

General Terms and Conditions of Sale and Supply of Vecoplan original spare parts

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I. General information

1. All purchases and supplies of Vecoplan original spare parts are subject to these General Terms and Conditions of Sale and Supply (GTCSS). These GTCSS apply exclusively. Conflicting, deviating or additional conditions of the customer shall only become part of the contract if Vecoplan has expressly agreed to this in writing. This requirement of consent applies in any case even if, in knowledge of conflicting, or additional conditions of the customer that deviate from these GTCSS, Vecoplan delivers to the customer without any reservations. Unless otherwise agreed, the GTCSS, that are valid or as amended and reported to the customer in writing at the time of the order are deemed to be the framework agreement for similar future contracts too, without Vecoplan having to refer to them again in each individual case.
2. These GTCSS shall only apply to companies as defined by § 310 Para. 1 BGB (German Civil Code).
3. Information on the validity of statutory provisions are for clarification purposes only. Even without such clarification the statutory provisions shall therefore apply, unless they have been directly amended in these GTCSS or expressly excluded.
4. Statements and notices of legal relevance of the customer (e.g., deadlines, notice of defects, reminders, rescission or reduction), must at least be made in writing (e.g., letter, e-mail, fax). Statutory formal requirements and further evidence especially in the case of doubt about the legitimation of the declaring party remain unaffected.
5. Individual agreements made on a case-by-case basis with the customer (including ancillary agreements, supplements and amendments) have priority over these GTCSS in any case. For the content of such agreements a written contract or written confirmation from Vecoplan is definitive.

II. Conclusion of contract

1. Quotations from Vecoplan are subject to change and non-binding. This also applies to the handing over of any product specifications or other documents, (e.g., catalogues, calculations, plans and drawings), to which Vecoplan reserves any and all ownership rights and copyright rights.
2. The order of the goods by the customer is deemed to be a binding offer of contract. Vecoplan may accept this offer in writing or in text form (e.g., by means of order confirmation) or may imply acceptance by providing the delivery.

III. Price and Payment

1. Unless otherwise agreed, prices for the goods, pursuant to FCA Bad Marienberg (Incoterms 2020), plus packaging costs and VAT at the respective statutory rate, shall apply.
2. Payment, unless otherwise agreed between Vecoplan and the customer, must be made without any deduction within 14 days from date of invoice and delivery or acceptance (if required) of the goods to Vecoplan's account specified on the invoice. The payment is deemed as paid when it shows in Vecoplan's account. Vecoplan is entitled to make a delivery in full or in part only upon payment in advance.

3. If the above payment deadline passes the customer is in delay with payment. During the period of delay, the purchase price will incur interest at the respective standard statutory delay interest rate. The assertion of any further damages caused by delay is hereby reserved.
4. The customer is only entitled to exert their right to withhold payments or offset them with counterclaims when their claims are undisputed or legally established. This does not apply to the reciprocal rights of the customers where there are defects in the performance, such rights shall remain unaffected.
5. Part deliveries are permissible insofar as this is reasonable for the customer.

IV. Delivery period, delivery delays

1. The delivery date or delivery time shall be given by Vecoplan as part of the order confirmation.
2. If payment in advance has been agreed, the delivery period shall begin upon receipt of payment at the earliest.
3. Delivery is deemed to be made when delivery as defined in the respective applicable Incoterms 2020 clause has been performed. Compliance with the agreed delivery time by Vecoplan requires that the customer administrates and completes any documents it has to provide, outstanding payments and other obligations are fulfilled on time, to enable Vecoplan to provide the service by the delivery date at the latest. If this is not the case, then the delivery date can be postponed by Vecoplan by the period of time which there is between the last possible delivery date as contractually agreed and the time of fulfilment of all customer obligations. This does not apply if the delay is attributable to Vecoplan.
4. The occurrence of delay in delivery is determined in accordance with the statutory provisions. In any case a reminder by the customer is necessary.
5. If Vecoplan cannot meet binding deadlines for reasons which are beyond its control (e.g., non-availability of the delivery, force majeure), Vecoplan shall inform the customer of this delay immediately, giving provisional new deadlines at the same time. The untimely delivery by a supplier is deemed to be a case of non-availability of the service in this sense. A force majeure event is unforeseeable and beyond the control of Vecoplan (e.g., war, strike, pandemic, epidemic, natural disaster).
6. The customer's right pursuant to Clause VII of these GTCSS and the statutory rights of Vecoplan, particularly in the case of an exclusion of the duty to perform (e.g., due to impossibility or unreasonableness of the service and/or supplementary performance), remain unaffected.

