

GENERAL TERMS AND CONDITIONS OF BUSINESS FOR COMMERCIAL CUSTOMERS

I. General

1. These General Terms and Conditions of Sale of Niterrra EMEA GmbH (hereinafter referred to as "Niterrra") apply to all business relationships of Niterrra with customers. These General Terms and Conditions of Sale apply only if the customer is an entrepreneur (Unternehmer) (Section 14 of the German Civil Code (Bürgerliches Gesetzbuch – BGB), a legal entity under public law or a special fund under public law.
2. The General Terms and Conditions of Sale in particular apply to contracts for the sale and/or delivery of goods (hereinafter referred to as "Goods"). Unless otherwise agreed, the General Terms and Conditions of Sale also apply as amended at the time of the customer's order or in any event as last communicated to the customer in writing (e-mail is sufficient) as a framework agreement for future contracts of the same kind, without Niterrra being required to refer to them again in each individual case.
3. These General Terms and Conditions of Sale apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if and to the extent that Niterrra has explicitly consented to their application. This consent requirement applies in all cases, even if, for example, Niterrra makes delivery to the customer without reservation despite being aware of such general terms and conditions of the customer.
4. Any legally relevant statements or notices made or given by the customer with regard to the contract (e.g. to set a time limit, to notify defects, to rescind the contract or to reduce the purchase price due to defects) shall be made or given in writing, i.e. in written form with handwritten signature (Schriftform) or text form (e.g. by letter or e-mail). Any statutory form requirements and other proof, especially in case of doubt regarding the authority of the declaring party shall not be affected hereby.
5. Any information regarding the application of statutory provisions in this General Terms and Conditions of Sale is for clarification only. The statutory provisions therefore apply even without such a clarification, unless directly modified or explicitly excluded in these General Terms and Conditions of Sale.

II. Conclusion of the contract

1. Niterrra's offers are subject to change and not binding. This also applies where Niterrra has provided the customer with catalogues, technical documentation or other product specifications or documents. Niterrra reserves any and all rights to the catalogues, technical documentation or other product specifications or documents.
2. Information contained in supplier documentation (such as price lists, brochures and catalogues) or cost estimates which refer to Niterrra's offers, such as images, descriptions,

drawings, measures and weights and other technical data and any standards referred to such as Deutsche Institut für Normung (DIN), International Organisation for Standardization (ISO), Society of Automotive Engineers (SAE) or other standards and models are approximate only unless the information is expressly marked as binding by Niterrra.

3. The customer's order for the Goods shall be deemed to be a binding offer of contract. A sales contract is concluded only after the order has been confirmed in writing and at the latest upon shipment of the Goods. Unless otherwise provided for in the order, Niterrra is entitled to accept the offer of contract within 30 days of its receipt by Niterrra.

III. Prices and terms of payment

1. Unless otherwise agreed the prices are quoted EXW. EXW in accordance with the ICC INCOTERMS 2020.
2. At the request and expense of the customer, the Goods will be delivered to a place specified by the customer (sale by delivery (Versendungskauf)). The customer shall bear the costs of transport ex warehouse and the costs of any transport insurance requested by the customer. All customs duties, fees, taxes, and other public levies shall be paid by the customer.
3. If the delivery date is more than four months after the contract date, Niterrra may adjust the purchase price to reflect documented changes in Niterrra's costs (e.g. changes in prices of raw materials, energy costs, labour costs, customs duties, taxes, etc.). Niterrra shall notify the customer of the adjustment and the basis thereof. If the adjusted price exceeds the original price by more than 5%, the customer is entitled to rescind the contract by written notice, but such notice to be given in writing within one week of receipt of the information regarding the price adjustment.
4. Unless otherwise agreed, the purchase price is due and payable net within 30 calendar days of the invoice date.
5. However, Niterrra is entitled at any time to carry out a delivery in whole or part only against advance payment, even in the course of an on-going business relationship. Niterrra will declare such a proviso at the latest when confirming the order.
6. For all payment methods, the date on which Niterrra can dispose of the amount owed by the customer shall be deemed to be the date of receipt of payment.
7. After expiry of the term for payment, the customer will be in default of payment. During the period of default in payment, default interest is payable on the purchase price in the amount of the applicable statutory interest rate. Niterrra reserves the right to assert further damages based on such default. In dealings with merchants (Kaufleuten) Niterrra's right to claim commercial default interest (Section 353 of the

German Commercial Code (Handelsgesetzbuch – HGB)) shall not be affected.

