

# GmbH Geräte- und Vorrichtungsbau

**General Terms and Conditions for Sale and Delivery  
of the goods manufactured by GEVO GmbH Germany  
To recreate the goods outside of GEVO GmbH is strictly forbidden.**

## 1. Applicability of General Terms and Conditions for Sale and Delivery

The General Terms and Conditions for Sale and Delivery of GEVO GmbH (hereinafter "Company") have exclusive applicability (hereinafter the "General Terms and Conditions"). Any terms and conditions of Customer in conflict with or different from Company's General Terms and Conditions are inapplicable unless expressly agreed otherwise in writing by Company. These General Terms and Conditions apply even if Company, without any reservation of rights, delivers products to Customer knowing that Customer's terms and conditions are in conflict with or different from these General Terms and Conditions. Our conditions for sale are only valid for customers which are a company in the sense of §310 paragraph 1 BGB.

## 2. Offers

All offers made by Company are subject to change and may be revoked at any time until receipt of Customer's acceptance.

## 3. Order Confirmations, Changes in Scope of Service

The acceptance of orders require a written order confirmation. The scope as well as the terms and conditions of delivery are given with Company's written order confirmation. Any discrepancies between the order confirmation and prior agreements of the parties are accepted by Customer unless he objects to such discrepancies in writing within two business days from receipt of the order confirmation. Company reserves the right to change the agreed scope of services if it becomes necessary as a result of changes in legal norms or technical standards. Any change requests made by Customer with respect to the scope of services after conclusion of the agreement (e.g., retrofitting or expansion work) are taken into consideration by Company only within the scope of Company's operational capacities and only against separate payment based on a separate offer made by Company to Customer or the prices which are valid at the time the change requests are accepted.

## 4. Industrial trade mark rights

Company reserves all proprietary- and copyrights for pictures, drawings or other documents received by Customer before conclusion of the agreement, as well as for copies of our homepage. It is not allowed to make this content accessible to third parties. Before transmitting this content to third parties Customer needs written consent of Company. If not agreed otherwise, we are not obligated to review the correctness of the information and material, provided by the Customer. We are not liable for possible infringements of trade mark rights of third-party, for machines which are produced according to specifications, drawings and layouts supplied by the Customer. If, due to that a third-party asserts a claim to our Company, the Customer has to exempt us entirely from such claims..

## 5. Prices

Our prices are to be understood exclusive of VAT. The given prices, if not agreed otherwise, are valid: ex works, without packing, transport, transport insurance, customs processing costs, tollage, installation or start-up. There is a scale of discount, depending on the quantity of ordered pieces and the responsibility for the service. For machine producers and traders, the discount includes the independent execution of all services (installation, error correction...). Warrantable deliveries of spare parts within the warranty time are free of charge. Defect spare parts are to be sent back for determining of cause. If the delivery should be made after 4 months after order confirmation, we except us to invoice the prices, valid on the day of delivery. This applies particularly, if since the conclusion of the agreement, prices for material, wages or other costs increased, or other circumstances which are not to be taken by us increase the price for production or sale.

## 6. Terms of payment

If not agreed otherwise, payment is to be made cash, in Euro without any discount:

- within 30 days after date of invoice
- for new customers and particular customers: payment in advance before delivery
- if the agreed payment limit is exceed: payment in advance before delivery

Cash payment is done only as spot payment or transfer. Bills of exchange or cheques are not accepted.

In case the Customer is in default of payment, we have the right to claim an interest for the delay about 3% per annum over the legal rate of interest for delay. If we are able to prove a higher damage due to the delay we have the right to assert this claim. The Customer than has the right to prove a lower damage. In case of Customers default all other, also deferred claims, fall due immediately.

Cash discount needs a special written agreement and is otherwise excluded.

Normally valid:

for payment within 14 days	2% cash discount
for payment within 30 days	without discount
for payment in advance	3% cash discount

## 7. Set-off, lien

The Customer only has the right for set-off or lien, if his counterclaims are ascertained legally valid, undoubted or are admitted by us. Furthermore Customer is legitimated to exercise a lien just in so far as a counterclaim is based on the same contractual relationship.

## 8. Delivery time, short deliveries

The delivery time starts with sending the order confirmation. It is redeemed, if the delivery item left works until it is expired, or it was advised that the item is ready for delivery. If not agreed otherwise, service changes agreed with the Customer lead to revocation of agreed delivery times. The compliance with our delivery duty requires that the Customer redeems his duties in time and properly (e.g. in time receipt of agreed advance payments, on time provision of documents to be provided by the Customer, authorisations, technical information about work pieces or work piece samples). Our delivery time prolongs appropriately if the Customer does not redeem his duties in time or properly or if there occur unexpected obstacles whether in our work or at our subcontractor (e.g. breakdowns, strikes, delays in delivery of raw materials...) The above mentioned reasons are also not to be taken by us, if they occur during an already existing default.

