

General Terms and Conditions

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WEH GmbH company group:

WEH GmbH
Verbindungstechnik
Josef-Henle-Str. 1
89257 Illertissen / Germany

Managing Director: Rolf Kummer
Court of registration: Memmingen HRB 3086
Tax number: 151/142/20148
VAT ID No.: DE814010659

WEH GmbH
Gas Technology
Josef-Henle-Str. 1
89257 Illertissen / Germany

Managing Director: Rolf Kummer
Court of registration: Memmingen HRB 11622
Tax number: 151/142/20407
VAT ID No.: DE212612038

1. Scope, form

1.1 The present General Terms and Conditions ("Terms and Conditions") apply for all contracts between our customers ("Customers") and us concerning the delivery of our products ("Goods" or "WEH® Products") as well as the provision of services ("Services") that we perform.

1.2 The Terms and Conditions are only valid if the customer is an entrepreneur (Section 14 BGB), a legal entity under public law or a public-law special fund.

1.3 In the course of an ongoing business relationship, the terms also apply for future contracts with the same customer without requiring us to reference them in each individual case; the current valid version of the Terms and Conditions can be accessed at www.weh.com/general-terms-and-conditions.

1.4 Our Terms and Conditions apply exclusively. Deviating, contradicting or supplementary General Terms and Conditions of the customer will only become components of the contract if and insofar as we have expressly consented to their validity in writing. This requirement of consent applies in all cases, for instance even if we unconditionally provide the delivery or services to the customer with knowledge of the customer's General Terms and Conditions, or if we unconditionally accept the customer's contractual services.

1.5 Legal declarations and notifications from the customer concerning the contract (e.g. setting of deadlines, defect report, withdrawal or reduction) must be issued in writing or text form (e.g. letter, e-mail, fax). Legal form requirements and other supporting evidence, particularly where there are doubts concerning the verification of the declaring party, remain unaffected.

2. Conclusion of contract

2.1 Our offers are subject to alteration and non-binding. This also applies if we have given the customer catalogues, technical documentation (e.g. drawings, plans, estimates, calculations, references to DIN standards), other product or service descriptions or documents, including electronic documents, to which we reserve property rights and copyrights.

The customer's statements form part of the basis for our non-binding offers. Therefore, the customer must independently ensure the accuracy and completeness of its statements and other information intended as the basis for our non-binding offer.

2.2 All statements, dimensions, values, conditions of use and other content included in brochures, catalogues, on our website and in other documents may be theoretical, approximate values determined in trials that are non-binding as a rule, unless we expressly designate them as binding in an offer or they have been expressly agreed under contract.

2.3 An order (in writing or text form) from the customer ("Order") is considered a binding contractual offer. Unless the order states otherwise, we are entitled to accept this contractual offer within 14 days after we have received the order. The present regulations apply accordingly for deliveries and services called up by the customer under a framework agreement.

2.4 Acceptance can be declared either through an order confirmation in writing or text form (e.g. e-mail or fax) or by delivering the goods to the customer or providing the service to the customer. This establishes a contract between the customer and us ("Contract").

3. Delivery deadline and delays in delivery

3.1 The deadline for deliveries and services ("Delivery deadline" as a whole) is agreed individually or indicated by us upon order acceptance.

3.2 Unless otherwise agreed in writing, delivery deadlines are non-binding and are not fixed deadlines. If we fail to meet non-binding delivery deadlines, the customer must grant us an appropriate grace period of at least 4 weeks.

3.3 Agreed fixed delivery deadlines are conditional on timely delivery from our suppliers.

3.4 In cases of force majeure, the agreed delivery deadlines (non-binding and fixed) will each be extended by the duration of the impediment plus an appropriate lead time. Force majeure includes all circumstances that are independent of the will and influence of the contracting parties, such as natural disasters, government measures, official decisions, blockades, war and other military conflicts, mobilisation, civil unrest, terrorist attacks, strikes, lock-outs and other work disturbances, confiscation, embargoes or other circumstances that are unforeseeable, serious and not owing to the fault of the contracting parties.

If the impediment lasts six weeks or more, we and the customer may withdraw from the affected contract by making a written declaration or a declaration in text form (e.g. e-mail or fax).

4. Delivery, transfer of risk, acceptance, services, default in acceptance

4.1 Delivery is made ex works from WEH GmbH (EXW Incoterms 2010), which is also the place of fulfillment for the delivery of goods and any potential subsequent fulfillment ("Place of fulfillment").

