

aspha-min GmbH
Terms and Conditions of Delivery and Payment
Dated 01/01/2025

§ 1 Scope, hierarchy

1. The following terms and conditions apply to all services that we provide and for all payments and other customer obligations.

The terms and conditions extend to all future purchase and delivery contracts with the customer without express agreement.

2. Any agreement deviating from or supplements to our terms and conditions requires our written confirmation.

3. The customer waives the right to assert his own terms and conditions; such terms and conditions shall also not become part of the contract by assumed tacit approval. The unconditional supply of services or acceptance of payment by us do not imply any recognition of the customer's terms and conditions, even without rejection of such conditions.

4. If other contractual provisions contradict these GTC in the order confirmation or in signed delivery contracts, the other contractual provisions shall take precedence. In all other respect, the various terms and conditions are equally valid.

§ 2 Quotation, content of the contract

1. Our quotations are non-binding and subject to change, unless we state or agree to a specific period of validity. A contract is fundamentally established only by acceptance of the customer's order based on an order confirmation by us in accordance with the specific content of the order.

2. Deviations from written agreements must be made in writing.

§ 3 Prices, terms of payment

1. Our prices are stated exclusive of value added tax as applicable at the time of conclusion of the contract. Our list prices valid upon conclusion of the contract apply, subject to other written price agreements.

2. If the costs underlying our calculation, in particular for materials, commodities, energy or freight, change after concluding the contract, we may adjust the agreed price by an amount that compensates for the change in our originally calculated profit. In this case, we are required to immediately and clearly justify the change to the customer, without any obligation to disclose our calculation, and shall notify the customer of the change in price. The change in price is valid upon receipt of the notification and takes effect from the time at which the underlying costs change, but not before the receipt of the justification and notification of the price adjustment. If a price rise is due to a circumstance for which we are responsible, which contradicts the requirement to act with the due commercial care, a price rise is not permitted. If a price rise exceeds 5%, the customer is entitled to cancel the contract from receipt of our notification for a period of two weeks. We are not obliged to take measures and seek measures to reduce the agreed prices.

3. If we are obliged to deliver the goods "free at building site" based on an individual contractual agreement, the agreed price for delivery free at building site includes delivery in completely filled trucks. Reduced quantities entitle us to calculate small quantity surcharges.

Unloading fundamentally only takes place at an unloading point; the unloading of partial quantities at different unloading points or the use of solo or multiple vehicles is not included in the delivery price, unless expressly agreed otherwise. The delivery price includes a maximum waiting/unloading period at the building site of 30 minutes; the customer may be billed separately for any additional time.

4. Invoices received are payable within 8 calendar days of the invoice date without reduction.

5. If the payment date as defined in Section 3(4) is exceeded, the customer enters into default without the need for a written warning, unless the invoice issued has not yet been delivered, is not payable due to errors or is not legally enforceable. Default can also be established by law. The receipt of payment in one of our business accounts is decisive for timely payment. This also applies to cheque payments. In the event of default, all of the customer's outstanding receivables at this point in time immediately become payable.

6. In the event of default of payment by the customer, we shall be entitled, subject to further claims under the statutory provisions, to withdraw from the contract and to take back the goods delivered under retention of title.

To effect this entitlement, the customer shall provide us with the requisite information concerning the location of the goods, while also granting us the irrevocable right to access its premises and the relevant rooms/areas to collect our goods.

7. In the event of an authorised withdrawal as per Section 6, the customer is obliged to reimburse resulting damages; the claim for damages amounts to a flat rate of 25% of the net order amount. The customer reserves the right to prove that damages were not incurred or are lower than the flat rate indicated in sentence 1.

At the same time, we reserve the right to assert higher damages.

8. The customer can offset a claim with a counterclaim or assert a right of retention only if its claim is undisputed or established by law. Offsetting or exercising a right of retention is also possible if the customer's claim and our claim are legally based on a reciprocal relationship.

9. We are not obliged to accept cheques; the acceptance of cheques does not in any way defer our claim.

10. Payment to persons acting on our behalf may only be made upon presentation of an express collection authority signed by management.

