

General Terms and Conditions of Delivery of Möhring Marine Service GmbH

1. Scope of Application

1. The General Terms and Conditions ("GTC") below apply solely and exclusively to entrepreneurs (Section 14 BGB [Civil Code]), legal entities under public law or public-law special funds.
2. These GTC apply to any and all deliveries and services performed by Möhring Marine Service GmbH ("Möhring Marine Service") for the business partner and buyer ("Buyer") and shall be part of any contract between the parties. Their application is expressly stipulated as well to any and all future contracts of a similar nature concluded with the Buyer even if Möhring Marine Service does not explicitly refer to them in each specific instance.
3. Unless otherwise agreed, these GTC shall apply as most recently revised at the point in time of submission of Buyer's order.
4. Möhring Marine Service performs its deliveries and services on the basis of its performance description and these GTC. They apply solely and exclusively. Möhring Marine Service does not accept application of Buyer's deviating, contrary or supplementary general terms and conditions, and they do not become a component of the contract unless Möhring Marine Service has expressly agreed to their application in writing. The agreement requirement above applies even if and when Möhring Marine Service, in awareness of Buyer's general terms and conditions, fulfills deliveries or performances without reservation. The lack of objection to the Buyer's order containing contrary declarations of the Buyer does not constitute any such agreement.
5. Separate individual agreements concluded with the Buyer in specific cases take priority over these GTC.

2. Subject matter and basis of the contract, service changes and repeat orders, additional services

1. The contract is awarded to Möhring Marine Service by the Buyer on the basis of these GTC.
2. The following legal and technical contractual components in the order indicated are authoritative for the nature and scope of the services and supplies to be performed by Möhring Marine Service: offer of Möhring Marine Service and its order confirmation, technical specifications and performance specifications of Möhring Marine Service, these GTC, the legal Regulations of German law.
3. Only the services/supplies confirmed by Möhring Marine Service in the order confirmation or a confirmation of an addendum in writing are bindingly owed. Information provided by Möhring Marine Service regarding the subject matter of the deliveries or services (eg weights, dimensions, utility values, load capacity, technical data) as well as illustrations and drawings shall only be approximately authoritative unless their usability for the contractually stipulated purpose requires exact agreement. They are not guaranteed characteristics, but descriptions or identifications of deliveries or services, unless expressly agreed otherwise. Customary deviations or deviations due to legal regulations or technical improvements as well as the replacement of components by equivalent parts are permissible, as far as they do not affect the usability for the contractually intended purpose.
4. Möhring Marine Service provides its deliveries and services with industry-standard care. It provides deliveries and services, if agreed, free construction site, including required packaging. Disposal of packaging material is Buyer's responsibility. Möhring Marine Service is entitled to use third parties in its own name as vicarious agents at its own discretion.
5. Buyer is not entitled to unilaterally change the scope of supply and service owed by Möhring Marine Service. Any change must be agreed between the parties in advance, in particular by specifying the additional remuneration and rules for the effects on deadlines. Any subsequent orders, supplements and service changes have to be confirmed in written or text form by the Möhring Marine Service project officer in order to be effective. Otherwise, changes in performance will not be binding on Möhring Marine Service. The remuneration has always to be adjusted to the additional expenses incurred. If a certain rate is not agreed, Möhring Marine Service is entitled to determine the rate according to their valid tariff rates, which are made available at any time upon request.
6. Any additional deliveries and services or expenses not listed in the order confirmation but actually carried out by Möhring Marine Service at Buyer's express request, will be charged to Buyer as additional costs. Möhring Marine Service is entitled to compensation according to its current tariff rates. This also applies to necessary preparatory work and unpredictable expenditure of time or additional expenditures caused e.g. by incorrect information provided by Buyer or by non-scheduled or non-professional advance services of third parties, unless they are vicarious agents of Möhring Marine Service. This shall also apply for special services and additional orders.

