

# General Terms and Conditions

Valid from 01/2024

of WEBAC-Chemie GmbH · Fahrenberg 22 · 22885 Barsbüttel (Schleswig-Holstein) near Hamburg, Germany (hereinafter referred to as WEBAC)

## § 1 General

(1) All current and future deliveries and associated services of WEBAC are exclusively subject to the following General Terms and Conditions of Business. General Terms and Conditions of Business which differ from, contradict or add to these, even if the parties are aware of this, shall not become an integral part of this contract, unless it is explicitly agreed that these should apply.

(2) These General Terms and Conditions of Business should be comprehended and interpreted in the same way as the conclusion and interpretation of legal transactions made with the customer, i.e. they are exclusively subject to the Law of the Federal Republic of Germany. The regulations of the UN sales law (Hague Convention of 01.07.1964 relating to a Uniform Law on International Sales and the United Nations Convention of 11.04.1980 on Contracts for the International Sale of Goods) do not apply.

(3) All advice and services provided by our WEBAC service team are restricted to imparting and applying technical knowledge and experience, which is passed on to the best of our knowledge. All data and information about suitability and application do not preclude examination of the WEBAC products for suitability for the intended application by the customer. WEBAC is thus unable to guarantee the nature of WEBAC products or that such products are suitable for a particular purpose. The supply of technical data sheets and information does not signify a consultancy relationship.

(4) For the purpose of these Terms and Conditions of Business, a customer is defined as both a consumer and a trader. For the purpose of these Terms and Conditions of Business, consumers are natural persons with whom WEBAC is entering into business, who cannot be described as carrying out a commercial or independent business activity. For the purpose of these Terms and Conditions of Business, a trader is defined as a natural person or legal entity, or one having legal capacity, with whom WEBAC is entering into business, who carries out a commercial or independent business activity.

(5) The place of execution for all obligations arising directly or indirectly from the business relationship with WEBAC, including duty of payment, is WEBAC's registered office.

## § 2 Deliveries

(1) WEBAC's offers are subject to confirmation. WEBAC reserves the right to make technical changes, within the scope of what is considered reasonable, such as changes in shape/color and/or weight.

(2) Additional deliveries or services desired by the customer are billed separately by WEBAC and require WEBAC's written confirmation. WEBAC reserves the right to make changes to construction, choice of material, specification and design, provided these changes are neither contradictory to the confirmation of the order nor to the customer's specifications.

(3) The documents such as illustrations, drawings, dimensions and weight specifications, on which the quotation or order confirmation is based, are to be strictly regarded as approximations, as long as these are not explicitly defined as compulsory.

(4) Part-deliveries are permissible.

## § 3 Prices and Conditions of Payment

(1) All prices are net prices ex works Barsbüttel or a WEBAC distributing warehouse. The goods are delivered in standard packaging. The weights and quantities ascertained by WEBAC are decisive for the calculation of prices.

(2) We expressly reserve the rights to make price changes at any time. All previous price lists become invalid upon release of a new price list.

(3) If the customer fails to keep up with payments, particularly if he fails to pay a cheque or ceases payments, or if WEBAC should become aware of other circumstances, which give them reason to doubt the creditworthiness of the customer, WEBAC shall be entitled to claim the whole outstanding balance due. In this case, WEBAC is also entitled to demand advance payments or the provision of security.

(4) If there are more than 4 months between conclusion of contract and delivery, without there being a delivery delay for which WEBAC is responsible, WEBAC can increase the price as they think fit, whilst taking into account materials, wages or other additional expenses, which are born by WEBAC. If the purchase price is increased by more than 40%, the customer is entitled to withdraw from the contract.

(5) If WEBAC caters for changes requested by the customer, the additional costs incurred are to be paid by the customer. In the case of custom-made products (e.g. special shades), the customer is obliged to pay and purchase any additional amounts, which are inevitably produced for reasons of production engineering.

(6) Setting-off and withholding of payments is not permitted, unless the setting-off claim is uncontested or deemed legal.

## § 4 Term of Delivery/Returns

(1) Delivery dates are stated according to the best possible estimations and are extended accordingly, should the customer delay or fail to carry out required or agreed acts of cooperation. The same applies to measures as part of trade disputes, in particular strikes and lockouts as well as to the occurrence of unforeseen difficulties, which are not incurred by WEBAC's wilful intent, e.g. delivery delays of a sub-contractor, traffic problems, or break-downs, material or energy shortages etc. WEBAC shall not accept responsibility for this – even if the agreed deadlines and dates are agreed as binding. Instead of extending the delivery date, due to the delayed component, WEBAC is entitled to withdraw from the whole or part of the contract. If the impediment lasts more than three months, the customer is entitled, after having set a reasonable period of grace, to withdraw from the contract due to the delayed component. Changes to the supplied products, which are prompted by the customer, shall also incur an appropriate extension of the delivery date.