11. If we have multiple claims against the customer, we determine the allocation of incoming payments, unless the payment is intended as a specific repayment.

§ 4 Delivery, delivery deadlines, force majeure

1. Delivery is quoted ex domicile of our company. We are always entitled to provide partial deliveries reasonable for the customer. A partial delivery is unreasonable, for example, if the delivery is of no interest to the customer.

2. If we agree to deliver to the place of delivery specified by the customer in an individual contract, the risk shall pass to the customer at the point in time when the goods leave our company.

In the event of delays in shipment for which the customer is responsible, the risk transfers to the customer at the time of notification of readiness for shipment.

3. If delivery "free to the door" is agreed in an individual contract, we reserve the right to choose the manner of shipment, unless a specific manner of shipment is expressly agreed in writing.

3.1 If delivery "free to the door" is agreed, this is subject to the provision of safely passable access roads and direct unloading by the customer.

If access to the unloading point is not possible or feasible for any reason, it is hereby agreed that unloading shall take place at the point that the delivery vehicle can reach unimpeded.

3.2 In the event of delivery by truck, the customer is responsible for unloading if the delivered goods cannot be poured out.

3.3 The costs associated with the unloading (e.g. for crane hire) shall be borne by the customer.

To the extent necessary, the customer must immediately provide the necessary support staff to unload the goods.

4. The dates and deadlines specified by us are approximate and always non-binding, unless expressly agreed otherwise in writing.

5. If we declare our commitment to comply with specific delivery deadlines in an individual agreement, this delivery deadline is automatically extended by the period of any temporary impediment to performance for which we are not responsible.

The customer may withdraw from the contract only if, following the expiration of any extended deadline, it sets an adequate grace period in writing and also threatens to refuse acceptance after the expiration of the grace period.

In this case, the customer's right of withdrawal extends to the part of the contractually owed services that we report as not ready for shipment by the expiration of any set grace period; the customer is entitled to withdraw from the overall contract only if the partial services provided are of no interest for the customer.

6. If circumstances for which we are not responsible impede or delay the execution of accepted orders, or make such execution impossible, we are entitled to delay the delivery/remaining delivery by the duration of the impediment. If our service has become permanently impossible as a result of this impediment, the customer and we are authorised to withdraw from the contract either in part or in full. The same applies if our service has been delayed by at least 3 months or otherwise significantly delayed as a result of this impediment. For example, we are not responsible for the consequences of a pandemic or the effects of war as well as other delivery or performance issues, including in the supply chain, e.g. official interventions, unforeseeable business interruptions, strike, lock-out, vandalism, interruptions to work caused by political or economic circumstances, unavoidable shortages of raw materials or equipment, transport delays due to traffic disruptions and unavoidable events that occur to us, our upstream suppliers or in external operations and on which we are reliant to maintain our operation. We shall inform the customer of the non-availability of our service without delay and immediately refund any consideration in the event of withdrawal.

§ 5 Collateral rights

1. Until the fulfilment of all claims against the customer to which we are entitled now or in future on any legal grounds, we shall be provided with the collateral listed below, which we shall release at our discretion upon request provided that its value does not exceed the claims by more than 10%.

2. The goods delivered by us remain our property until full payment (goods subject to retention of title). The customer is entitled to process and sell the goods subject to the retention of title in the ordinary course of business. The ordinary course of business for the purposes of these terms and conditions does not apply if, in the event of sales by the customer or any other dispositions or acts by the customer for the benefit of third parties, the assignability of its receivables to third parties is precluded. Pledges or assignments as security of the goods subject to the retention of title are prohibited.

3. The acquisition of ownership of the goods subject to the retention of title by the customer in case of processing or modification is precluded. Processing or modification always takes place on our behalf as the manufacturer, but without any obligation for us.

4. If the goods subject to the retention of title are combined or mixed with other movable property, namely such that they become an integral component of a single object, we shall acquire joint ownership of this object. Our share is determined based on the value ratio of the objects at the time of combination or mixing. However, if the goods subject to the retention of title are to be considered the main item, we shall acquire sole ownership.

