

General Terms and Conditions of Sale and Supply

1. Any and all offers, goods supplied and other services rendered including consulting services, information (and similar type of services) by us are exclusively carried out on the basis of these **General Terms and Conditions of Sale and Supply**. Any conditions of the Buyers, which have not expressly been confirmed by us in writing, are not binding upon us - even if we have not expressly objected to such conditions. These General Terms and Conditions of Sale and Supply also apply to any future business agreements, even though we may not expressly refer to such conditions within any future contracts (e.g. for orders placed by telephone). The acceptance of the goods is regarded as the acknowledgement of these General Terms and Conditions of Sale and Supply. All agreements must be stipulated in writing. This also applies to side agreements and representations as well as to subsequent amendments or modifications of the contract. Any modification of this clause must also be effected in writing.
2. **Offers** are generally submitted without engagement. Contracts only become binding upon us once they have been confirmed in writing. Unconfirmed agreements with our agents or ourselves are not valid. The product sold with the properties and features, as well as with the intended purpose of use in accordance with the product description enclosed with the Purchase Contract or the Order Confirmation, respectively, is the exclusive subject of the contract. Any other or further qualities and/or properties, or any further use shall only be deemed as agreed upon, if expressly confirmed in writing by us. The Buyer is obliged to object immediately if our communication does not conform to what has been agreed upon orally, by telephone or with our agents. Otherwise, our written communication is considered to be accepted. The scope of delivery shall be subject to our written Order Confirmation. The same rules apply for contracts accepted by our employees. We reserve the rights of ownership and copyrights to cost estimates, offers, drawings and other records; these shall not be made accessible to third parties.
The measurements, dimensions and weights indicated in our offers and confirmations are only approximations. We reserve the right to deviate from these standards if necessary.
3. Indicated **prices** strictly exclude forwarding and packing charges (ex works Herford). Once-quoted prices are not binding for re-orders. A price premium of 10 percent (max) may be added on guide prices.
4. **Packaging** will be charged at cost price and will not be taken back.
5. The **time of delivery** indicated in our offers and order confirmations is only an approximation. We are not bound by it. We do not accept fixed delivery dates unless they have been confirmed by us in writing.
The time of delivery only commences once all issues relating to the order have been clarified, once the Buyer has provided all conditions required for an orderly processing of the contract (records, approvals/permits as well as any down-payment agreed upon) and once all materials and all parts provided by suppliers are available. The time of delivery is regarded as adhered to if the object of supply has left the works or warehouse until the date of expiration of such time period or if the readiness for shipment has been notified. A premature delivery after an announcement made before the date of delivery is permissible. The keeping of the date of delivery is subject to the fulfilment of the contractual obligations of the Buyer. The supply of the goods shall be under the proviso of the correct and timely supply by our contractors. The time of delivery shall be adequately prolonged in case of measures within the scope of labour disputes, in particular measures in the course of legal strikes and lock-outs, as well as in case of the occurrence of unforeseen events outside our scope of responsibility, such as breakdowns, Acts of God, war, official intervention etc., in so far as such events had a provable and serious impact on the completion or delivery of the object of delivery and if such events had been unavoidable despite our reasonable care. We shall not be liable for the before-mentioned circumstances, if such events occur during any delay already pending.
In case of delay in the performance – and upon the non-successful expiration of a period of grace to be granted by the Buyer of at least two weeks – the Buyer is entitled to withdraw from the contract referring to the overdue partial delivery. We shall only be liable for damages which were foreseeable by the management. The claim for damages shall be restricted to the amount provable by the Buyer. If we are in delay for a part of the performance, the Buyer shall only be entitled to put forward claims with regard to this partial performance.
We are entitled to carry out partial deliveries. In case of contracts for continuous request for delivery, we shall receive call and division in good time and within the agreed period of time. If calls and divisions for delivery are not made in due time, we are entitled – at our option and upon the expiration of an adequate period of grace – to make our own division and to supply the goods or to finally refuse the fulfilment of the overdue part of the contract and to claim damages.
6. Unless anything to the contrary has been confirmed by us in writing, **invoices** are payable net within 30 days after the date of the invoice. Small invoices up to EUR 50,00 are payable net immediately upon receipt.
Tool charges are payable according to the following structure unless otherwise agreed: 1/3 as down payment with order, 1/3 at completion of the tool (at which point the invoice will be made out), 1/3 30 days after date of invoice net. In case of delay in payment, the Buyer is liable for all damages caused by the delay in payment – at least default interest amounting to the applicable bank interest rate as well as bank charges if applicable. Buyers are not entitled to set off against our claims for payment any counter-claims which have been rejected or which have not been finally determined, or to claim any rights of retention. Discounts and other deductions are not permissible unless agreed upon in writing.
If we obtain unfavourable information as to the Buyer's financial situation (e.g. negative credit report, the offer for composition out of court, applications for the opening up of court compromise settlements or insolvency proceeding, the registry in a list of debtors or a 'blacklist') after the conclusion of the contract, or if we have other objective reason to suspect that our claim may be jeopardised, we reserve the right to require prepayment or – if the delivery has already been effected – to demand immediate payment, another type of security or to refrain from the contract entirely, even if an agreement to the contrary has already been confirmed. Discounted drafts serve as security. Granted payment periods - even if granted on the basis of drafts - become invalid.
As soon as the Buyer is overdue with a single payment, we reserve the right to withdraw from all existing contracts. In addition, we reserve the right to demand compensation without having to grant a grace period. We do not renounce these rights through waiting or sending reminders. Should a Buyer face financial difficulties, or be late in paying even part of an invoice due all our claims related to any type of business with the respective Buyer as well as all drafts become immediately due; the same applies in case of a protest of bill, draft, promissory note or cheque.
It is not permissible to assign any claims under this contract to third parties, unless anything else has been agreed upon.
7. The **risk** passes to the Buyer, irrespective of the burden of cost, as soon as the goods have left our works/warehouse or as soon as the goods have been handed over in the works or warehouse to the Buyer, forwarding agent or shipper or to any other person or institution for shipment. If the collection of the goods through the Buyer or his agent has been agreed upon, the passing of the risk is effected, at the latest, upon the expiration of the second day following the dispatch of the notification that the goods were ready for collection. If we act in any way in the course of the shipping, we act exclusively as an agent for the Buyer. We are not liable for any type of breakage or damages resulting from or occurring during the transport of goods. Nor are we liable for any other difficulties (delays) resulting from the transport. Any costs of transshipment and/or onward shipment, resulting from a lack of or from incorrect data on the place of destination, shall be borne by the Buyer, even if the costs of shipment were to be borne – as an exceptional case – by us under the contract. The packaging of the goods is chosen by us at our own discretion. We will not take out insurance without the respective instruction of the Buyer in writing. We are not liable for the cheapest means of transport. Instructions regarding the dispatch are followed if possible. Otherwise, consignment will be effected at best discretion.
8. Any claims pursuant to the Act on **Product Liability** shall not be affected by the following provisions. We are only liable for negligence if essential contractual obligations have been infringed and our liability is limited to the contract-typical and foreseeable damage. Such infringements typically include delays and impossibility of performance that lie in our responsibility. Otherwise, we are only liable in cases of acts of gross negligence or wilful intent. Damages suffered by the Buyer due to the culpable injury of his life, body or health through us or through any person employed by us to fulfil an obligation remain unaffected by the aforesaid, as well as liabilities according to the Act on Product Liability which are irrespective of who is to blame.