(2) If WEBAC is responsible for failure to comply with binding delivery dates and deadlines or falls behind, the customer is entitled to a delay compensation of 0.5% of the invoice value for each full week of delay, but with a maximum of 5% of the invoice value for the supplies and services affected by the delay. Any additional claims shall be excluded, unless the delay was attributable to at least gross negligence on the part of WEBAC.

(3) Returns are generally not permitted. Should WEBAC choose to make an exception, the return shall only be allowed in exchange for a credit note. In such exceptional cases, only unopened goods in their original packaging and only freight paid goods shall be accepted by WEBAC. The costs incurred by WEBAC for accepting returns shall hereby be agreed at 20% of the net value of the product, however at least € 30.00, and this amount shall be deducted from the amount of the credit note. The return of custom-made goods shall not be accepted.

## § 5 Force Majeure

(1) The vendor shall not be liable for delay in the production or delivery of goods caused by force majeure. Force majeure shall include raw material shortage, inability to obtain raw materials and construction components, delays in or denial of export licenses or their suspension or cancellation, or other governmental actions that limit WEBAC's ability to perform under the contract, fire damage, earthquakes, floods, bad weather, quarantines, epidemics, pandemics or regional medical crises, strikes or lockouts, riot, conflict, insurrection, civil disobedience, armed conflict, terrorism or war, etc. (or imminent threat thereof) or other events beyond WEBAC's reasonable control.

(2) In times of acute shortage of raw materials and drastically increased raw material prices, WEBAC reserves the right to designate all price offers already submitted as subject to change, to invoice deliveries at daily prices, to leave the obligation to deliver only under the reservation of the ability to deliver.

## § 6 Transfer of Risks

(1) If the buyer is a trader, the risk of the accidental loss or damage of the product is transferred to the buyer, as soon as WEBAC has provided the customer with the product and has informed the customer of these circumstances. For mail-order purchases, the aforementioned delivery-related product risks are transferred to the buyer as soon as the goods have been presented to the transport company, carrier or any other person or institution who has been entrusted with carrying out the delivery. This shall also apply if WEBAC bears the transport costs. Complaints due to damage during transportation shall be made directly to the transport company by the buyer immediately after receipt of the goods. It is at the buyer's discretion whether s/he takes out transport or other insurance policies.

(2) If the buyer is a consumer, the risk of accidental loss or damage of the sold item is not transferred to the buyer until s/he has been presented with the product. This also applies for mail-orders. The delivery is not affected by delays of acceptance of the goods on the buyer's part.

## § 7 Reservation of Title

(1) For contracts with consumers, the product remains the property of WEBAC until full payment of the purchase price has been received.

(2) For contracts with traders, the product remains the property of WEBAC until all accounts have been settled in full (incl. balance claims from open accounts), which are owed WEBAC by the trader. WEBAC shall be provided with the following securities which they shall apply at will if the value of such securities exceeds the amount of their claims against the customer by more than 20%. The product shall remain the property of WEBAC. Any processing or transformation shall always be carried out on behalf of WEBAC as manufacturer, but without any commitment for WEBAC. The trader shall protect the title of WEBAC without charge. Goods which are the property of WEBAC are referred to below as "reserved goods". The trader is entitled to process or sell reserved goods in the ordinary course of business. Pledges or transfers by way of security are not permitted. Claims of the customer (including all balances on current accounts) arising from the sale of the reserved goods or for any other legal reason (insurances, tortious acts) shall hereby be transferred by the customer to WEBAC by way of security up to the amount of the claim of WEBAC against the customer. WEBAC revocably empowers the customer to collect the assigned claim for his account and in his own name. This collection empowerment can only be revoked if the customer fails to meet his payment obligations.

In the event of any seizures of reserved goods by third parties, the customer shall draw attention to the title of WEBAC and shall notify WEBAC of the seizure immediately.

(3) In the event of any conduct by the customer which is in breach of contract – in particular payment arrears – WEBAC is entitled to repossess the reserved goods or, if necessary, to demand the assignment of any repossession claims of the customer against third parties. Repossession of the reserved goods by WEBAC shall not constitute withdrawal from the contract, unless the German Consumer Credit Act applies.

