

### 1. Scope of Application

- 1.1 Our general terms and conditions of sale and delivery shall apply exclusively to all sales, deliveries and services. These also apply to all future business relationships, even if the application of these conditions is not expressly agreed upon again for these relationships.
- 1.2 If the orderer's terms and conditions of business conflict with or deviate from our general terms and conditions of sale and delivery, we shall not recognise them unless we have expressly agreed to their application in writing. Our general terms and conditions of sale and delivery shall also apply if we accept the delivery or service provided by the orderer without reservation in the knowledge that the orderer's conditions conflict with or deviate from our general terms and conditions of sale and delivery.
- 1.3 Subsidiary agreements, changes and additions to the general terms and conditions of sale and delivery and any other agreements must be made in writing. This also applies to the rescission of this written form requirement clause.

### 2. Offers, Offer Documents

- 2.1 Our offers are made on a non-binding basis unless they are expressly designated as binding. The contract does not take effect until we have given our written confirmation or the delivery/service has been provided.
- 2.2 Drawings, figures, dimensions, weights, technical information or other performance data are only binding if we have expressly confirmed them in writing as being binding.
- 2.3 Information on quality and durability shall only be deemed warranties if we have expressly designated them as being such. The same applies to the assumption of a procurement risk.
- 2.4 The scope of delivery is based upon the scope of our offer. In the case of written confirmations, it is based on our order confirmation.
- 2.5 We shall retain ownership rights and copyrights to all figures and drawings, calculations and other files or documents. The orderer requires our express written agreement to forward them to third parties. Any infringement of this shall entail the payment of damages and entitles us to withdraw from all concluded and not yet fulfilled contracts.

### 3. Prices

- 3.1 Subject to a deviating agreement in written form, our prices apply "Ex Works (EXW)" in accordance with the ICC Incoterms as amended, excluding incidental delivery costs (packaging, transport, customs, transport insurance, etc.), and are exclusive of VAT at the applicable statutory rate.
- 3.2 We reserve the right to change our prices accordingly if individual cost factors, in particular raw materials, materials, energy and staff or agreed delivery volumes or other circumstances required to produce the delivery items, have changed. We will provide evidence of this to the orderer upon request.
- 3.3 In the case of new orders (=follow-up orders), we are not bound to our previous prices.

### 4. Scope of Supply/Delivery Terms

- 4.1 Adherence to delivery terms requires the clarification of all commercial and technical issues between the contractual parties and the punctual and correct fulfilment of contractual obligations on the part of the orderer, in particular the punctual receipt of all documents to be supplied by the orderer, for example required permits and approvals and in particular plans, as well as adherence to the agreed payment conditions. If these prerequisites are not fulfilled on time, the delivery terms shall be extended accordingly. This shall not apply if we are responsible for the delay. We reserve the right to object to unfulfilled contracts.
- 4.2 The delivery terms and dates we have specified are non-binding unless otherwise expressly agreed in writing. The delivery term or date shall be regarded as having been adhered to if the consignment is provided for collection or shipment at our delivery plant within the delivery term or on the delivery date and the orderer has been informed of its readiness to be dispatched or the consignment has been collected.
- 4.3 Adherence to the delivery time shall be subject to the orderer receiving its own deliveries correctly and promptly. We will inform the orderer as soon as possible of any delays that may transpire.
- 4.4 Partial deliveries are permitted provided they are reasonable to the orderer.
- 4.5 Excess and short deliveries of up to 10% of the ordered scope of supply are permissible in each case and do not constitute a reason for complaint. The minimum purchase is one full packaging unit.
- 4.6 If non-adherence to the delivery terms can be attributed to unforeseeable, unavoidable events outside our sphere of control and for which we are not responsible such as force majeure, war, natural catastrophes, official measures, labour disputes or terrorism and even if such events occur at our suppliers or their sub-suppliers, the delivery terms shall be extended or postponed for the duration of the disturbance. The orderer shall be informed appropriately of the occurrence of the disturbance.
- 4.7 The orderer is obliged upon our request to declare within an appropriate time frame whether it is going to withdraw from the contract due to the delay of the delivery or service or insist on the delivery or service being performed.
- 4.8 If the orderer is in default of acceptance or if it culpably infringes other obligations to cooperate, we are entitled to demand compensation for the damage we have incurred thus far including any additional expenses. The right to assert further claims or rights remains reserved.
- 4.9 If the preconditions set forth in Clause 4.8 are in place, the risk of accidental loss or deterioration of the goods will pass to the orderer at the time that the latter has become in default of acceptance or payment.
- 4.10 The orderer can only withdraw from the contract within the framework of the legal provisions provided to the extent that we are responsible for the delay to the delivery and an appropriate grace period set by the orderer including a threat to refuse performance has expired without result.
- 4.11 Should call-off orders be agreed with the orderer, the orderer must accept the agreed quantity within the agreed time frame - at the latest within a year. If the orderer is in default with the call-off of the order for more than 1 month, we are entitled to deliver the residual quantity that is still outstanding.
- 4.12 Should we still default despite the grace period that has been set by the orderer and we are responsible for this, the orderer - provided it can provide evidence that it has incurred damage as a result - can demand compensation for every complete week of default of 0.5 % in each case, in total however at the most 5% of the price for the part of the deliveries that could not be put into useful operation because of the default. Should we be able to prove that the orderer's default damage is less than the specified default compensation, we are only obliged to pay for the damage that has actually arisen.
- 4.13 Both claims for damages asserted by the orderer due to a delay of the delivery as well as claims for damages instead of performance that go beyond the limits specified in Clause 4.12 shall constitute in all cases delayed delivery, also after the expiry of a delivery term that may have been set for us, subject to Clause 11 being excluded.
- 4.14 If the orderer is in default of acceptance, infringes other obligations to cooperate or if our delivery is delayed for other reasons for which the orderer is responsible, we are entitled to demand compensation for the damage/loss we have incurred including any additional expenses (e.g. storage costs). For this purpose we charge a lump-sum compensation of 0.5% of the delivery value per calendar week, at the maximum however a total of 5% of the delivery value. Evidence of higher or lower storage costs may be provided by the contractual parties.