We are only liable for any defect of the goods sold if the buyer immediately informs us in writing after its determination, and at the latest within 10 days after the date of the delivery of the goods. Upon an effective notice of defect, the Buyer is obliged – upon our request – to have the condition of the goods inspected by an independent expert. Any claims for defects of goods shall be void if the Buyer fails to grant us the opportunity to inspect or to have inspected on site the defects claimed. We shall not assume any liability for consequences resulting from the incorrect use of the goods or from the failure to follow the application guidelines provided by us.

In case of the existence of non-immaterial defects, we will – at our discretion – either eliminate the defect or deliver a defect-free object (subsequent fulfilment). If it is determined after two attempts of subsequent fulfilment that the elimination of the defect or the subsequent delivery will be unreasonably delayed, has become impossible or has failed, the Buyer is entitled to reduce the purchase price, to withdraw from the contract or to claim damages instead of performance. If the Buyer determines to withdraw from the contract, he shall not be entitled to any additional damage claim for defects. If the purchased product is used according to the respective technical specifications, the Statute of Limitation for Buyer's claims is five years, starting when the object of purchase is dispatched to the Buyer.

In case of any claims of recourse towards us resulting from a claim of a purchaser of our Buyer, we shall become liable only to the extent as if we had directly sold the goods to the end-user. If the Buyer is subject to a claim by an end-user for a reason, which may result from the defectiveness of the goods sold, the Buyer is obliged to inform us immediately in this respect. In addition, the Buyer is obliged to accept an action of his customer filed against him, unless we accept our obligation for compensation towards our Buyer or towards such end-user, or unless we waive the performance of the court proceedings. If an action is filed against the Buyer by his purchaser, the Buyer shall grant us the opportunity to participate in the litigation.

Minor deviations regarding type, measurements, dimensions and weights are not accepted as defects. The suitability and quality of the material in use, constructive configurations and the possible adherence to descriptions and measurements as prescribed by drawings, samples and models will be checked to the best of our knowledge. Due to the versatility of allocation and operation methods etc., we have to exclude all type of guarantee, warranty or liability as to the undisturbed functioning of applications.

9. We reserve the **title to the goods**, until all accounts receivable from the Buyer resulting from the business relationship have been settled, including any future accounts receivable, also under contracts concluded at the same time or at a later date. This also applies if individual or all accounts receivable by us are included in a current account and the balance has been calculated and acknowledged.