4.2 After making a corresponding written agreement, the goods can be shipped to a different destination at the customer's cost and risk ("Shipping agreement"). Unless otherwise agreed in writing, in such cases we are entitled to determine the type of shipping (particularly the transport company, shipping route, packaging) ourselves.

4.3 If a shipping agreement exists, the risk of accidental destruction and accidental deterioration of the goods is transferred when the goods are handed over to the forwarding company, freight carrier or other person or entity designated to carry out the shipment.

4.4 If acceptance is agreed under the relevant contract, the statutory requirements of service contract law apply accordingly. However, in deviation from those requirements, the transfer of risk in such cases is oriented on Section 4 (1), or on Section 4 (3) if a shipping agreement exists.

4.5 We perform our services under the relevant contract as services within the meaning of Section 611 et seq. BGB, unless otherwise expressly agreed in writing.

4.6 We are entitled to make partial deliveries and provide partial services to a reasonable extent.

4.7 If the customer is in default of acceptance or fails to perform an act of cooperation, or if our delivery or service is delayed for other reasons for which the customer is responsible, we are entitled to demand compensation for the resulting damages including additional expenses (e.g. storage costs).

4.8 Any more extensive statutory claims and rights to which we are entitled remain unaffected.

5. Prices and payment conditions

5.1 Unless otherwise agreed in writing for the individual case, our current price lists apply on the date of contract conclusion, in euros plus statutory VAT ("Prices").

5.2 We are allowed to change prices if there are significant changes to price factors that occur after contract conclusion, such as changes to materials, supplier parts, wages, social security contributions, taxes. In this case, we are entitled to raise the prices in line with the increase of the relevant price factors.

5.3 All prices apply ex works (EXW, Incoterms 2010) and without any ancillary costs, particularly without transport, insurance, commissioning and other expenses associated with application on the customer's premises, which must be paid by the customer.

5.4 Our services, such as commissioning, maintenance, installation and other application assistance, insofar as the provision of these services has been agreed with the customer in the respective contract, will be charged based on actual expenses unless otherwise agreed in writing with the customer.

5.5 For an order value of less than 50.00 EUR, WEH is entitled to charge a minimum quantity surcharge. This is calculated as the difference between the order value and 50.00 EUR.

5.6 If we make adjustments to serially produced products in order to fulfil specific customer requirements, these will be charged based on expenses unless otherwise agreed in writing with the customer.

5.7 If a shipping agreement exists (Section 4 (2)), the customer will pay the transport costs ex works from WEH and the costs of transport insurance if desired by the customer.

5.8 Unless otherwise agreed, invoice amounts become due 30 days after delivery or provision of services and invoicing without discounts.

5.9 For orders of more than 25,000 EUR, the following maturity regulations apply: 1/3 of the overall invoice amount is due within 30 days after conclusion of contract, 1/3 within 30 days after notification of our readiness to deliver/perform services and 1/3 within 30 days after delivery or provision of services and invoicing. The respective amounts are due without discounts.

Notwithstanding the above-mentioned maturity regulations, we may also agree on advance payment with the customer.

5.10 The customer shall bear all costs, fees and other charges, which will be charged by its payment service provider (e.g. its bank) for the provision of payment services, particularly for the execution of cashless payment transactions (together „Transaction Fees“). In this respect, the customer shall not be entitled to deduct any Transaction Fees from our invoiced amounts.

5.11 Notwithstanding the provisions of Sections 366 and 367 BGB and any instructions of the customer, we are entitled to determine the sequence of claims to be fulfilled by the customer's payment.

If the customer also has to pay interest and costs apart from the claim, payments that are insufficient to repay the entire debt will first be applied to the costs, then to the interest and finally to the claim.

5.12 Our payment periods are binding. Once the above-mentioned payment periods elapse, the customer enters into default. The amount owed will accrue interest during the period of default at the currently applicable statutory default interest rate. We reserve the right to assert more extensive damage claims owing to default. With respect to merchants, our claim to commercial default interest (Section 353 HGB) remains unaffected.

If the customer is in default of payment, we are also entitled to withhold all deliveries or services.

5.13 The customer is only entitled to offsetting or retention rights insofar as the claim is uncontested or has been established by a final judgment, or if the claim is based on the same contractual relationship.

5.14 If it becomes evident after conclusion of the contract (for instance through a request to open insolvency proceedings) that our payment claim is threatened by the customer's inability to pay, we are entitled to refuse performance and withdraw from the contract according to the statutory regulations, if necessary after specifying a period for rectification (Section 321 BGB).