V. Transfer of risk

The risk of accidental destruction and incidental deterioration of goods transfers to the customer pursuant to the agreed Incoterm 2020.

VI. Reservation of Title (RT)

1. Until payment in full is made for all current and future claims of Vecoplan arising from this purchase agreement and an ongoing business relationship (secured claims) Vecoplan reserves the right to ownership of the sold goods.

2. Goods subject to reservation of title may not be pledged to third parties nor pledged as collateral before the secured claims are paid in full. The customer must immediately notify Vecoplan if an application to initiate bankruptcy proceedings is made or if third party accesses (e.g., pledges) are made on the goods belonging to Vecoplan.
3. If the customer acts in breach of the contract, in particular in the case of non-payment of the purchase price due, Vecoplan is entitled, in accordance with statutory provisions, to rescind from the contract or to demand the goods be returned on the basis of the reservation of title. Yet the demand of return does not incorporate the statement of rescission; rather Vecoplan is entitled to merely demand the return of the goods and reserve the right of rescission. If the customer does not pay the purchase price due, Vecoplan is only allowed to assert this right if the customer has previously been given a reasonable grace period to pay and such grace period expired without any success or such deadline is dispensable according to statutory provisions.
4. Subject to Clause 7, the customer is authorised to sell on and/or process the goods under the reservation of title in the proper course of business. This authorisation can be revoked at any time without giving reasons. In this case the following provisions (Clauses 5-8) shall also apply to resale/further processing.
5. The reservation of title extends to the full value of the products that are created by processing, mixing or combining the goods, whereas Vecoplan is considered to be the manufacturer. If during processing, mixing or combining any third-party rights of ownership remain in effect, Vecoplan acquires joint ownership in proportion to the invoice amounts of the processed, mixed or combined goods. In addition, the same applies to the product created in this process as it does for any other goods supplied under reservation of title.
6. The customer hereby assigns any claims arising from the resale of the good or product to third parties in total or in the amount of any joint ownership share, pursuant to the above clause, to Vecoplan. Vecoplan hereby accepts the assignment of these claims, for security purposes. The obligations specified in Clause 2 shall also apply in consideration of the assigned claims.
7. The customer remains entitled to collect the claim along with Vecoplan. Vecoplan shall not collect the debt as long as the customer fulfils its payment obligations and the reservation of title has not been asserted by exercising a right under Clause 3. In case of collection by Vecoplan, the customer shall make all information required for the collection available or provide any documentation, especially in reference to the assigned claims and their debtors. In such cases the customer shall inform the debtors (third parties) of the assignment, Vecoplan is entitled to revoke the customer's authorisation to resell or further process the goods.
8. If the realisable value of the securities exceed Vecoplan's claims by more than 10%, Vecoplan shall release securities of its choice at the customer's request.

VII. Claims of defects

1. For quality and legal defects of the delivery Vecoplan is liable pursuant to the statutory provisions, unless otherwise specified below.
2. Liability for defects is primarily based on the agreement on the quality of the goods. If such has not been agreed, it must be assessed whether there is a defect or not in accordance with the statutory regulations. The claims for defects by the customer in particular require that it has fulfilled its legal inspection and notification obligations.
3. If the supplied item is defective, Vecoplan may choose to render supplementary performance by remedying the defect (subsequent improvement) or by delivering a flawless item (replacement delivery). The right of Vecoplan to refuse supplementary performance in accordance with the legal requirements, remains unaffected.
4. In the case of a justified complaint about a defect, Vecoplan shall bear the costs required for inspection and the remedy of defects in accordance with statutory regulations. Otherwise Vecoplan can demand that the customer reimburses the costs incurred from the demands for an unjustified remedy of defects (in particular, inspection and transport costs), unless the lack of defectiveness was not recognizable to the customer.
5. The customer must give Vecoplan the time and opportunity required to render supplementary performance. Only in urgent cases where workplace safety is at risk and to safeguard against disproportionately big losses, whereby Vecoplan is to be notified immediately and must agree to the actions in writing, then the customer may remedy the defect itself or have a third party do it and can demand that Vecoplan reimburse the necessary costs incurred.
6. Any further claims of the customer for damages or reimbursement of costs incurred, also with regards to defects, shall be limited to Clause VIII and shall otherwise be excluded.
7. If the customer itself or a third party renders supplementary performance improperly, Vecoplan is not liable for the consequences that ensue. The same applies to changes performed on the delivery item without Vecoplan's prior consent.