If the goods subject to the retention of title are combined with a structure, the customer's entitlement to the provision of a debt-securing mortgage by the contractor for its customer site shall be assigned to us in the amount corresponding to the value of the goods subject to the retention of title.

5. The claims resulting from the resale/further processing or any other legal basis concerning the goods subject to the retention of title is hereby assigned to us in the amount of the purchase price of the goods subject to the retention

of title as a precaution. The customer is authorised to collect these claims on our behalf.

The collection authorisation shall lapse if the customer fails to meet their payment obligations to us in a proper manner. In this case, we are entitled to disclose the assignments to the third-party debtor.

6. In the event of deliveries to construction projects for which, in the relationship between the customer and the client, partial assignment is only permitted with the prior consent of the client, but this has not been provided or partial assignment is generally excluded, the following applies in derogation of Section 5:

Regardless of the purchase price of the goods subject to the retention of title, the assignment relates to all of the claims to which the customer is entitled from the construction project, for the fulfilment of which the customer has disposed of the goods subject to the retention of title. We shall transfer third-party debtor payments to us to the customer without delay, as soon as our claim to payment of the purchase price as well as any ancillary claims have been repaid. The customer may assign this claim against us. If the third-party debtor pays instalments to us and the claim assigned to us exceeds our claim to payment of the purchase price by more than 10%, we shall transfer the incoming amounts to the customer without delay.

7. The customer is obliged to supply the information required to assert our claims without delay at its expense and deliver the documentary evidence to us provided that this is in the customer's possession. The obligation applies accordingly in the event of compulsory execution in items, claims and other property rights belonging to us: the customer must notify us of the compulsory execution without delay and shall also notify the creditor of our rights in writing without delay. In addition to the above obligations to provide information and submit documentary evidence, the customer is obliged to notify third-party debtors of the assignment together with us in writing.

§ 6 Group offset clause

We are authorised to offset all claims, irrespective of their nature, against all customer claims to which it is entitled in relation to us or in relation to affiliates as defined in the German Stock Corporation Act, even if the claims have different due dates. In this respect, it is sufficient if the customer is informed that the company concerned is an affiliate in the offset statement.

§ 7 Complaints, warranty

1. With regard to the dimensions and weights of the contractual goods, the dimensions or weight determined in our supply plant on a calibrated scale, determined by measurement or the quantity or amount determined by us during loading is decisive for billing.

The customer is entitled to check the weight or quantity determination at any time at its expense.

In the case of bulk deliveries, complaints relating to weight or quantity deviations in the goods delivered by us can only be made by the customer immediately after receipt at the delivery location before unloading.

2. Natural stone samples and specimens are considered approximate illustrative pieces for quality, dimensions, colour and weight. No liability is accepted for delivery in accordance with the specimens provided. For natural stone deliveries, deviations and differences in colour, structure as well as patching and veins, etc. are possible. In addition, colour changes can occur over time after installation or during storage. Likewise, visual or structural deviations may occur in concrete products when using natural stone as the grain in the facing material. This is not a material fault or defect and is not a cause for complaint. Minor dimensional deviations that do not have an impact on precise fit or correct proportions also do not constitute a defect and are also not a cause for complaint. In all other respects, the dimensional, weight and quality conditions of any agreed technical regulations, provisions and standards apply, insofar as we do not indicate deviations or such deviations do not exist for our products.

3. For deliveries of rocks, the quality of the contractual object complies with the valid official and relevant technical regulations, provisions and standard, if this is expressly agreed. Unless otherwise agreed in each specific case, we are

not obliged to make deliveries from specific plants. We accept no liability for complying with certain densities, surface quantities as well as grip and polishing resistance values. In the case of cut stone products, defects must be notified before setting or moving the stones.

If the delivered stones need to be reworked in any manner, this work must exclusively be carried out by us. We are not required to replace rework on the stones delivered by us carried out without our express consent by the customer or third parties.

4. Complaints concerning defects in the goods must be received by us in writing, specifying the defect, no later than one week after transfer of the goods, but in any event before combining, mixing, processing or installing, insofar as this does not involve concealed defects. We must be notified of concealed defects in writing, specifying the defect, no later than one week after discovery.