### 5. Packaging and Shipment

- 5.1 Unless otherwise agreed, the packaging is chosen in accordance with customary commercial standards and at our discretion. This is disposable packaging, which is

charged to and not taken back from the orderer. Returnable packaging systems must be agreed between ourselves and the orderer and must be provided to us by the orderer in a sufficient quantity, free-of-charge and at the right time. Should the orderer not fulfil this obligation, we are entitled to use replacement packaging at the expense of the orderer.

- 5.2 Unless otherwise agreed, the choice of the shipping method and route shall be made at our discretion.
- 5.3 If the orderer requires a particular shipping method or manner, it must bear the resulting additional costs.

### 6. Transfer of Risk and Delivery

- 6.1 The risk shall also transfer to the orderer in the case of freight-free delivery and partial deliveries if the deliveries have been dropped off for shipment or have been collected.
- 6.2 Upon the orderer's request, we will cover the delivery with a transport insurance policy. All costs incurred as a result shall be borne by the orderer.

### 7. Payment

- 7.1 The payment of the purchase price must be made strictly net, free-of-charge, in EUROS (€) to the account specified on our invoice. A discount deduction is only permitted with prior written agreement.
- 7.2 Unless otherwise agreed, our invoices for deliveries and other services are due for payment without deduction within 30 days of the invoice date.
- 7.3 Unless otherwise agreed, our invoices for moulds (tools) are due for payment immediately in each case without deduction at the latest 30 days after the submission of samples on the following basis: 30% with an order confirmation and a signed transfer by way of security agreement, 40% with the first off-tool parts, 30% with approval.
- 7.4 A payment is deemed to have been made if we can dispose freely of the amount. In the case of cheques, the payment is deemed to have been made when the cheque is redeemed.
- 7.5 Cheques shall only be accepted following express prior written agreement and only on account of performance. All costs relating to these cheques shall be borne by the orderer.
- 7.6 The orderer can only offset receivables that are undisputed, recognised by us or are established as being legally binding.
- 7.7 The orderer is only entitled to enforce a right of retention to the extent that its counter claim is based on the same contract and is undisputed, ready for decision or established as being legally binding.
- 7.8 If the orderer defaults on payment, we are entitled to make all receivables arising from the entire business relationship with the orderer immediately due for payment. Discount agreements, rebates, price discounts inter alia shall be deemed in this case to have been forfeited.
- 7.9 If we become aware of circumstances (repeated default of payment, cheque protests, enforcement measures, uncertain creditworthiness, initiation of insolvency and settlement procedure inter alia) that may jeopardise our claims, we are entitled to refuse to provide deliveries and services arising from the business relationship with the orderer or to only provide them on a cash before delivery basis or upon receipt of suitable collateral (bank guarantee inter alia). If the orderer does not fulfil a corresponding demand within an appropriate period, we can withdraw either in whole or in part from all contracts concluded with the orderer that have not yet been fulfilled completely and demand compensation.
- 7.10 In the case of delayed payment, interest will be charged at 8 percentage points p.a. above the relevant applicable base interest rate. The right to enforce higher default damages remains reserved.