3. Terms of Delivery, Delay, Force Majeure

1. Deadlines for deliveries and services provided by Möhring Marine Service are approximate only, unless a fixed period or deadline has been expressly agreed between the parties. If a shipment has been agreed, only to the time of transfer to the freight forwarder, carrier or other third party commissioned with the transport shall be relevant with regard to delivery periods and delivery dates.
2. If Möhring Marine Service cannot comply with binding delivery/service periods agreed with the Buyer for reasons it is not responsible for (unavailability of the service), it will inform the Buyer without delay and announce the expected new delivery/performance deadline. If the delivery or service is not available within the new deadline, Möhring Marine Service is entitled to withdraw from the contract in whole or in part; any consideration already provided by the Buyer will be reimbursed immediately. In particular the non-timely or non-delivery by a supplier shall mean a case of unavailability of the service as regulated herein.
3. If an obstruction of Möhring Marine Service by third parties becomes foreseeable for the Buyer (in particular in the case of works services owed by Möhring Marine Service), he shall inform Möhring Marine Service without delay, stating the probable duration of the obstruction. The delivery/service dates of Möhring Marine Service are to be postponed for a reasonable period, at least for the duration of the obstruction. In addition, Möhring Marine Service is entitled to any costs resulting from

this shift (eg waiting times, storage costs, provision of personnel al, additional costs for overtime, night shifts, weekend work, costs for warranty extensions at their own supplier, increased purchase/material prices, costs for building site facilities in the affected area, ef-efficiency losses during installation). The same applies if the Buyer wishes to delay the delivery/service dates agreed with Möhring Marine Service for other reasons.

4. In the event of an obstacle not caused by but beyond the control of Möhring Marine Service unforeseeable upon conclusion of the contract (such as a strike or events of force majeure or other unforeseeable events at the time of the conclusion of the contract, eg disruptions of any kind, delay in transport transactions, legitimate lockouts, official actions), periods and deadlines for deliveries and services are postponed for a reasonable period of time, at least by the number of days during which the obstacle persists. Any liability of Möhring Marine Service for any compensation, for example due to effects of the delay on other trades, shall be excluded.
5. Should the aforementioned events significantly impede the delivery or service Möhring Marine Service or even make it impossible, Möhring Marine Service is entitled to withdraw from the contract provided the hindrance is not just temporary.
6. If Möhring Marine Service is in default with a delivery or service, then in any case Buyer is required to send a reminder including a reasonable grace period before any further steps. The liability of the Möhring Marine Service in this case is limited to clause 9 of these GTC.

4. Buyer's obligation to cooperate

1. Buyer shall always inform Möhring Marine Service in due time and unsolicited, in particular regarding agreed work performances, about any events and circumstances which may be of importance for the performance of the contract. Prerequisite for the provision of services by Möhring Marine Service is Buyer's compliance with its obligations to participate and cooperate within the time stipulated. Buyer shall coordinate the execution of its contract with other parties to enable Möhring Marine Service to provide its deliveries and services undisturbed. Buyer shall complete in good time any and all consultations and instructions regarding the technical workflow and its scheduling
2. Buyer shall provide Möhring Marine Service with all the documentation required for the execution of its activities in a timely and complete manner, make sure that all necessary information is provided to it and that it is informed of all relevant processes and circumstances in good time. This also applies to documents, procedures and circumstances that become known only during the activities of Möhring Marine Service, but are nevertheless decisive for the execution of the contract. Buyer must always inform Möhring Marine Service of all processes and circumstances that may be relevant to the order execution. Upon request of Möhring Marine Service, Buyer must confirm in writing the correctness and completeness of the documents submitted as well as his information and oral explanations.