All claims for defects lapse after the expiration of the complaint period.

5. When negotiating complaints or defects, we do not waive our right to object to a defect due to a delayed or otherwise inadequate complaint.

In case of a defect in the legal sense, we must be given the opportunity to inspect the unaltered goods.

6. Customer samples are only binding for us if we were present during sampling and the sampling complies with the applicable technical regulations, in particular the guidelines and recommendations issued by the German Road and Transportation Research Association (FGSV). If material testing by us differs from that of the customer, it is hereby agreed that an analysis by a neutral test body shall be binding for both. In any event, the tolerances as defined in the above technical regulations valid at the time of delivery apply.

7. The quality of the goods delivered by us must comply with the tolerances contained in the general technical regulations and, if they exist, additional technical regulations.

Information in our applicable descriptions (e.g. performance test and recipes) are merely descriptions of the delivered goods, they do not provide any assurance of characteristics. This particularly applies to parameters contained in recipes and performance tests.

In the event of a purchase agreement or contract to which commercial law applies, use in accordance with the contract exists only if this is expressly stipulated in the contract, unless the use in accordance with the contract is obvious.

8. If the customer is a business entity as defined by Section 310 of the German Civil Code (BGB), the limitation period applicable for the customer for claims due to defects in the delivered goods is one year. In cases as defined in Sections 438(1) no. 1 and 2, 438(3), 634a(1) no. 2 and 3, 634a(3) BGB, the limitation period stipulated in those sections applies. If we are liable for compensation due to a warranty in line with Section 8 of these GTC, the warranty period regarding the compensation claim is based solely on the statutory regulations.

9. In the event of prompt and justified complaints, we shall fulfil the warranty through subsequent improvement or a replacement delivery at our discretion; in both cases, we bear the necessary transport costs to the customer's domicile, provided that this is in Germany.

The customer has a right to cancel the contract or reduce remuneration only if the statutory requirements are in place.

§ 8 Limitation of our liability for damages

1. If we, our legal representatives, employees or vicarious agents breach a duty through intent or gross negligence, irrespective of the nature and legal basis, in particular from the contractual relationship or in the event of an unlawful act through intent or gross negligence, we are liable for the customer's resulting damages in accordance with the statutory regulations.

2. If we, our legal representatives, employees or vicarious agents breach a duty merely through slight negligence, irrespective of the nature and legal basis, in particular from the contractual relationship or in the event of an unlawful act through slight negligence, we are not liable for any customer claims for damages, unless this involves an ordinary

negligent breach of an essential contractual obligation. In this case, our liability is limited to foreseeable damages typical of the contract. An essential contractual obligation in this respect is one whose fulfilment enables the proper execution of the contract in the first place and upon whose compliance the customer can regularly rely.

3. The above exclusions and limitations of liability do not apply in the event of culpable liability for death, physical injury or damage to health, in the event of liability due to fraudulent non-disclosure of a defect and in the event of liability due to non-fulfilment of a warranty or in the event of liability under the German Product Liability Act.

4. The statutory burden of evidence regulations remain unaffected by the above regulations.

§ 9 Miscellaneous

1. The place of fulfilment is our registered office.

The exclusive legal domicile for all disputes arising in connection with the contractual relationship is the competent court for the registered office of our company, insofar as the customer is a merchant, legal entity under public law or special fund under public law. We may also initiate proceedings against the customer in another local competent court as established by law.

2. German law applies to all contractual relationships with the customer, to the exclusion of all others; the UN Convention on Contracts for the International Sale of Goods (CISG) does not apply.

These regulations apply even if the customer is domiciled abroad.

3. If one or more provisions of our Terms and Conditions of Delivery and Payment are or become invalid, this shall not affect the validity of the remaining provisions.

In this case, the invalid clause shall be replaced by a valid clause that most closely reflects the economic intention at the time of conclusion of the contract.

4. We reserve the right to obtain credit reports and use the company data disclosed to us for this purpose.

5. The data from this contractual relationship shall be stored and used in compliance with the applicable data protection provisions.