

General Conditions of Sale of Georg Fischer

July 2018

1 Validity

- 1.1 These General Conditions of Sale shall apply exclusively to all deliveries made by Georg Fischer DEKA to Purchaser. They shall also apply to all future business even when no express reference is made to them.
- 1.2 Deviating or supplementary conditions, especially Purchaser's general conditions of purchase as well as verbal agreements, shall not be applicable unless accepted in writing by Georg Fischer DEKA. These General Conditions of Sale shall also apply if Georg Fischer DEKA executes delivery to Purchaser without reservation, despite knowing that Purchaser has contradictory or deviating conditions.
- 1.3 The written form shall be deemed fulfilled by all forms of transmission evidenced in the form of text, e.g. telefax, e-mail, etc.

2 Tenders

Tenders from Georg Fischer DEKA are not binding, provided nothing to the contrary has been agreed upon in writing. An order shall only be regarded as accepted once Georg Fischer DEKA has confirmed it in writing and Purchaser has received the order confirmation.

3 Scope of Delivery

- 3.1 Georg Fischer DEKA reserves the right to change its range of products.
- 3.2 The order confirmation is binding for the scope and execution of delivery and service.

4 Data and Documents

- 4.1 Technical documents such as drawings, descriptions, illustrations and data on dimensions, performance and weight as well as the reference to standards are for information purposes only and are not warranted characteristics. Where it seems advisable in light of technological advances, Georg Fischer DEKA reserves the right to make corresponding changes.
- 4.2 All technical documents shall remain the exclusive intellectual property of Georg Fischer DEKA and may only be used for the agreed purposes or as specified by Georg Fischer DEKA.

5 Confidentiality

Each of the parties shall use all documentation (including samples and models, etc.), information and knowledge obtained by it in connection with the business relationship, solely for the pursuit of shared goals; each party shall maintain the confidentiality thereof vis-à-vis third parties, exercising the same degree of care as it would with regard to its own documents and knowledge, if the other party designates these as confidential or has a manifest interest in maintaining their confidentiality.

6 Local Laws and Regulations at the Place of Destination

Purchaser shall bring to the attention of Georg Fischer DEKA all local laws and regulations at the place of destination which bear on the performance of delivery, and which bear on the adherence to relevant safety regulations and approval procedures.

7 Price

- 7.1 Unless agreed otherwise, prices are quoted ex works in accordance with Incoterms of the ICC (latest version). All additional costs, such as the costs for freight, packing insurance, export, transit, import or other permits, as well as certifications ("Ancillary Costs") shall be borne by Purchaser. Ancillary costs can be viewed at www.gfps.com/de via GF Piping Systems > Legal notices.
- 7.2 Ancillary Costs for the given products will be provided to Purchaser on request, at the latest with the order confirmation.

8 Terms of Payment

- 8.1 Purchaser shall make payment to Georg Fischer DEKA, in the manner agreed by the parties, without any deductions such as discounts, costs, taxes or fees. As method of payment, only cash or bank transfers in EUR to the bank account indicated by Georg Fischer DEKA are accepted.
- 8.2 Purchaser only has set-off rights for claims that have been established as undisputed or declared legally valid. In particular, payment shall be made even if unessential items are outstanding, provided the delivery has not been rendered unusable as a result.