5. Place of delivery/performance, Dispatch, Passing of Risk, Buyer's Default of Acceptance, Acceptance

1. Unless otherwise agreed or resulting from the nature of the order, the delivery of the goods takes place ex warehouse, which is also place of performance for the delivery and any subsequent performance. At the request and expense of Buyer, the goods will be shipped to another destination (consignment purchase). Unless otherwise agreed, Möhring Marine Service is entitled to determine the type of shipment (in particular transport company, shipping route, packaging) at its own discretion.
2. The risk of accidental loss and accidental deterioration of the goods passes to Buyer at the latest at the time of delivery. In case of a consignment purchase, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the forwarder, the carrier or the person or institution otherwise responsible for carrying out the consignment upon delivery of the goods.
3. For works services the transfer of risk is with acceptance or at the point in time when Buyer defaults on his obligation to accept (§ 644 BGB). For the acceptance the legal regulations apply, as far as not otherwise agreed in the individual case.
4. Buyer is obliged to accept the contractually produced work after full contractual delivery and service by Möhring Marine Service. Due to insignificant deficiencies or only as so-called open points marked facts acceptance must not be denied. Open points are not considered defects and have only to be settled by Möhring Marine Service if contractually owed. Acceptance under reservation or an acceptance with open points meaning a change or additional wishes of the Buyer is considered acceptance within the meaning of the law.
5. Buyer will carry out the acceptance test at the place agreed with Möhring Marine Service by an instructed and duly authorized employee at the construction site/ship declaring the acceptance. The acceptance of partial services may be required by Möhring Marine Service, if it is a self-contained partial service. Buyer will report any defects discovered during the acceptance test immediately and Möhring Marine Service shall, at its own discretion, remedy the defects. After remedying the defects, the acceptance test is repeated. In any case, Möhring Marine Service is entitled to choose between rectifying defects and recreating performance.

6. Compensation, Prices, additional services

1. All prices are net prices in Euro plus applicable VAT, ex works plus packaging, shipping, customs or fees and public charges.
2. Prices are only fixed prices if expressly agreed. In any other case Möhring Marine Service is entitled to additionally charge extra costs and expenses necessary for the proper, complete and timely execution of deliveries and services.
3. Prices apply to the scope of services and delivery according to the Möhring Marine Service order confirmation. As far as the delivery or performance is to take place later than four months after conclusion of the contract, Möhring Marine Service reserves the right to increase the prices according to cost increases, especially material/raw material price increases or an increase in the Möhring Marine Service price list (if applicable). In the event of disproportionate price increases, Buyer is entitled to a right of withdrawal.
4. Invoices are due for payment within 30 days without any deductions if not stated differently in the offer and in the order confirmation. Initial and final payments are regulated in the order confirmation. Unless otherwise agreed, 70% of the total price are due for payment after placing of the order and 30% upon delivery resp. acceptance if agreed.

5. Without payment in due time Buyer will be in default without further explanation by Möhring Marine Service required. The amount due is subject to interest during time of default at the applicable statutory interest rate. If due payments are not made despite a reminder and a reasonable deadline set by Möhring Marine Service, Möhring Marine Service shall be entitled to withdraw from the contract and to charge the Buyer with incurring cancellation costs and damages.
6. Final invoice will be made properly and in tax-acceptable manner, showing the sales tax and deduction of any partial payments made.

7. Retention of Title

1. Möhring Marine Service retains title on the goods sold or a work performed until full payment of all present and future claims under the respective contract and ongoing business relationship. All goods, objects, parts, drawings, calculations, programs, data, data media or databases to be supplied by Möhring Marine Service are and remain property of Möhring Marine Service until fulfillment of all claims arising from the business relationship with Buyer. The goods and objects subject to retention of title must not be pledged to third parties or transferred as collateral before full payment of the secured claims. The Buyer shall notify Möhring Marine Service without delay in writing if an application for the opening of insolvency proceedings has been filed or if third parties access on goods or works of Möhring Marine Service (eg by garnishment).
2. Retention of title extends to the full value of the products resulting from the processing, mixing or combining of goods supplied by Möhring Marine Service, whereby Möhring Marine Service shall be the manufacturer. In case of any remaining property of third parties after processing, mixing or combination, Möhring Marine Service shall acquire co-ownership proportionate to the invoice value of the processed, mixed or associated goods. The same shall apply to the resulting product as to the goods delivered under reservation of title. The Buyer hereby assigns the claims against third parties resulting from the resale of the goods or the product to Möhring Marine Service, which is already assuming the assignment as a whole or in the amount of any co-ownership of Möhring Marine Service pursuant to clause 2 of this paragraph.
3. In case of breach of contract by the Buyer, in particular in case of non-payment of the due purchase price, Möhring Marine Service is entitled to withdraw from the contract according to the statutory provisions and/or to claim for return of the goods considering the retention of title. Buyer is not entitled to refuse delivery, there is no right of retention.
4. Insofar as the realizable value of securities provided by Buyer exceeds the claims of Möhring Marine Service by more than 10%, Möhring Marine Service will, at Buyer's request, release securities up to the amount of the overcollateralization at its discretion.