6. Prototypes, trial samples

6.1 If we deliver prototypes or trial samples, we retain ownership of all property rights to these objects. Handing them over to third parties is not permitted. Their use is only allowed for the agreed trial purposes.

6.2 Prototypes and trial samples are transferred free of charge as loans. Our warranty and liability for such prototypes and trial samples is oriented on the statutory provisions.

6.3 We also retain ownership of the delivered prototypes or trial samples. These objects must be returned if we demand their surrender or if a serial delivery contract is not established between the customer and us. Providing the prototypes or trial samples does not imply any acknowledgement of our customers' general terms and conditions or otherwise implied consent to contractual declarations made by our customers.

7. Reservation of title

7.1 Until full payment of all our present and future claims from the ongoing business relationship between us and the customer (secured claims) we will retain ownership of the sold goods ("Reserved goods").

7.2 Before full payment of the secured claims, the reserved goods that are subject to reservation of title may neither be pledged to third parties nor transferred as a security. The customer must inform us promptly in writing if a request for initiating insolvency proceedings has been filed or insofar as third-party access (e.g. attachments) affects the goods belonging to us.

7.3 If the customer violates the contract, particularly in case of failure to pay the due remuneration, we are entitled to withdraw from the contract according to statutory regulations and to demand surrender of the reserved goods owing to our reservation of title.

7.4 Until recall according to (c) below, the customer is authorised to continue selling and/or processing the reserved goods in the ordinary course of business. In that case, the following provisions apply additionally.

(a) The reservation of title extends to the full value of the products generated by processing, mixing or combining the reserved goods, and we will be considered the manufacturer. If third-party property rights are preserved in case of processing, mixing or combining with third-party goods, we will acquire co-ownership in proportion to the invoice value of the processed, mixed or combined goods. Otherwise, the regulations of Clause 7 in the present document apply for the resulting product.

(b) The customer hereby transfers to us, by way of security, any claims generated against third parties from the resale of the goods or products in full or in proportion to our share of co-ownership according to the above paragraph. We accept this transfer. The customer's obligations outlined in Section 2 also apply with respect to the transferred claims.

(c) The customer remains authorised to collect the claim in addition to us. We agree not to collect the claim as long as the customer fulfils its payment obligations to us, the customer does not lack financial capacity and we do not assert reservation of title according to Section 3. However, if this is the case, we may request the customer to disclose the transferred claims and respective debtors to us, to provide all information required for collection, to hand over the corresponding documents and to inform the debtors (third parties) of this transfer. In this case, we are also entitled to revoke the customer's authorisation to further sale and processing of the reserved goods.

(d) If the achievable value of the securities exceeds our claims by more than 10%, we will release securities of our choice at the customer's request.

7.5 If reservations of title are not effective in a foreign state, in case the laws of that state apply, the customer is obligated to cooperate with all measures necessary, in particular to issue all declarations required in order to provide us with securities equivalent to the reservation of title.

8. Guarantee for defective goods

8.1 Customer demands for subsequent performance must be made in writing. They must include a precise description of the objected defect.

8.2 The customer is only entitled to defect claims if its statutory duties to examine and give notice have been fulfilled (Sections 377, 381 HGB). If defects become evident upon delivery, examination or any later point in time, we must be notified in writing of these circumstances without undue delay. In any case, evident defects must be reported in writing within 7 working days after delivery, and defects that are not evident upon examination must be reported in writing within the same period after their discovery. If the customer fails to perform proper examination and/or notification of defects, our liability for defects that are not reported, not reported in due time or not reported properly is excluded according to statutory provisions.

8.3 In addition, the customer is only entitled to defect claims if the customer performs all reasonable cooperative acts in connection with the elimination of defects.

8.4 As a rule, the customer is responsible for the actual possibility of using the goods and the specific conditions of use, unless these are expressly agreed as binding in the contract.

8.5 During the production process for technically complex goods, unavoidable minor scratches or surface damages may result. These are not considered defects as long as they do not negatively impact the functionality of the goods.

8.6 If the delivered goods are defective, we may first choose whether we will provide subsequent performance by rectifying the defect (repair) or by delivering faultless goods (replacement). If two subsequent performance attempts are unsuccessful, subsequent performance is considered to have failed. Our right to refuse subsequent performance under the statutory conditions remains unaffected.

8.7 We are also entitled to refuse subsequent performance until the customer has paid an appropriate share of the total purchase price considering the defect in question, in particular the price of faultless parts or partial deliveries of faultless goods.