9 Retention of Title

- 9.1 The products shall remain the property of Georg Fischer DEKA until settlement of all claims – present and future – which Georg Fischer DEKA may have against Purchaser at the time of delivery.
- 9.2 Purchaser is entitled, in the ordinary course of business, to resell the delivered goods. However, Purchaser hereby assigns to Georg Fischer DEKA all receivables accruing to it from the sale against its customers or third parties in the amount of Georg Fischer DEKA's receivables (including VAT). This assignment remains in force until all receivables held by Georg Fischer DEKA have been settled and it applies regardless whether the delivered goods were resold without or after processing. Until revoked by Georg Fischer DEKA, this assignment shall not preclude Purchaser's right to collect the assigned receivables. Georg Fischer DEKA's power to collect the receivable itself remains unaffected by this. Georg Fischer DEKA undertakes not to collect the receivable as long as Purchaser meets its payment obligations, does not default on payment and in particular no application to open insolvency or composition proceedings has been made or suspension of payment has occurred. However, should this happen, Georg Fischer DEKA can demand that Purchaser disclose the assigned receivables and their obligors, make available all information required for collection, hands over the relevant documents, and informs the obligors (third parties) of the assignment.
- 9.3 Processing or modification of the delivered goods by Purchaser is always performed for Georg Fischer DEKA. If the delivered goods are modified with other objects that do not belong to Georg Fischer DEKA, Georg Fischer DEKA acquires joint ownership in the new item in proportion to the value of the delivered good (final invoice amount, including VAT) in relation to the other modified items at the time of the processing. Moreover, products created through processing shall be subject to the same conditions as applicable to goods delivered to which title is reserved.
- 9.4 If the delivered goods are inseparably combined with other objects that do not belong to Georg Fischer DEKA, Georg Fischer DEKA acquires joint ownership in the new item in proportion of the value of the delivered good (final invoice amount including VAT) in relation to the other modified items at the time of the combination. If the combination is carried out so Purchaser's item is viewed as the main item, it is agreed that Purchaser transfers proportional joint ownership to Georg Fischer DEKA. Purchaser shall hold the resulting sole or joint ownership in safe custody for Georg Fischer DEKA.
- 9.5 For securing Georg Fischer DEKA's claims against it Purchaser also assigns to Georg Fischer DEKA such rights it accrues against a third party based on the connection of the delivered goods with a property.
- 9.6 At Purchaser's request, Georg Fischer DEKA undertakes to release collateral securities to which it is entitled, provided the realisable value of the collateral exceeds the claims to be secured by more than 10%; the choice of which securities to unblock falls to Georg Fischer DEKA.

10 Delivery

- 10.1 Indicated delivery dates are not binding, unless their binding nature was expressly agreed in the order confirmation. The periods laid down in the order confirmation only start running when all official formalities such as import and payment permits have been acquired, and when agreement has been reached regarding the main technical points. The delivery period or scheduled delivery date, unless otherwise agreed, is considered to have been met when the delivery has been prepared for dispatch.
- 10.2 Delivery is subject to the following conditions, i.e. the delivery period is appropriately extended or the delivery

date postponed:

- a) if Purchaser fails to provide information required to carry out the order in due time or if Purchaser subsequently changes the order, causing a delay in delivery;
 - b) if Georg Fischer DEKA is prevented from making delivery due to force majeure. Force majeure shall be deemed equivalent to any unforeseeable event beyond Georg Fischer DEKA's control that renders Georg Fischer DEKA's performance unpractical or impossible: for example, delayed or defective supplies from sub-contractors, labour disputes, governmental orders or regulations, shortages in raw materials or energy. Force majeure shall also be deemed equivalent to any serious interruptions in Georg Fischer DEKA's operations, such as the total or partial destruction of plant and equipment or the breakdown of essential production facilities, and serious disruptions in transport facilities, e.g. impassable roads. Should the effect of force majeure exceed a period of six (6) months, either party may cancel the contract forthwith. Purchaser's claims for damages shall be excluded;
 - c) if Purchaser is in delay in fulfilling his contractual obligations, in particular if it does not adhere to the agreed payment terms or fails to provide the agreed collaterals in due time.
- 10.3 If Georg Fischer DEKA is responsible for violating the agreed delivery period or reasonable grace period, Georg Fischer DEKA shall not be deemed in default until Purchaser has set Georg Fischer DEKA a reasonable extension of no less than one (1) month, and this grace period has expired without avail. Subsequently, Purchaser is entitled to the remedies provided for by law, subject to the limitations of paragraph 16.
 - 10.4 Partial deliveries are allowed. Georg Fischer DEKA is entitled to invoice for such partial deliveries.
 - 10.5 If Purchaser fails within a reasonable time to take delivery of products notified as ready for despatch, Georg Fischer DEKA shall be entitled to store the products at Purchaser's expense and risk and to invoice them as delivered. If Purchaser fails to effect payment for the products, Georg Fischer DEKA shall be entitled to dispose of the products.
 - 10.6 Should Purchaser cancel an order without justification and should Georg Fischer DEKA not insist on the performance of the contract, Georg Fischer DEKA shall be entitled to a compensation for damages amounting to 10% of the contract price and of the proven damages exceeding this amount. Purchaser shall be entitled to prove that Georg Fischer DEKA has suffered no or a considerably lower damage than the amount of the lump-sum claim for damages.
- 11 **Return of Packaging**