In case of a breach of contractual obligations, in particular in case of a default in payment, we are entitled to withdraw from the contract and to request the delivery of the goods. The Buyer is obliged to return the goods.

The Buyer is entitled to resell the conditional goods in the due course of business – under no circumstances, however, after an application has been filed or proceedings have been commenced with regard to a composition in court or out of court, or to bankruptcy proceedings – and not at a price below the purchase price.

Any processing and transformation or the assembly of conditional goods is carried out on our behalf though we do not incur any consequential obligations.

If such conditional goods are processed, mixed or irreversibly combined with goods of other manufacturers, then we acquire the co-title to the new object in proportion to the invoice value of the conditional goods to the other objects used at the time of processing or mixing. If the Buyer acquires the exclusive title to the new object, the parties hereto agree that the Buyer will grant us the co-title to the new object in proportion to the invoice value of the processes, combined or mixed conditional goods, and to store such objects free of cost for us. The co-titles generated this way are regarded as conditional goods within the meaning of these conditions.

If the conditional goods are resold before all accounts receivable from the Buyer have been settled, the Buyer shall assign to us any and all claims together with all subsidiary rights resulting from the resale of the goods towards the purchasers or any third party, namely irrespective of the fact whether the conditional goods are resold without or after processing. We already now accept such assignment.

If the Buyer incorporates the claim under the resale of the goods into a current account relation with his customer, such current account claim is regarded as assigned in full. Upon balancing the current account, this claim is replaced by the acknowledged balance regarded as assigned in the amount equivalent to the original current account claim. Also this assignment is already now accepted by us.

In so far as the Buyer resells the conditional goods on credit, he is obliged to secure our rights regarding the conditional goods under the resale. The Buyer is entitled to collect the amount claimed even after the assignment of such claim. This shall not affect our right to collect the amount claimed on our own, but we are obliged to refrain from collecting the amount claimed as long as the Buyer duly fulfils his obligations for payment.

We may demand that the Buyer shall inform us about the claim assigned, about the respective name of the debtor and about any data required for the collection, that he shall submit to us all related documents and that he shall inform the debtors of the assignment. If the goods are resold together with other goods not owned by us, then the claim of the Buyer towards the customer shall be regarded as assigned in the amount of the price of delivery agreed upon between us and the Buyer.

The Buyer is not entitled to dispose of the conditional goods in any other way; in particular, it is not permissible to pledge or to assign the goods as a security. The goods shall be excluded from a transfer of ownership by way of security of a complete stock of merchandise by means of an express declaration towards the secured party. We are obliged to release the securities due to us to the extent that their value exceeds the claims to be secured by more than 20%, in so far as such claims have not been fulfilled yet.

The Buyer is obliged to insure the goods subjected to a reservation of title against all customary risks at his own cost.

10. **Tools and moulds** remain our property even if entirely paid by the Buyer. We commit, however, not to use such tools or moulds (that have been paid partially or entirely by the Buyer) to produce goods for third parties.

The Buyer remains liable for the costs of tools and moulds even if – for whatever reason – the consignment of the goods, for which the tools or moulds were originally constructed, is not or cannot be effected. The constructed tools and moulds will be stored carefully for re-orders. After two years without re-order we are, however, no longer obliged to store the respective tools or moulds. For re-orders of goods that are produced with tools or moulds for which payment has been made we are not bound to the original prices.

11. If the **Buyer reserves the right to determine** the measurements, dimensions and weights etc. or other specifications of tools or goods, he is obliged to determine these specifications in good time. If he does not – even after request – determine the required specifications, we reserve the right to determine the required specifications ourselves or to withdraw from the agreed contract and to demand compensation for the non-performance of the contract. The Buyer will be bound to the specifications determined by us.
12. **Catalogues, pattern books, drawings and pictures** remain our property. Drawings and samples must not be made available for competitors.
13. The Buyer remains liable to ensure that no **third party's rights** are infringed during the manufacture and consignment of any tools, moulds or goods according to the Buyer's specifications, drawings, samples, patterns or moulds.
14. Our **agents** are only authorised to arrange contracts. They are not permitted to agree contracts or to collect payments unless otherwise authorised.
15. **Forum Contractus** for all mutual obligations is Herford. **The courts of jurisdiction** for all claims relating to the respective business relationship irrespective of the amount in dispute are, at our discretion, the Amtsgericht [district court] Herford or the Landgericht [regional court] Bielefeld. Contracts with foreign Buyers shall be governed by German law. At our discretion, the court having jurisdiction at the registered office of the Buyer may be nominated as well.
16. **Additional, subsidiary and side agreements** are only valid if confirmed in writing.
17. In the event that any of the provisions of these conditions is adjudged void, invalid or not effective, this shall not affect the validity of the other provisions. Instead, a provision coming as close as possible to the commercial purpose of the invalid provision is regarded as agreed upon.

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