

General Terms and Conditions (GTC)

This document has been translated from French. In case of ambiguity, the original French version is used as reference.

1. Scope of application

This document describes the General Terms and Conditions (GTC) of GBY SA (CHE-357.494.799), Route de Bulle 41, 1696 Vuisternens-en-Ogoz, Switzerland (GBY).

These terms and conditions apply to all products and services offered by GBY. Contracts with our customers are exclusively subject to these GTCs, which take precedence over the terms and conditions of our customers.

To deviating general GBY is only bound by the terms and conditions of business to the extent that it has expressly accepted them in writing. The Customer has to obtain GBY's renewed consent in individual cases.

These General Terms and Conditions are considered as accepted by the Customer, are valid from the time of order and are binding for him at the latest upon receipt of the products or services performances.

GBY is entitled to change, adapt or amend these General Terms and Conditions at any time; the latest version of the General Terms and Conditions as provided on the GBY website shall apply.

2. Order procedure

The order is placed by a contract directly at the GBY headquarters or with one of its resellers.

By placing an order, the Customer declares the complete and unconditional acceptance of these GTC.

The order is valid only after the payment of a deposit of 50% of the total amount of the order is confirmed, unless GBY expressly confirms the order in writing without requiring a deposit. GBY immediately confirms by an order confirmation that the payment has been received and therefore the order is valid.

Failure by the customer to comply with the obligations entered into in these GTC, in particular in the event of problems relating to the payment of the price of an order, may lead to the cancellation of the order and suspension of access to the gby.ch service.

2.a Contract conclusion

Unless expressly stated otherwise, offers from GBY are not binding, regardless of whether they have been obtained or not (Art. 7 para. 1 OR).

A contract is not considered concluded until the order has been confirmed in writing by GBY, with respect to the products and/or services mentioned in the order confirmation and the conditions contained therein. In the event of any discrepancy between the two documents, the provisions of the order confirmation shall prevail over these GTC.

Any modification or ancillary provision must in any case be in writing. Electronic communication shall only be deemed to be in writing if the parties have agreed to this.

2.b Conclusion of the contract via the GBY-Onlineshop

The goods and services offered in our online shop do not constitute an offer to conclude a contract, but merely an invitation to order.

By placing an order, the customer makes us an offer to conclude a sales contract. In our online shops we only accept orders with delivery to Switzerland. Orders for deliveries to another country should be addressed to the sales company of the country concerned.

The contract language is French. The customer has the possibility to retrieve the content of his order at any time via the order history, which is accessible via his customer account in the GBY Online Shop. The entire text of the contract is recorded by GBY without the customer having access to it. The customer receives an order confirmation after receipt of his order. However, this confirmation does not represent an acceptance of the order. It is for information purposes only. The order is only binding after a written or electronic order confirmation has been issued or the goods have been shipped. If an order confirmation is issued although it contains obvious mistakes, spelling or calculation errors, it is not binding for GBY.

3. Brochures and technical documents

Unless otherwise agreed in writing, brochures and catalogues are not binding. Similarly, the information contained in the technical documents is only binding if it is expressly guaranteed.

Each party retains all rights to the plans and technical documents which it has transmitted or made accessible in any way to the other party. The receiving Party acknowledges these rights and undertakes not to pass on these plans and technical documents to third parties, either in whole or in part, without the prior written consent of the other Party. It also undertakes not to use this documentation for purposes other than those for which it was made available.

4. Prices and terms of payment

Unless expressly stated otherwise, all prices are net prices, excluding VAT and other taxes, ex works, without packaging and postage, customs and other duties, insurance and without deductions of any kind (any deductions are to be reimbursed by the customer). Offsetting against other claims of the customer is excluded.

Packaging, transport, insurance or other costs shall be borne by the customer and will be invoiced additionally. The conditions and costs specified for this purpose in the invoice shall apply. The invoice is issued to the customer when the products are delivered or when the service is completed.

For customers with registered office and delivery address in Switzerland, the payment period is thirty (30) calendar days net from the date of invoice, unless otherwise stated on the invoice. For orders over CHF 3'000, the total amount due must be paid before the order is delivered.

Payment for purchases is made by bank transfer. The information required for payment by bank transfer will be published on the gby.ch website.

In accordance with the regulations and in order to guarantee the security and confidentiality of the customer's data, GBY SA does not store any bank details.

For deliveries and services to customers residing abroad, the provisions of Swiss law on VAT apply.

In case of late payment, GBY SA is entitled to rights according to article 8 paragraph 3 (right of retention etc.); in addition, GBY SA is entitled to charge interest on arrears at a rate of six percent (6%) per year of the invoice amount. If the ordered goods have a net value of less than CHF 50, we charge a minimum quantity surcharge to reach this net value.

5. Place of performance and jurisdiction

Place of performance for all services provided by GBY and our customers is our registered office.

6. Earnings and risks

The profits and risks associated with the products are transferred to the customer when the products are handed over to the forwarding agent in our company. If the delivery to the carrier is delayed for reasons for which the Customer is responsible, the profits and risks associated with the delivery are transferred to the Customer as soon as GBY notifies the Customer that the goods are ready for shipment.

The insurance of the products during the transport as well as the costs for a possible later installation or commissioning are at the expense of the Customer.

7. Delivery (partial)

The delivery is made in the form agreed with the customer.

GBY is entitled to partial deliveries.

In the event of a delay in payment for previous deliveries or changes in the Customer's situation that affect the payment of the products or services, GBY is entitled to withhold the goods, demand advance payment or withdraw from the agreement, without prejudice to a claim for damages.