If Purchaser returns the packaging used for the transport of the goods delivered to Georg Fischer DEKA in accordance with the Packaging Ordinance, he bears the recovery and transport costs to the recycling location designated by Georg Fischer DEKA.
 - 12 **Passing of Risk**
 - 12.1 Risk shall pass to Purchaser ex works according to Incoterms of the ICC (latest version), even if delivery is made free-to-the-door or occurs under similar conditions or includes installation or when carriage is organized and managed by Georg Fischer DEKA.
 - 12.2 If delivery is delayed for reasons beyond Georg Fischer DEKA's control, the risk shall pass to Purchaser once he has been notified the goods are ready for dispatch.
 - 13 **Carriage and Insurance**
 - 13.1 Insurance against damages of any kind is incumbent on Purchaser. Even when such insurance is arranged by Georg Fischer DEKA, it shall be deemed taken out by the order of and for the account of Purchaser.
 - 13.2 Special requests regarding carriage and insurance shall be communicated to Georg Fischer DEKA in due time. Otherwise, carriage shall be arranged by Georg Fischer DEKA at its discretion, but without responsibility, by the quickest and cheapest method possible. Dispatch handling of deliveries "free-to-the-door" shall be arranged by Georg Fischer DEKA.

If Purchaser specifies particular requirements, any extra costs involved shall be borne by him.
 - 13.3 In the event of damage or loss of the goods during carriage, Purchaser shall mark the delivery documents accordingly and immediately have the damage ascertained by the carrier and recorded in the factual report. Not readily ascertainable damages sustained during transit shall be notified to the carrier within six (6) days after receipt of the goods.
 - 14 **Inspection and Acceptance of Delivery**
 - 14.1 The delivered goods will be subject to normal inspection by Georg Fischer DEKA during manufacture. Should Purchaser require more extensive tests, these shall be agreed upon in writing and charged to Purchaser.
 - 14.2 Purchaser undertakes to check the consignment and provide notification of defects as required by law. Notice of defects must be provided promptly in writing, at the latest within five (5) working days after delivery, and in the event of hidden defects within five (5) days after discovery.
 - 14.3 Goods delivered with defects should in any case be stored until final clarification of the warranty or damage claims; defective goods shall be made available to Georg Fischer DEKA at its request. In order to protect employees from toxic or radioactive substances, which may have been transported in the delivered goods in question, a Material Safety Disclosure Certificate shall be enclosed with defective goods being returned to Georg Fischer DEKA or its sales organisation. The form may be obtained from the local sales company or via www.gfps.com/de.
 - 15 **Liability for Material Defects**

Georg Fischer DEKA is liable for material defects as follows:

 - 15.1 At the discretion of Georg Fischer DEKA, defects to delivered goods can subsequently be remedied free-of-charge, replaced or rendered again ("Supplementary Performance"), provided the material defect already existed at the time risk was transferred. Georg Fischer DEKA undertakes to bear the reasonable costs necessary for Supplementary Performance, in particular transport, travel and material costs, provided these are not increased because the delivered goods were shipped to a place other than the place of performance. Delivered goods that have been replaced shall become the property of Georg Fischer DEKA.
 - 15.2 If the Subsequent Performance also fails on the second attempt, Purchaser - irrespective of any claims for damages under these conditions - can rescind the contract or reduce the price.
 - 15.3 For goods manufactured to specifications, drawings or models provided by Purchaser Georg Fischer DEKA's liability is limited to the material properties and free of defect processing.
 - 15.4 Claims for material defects do not exist in cases of: insignificant deviations from the agreed appearance and workmanship; only minor impairment of usability; natural wear or damages occurring after passing of risk from faulty or negligent handling, excessive operational stress, unsuitable operating equipment, defective construction work, unsuitable foundation ground or due to exceptional external influences that are not assumed under the contract, as well as non-reproducible software errors. Where modifications or reconditioning measures are improperly carried out by Purchaser or third parties, no liability for material defects shall arise in connection therewith or with the consequences thereof.
 - 15.5 For delivered goods that is customarily used in a building and caused such building's defectiveness or for delivered goods used in underground pipeline construction,
 - a) Georg Fischer DEKA assumes, within the terms of paragraph 16, reasonable dismantling and

- assembly costs for the restoration of the object to its original state, as well as all other direct consequential damage (damage to property and persons);
- b) warranty and liability claims, notwithstanding paragraph 17, expire five (5) years after the installation date, but no later than seven (7) years after the date of manufacture of the delivered good.
- 15.6 Purchaser's right of recourse against Georg Fischer DEKA only exist in as far as Purchaser has not reached agreements with his customers that go beyond the legal claims for defects.
- 16 General Limitation of Liability**
- 16.1 Georg Fischer DEKA is liable under statutory provisions insofar as Purchaser asserts claims for damages based on intent or gross negligence, including intent or gross negligence of the representatives or agents of Georg Fischer DEKA. To the extent Georg Fischer DEKA is not accused of any intentional breach of contract, the liability for damages is limited to foreseeable, typically occurring damage.
- 16.2 Georg Fischer DEKA is liable under statutory provisions if Georg Fischer DEKA culpably violated an essential contractual obligation; however, in this case, liability for damages is also limited to foreseeable, typically occurring damages.
- 16.3 Liability for culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability under the Product Liability Act or when assuming a guarantee and a defect covered thereby triggers Georg Fischer DEKA's liability.
- 16.4 Further claims of Purchaser for whatever legal reason, in particular claims arising from infringement of primary and secondary contractual obligations, reimbursement of expenses other than those mentioned in § 439 II BGB [German Civil Code], impermissible act and other tortious liability are excluded. This in particular includes claims for damages beyond the goods delivered, the right to compensation for loss of

- particular includes claims for damages beyond the goods delivered, the right to compensation for loss of profit, and claims that do not result from the defectiveness of the delivered goods.
- 16.5 Insofar as the liability of Georg Fischer DEKA is excluded or limited, this also applies to its affiliates and the personal liability of office employees, factory workforce, staff members, legal representatives and agents of Georg Fischer DEKA and its affiliates.
- 17 Statute of Limitation on Damage Claims and Material Defect Claims**
- The statute of limitations for filing material defect claims is twelve (12) months, calculated from passing of risk. Any other claims for damages expire twelve (12) months from passing of risk. Subparagraphs 16.1, 16.2 and 16.3 shall apply accordingly.
- 18 Place of Performance and Jurisdiction**
- 18.1 Place of performance for the goods shall be the place where Georg Fischer DEKA is domiciled.
- 18.2 For disputes arising from this contractual relationship, any claims must be brought at the court having jurisdiction over Georg Fischer DEKA. However, Georg Fischer DEKA is also entitled to appeal to any other competent court.
- 18.3 The contractual relationship is subject to German law without possibility of recourse to the CISG [Convention on Contracts for the International Sale of Goods].
- 19 Environment Protection**
- 19.1 Professional management of final disposal of our products has to be ensured.