

## General Terms and Conditions of Business

### Preamble

The following General Terms and Conditions shall apply to purchase contracts as well as to contracts for work and services and contracts for work and materials.

Clauses which, due to their legal nature, are only applicable to purchase contracts, shall apply exclusively to these contracts. contracts.

If consumers in the sense of § 13 BGB (German Civil Code) are contracting parties, the General Terms and Conditions shall only apply to the extent that they are

in accordance with the provisions on the sale of consumer goods or in accordance with the provisions of § 305 et seq. BGB compared to the

legal regulations. In all other respects they shall only apply to consumers if the consumer is aware of the

the General Terms and Conditions were made known to the consumer when the contract was offered and a reference was made to the

of the inclusion of the General Terms and Conditions.

The following General Terms and Conditions of Business (Terms and Conditions of Sale and Delivery) shall apply to all current business relations, unless they are expressly amended or excluded, i.e. with the written consent of Metallbau Müller GmbH. are modified or excluded.

General terms and conditions of business or terms and conditions of purchase and delivery of the other contractual partner shall not be binding on Metallbau Müller GmbH, even if they have not been expressly contradicted.

The following General Terms and Conditions shall be deemed to have been agreed upon acceptance of the contractual offer, at the latest upon receipt of the goods delivered or services rendered by Metallbau Müller GmbH.

The General Terms and Conditions can be viewed on the Internet at:

[www.metallbau-mueller.de](http://www.metallbau-mueller.de) or on the notice board at the registered office of Metallbau Müller GmbH.

### **I. Quotations and prices**

Offers made by Metallbau Müller GmbH are subject to change without notice, unless expressly stated otherwise when the offer is made.

Allowable recalculations shall apply at the time of delivery or performance of the service, price increases, surcharges and duties shall be deemed to have been agreed.

### **II. Force majeure**

Metallbau Müller GmbH shall not be liable for the non-fulfilment of contractual obligations, if the non-fulfilment is due to an impediment outside its sphere of influence (e.g. non-delivery of supplier components, natural disasters components, natural disasters, sovereign measures). In the aforementioned cases, Metallbau Müller

GmbH shall be entitled to reasonably extend the agreed date of performance or to withdraw from the contract in whole or in part.

withdraw from the contract.

Claims for damages by the contractual partner are excluded in these cases.

Force majeure shall be deemed to exist in particular if events occur due to elementary forces of nature or due to actions of third

third parties, which could not be foreseen according to human insight and experience, in particular by could not be prevented by economically acceptable means, even with the utmost care.

Furthermore, claims for damages by the contractual partner are excluded if compliance with the contract is

(in whole or in part) is not possible due to:

Operational disruptions which are attributable to force majeure - Workers' strikes and lockouts -

entry into force of official regulations - shortage of raw materials - traffic disruptions in the transport of the goods for which Metallbau Müller GmbH is not responsible.

disruptions in the transport of the goods for which Metallbau Müller GmbH is not responsible.

### III. Retention of title

All deliveries and services provided by Metallbau Müller GmbH shall be effected with regard to the goods supplied

under retention of title according to § 449 BGB.

If the retention of title expires due to the combination or processing of the delivered goods, the new item shall replace the delivered goods.

instead of the delivered goods.

If the retention of title to the originally delivered goods expires due to resale by the debtor, the resulting claim of the

the resulting claim of the debtor of Metallbau Müller GmbH shall take the place of the retention of title,

in relation to the goods delivered.

After the purchase price has become due, Metallbau Müller GmbH shall be entitled, but not obliged, to withdraw from the contract.

withdraw from the contract. The right of withdrawal shall exist until the purchase price has been paid in full.

The contracting party shall be prohibited from pledging or assigning the reserved goods as security. He shall be

to inform Metallbau Müller GmbH immediately in case of impairments of any kind, in particular in case of seizure of the

goods subject to retention of title without delay. In the event of a breach of the aforementioned obligations, the contracting party shall be obliged to

Metallbau Müller GmbH for any damage resulting therefrom.

The retention of title according to § 449 BGB (German Civil Code) as well as the aforementioned compensation regulations (extended retention of title)

shall apply to the goods delivered in each case until all due claims of Metallbau Müller GmbH against the contracting party have been settled.

the contracting party, even if the due date of the claims has already occurred before delivery of the goods.

delivery of the goods.

### IV. Transfer of risk and shipment

The risk of loss, damage or deterioration of the goods shall pass to the buyer at the time the goods are handed over.

transfer of the goods to the buyer.

If the personal receipt of the goods by the buyer has not been expressly agreed between the contracting parties, the risk shall pass to the buyer as soon as Metallbau has received the goods.

the buyer, the risk shall pass to the buyer as soon as Metallbau Müller GmbH has deposited the goods at the agreed upon agreed place of delivery.

In the case of shipment, the risk shall pass to the buyer when the goods are handed over to the carrier or freight forwarder, but at the latest when the goods have left the premises of Metallbau Müller GmbH.

#### V. Warranty

(1) the contractual partner's warranty rights presuppose that he has duly fulfilled his obligations to inspect the goods and to give notice of defects in accordance with § 377 of the German Commercial Code (HGB).