VIII. Liability and liability exclusion

1. If nothing to the contrary emerges from these GTCSS including the following conditions, Vecoplan is liable in the breach of contractual duties and obligations under any other theory of law in accordance with statutory provisions.
2. Vecoplan is liable for damages caused by intent or gross negligence, irrespective of the legal grounds.
3. In addition, Vecoplan is liable in the case of simple negligence -subject to statutory limited liability (e.g., diligence exercised for own matters)- for
 - a) damages arising from injury to life, body or health,
 - b) damages arising from breach of material contractual obligations (i.e., contractual obligations, fulfilment thereof facilitates the proper execution of the contract overall and the contractual partner regularly relies on and is entitled to rely on the compliance of the other contractual partner with such

duties); however, in the case of simple negligent breaches of material contractual duties, the liability is limited in amount to the damages typical and foreseeable in this type of contract..

4. The liability due to the mandatory statutory provisions of the product liability act or any other mandatory strict liability remains unaffected. Limited liability does not apply either if a defect was concealed deliberately or a guarantee for the quality of the goods was given.
5. Otherwise, the liability of Vecoplan is excluded.
6. The above limited liability restrictions apply to liability of the legal representatives and vicarious agents of Vecoplan accordingly.

IX. Statutes of limitation

1. Deviating from § 438 Para. 1 No. 3 BGB (German Civil Code) the general limitation period for claims relating to quality and legal defects is one year from the time of statutory commencement of limitation. Claims in relation to a building and in relation to a product that has been used for a building in accordance with the regular way it is used and which has resulted in the defectiveness of the building (§ 438 Para. 1 No. 2 BGB) become statute-barred in accordance with the statutory provisions. Also, any mandatory statutory regulations on the statute of limitation shall also remain unaffected.
2. The above limitation periods also apply to contractual and non-contractual claims by the customer, which are based on a defect in the goods, unless statutory limitation (§§ 195, 199 BGB - German Civil Code), would lead to a shorter limitation period in the individual case. Claims for compensation by the customer pursuant to Clause VIII and also in accordance with the German Product Liability Act become time-barred exclusively after the statutory limitation deadlines.

X. Software utilisation

1. If software is included within the scope of delivery, a non-exclusive right that can be revoked at any time is granted to the customer to use the supplied software including its documentation. Such license is granted exclusively for use on the respective delivery item. Utilisation of the software is prohibited on more than one system.
2. The customer may only to the extent legally permissible reproduce, process, translate or convert from the item code to the source code (§§ 69 a ff. UrhG (German Copyright Act)). The customer undertakes not to remove manufacturer information - in particular copyright notices - or change them without Vecoplan's prior express consent.
3. All other rights to the software and documentation including copies remain with Vecoplan or the software supplier. The awarding of sub-licences is not allowed.

XI. Final provisions

1. For these GTCSS and the contract between Vecoplan and the customer, the law of the Federal Republic of Germany shall apply with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

2. Exclusive – including international - place of jurisdiction for all disputes arising directly or indirectly from the contract is the registered office of Vecoplan in Bad Marienberg. Vecoplan is however in all cases also entitled to take legal action at the place of performance pursuant to these GTCSS or an- individual agreement taking precedence over these GTCSS, or at the general place of jurisdiction of the customer. Mandatory statutory provisions, in particular on exclusive places of jurisdiction, remain unaffected.
3. Should individual provisions of any contractual agreement between Vecoplan and the customer including these GTCSS be or become ineffective in full or in part, then the validity of the remaining provisions shall not be affected. The whole or partially ineffective regulation is to be replaced by a regulation which comes as close as possible to the economic intent of the ineffective one.