8. Warranty

1. Möhring Marine Service points out that any non or unprofessionally performed maintenance of delivered goods/performed works may result in limitations or exclusion of warranty claims if non or unprofessionally performed maintenance have to be considered concurrently causative for alleged defects.
2. Möhring Marine Service will provide the services and deliveries according to the provisions of the German Civil Code with the contractually agreed condition without any errors which nullify the suitability for the normal or the contractually specified intended purpose. Main basis of Möhring Marine Service's responsibility shall be the contractual agreement made about the condition of the goods. All product descriptions which form integral part of the individual contract or which have been made public by Möhring Marine Service (eg on the website) shall be deemed to be an agreement on the condition of the goods. Insofar as a condition has not been agreed, identification of defects is subject to applicable legal regulations. Möhring Marine Service cannot be held liable for public statements made by the manufacturer or other third parties (eg advertising statements). Unless stated otherwise below statutory provisions apply for Buyer's rights in case of material and legal defects (including wrong and short delivery as well as improper installation or faulty assembly instructions).
3. Warranty claims are subject to Buyer's compliance with statutory inspection and complaint obligations (§ 377 HGB). In case of a defect appearing at the time of delivery, examination or at any later time, Möhring Marine Service has to be notified immediately in writing. In any case, evident defects must be reported in writing within 7 working days from the date of delivery and any defects that cannot be identified during the investigation have to be reported latest within the same period from discovery. If Buyer fails to properly inspect and / or report a defect, the liability of Möhring Marine Service for this defect is excluded due to statutory provisions.
4. If deliveries or services give cause for justified complaint, Möhring Marine Service will be entitled to repair (removal of the defect) or subsequent performance by delivery of a defect-free object (replacement delivery). Only if the rectification or subsequent performance fails after two negative attempts, Buyer may assert statutory rights. Claims for defects do not exist in the event of only insignificant deviation from the agreed condition or in the event of only insignificant impairment of work's usability. Möhring Marine Service's to refuse supplementary performance according to statutory conditions remains unaffected. Möhring Marine Service may refuse subsequent performance dependent on the Buyer paying the due purchase price. However, Buyer is entitled to retain part of the purchase price which is reasonable in relation to the defect.
5. Buyer will grant to Möhring Marine Service time required for due performance as well as opportunity for necessary inspection, in particular Buyer will hand over the rejected goods for testing purposes or grant Möhring Marine Service access if delivery items have been installed in a ship. In case of replacement, Buyer is obliged to return the defective delivery items according to the statutory regulations.
6. All defects arising during the warranty period, which are attributable solely to their non-conforming performance and are only the responsibility of Möhring Marine Service, shall be remedied by Möhring Marine Service as regulated in clause 8.3 above. Any expenses incurred for testing and supplementary performance, in particular transport, travel, labor and material costs (not: dismantling and installation costs) shall be borne by the Buyer if cases of unjustified requests for rectification of defects (unless the lack of defect was present not recognizable for the Buyer). Möhring Marine Service will bear these costs only in the event of a defect.
7. Incidental travel costs incurred by Möhring Marine Service personnel and travel times by professionals to the place of performance (such as the location of a ship) are always borne by the Buyer, even if there was a defect.