8. Delivery times and delays

GBY commits itself to a proper, complete and punctual delivery, subject to unforeseen events such as force majeure, delayed shipments, operational disruptions, etc.; this also applies to the delivery of raw and auxiliary materials required for the manufacture of the products or the provision of the service performance. In case of a delay in delivery for which GBY is responsible, the Customer is entitled, after the unsuccessful expiration of a reasonable grace period of at least four (4) weeks, as far as he can prove that he has suffered a loss as a result, to claim compensation for the loss incurred up to a maximum of three percent (3%) of the price of the goods or services delivered late by GBY. The Customer may only withdraw from the contract in case of serious defects, which make an intended or significantly reduced use or application of the products and/or services performances impossible. Any further claims of the customer (of whatever kind), in particular for consequential damages, are excluded.

If delivery periods have been agreed, they shall begin, unless otherwise agreed, with the transmission of the order confirmation or with the signing of the contract by GBY. The delivery time will be extended for reasons other than those mentioned above:

- If GBY does not provide in time the information necessary for the provision of the service or if it is subsequently changed by the Customer;

- If the Customer or a third party is in delay with the execution of the work incumbent on him or with the fulfilment of his contractual obligations;

- But also in all other cases where the reasons are not attributable to GBY.

In these cases, the legal consequences will also only occur after written notice of default by the Customer.

9. Reservation of ownership

The products remain the property of GBY until the purchase price has been paid in full and all related rights have been fulfilled.

GBY is entitled and authorized to have the retention of title entered in the appropriate register at the Customer's expense. The Customer is obliged to take the necessary measures to protect the property of GBY at his own expense.

10. Legal guarantee

Only those properties which are expressly mentioned and guaranteed in the corresponding product specifications or in the performance description shall be considered as guarantees. No guarantee is given for other properties or more extensive properties. The warranty period is sixty (60) months from the date of delivery of the Product to the carrier or the date of performance of the service on the frame, twenty-four (24) months on the components and no warranty is given for parts subject to wear.

The customer is obliged to inspect the delivered products or the rendered service immediately and to report any defects in writing without delay. Products and services performances are considered accepted if the customer has received the goods or services within has not reported any defects eight (8) days after delivery or completion.

GBY warrants for defects reported in due form within the prescribed periods. At its own discretion it can either reduce the agreed price or, if necessary, deliver replacement products of perfect quality or carry out a repair. Any other possibility of recourse is excluded.

In case of delivery of replacement or repair products, the warranty granted by GBY will then be the same as that of the original product or service delivery. For replaced or repaired products or corrected (services), the legal warranty period starts again for a period of six (6) months from replacement / repair / correction.

However, this period may not exceed a maximum of 18 (eighteen) months from the time of delivery of the product to the carrier or the provision of the (service).

If the defect or error is based on a guaranteed characteristic in the delivery or performance of a subcontractor, the liability of GBY is limited to the assignment of GBY's rights against the subcontractor(s).

Any warranty is void if the Customer makes changes or repairs to the product, does not use it as intended (operating instructions) or does not maintain it properly.

The same applies if the Customer, after having detected a defect, does not immediately take all appropriate measures to reduce the damage to a minimum, or if he does not inform GBY about the occurrence of this defect and give GBY the opportunity to remedy it.

If products are manufactured or services rendered according to the Customer's specifications, GBY's warranty is limited to the careful fulfilment of these specifications; GBY does not assume any other obligation.

Warranty work on GBY products may only be performed and invoiced by GBY itself or by a workshop officially recognized by GBY. This also applies to GBY products sold abroad.

11.a Liability

Any liability of GBY for products and services beyond those in clause 10, for whatever legal reason, is excluded by these Terms and Conditions to the extent permitted by law.

Also excluded is any liability for consequential damages (as a result of a defect), loss of profit or other indirect and equivalent damages.

12.b Liability of the user

To be allowed to drive on the public roads in Switzerland, the user must be at least fourteen (14) years old and hold a category M driving licence or be over sixteen (16) years old (VZV Art. 6).

In addition, GBY strongly recommends that the user wears a helmet each time they use the device.

By signing the contract, the User confirms that he/she has taken out the necessary liability insurance for the use of vehicles and that he/she is competent to judge. If the User is not capable of making a judgement, a medical certificate must be duly completed as part of the "GBY Body Data" form. The user confirms the accuracy of the data provided by filling out the form "GBY Body Data" correctly and truthfully.

The use of the vehicle is at the user's own risk and responsibility. It is the responsibility of the user to take out personal insurance against possible accidents.

GBY excludes any liability in the event of an accident of any kind in which the user is involved, as far as this is legally permitted.

13. Mounting accessories or adjustments

If GBY also carries out the assembly of accessories or adjustments or checks these, the General Terms and Conditions of Assembly of the Swiss Association of Machine Manufacturers (VSM) apply.

14. Use of products on public roads

The user is aware that GBY products are only approved for use on public roads in Switzerland. Driving on public roads outside Switzerland is prohibited until further notice.

15. Transport of products and their batteries

The resellers of GBY products, the customers of GBY and third parties are responsible for the compliance with the transport and dangerous goods regulations when transporting by any means of transport. Special attention is paid to the regulations for the transport of the battery(ies) of GBY products by air freight. GBY assumes no liability for transport of GBY products ordered by third parties.

16. Applicable law

These Terms and Conditions and all order confirmations and contracts of GBY are governed by Swiss law, excluding the provisions of private international law and international commercial law in accordance with the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980.

17. Place of jurisdiction

The ordinary courts of the Canton of Fribourg and the Fribourg court shall have exclusive jurisdiction for disputes arising in connection with these General Terms and Conditions, order confirmations and contracts.