## § 8 Warranty

The warranty for purchase orders is 2 years and commences once the product has been delivered. This does not apply to WEBAC products with a label indicating a best-before date of less than 2 years. In such cases, the period of warranty is only valid until the maximum best-before date. All pumps and pump components are excluded from this period of warranty. These components have a period of warranty of 1 year, which commences once the product has been delivered. Installed WEBAC building materials have a warranty of 5 years, provided that their use for a building structure complies with the standard application instructions and that this use has resulted in a defect. This commences from the customer's receipt of the building material. The following also applies to the aforementioned warranty:

(1) No liability shall be assumed for damages attributable to unsuitable or improper use of WEBAC products, including failure to follow mixing instructions or instructions for use, incorrect assembly or operation by the customer or a third party, natural wear and tear, incorrect or negligent handling, replacement materials, defective construction or installation work, in particular unsuitable construction preparation and chemical, electrochemical or other influences, if the damages were not caused by negligence or intent on the part of WEBAC. Liability for consequential losses shall be excluded as a result of any changes undertaken by the buyer or a third party without the prior consent of WEBAC, in particular any changes in the chemical composition by the addition of other substances.

(2) Deviations from samples or specimens, e.g. color differences in individual batches, shall not constitute a defect in our goods if these are attributable to production engineering reasons.

(3) Any complaints can only be dealt with if the batch number is provided.

(4) If the customer notifies WEBAC that the delivered products are defective, it is at WEBAC's discretion to request that the defective material or component is returned to WEBAC for repair or processing clean and in the undamaged original packaging and for subsequent return or the customer shall be requested to retain the defective material or component and a WEBAC serviceman shall be sent to the customer in order to repair or process the defect.

(5) If the customer requests that rectification be carried out on site (construction site), even though such rectification would have been possible at WEBAC (factory), the customer shall bear 50% of the traveling costs incurred.

(6) Warranty claims against WEBAC shall only accrue to the direct customer of WEBAC and are not assignable.

(7) More far-reaching claims, particularly due to consequential damages caused by a defect, provided these are not due to the lack of a promised product feature, are excluded. This does not apply if the damages occur due to the willful intent, gross negligence or gross breach of contract on the part of WEBAC.

(8) As regards the agreed delivery dates, WEBAC is only responsible for the punctual dispatch of the product ex Barsbüttel works.

## § 9 Liability

Customer compensation claims for any legal reason whatsoever shall be excluded both against WEBAC and their assistants or vicarious agents, unless willful intent or gross negligence is involved. This does not apply to bodily harm – in the event of a negligent breach of duty by WEBAC or their assistants, WEBAC's liability shall be restricted to damages, which are both typical in such contracts and foreseeable.

## § 10 Service technicians

WEBAC shall, at the request of the customer, provide service technicians. The costs and scope of services of such technicians shall be determined in a separate contract. The provision of service technicians by WEBAC represents a consultation in accordance with § 1, section (3) which does not constitute neither an employment relationship nor a production relationship; a production success is not being owed.

## § 11 Special conditions for lending and renting of tools and pumps

The following special conditions apply to the lending and renting of pumps, appliances and other equipment (hereinafter referred to as "tools") by WEBAC to customers for production, processing or demonstration purposes.

(1) Property of tools. Tools put at the customer's disposal by WEBAC remain the property of WEBAC. The customer must mark tools with the part number indicated in the delivery note of the tools order and/or the part number named by WEBAC and with the company name of WEBAC in such a way that they can be identified as property of WEBAC at all times.

(2) Storage, handling and use. The customer must store and handle the tools with the due care and diligence of a prudent businessman – free of charge if the tools have been lent to him. During the specified period of provision of the tools, the customer is obliged to maintain the tools (maintenance, inspection and repair) free of charge. He must perform the maintenance work in time and must inform WEBAC about any necessary replacement of tools in time. All repair costs incurred shall be borne by the customer. The tools must not be handed over to third parties. They must not be reproduced without the prior written consent of WEBAC. The tools must be cleaned and checked for correct functioning before being returned.

(3) Transport, packaging and insurance. The tools are handed over to the customer and returned to WEBAC at WEBAC's warehouse in Barsbüttel/Germany. Otherwise the customer shall bear the costs of transport, packaging and transport insurance in connection with the delivery and return of the tools. The customer is obliged to package and transport the tools for all intermediate transports at his own costs in such a way that the tools will not get damaged.

## § 12 Legal Venue

The legal venue for all disputes resulting from the business relationship with WEBAC is the court which has jurisdiction over the site of WEBAC's registered office, provided the customer is a businessman in accordance with the German Commercial Code, a legal person of public law, or has public law separate property.

## § 13 Data Protection

The agreement made with respect to the processing of personal data can be found in the separate data protection agreement at [www.webac-grouts.com/data-protection](http://www.webac-grouts.com/data-protection).

## § 14 Final Provision

If one or more provisions of these General Terms and Conditions are invalid in whole or in part, this shall not affect the validity of the remaining provisions. Instead of the ineffective provisions, another appropriate provision shall apply by way of adjustment, which economically comes closest to what the parties intended or would have intended if they had considered the ineffectiveness of the provision, alternatively the statutory regulation.