## 9. Delivery Including Installation

For delivery to machine manufacturer and trader, this one is responsible for possible setting up, briefing and repair work at the end user. For delivery to the end user there is no briefing at the location. A briefing is given by the manufacturer.

### 9a risk transfer

If nothing else is mentioned in the order confirmation delivery is made and agreed ex works (EXW Reichenbach INCOTERMS 2000). Is the shipment of the ordered goods agreed between us and the customer, we are authorized to determine the dispatch type. The danger of random loss and the random deterioration of the goods at the shipment purchase with the delivery of the goods to the forwarding agent or this person who is responsible for the execution of the shipment goes to the customer. If the customer requires the goods will be insured with a transit insurance which we will take care of. The arising costs for that have to be paid by the customer.

## 10. Delivery Default

In the event that Company's default is due to ordinary negligence, Company's liability shall be limited to typical, reasonably foreseeable damages or expenses for the Customer. Moreover, any claims of Customer based upon Company's delivery default shall be limited to 25% of the net purchase price. In the event that Company fails to make delivery when due, Customer may set a reasonable grace period for delivery and, if Company fails to make delivery within such grace period, rescind the agreement. As long as Customer has not provided Company with notice of rescission, Company shall have the right to fulfil the agreement even after the grace period set by Customer has expired. Customer shall take prompt action to mitigate damages. Any agreed contractual penalty shall be forfeited if Customer is in default with any obligation under the agreement.

## 11. Storage Costs, Risk taking, Transport

If Customer is in default with acceptance or production is delayed due to Customer's failure to render performance as agreed, or if shipment is delayed at the request of Customer, Customer shall for each week of delay pay storage costs in the amount of one half percent of the invoice amount. Customer shall have the right to proof lower storage costs.

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All products are shipped from Company ex works at Customer's own expense and risk, whether or not products are delivered by Company vehicles. Company invoices Customer the packaging costs. At the request of Customer, Company insures shipments against the risks of damage during transport, fire, and water damage at Customer's expense.

## 12. Reservation of Title

Until Company has received payment in full, goods may not be pledged or assigned as security to any third parties except with Company's consent. Goods may be sold only under reservation of title.

Any processing or modification of goods shall be made for the benefit of Company as the manufacturer of the goods, without however giving rise to any obligation of Company. The parties hereby agree that if Company's co-ownership rights are extinguished as a result of combination, Customer's (co-)ownership rights to the resulting product shall pass to Company based upon the value of the goods related to the total value of the combined product. The parties hereby agree that in the event of the sale of any goods, all claims of Customer against the purchaser, including, without limitation, all claims for payment of the purchase price, shall be assigned to Company. Customer shall promptly notify Company if any goods are subject to third party claims, including, without limitation, any attachment proceedings. Customer shall pay any and all costs incurred by Company in connection with the defence of such claims, including, without limitation, any costs incurred in connection with intervention proceedings, unless and to the extent that such costs are not collectible from the opposing party. Upon demand Customer shall submit to Company a list itemizing all remaining goods, enclosing the whereabouts of such goods, and designating all claims against third party debtors. Copies of the relevant invoices shall be enclosed with the list. Enforcement of the reservation of title as well as the attachment of goods by Company shall not result in rescission of the agreement.

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### 13. Return of goods

We will demand a general compensation for the expenses for the return of goods which we do not represent. The compensation for expenses will comply up to 15% of the purchase price but a minimum of EUR 50,00. Therefore the goods have to be in an unused and original packed condition; otherwise we reserve us the right to demand a higher compensation for expenses. These returns of goods and all returns of special designs have to be agreed with us before returning. A proof of the real compensation amount is hereof excluded.

### 14. Delivery of machines on trial

For a delivery of machines on trial, the freight charges and the costs for package and insurance and for possible reduction in value are taken over by the customer, if not agreed otherwise. Furthermore, for the duration of the trial period the customer adherences for a possible loss or a damage of the delivered goods. A possible return of the goods has always to be made in a perfect cleaned condition and insured for transport at the expense of the customer.

### 15. Liability for Product Defects and Defects in Title

Company shall be liable for product defects and defects in title of new goods according to following:

- a) Unless otherwise agreed below, Company shall be liable for any product defects or defects in title for a period of 12 months from the date the risk passes to Customer. Notwithstanding sentence 1, the statutory warranty period shall apply if a defect in title arises from a right in rem of a third party based upon which such third party may demand that Customer turn over the goods. The statutory warranty period shall also apply in the event of wilful or grossly negligent misconduct, provided that Company has fraudulently hidden a defect or has guaranteed the durability or quality of the goods.
- b) Customer shall notify Company of any obvious defects without undue delay, however no later than two weeks from delivery. Customer shall notify Company of any other defects promptly upon discovery. Notice of defect shall be made in writing and shall enclose a detailed description of the defect. Failure to provide timely notice of defect shall result in the loss of Customer's warranty. At takeover of the goods there has to be made a check for possible damages in transit.
- c) In the event of any defects, Company has the choice to correct the defect or deliver replacement products that are free of defects. Company reserves the right to make any alterations to products that may be necessary as a result of defects, provided that such alterations do not substantially change the agreed scope of service. Defect components shall be returned to the Company upon demand. The costs of correcting defects or delivering replacement products are taken by the Company, provided that Customer's complaint is justified. Any additional costs incurred to Company because -- if Customer is an end customer -- the goods have been moved to a location other than the agreed delivery address or have been used for purposes not contemplate with the agreement, or -- if Customer is a trader -- because the goods have been moved to a location outside the EU or have been used for purposes not contemplate with the agreement shall be paid by Customer. Company makes no separate warranties for any machines or machine components exchanged, repaired, or replaced under warranty. The warranty period for all exchanges, repairs, or replacements shall expire with expiration of the warranty period for the original products.
- d) If the final attempt to correct a defect has failed, Customer may demand a price reduction or cancel the relevant order in accordance with applicable law. Cancellation of the order is excluded if the value or merchantability of the goods is impaired only to a minor degree, or if Customer is in default with acceptance or bears primary responsibility for the defect. The parties agree that due to the complex nature of the goods, more than two attempts for correction of a defect may be necessary.
- e) As long as Customer has not provided Company with notice of rescission, Company shall have the right to render performance even after expiration of the period set by Customer.
- f) Any claims for damages or reimbursement by Customer shall be limited to damages or expenses that are reasonably foreseeable, except in cases of wilful or grossly negligent misconduct.
- g) If warranty claim turns out to be unjustified, Customer shall compensate Company for all services rendered based upon the prices generally applicable at the time services are rendered.
- h) Company assumes no liability for ordinary wear, or for damages resulting from improper handling or excessive use by Customer. Company furthermore assumes no liability for defective products that have been modified or repaired by Customer or any third parties without Company's prior written consent, unless Customer demonstrates that the defect was not caused by such modification or repair.
- i) Customer shall, without consideration, provide Company during regular business hours with the opportunity to make any modifications or repairs deemed necessary by Company as well as to deliver replacement parts, and, upon Company's demand, shall make available a reasonable number of employees to support Company's modification, repair, or replacement efforts. Otherwise Company shall be released from all warranty obligations, and Customer shall be required to settle all outstanding claims in full. Customer is obliged to a reasonable extent, to make repairs by himself as instructed by Company.
- j) In the event of Customer's payment default, Company shall be released from any warranty obligations for the duration of Customer's default.

### 16. Right of Rescission

Company reserves the right to rescind the agreement in whole or in part in the event of any unforeseen circumstances or in the event that the delivery of products ordered by Customer subsequently proves impossible.

If Customer discovers after conclusion of the agreement that Customer's financial condition is unfavourable, Company may demand security for the performance of Customer's obligations or may rescind the agreement and demand that Customer reimburse Company for all expenses incurred by Company in connection with its performance of the agreement.

### 17. Liability

Unless expressly agreed otherwise herein, Company's liability for breach of contract shall be limited as follows:

- a) Company shall be subject to unlimited liability for wilful or grossly negligent misconduct of Company or its legal representatives or agents, as well as for wrongful death, bodily harm, or adverse health effects resulting from any breach of contract by Company or its legal representatives or agents.
- b) Company shall be liable on the merits for any other culpable breaches of material obligations arising from the agreement, whatever the legal grounds. Notwithstanding Customer's statutory right to rescind the contract, Company's liability shall be limited to damages or expenses that are reasonably foreseeable.
- c) furthermore, Company has no liability
- d) Given that the Company is liable under subsection b, Company's liability shall not exceed the liability limits of Company's business liability insurance policy.
- e) The above-referenced limitations of liability shall also benefit Company's employees.
- f) The provisions of the German Product Liability Law shall remain unaffected by the foregoing provisions.

### 18. Requirement of written form

The parties have entered into no oral collateral agreements. Any modifications or amendments to the agreement shall be invalid unless confirmed in writing.

### 19. Severability

If any provision of the agreement is invalid, the validity of the remaining provisions shall remain unaffected thereby. Any invalid provision shall be replaced or supplemented by such valid provision as most closely reflects the economic intent and purpose of the original provision.

### 20. Place of jurisdiction/ Place of performance

Place of jurisdiction is our place of business with the district court in Görlitz.

The law of Germany is valid; the validity of the UN-purchase law is excluded. This is also valid if a customer is from abroad or has his registered office abroad.

If nothing else is mentioned in the order confirmation our place of business is place of performance.

If individual regulations of the contract with the customer, including these general conditions, are or become completely or partly invalid hereby the validity of the incidentally regulations will not be touched.