(2) claims for defects shall become statute-barred 12 months after delivery of the goods supplied by us to our contractual partner. The statutory limitation period shall apply to claims for damages in the event of intent and gross negligence as well as in the event of injury to life, body and health which are based on an intentional or negligent breach of duty by the user. (Note: in the case of the sale of used goods, the warranty period can be completely excluded with the exception of the claims for damages mentioned in sentence 2).

Insofar as the law in accordance with § 438 para. 1 No. 2 BGB (buildings and things for buildings), § 445b BGB (withdrawal claim) and § 634a paragraph 1 BGB (construction defects) prescribes longer periods mandatory. Do these deadlines apply. Our consent must be obtained prior to any return of the goods.

(3) If, despite due care, the delivered goods show a defect which was already present at the time of transfer of risk, we shall, at our discretion, either repair the goods or deliver replacement goods, subject to timely notification of defects. We shall always be given the opportunity to remedy the defect within a reasonable period of time. Claims under a right of recourse shall remain unaffected by the above provisions without restriction.

If the subsequent performance fails, the contracting party may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration.

(5) Claims for defects shall not only exist in the case of insignificant deviation from the agreed quality, in the case of only insignificant impairment of the usability, in the case of natural wear and tear as well as in the case of damage which occurs after the transfer of risk as a result of incorrect or negligent handling, excessive stress, unsuitable operating materials, defective construction work, unsuitable building ground or due to special external influences which are not presupposed according to the contract. If the contractual partner or third parties carry out improper repair work or modifications, there shall also be no claims for defects for these and the consequences thereof.

(6) Claims of the contractual partner for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labor and material costs, shall be excluded insofar as the expenses are increased because the goods delivered by us were subsequently transported to a location other than the contractual partner's branch office, unless such transport is in accordance with their intended use.

(7) the contracting party shall only have a right of recourse against us to the extent that the contracting party has not entered into any agreements with its customer that go beyond the statutory mandatory claims for defects. Furthermore, paragraph 6 shall apply accordingly to the scope of the contractual partner's right of recourse against the supplier.

#### VI. Security deposits

If, after the conclusion of the contract, justified doubts arise as to the solvency and/or creditworthiness of the contracting party creditworthiness of the contractual partner, Metallbau Müller GmbH shall be entitled to demand advance payment of the agreed the agreed price from the contracting party prior to the performance of the overall service to be rendered or the partial services still to be rendered.

Instead of the advance payment, the contracting party may provide security by furnishing a directly enforceable bank guarantee of a German bank.

bank guarantee of a German bank. If the contracting party does not make the advance payment within 10 days of the request the aforementioned security, Metallbau Müller GmbH shall be entitled to withdraw from the contract.

withdraw from the contract. The contracting party shall be liable to pay compensation for the resulting damage.

#### VII. Compensation for Damages

If the buyer/client withdraws from the contract without a legally justified reason, Metallbau Müller GmbH shall be entitled to the statutory claims for damages, but at least a lump-sum compensation of 15% of the net purchase price/net order value.

In order to defend itself against the lump-sum compensation, the contracting party shall be at liberty to prove that Metallbau Müller GmbH has not suffered any damage or that the damage is considerably less.

### VIII. Liability

Metallbau Müller GmbH shall be liable without limitation for intentional or grossly negligent acts or omissions.

Metallbau Müller GmbH shall only be liable for negligence in the event of a breach of essential contractual obligations in a manner that

the purpose of the contract. In this case, the liability for damages incurred (this also includes

indirect damage) shall be limited to 100,000.00 Euro per case of damage or per series of related cases of

cases of damage. All further rights and claims, regardless of their legal basis, are excluded.

excluded. This applies in particular to compensation for indirect damage (consequential damage, loss of profit,

including the compensation of such damages, which are not caused to the contractual products themselves, but by their use, their unusability or in any other way to other objects or persons.

If the damage is caused by a vicarious agent of Metallbau Müller GmbH, Metallbau Müller GmbH shall not be liable, however, even if the vicarious agent is not responsible for the damage.

GmbH shall not be liable even if the vicarious agent is guilty of gross negligence, unless the vicarious agent has

vicarious agent violates cardinal obligations.

### IX. Terms of payment

Payments are due two weeks after the invoice date - strictly net. In the event of default, Metallbau Müller GmbH shall be entitled to interest on arrears in the amount of 8 % points above the base interest rate. Metallbau Müller GmbH is free to charge

Metallbau Müller GmbH shall be at liberty to assert a higher damage caused by default upon proof.

### X. Place of jurisdiction, applicable law

German law shall apply to all contracts concluded. It is agreed that the place of jurisdiction shall be the Local Court (Amtsgericht) of Aue or, in the event of lack of subject-matter jurisdiction, the Regional Court (Landgericht) of Zwickau.

The foregoing shall also apply to contracts with foreign customers.

### XI. Severability clause

The invalidity of individual parts of the above General Terms and Conditions does not affect the invalidity of the remaining of the remaining parts of the General Terms and Conditions or the validity of the main contract.

Invalid clauses of the General Terms and Conditions of Business shall be replaced by comparable valid clauses or the corresponding legal provisions.