8.8 The customer must give us the necessary time and opportunity to fulfil the subsequent performance owed, in particular by handing over the objected goods for inspection purposes. In case of replacement, the customer must return the defective goods to us according to the statutory regulations.

8.9 Provided that a defect exists, we will reimburse expenses required for the purposes of subsequent performance, in particular transport, travel, work, inspection and material costs as well as any removal and installation costs according to the legal regulations.

8.10 We will only bear the costs of recalls if there is an overall construction fault in the respective goods that extends to all delivered parts and we acted with gross negligence. If the customer conducts an audit to decide whether a recall is necessary, the customer is obligated to involve us in this procedure.

8.11 If the customer specifies a period for our subsequent performance, this period must be reasonable. In particular, this period must consider that we may first be required to acquire necessary spare parts or replacement products for the goods from our sub-suppliers taking into account their delivery periods.

8.12 If subsequent performance fails, the customer may withdraw from the contract or reduce the purchase price.

8.13 Any recourse claims on the part of the customer in the supply chain are oriented on the legal provisions, under the condition that Section 9 applies for the customer's claims to damages and compensation for expenses.

8.14 Additional rights of the customer concerning defects are excluded, with the exception of the customer's claims to damages and compensation for expenses according to Section 9.

8.15 The customer's defect rights described in Section 8 of this document expire according to Section 10.

8.16 The customer is not entitled to defect rights if defects in the goods can be traced back to one of the following circumstances:

- The goods were manufactured based on quality requirements or other customer requirements that caused the defect;
- The goods were modified by the customer or third parties; this applies accordingly if the goods were not properly assembled by the customer or third parties;
- The goods were used together with other products that were not delivered by us, and one of these other products caused the defect;
- The goods were used contrary to an agreed use or were not used according to the agreed conditions of use;
- The goods were not properly maintained, especially according to any maintenance instructions made available by us;
- Our spare parts (WEH spare parts) were not used for the goods; or
- The goods were improperly handled or used in a different manner.

The burden of proof lies with the customer to demonstrate that the above-mentioned circumstances did not cause the defects in the goods.

9. Liability

9.1 We are exclusively liable to pay damages and compensation for expenses according to the following regulations.

9.2 In principle, we are liable

- when issuing a guarantee
- for wilful or grossly negligent actions
- in case of malicious concealment
- for injuries to life, body or health
- for liability under the Product Liability Act
- for each culpable breach of significant contractual obligations, that is, obligations that must be fulfilled for proper execution of the contract and for which the customer regularly relies and may rely on compliance.

9.3 In case of slightly negligent breaches of significant contractual obligations, the amount of our liability is limited to reimbursement of foreseeable damages that are typical for this type of contract.

9.4 Otherwise, our liability (including liability for loss of profits or other financial losses suffered by the customer) is excluded unless we are liable according to the above paragraphs 1 to 3.

9.5 If our liability for damages is excluded or restricted according to the above regulations, this also extends to the personal liability of our executive bodies, employees and other staff, representatives and aides.

10. Period of limitation

10.1 By way of derogation from Section 438 (1) No. 3 BGB, the general period of limitation for claims due to material and legal defects amounts to one year after delivery of the goods. Where acceptance is agreed upon, the period of limitation will begin upon acceptance.

10.2 The above period of limitation does not apply (a) in cases pursuant to (i) Section 445b BGB if the last contract in the supply chain is a sale of consumer goods within the meaning of Section 474 BGB, (ii) Sections 438 (1) No. 1 and 2 BGB (b) when issuing a guarantee, (c) in case of malicious concealment, (d) in case of willful intent or gross negligence, (e) in case of injury to life, body or health.

11. Confidentiality

11.1 The customer has the following obligations with respect to the agreed prices and commercial conditions as well as all commercial, technical and other confidential information provided by us: (a) to treat such information as confidential and not to disclose it to third parties, and (b) only to disclose such information to employees or other individuals who require the information for the purpose of contract implementation and who have committed to corresponding confidentiality obligations.

11.2 The above obligations apply for a period of five years upon receipt of the given information.

11.3 If the customer no longer requires the confidential information, it must be handed over to us or destroyed along with all copies.

11.4 The above obligations do not apply for information that is or becomes general knowledge without any fault of the customer, or which the customer is required to disclose due to statutory regulations or official orders.

11.5 Advertising and marketing activities carried out by the customer using our name or trademark or commercial descriptions require our prior written consent.