8. The customer is entitled to set-off or retention rights only to the extent that such rights have been confirmed by a final court decision or is undisputed. In the event that the Goods delivered are defective, the customer's warranty rights shall not be affected.
9. If, after conclusion of the contract, it becomes apparent (e.g. as a result of an application for the opening of insolvency proceedings) that Niterra's entitlement to the purchase price is at risk as a result of an insufficient ability of the customer to perform, Niterra is entitled to rescind the contract in accordance with the statutory provisions on refusing performance – and, if required, after setting a time limit (Section 321 of the German Civil Code). If the contract is for the manufacture of a unique item (single piece production), Niterra can rescind the contract immediately; the statutory provisions regarding the dispensability of a time limit remain unaffected.

IV. Delivery, default; passing of risk

1. The delivery date will be agreed individually or stated by Niterra upon acceptance of the order.
2. If Niterra is unable to meet binding delivery dates for any reason for which Niterra is not responsible (unavailability of performance), Niterra will inform the customer about this without undue delay and, at the same time, communicate the expected new delivery date. If performance continues to be unavailable even within the new delivery time, Niterra is entitled to rescind the contract in whole or in part; any consideration already paid by the customer will be refunded by Niterra without undue delay. Unavailability of performance for the purposes of this provision in particular includes a failure of Niterra's suppliers to make delivery to Niterra in due time provided that Niterra has concluded a congruent transaction to cover expected orders, in the event of other disruptions in the supply chain, for example due to force majeure or Niterra is not obliged to secure supplies in individual cases.
3. Default in delivery by Niterra is governed by the statutory provisions. In any event, however, the customer is required to first send a reminder.
4. Delivery will be made ex warehouse of Niterra (EXW in accordance with the ICC INCOTERMS 2020) which is also the place of performance for the delivery and subsequent performance, if any. If so requested by the customer, the Goods will be shipped to a different destination at the customer's expense (Versendungskauf). Unless otherwise agreed, Niterra is entitled to determine the kind of shipment (including transport company, transport route and packaging).
5. The risk of accidental loss or accidental deterioration of the Goods passes to the customer on delivery of the Goods, at the latest. In case of a sale involving shipment to a place other than the place of performance (Versendungskauf), however, the risk of accidental loss or accidental deterioration of the Goods and the risk of delay already pass when the Goods are handed over to the forwarding agent, carrier or other person or entity designated to perform shipment. Where an acceptance (Abnahme) has been agreed, such acceptance shall be authoritative for the passing of risk. The statutory provisions applicable to

contracts for work and services (Werkvertrag) shall also apply accordingly to an agreed acceptance in all other respects. Any default of the customer to take delivery shall be considered equivalent to delivery or acceptance.

6. If a customer defaults in taking delivery or if the customer fails to cooperate or if Niterra's delivery delays for any other reason for which the customer is responsible, Niterra is entitled to claim compensation of any damage resulting therefrom including any additional expenses (such as storage costs).
7. The customer's rights pursuant to Section 8 of these General Terms and Conditions of Sale and Niterra's statutory rights, in particular when Niterra is not obliged to perform (e.g. due to impossibility or unreasonableness of performance or subsequent performance), shall not be affected.

V. Retention of title

1. Niterra reserves title to the Goods until all present and future claims of Niterra under the sales contract and an ongoing business relationship ("Secured Claims") have been settled in full.
2. Until full settlement of all Secured Claims, the Goods subject to a retention of title may neither be pledged nor transferred by way of security to any third party. The customer shall inform Niterra in writing without undue delay if an application for the opening of insolvency proceedings has been filed or if a third party has access to the Goods belonging to Niterra (e.g. seizures).
3. In the event of a failure of the customer to comply with the contract, in particular by failing to pay the purchase price due, Niterra is entitled to rescind the contract in accordance with the statutory provisions and/or to demand on the basis of its retention of title that the Goods must be returned. The demand for a return of the Goods does not imply rescission; Niterra is rather entitled to only demand that the Goods must be returned and to reserve the right to rescind the contract. If the customer fails to pay the purchase price due, Niterra may assert these rights only after unsuccessfully setting a reasonable time limit for the customer to make payment or if setting such time limit is not required pursuant to the statutory provisions.
4. The customer is entitled to resell and/or further process the Goods subject to retention of title in the ordinary course of business, subject to revocation in accordance with subsection (c) below. In that case, the following additional provisions apply:
 - a. The retention of title extends to the products created by processing, mixing or combining the Goods of Niterra at their full value, with Niterra being considered the manufacturer. If in the event of processing, mixing or combining with third party goods the ownership right of such third party survives, Niterra acquires co-ownership in the ratio of the invoice values of the products so processed, mixed or combined. In all other respects, the product created is subject to the same rules and provisions as the Goods supplied subject to retention of title.
 - b. By way of security, the customer hereby assigns to Niterra all claims against third parties resulting from a resale of the Goods or the product created in their entirety or in accordance with Niterra's co-