### 8. Retention of Title

- 8.1 We retain the title to the delivery items until receipt of all payments due from the delivery contract. This also applies to all future deliveries, even if we do not constantly and expressly refer to this fact. In the case of current accounts, the reserved property serves as security for the respective settlement claim.
- 8.2 If the orderer acts in a way that infringes the contractual obligations, in particular with regard to default of payment, we are entitled to take back the goods. If we withdraw from the contract, we must provide an express written declaration. After taking back the delivery items, we are entitled to dispose of them and the revenue from their disposal will be deducted from the liabilities of the orderer - minus appropriate disposal costs.
- 8.3 The orderer shall undertake, provided that ownership has not yet transferred to it, to treat the purchased item with care. In particular it is obliged to insure the item at its own expense against theft, fire and water damage sufficiently at the reinstatement value. If maintenance or inspection work is required, the orderer must carry this out punctually at its own expense. As long as ownership has not yet transferred, the orderer must inform us immediately in writing if the items in our ownership are seized or are exposed to other interventions of third parties. If the intervening third party is not in a position to reimburse us for judicial and extra-judicial costs, the orderer shall be liable for the shortfall that arises as a result.
- 8.4 The orderer is entitled to resell the reserved goods within the normal course of business. The orderer assigns all resulting receivables from the customer to us at this stage. This assignment shall apply irrespective of whether the goods concerned have been resold without or after having been processed. The orderer remains authorised to collect the receivables even after assignment. Our authorisation to collect the receivables ourselves shall remain unaffected. We shall however not collect such receivables if the orderer fulfils its payment obligations from the proceeds obtained, is not in default of payment and in particular if no application has been made to initiate insolvency proceedings or cessation of payments has not taken effect.
- 8.5 The processing or reworking of the goods by the orderer shall always be made in our name and on our behalf. In this case, the expectancy of the orderer with regard to the purchase item or the altered item shall continue to apply. Insofar as the purchase item is processed with other objects not belonging to us, we shall acquire co-ownership to the new item at the ratio of the objective value of the goods to the other processed items at the time of processing. The same applies if the items are mixed. Insofar as the mixing occurs in such a way that the item of the orderer is to be regarded as the main item, it shall be deemed agreed that the orderer transfers proportionate co-ownership to us. The resulting sole or co-ownership is kept for us.
- 8.6 We undertake to release the securities due to us at the request of the orderer provided that their value exceeds the receivables to be secured by more than 10 %. Here we are responsible for selecting the securities to be released.

### 9. Notification of Defects, Prescription

- 9.1 Notification of defects must be enforced in writing immediately after receipt of the goods. In the case of hidden defects, the defect must be rectified immediately following its detection. Unless otherwise agreed, in both cases all claims for defects prescribe twelve months after the transfer of risk. Insofar as the law in accordance with § 438 para. 1 no. 2 BGB, 479 para. 1 BGB and § 634a para. 1 no. 2 BGB mandatorily prescribes longer time periods, these shall apply.
- 9.2 The orderer's warranty rights shall require that it has fulfilled its obligations to inspect the goods and give notice of any defects properly in accordance with § 377 HGB (Commercial Code) and the requirements of a prudent businessman.
- 9.3 Upon substantiated notice of defects - where the outturn samples approved in writing by the orderer determined the quality and workmanship to be expected - we are obliged to make supplementary performance. If we do not fulfil this obligation within an appropriate period or if a rectification fails despite repeated attempts, the orderer is entitled to reduce the purchase price or - if the orderer has threatened us with refusing to accept the service after the supplementary performance has failed - to withdraw from the contract. Further claims, in particular claims for reimbursement of expenses or for damages because of damage caused by defects or consequential damage, only exist within the regulations under Clause 11.
- 9.4 The outturn samples that we shall provide to the orderer on request are of decisive importance for the quality and workmanship of the products. Any reference to technical