12. Documents and rights of use

12.1 With the exception of the restricted rights of use granted in the following, we remain the owner of all rights (in particular any industrial property rights or copyright usage rights, rights to inventions, patents, designs, know-how, trade secrets and business secrets as well as any other rights to intellectual and industrial property) to all samples, drawings, plans, 3D files as well as 3D drawings and other documents and files (jointly "WEH documents") that we hand over to the customer.

12.2 The customer will receive non-exclusive rights of use to the WEH documents that are handed over and assigned to the customer according to the contractual purpose insofar as this is required for proper contractual use of the goods. Processing or modification of WEH documents is not permitted. The customer is only entitled to create copies of WEH documents if this is required for proper contractual use of the goods by the customer or for safeguarding purposes; apart from that, any exploitation or commercial use of the WEH documents is not permitted. Unless otherwise agreed, the customer is only allowed to fully or partially transfer WEH documents to third parties if these are reproductions of the original copies that were handed over, and only if (a) such transfer is agreed with us or (b) this is required for the third party's use of the goods to the contractually prescribed extent. The customer is not entitled to grant sub-licences.

13. Results of development, inventions (work results)

13.1 If new developments are generated, we own the rights to all development results and inventions ("work results").

13.2 We have sole authorisation to apply for industrial property rights (in particular patents, utility models, registered designs and trademarks) for the work results domestically or abroad, on our own account or for third parties.

14. Data protection

Customers can find information about data protection in our privacy statement at www.weh.com/privacy-statement.

15. Termination of the contract

15.1 At the end of the business relationship, the customer is obligated to return to us all objects that are our property as well as WEH documents that the customer obtained from us when implementing a contract.

15.2 At the end of the business relationship, all rights of use to the above-mentioned objects, WEH documents and other work eligible for protection that we have granted to the customer in this context will also expire.

16. Auditing

If WEH is obligated to conduct audits and/or provide information, the limit is always where know-how and/or internal business data specific to WEH is concerned.

17. Repairs

If WEH® products are delivered to us for repairs and there are no defects that entitle the customer to defect claims according to the stipulations of Section 8, we will first prepare a non-binding service offer. The necessary repair work shall then only be carried out (a) if the customer places a written order that makes reference to the service offer and (b) if we accept this in writing or carry out the repair work. The customer shall also be entitled to order a new WEH® product after receiving the service offer instead of placing a service order. If the customer orders a new WEH® product, we will request the customer in writing or text form (e.g. e-mail or fax) to inform us within 4 weeks after receiving the corresponding requests, also in writing or text form (e.g. e-mail or fax) whether the customer would prefer (a) return shipment of the WEH® product requiring repairs (this will then be carried out at the customer's cost and burden) or (b) for the WEH® product requiring repairs to be transferred into our ownership free of charge (in this case we are particularly entitled to dispose of the WEH® product). If the customer fails to make a relevant communication within the above deadline, this will be considered a declaration from the customer that the WEH® product requiring repairs will be transferred into our ownership free of charge. The customer will be separately informed of this consequence in our request.

18. Protection of know-how and quality assurance

In addition to these General Terms and Conditions, our know-how protection and quality assurance agreement, which can be consulted at the address www.weh.com/protection-know-how, also applies.

19. Changes to the General Terms and Conditions

19.1 We are entitled to adapt or amend the Terms and Conditions as long as this is reasonable for the customer considering our interests.

19.2 We are required to notify the customer of changes to the Terms and Conditions that are planned according to the above Section 19 (1) at least 6 weeks before they take effect at the e-mail address provided by the customer ("Notification of changes"). If the customer does not object within 6 weeks after receipt of the notification of changes, the changes will be considered approved and will become an integral component of the contract on the date they take effect. The customer will be separately informed of this consequence in the notification of changes.

20. Final provisions

20.1 German law applies to the legal relationship between us and the customer, to the exclusion of the UN Convention on the International Sale of Goods (CISG).

20.2 The exclusive place of jurisdiction for all legal disputes resulting from the Terms and Conditions or a contractual relationship is Memmingen. However, we are also entitled to file suit (a) at the place of fulfilment or (b) at another competent court. Higher-priority statutory regulations, particularly those regarding exclusive jurisdictions, remain unaffected.

20.3 Amendments or supplements to the Terms and Conditions must be made in writing. Annulment of the written form requirement must also occur in writing. The priority of individual agreements, even verbal agreements, according to Section 305b BGB remains unaffected.

20.4 The invalidity of individual provisions of the Terms and Conditions does not affect the validity of the remaining provisions of the Terms and Conditions.