ownership share as per the preceding paragraph. Niterra accepts the assignment. The obligations of the customer referred to in subsection 5.2 also apply with respect to the claims assigned.

- c. The customer remains entitled to collect the claim beside Niterra. Niterra undertakes to not collect the claim as long as the customer meets the customer's payment obligations towards Niterra, there is no lack of ability of the customer to perform, and Niterra does not assert the retention of title by exercising any of its rights under subsection 5.3. If that is the case, however, Niterra can demand that the customer discloses to Niterra the claims assigned and the relevant debtors, provides all information required for collection, hands over the relevant documentation and informs the debtors (third parties) of the assignment. Niterra is also entitled in this case to revoke the customer's authorisation to resell and further process the Goods subject to retention of title.
 - d. If the realisable value of security exceeds the amount of Niterra's claims by more than 10%, Niterra will release security of its choice at the customer's request.
5. In the event that the Goods or products created are taken to another country and the retention of title has no effect or is not as effective as intended, the customer shall cooperate in providing security which is as equivalent as possible in its effect to a retention of title.

VI. Rights of the customer in the event of defects

1. The rights of the customer in the event of material defects or defects of title (including the delivery of wrong items or insufficient quantities and improper assembly or defective assembly instructions) shall be governed by the statutory provisions, unless otherwise provided below. The special provisions of law applicable in case of a delivery to consumers shall not be affected. The seller's recourse under Section 445a of the German Civil Code shall also be unaffected. Claims under supplier recourse are excluded if the defective Goods were further processed by the customer or another entrepreneur, for example by incorporation into another product.
2. Niterra's liability for defects is primarily based on the agreement between the parties regarding the quality of the Goods. All product specifications covered by the individual contract or published by Niterra (in particular in catalogues or on Niterra's website) shall be deemed to constitute an agreement as to the quality of the Goods.
3. Where no specific quality has been agreed, the existence or non-existence of a defect has to be determined according to the statutory rule (Section 434 German Civil Code). However, Niterra accepts no liability for public statements made by third parties.
4. The customer's rights in case of defects are subject to the condition that the customer has complied with the statutory obligations to inspect the Goods and to notify defects (Sections 377, 381 German Commercial Code). If a defect is discovered at delivery, during inspection or at any time thereafter, Niterra shall be notified of such defect in writing without undue delay. If the customer fails to properly inspect the Goods and/or to notify defects, Niterra's liability for any defect not notified or not notified in time or not properly notified is excluded in accordance with the statutory provisions.
5. If the Goods delivered are defective, Niterra can first choose whether to make subsequent performance by rectifying the defect (repair) or by delivering an item free of defects (substitute delivery). Niterra's right to refuse subsequent performance where the statutory requirements are fulfilled shall not be affected.
6. Niterra is entitled to make subsequent performance conditional upon the customer's payment of the purchase price due. However, the customer is entitled to retain such portion of the purchase price which is appropriate in relation to the defect.
7. The customer shall give Niterra the time and opportunity required for the subsequent performance owed and in particular to hand over the item complained about for examination. In case of substitute delivery, the customer shall return the defective item to Niterra in accordance with the statutory provisions.
8. The expenses necessary for examination and subsequent performance, in particular costs of transport, road user charges, costs of labour and materials and, if applicable, removal and installation will be paid or reimbursed by Niterra in accordance with the statutory provisions, provided that a defect actually exists. Otherwise Niterra can demand from the customer reimbursement of the costs incurred as a result of the unjustified demand for a rectification of defects (in particular costs of examination and transport), unless it was impossible for the customer to determine the lack of defectiveness.
9. If subsequent performance has failed or if the time limit to be fixed by the customer for subsequent performance has expired without success or if such period is not required pursuant to the statutory provisions, the customer can rescind the sales contract or reduce the purchase price. However, the customer is not entitled to rescind the contract if the defect is insignificant.
10. Even in the event of defects the customer is entitled to claim damages or reimbursement of futile expenses only in accordance with Section 8; otherwise, such claims are excluded.

