civil Code), the general limitation period for claim for defects is 1 year from delivery. Insofar as an acceptance has been agreed upon, the limitation begins with the acceptance.

(2) In the case of a building or an object used for a building in accordance with its normal use and which caused the defect (building materials), the limitation shall be according to legal regulations 5 years from delivery (§ 438 para. 1 no. 2 BGB). Other special statutory provisions on the statute of limitations (in particular § 438 para. 1 no. 1, para. 3 BGB, §§ 444, 445b BGB) shall also remain unaffected.

(3) The abovementioned limitation period shall also apply for the buyer's contractual or non-contractual damage claims, which are based on a defect of the good, unless the use of the standard legal limitation period (§§ 195, 199 BGB) would result in a shorter limitation period in an individual case. Claims for damages by the buyer pursuant to § 8 para. 2 p. 1 and p. 2 (a) as well as pursuant to the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

## § 10 | No Russia clause

Important information about European Union sanctions against Russia and Belarus Declaration of Prohibition for every shipment of our goods:

For the individual goods listed in our order confirmations and delivery bills, export/re-export to and transit through Russia/Belarus is prohibited under current European Union law. This declaration of prohibition is part of the contract concluded with you as well as our order confirmation. In the event of a violation being discovered, we reserve the right to withdraw immediately from the contract and to cancel further deliveries of goods to you. We also remind you that when exporting/re-exporting our products (hardware and/or software and/or technology as well as the corresponding documentation, regardless of the type of provision) to third parties, you are responsible for compliance with all applicable national and international export control regulations and sanctions.

## § 11 | Applicable Law and Jurisdiction

(1) For this GTCS and all legal relationships between WEFA and the buyer, the law of the Federal Republic of Germany excluding uniform international law, in particular UN purchasing law, shall apply.

(2) If the buyer is a merchant in the sense of the German Commercial Code, legal entity under public law, or a public estate, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be WEFA's registered office in 78224 Singen, Germany. The same shall apply if the buyer is an entrepreneur in the sense of § 14 BGB (German Civil Code). However, the WEFA Group shall in all cases also be entitled to take legal action at the place of performance of the delivery obligation in accordance with this GTCS or a prior individual agreement or at the buyer's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

### **WEFA Singen GmbH / Wefa Inotec GmbH**

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