9. Liability and Limitation of Liability

1. Möhring Marine Service is liable only in the event of intent or gross negligence. For slight negligence Möhring Marine Service shall only be liable for damages resulting from the material breach of a material contractual obligation (cardinal obligation). The claim for damages against Möhring Marine Service in this case is always limited to the contract-typical damage foreseeable at the time of conclusion of the contract according to the type of service as a possible consequence (vorhersehbarer, vertragstypischer Schaden). This also applies to slightly negligent breaches of duty by the legal representatives and vicarious agents of Möhring Marine Service. The liability of Möhring Marine Service shall be limited per event of damage or loss to € 500,000.00 for property damage and € 250,000.00 for financial loss in the event of damage caused by it or its vicarious agents with ordinary negligence.
2. Any limitations of liability stated in 9.1 do not apply to the liability of damages for injury to life, limb or health. The liability limitations resulting from 9.1 also apply to breaches of duty by or in favor of persons whose fault is attributable to Möhring Marine Service according to legal provisions. They do not apply if Möhring Marine Service has fraudulently concealed a defect or has assumed a guarantee for the condition of the goods or for claims of the Buyer under the Product Liability Act.
3. Möhring Marine Service shall not be liable for lost profits or lost savings of the Buyer. Möhring Marine Service shall also only be liable for damage caused by claims of Buyer's client to the extent mentioned above and for damages actually incurred, provided that these claims are legally justified and reasonable and have been legally checked by the Buyer himself. For consequential damages, in particular restrictions of ship operation, Möhring Marine Service shall be liable only for intent or gross negligence or within the scope described in 9.1.

10. Limitation

1. Notwithstanding the statutory provisions and unless otherwise agreed in individual cases, the general limitation period (warranty period) for claims arising from material and legal defects is 12 months from delivery. Insofar as an acceptance has been agreed, the limitation period starts with the acceptance. For replaced parts (eg wear parts), the warranty period is 12 months from handover.
2. The above limitation periods also applies to Buyer's contractual and non-contractual claims for damages based on a defect of the goods, unless the application of the regular statutory limitation (§§ 195, 199 BGB) would lead in individual cases to a shorter limitation period. Claims for damages of the Buyer with respect to damages of the life, the body or the health as well as under the product liability law are valid only after the legal limitation periods.

11. Termination

1. The termination of the contract is based on legal provisions. Good cause within the sense of Section 648a BGB includes in particular the legal opening of bankruptcy proceedings against the Buyer's assets or the dismissal of the opening of bankruptcy proceedings against the Buyer's assets because of a lack of assets. There is also good cause if the Buyer is in culpable breach of a major provision of these GTC.

12. Secrecy, Confidentiality

1. The Buyer will maintain secrecy and confidentiality regarding any and all information that becomes known to it in the course of performing the contract as well as any and all operating and business secrets of Möhring Marine Service. This obligation shall survive the conclusion of the contract.

13. Data Protection

1. The Personal Data ("Data") provided by the Buyer to Möhring Marine Service will be electronically processed and used to the extent necessary to establish, execute or terminate the Agreement and maintain the relationship. The Buyer expressly consents to the collection, processing and use of this data. Möhring Marine Service complies with the provisions of the BDSG and the DSGVO when collecting, processing and using the data. By sending a message to datenschutz@MöhringMarineService.com or otherwise contacting us, the Buyer has at any time the opportunity to retrieve his stored data, request information about them, have them modified or deleted, or the use or processing of his data for advertising purposes, market - or opinion polling. Buyer's data will not be transferred to unauthorized third parties.

14. Prohibition of Offset and Assignment

1. Offsetting by the Buyer with counterclaims against Möhring Marine Service is only permitted if these counterclaims are undisputed or have been legally established by a court.
2. The Buyer may not assign its rights and obligations pursuant to the contractual relationship with Möhring Marine Service, either in whole or in part, to third parties without the prior express written consent of Möhring Marine Service; consent will not be refused without good cause.

15. Choice of law and jurisdiction, applicable law

1. The contractual and legal relationships of the parties in their entirety and any and all legal disputes related to this contract are governed solely and exclusively by German law, excluding application of international uniform law, in particular, but not limited to, UN conventions on the sale of goods.
2. Venue is Bremerhaven. The courts of the venue have sole and exclusive international and local jurisdiction.
3. Should any provisions of these GTC be invalid, the validity of the remaining provisions shall not be affected. In this case, the parties covenant to replace the invalid provision by a valid provision closest to the commercial intent of the invalid provision.