VII. Product traceability

1. The customer shall implement and maintain appropriate processes, control systems and maintain records of onward sales to enable an identification of the customer's customer and the supply chain. The customer is obliged to impose a corresponding duty upon the customer's own customer, provided that such documentation is possible and appropriate for the customer. The customer will reasonably assist Niterra in defending any claims under product liability. Traceability under this Clause is intended to enable prompt and appropriate action in the event of any actual or suspected defect, non-conformity or safety issue affecting the Goods.
2. The customer will inform Niterra without undue delay of all claims or other irregularities in connection with the Goods or the products further processed from them.

VIII. Liability

1. Unless otherwise provided for in these General Terms and Conditions of Sale including the provisions set out below, Niterra is liable for breaches of contractual and non-contractual duties in accordance with the statutory provisions.
2. Niterra is liable for damages – irrespective of the legal ground – in the event of intent or gross negligence. In case of slight negligence, Niterra is only liable for
 - a. damage resulting from injury to life, body or health,
 - b. damage resulting from the breach of a material contractual duty (i.e. a duty the fulfilment of which enables the proper performance of the contract in the first place and on the fulfilment of which the other party to the contract usually relies and may rely); in this case, however, Niterra's liability is limited to compensation of the foreseeable damage typically arising.
3. The limitations of liability resulting from Section 8.2 also apply to breaches of duty by or in favour of persons for whose fault Niterra is responsible pursuant to the statutory provisions. They do not apply if Niterra has fraudulently concealed a defect or assumed a guarantee for the quality of the Goods or to claims of the customer under the Product Liability Act.
4. In the event of a breach of duty which does not consist in a defect the customer can rescind or terminate the contract only if Niterra is responsible for the breach of duty. The right of the customer to terminate at discretion (in particular under Sections 650, 648 of the German Civil Code) is excluded. In all other respects, the statutory requirements and legal consequences apply.

IX. Statute of Limitation (Verjährung)

1. In deviation from Section 438(1) No. 3 of the German Civil Code, the general limitation period for claims arising from material defects or defects of title is one year from delivery. Where an acceptance (Abnahme) has been agreed, the limitation period begins to run upon acceptance.
2. The limitation periods applicable under sales law stated above also apply to contractual and non-contractual claims of the customer for damages which are based on a defect of the Goods, unless the application of the usual statutory limitation period (Sections 195, 199 of the German Civil Code) would, in an individual case, result in a shorter limitation period. However, claims of the customer for damages under Section 8.2 sentence 1 and sentence 2 lit a) or under the Product Liability Act become statute-barred only in accordance with the statutory limitation periods.

X. Confidentiality

1. The customer undertakes to treat as business secrets, and to keep such information in strict confidence, all commercial and technical details of which the customer becomes aware as a result of the business relationship which are not known from generally accessible sources. Drawings, models, templates, samples and similar items provided to the customer by Niterra may not be provided or otherwise made available to any unauthorised third party. Copying such items is permitted only within the limits of operational requirements and copyright legislation.

2. The customer may refer to the business relationship for advertising purposes only after obtaining Niterra's prior written consent.

XI. Applicable law, jurisdiction

1. These General Terms and Conditions of Sale and the contractual relationship between Niterra and the customer are governed by the laws of the Federal Republic of Germany, to the exclusion of international uniform law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
2. If the customer is a merchant (Kaufmann) within the meaning of the German Commercial Code the courts at Niterra's principal place of business in Ratingen, Germany, shall have jurisdiction over all disputes directly or indirectly arising from the business relationship. However, Niterra is also entitled to take legal action at the place of performance for the delivery obligation as provided by these General Terms and Conditions of Sale or an overriding individual agreement or at the customer's place of general jurisdiction. Any overriding statutory provisions, in particular on exclusive jurisdiction, shall not be affected.

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