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- standards is made for the purpose of providing a performance specification and should not be interpreted as a guarantee of quality.
- 9.5 If we have advised the orderer outside of the bounds of its contractual performance, we shall be liable for the operability and suitability of the delivery item only with express prior written consent.
- 9.6 Unless otherwise agreed, supplementary performance shall be effected (rectification, replacement delivery) at the company headquarters of the orderer.
- 9.7 Unauthorised reworking and improper handling shall result in the loss of all warranty claims. Only to prevent disproportionately extensive damage or if we fail to remedy the defects is the orderer entitled to make repairs following our prior agreement and to demand compensation for reasonable costs.
- 9.8 Our prior written consent must always be obtained before any return of the goods.
- 9.9 If the orderer complains for reasons for which we are not responsible or wrongfully gives notice of a defect for which we are not responsible, we shall be entitled to charge the orderer for reasonable expenses to remedy and / or identify the defects.
- 9.10 Claims for defects do not pertain in the case of only slight variation from the agreed quality, where the impairment of use is only insignificant, of natural wear or tear as with damages that arise after the passing of the risk as a result of defective or negligent treatment, excessive loads, unsuitable equipment or due to specific external influences that are not preconditions in accordance with the contract. If repair work or changes are not carried out properly by the orderer or by third parties, claims for defects for such action and the resulting consequences are excluded.
- 9.11 The requirements and specifications for the delivery items stipulated in a contract do not represent a guarantee of quality as defined in § 443 BGB (German Civil Code) but are only used to describe the quality of the delivery items.
- 9.12 Claims of recourse brought by the orderer shall only pertain within the scope of the legislation and to the extent that the orderer has not made any agreements with its customer that go beyond the statutory mandatory claims relating to defects. Furthermore, Paragraph 9.7 shall apply accordingly to the scope of the orderer's right of recourse.
- 9.13 The regulations governing liability for defects deviate from this, see Clause 11.

#### **10. Industrial Property Rights**

In the case of defects of title regarding the delivery, we are liable to the exclusion of further claims – subject to Clause 11 – as follows:

- 10.1 If we are to effect delivery in accordance with drawings, models, samples or using parts supplied by the orderer, the orderer shall warrant that industrial property rights of third parties in the goods' country of destination are not infringed as a result. We shall advise the orderer of rights known to it. The orderer shall indemnify us from the claims of third parties and provide compensation for the damages that arise. If we are denied the production or delivery by a third party on the basis of a property right owned by said party, we are entitled, without checking the legal situation, to halt the work until the legal situation is clarified by the orderer and the third party. If it is no longer reasonable for us to carry on with the order as a result of the delay, we are entitled to withdraw from the contract.
- 10.2 Any drawings and samples passed to us that did not lead to an order will be returned on request; otherwise we are entitled to destroy them three months after the offer has been submitted. This obligation shall also apply accordingly to the orderer. The party authorised to carry out the destruction work must inform the contractual partner of its intention to destroy the drawings and samples in advance and in good time.
- 10.3 We have the copyrights and, if applicable, commercial property rights, especially all rights of use and exploitation rights, to the models, moulds and devices, drafts and drawings designed by us or third parties on our behalf.

#### **11. Liability**

- 11.1 We shall only be liable for damages or reimbursement of expenses insofar as we, our executive employees or vicarious agents are guilty of wilful intent, gross negligence or death or injury or an impairment to the health of another.
- 11.2 Strict liability in accordance with the Product Liability Law as well as liability for compliance with a quality guarantee shall remain unaffected.
- 11.3 Liability for the culpable breach of key contractual obligations shall also remain unaffected; liability is, however, limited to foreseeable damage arising from this type of contract except for the cases in Point 11.1. Major contractual duties and obligations are the basic, fundamental duties and obligations resulting from the contractual relationship that are significant in a particular way for the correct execution or fulfilment of the contract or that influence the existing relationship of trust between the parties to a considerable degree, in particular therefore the fulfilment of delivery obligations and important reference requirements.
- 11.4 In the case of damage caused by default, liability differs in accordance with Clause 4 Points 4.12 and 4.13.
- 11.5 The above-mentioned regulations do not lead to a change in the burden of proof to the orderer's disadvantage.
- 11.6 Insofar as our liability for damages is excluded or limited, such exclusion or limitation shall also apply to the personal liability of our employees, workers, personnel, legal representatives or vicarious agents.

#### **12. Moulds (Tools)**

- 12.1 The price for moulds also includes the costs for one-off sampling, not however the costs for inspection and processing equipment or for any changes initiated by the orderer. Costs for further samplings for which we are responsible shall be borne by us.
- 12.2 Unless otherwise agreed, we are and remain the owner of the moulds, tools and other production equipment manufactured for the customer by us or by a third party commissioned by us. These are only used for orders from the customer as long as the customer meets his payment and acceptance obligations. We are only obliged to replace these moulds free of charge if they are necessary to fulfill an output quantity promised to the customer. Our obligation to store expires - regardless of the buyer's property rights - at the latest two years or longer after the last delivery of parts from the mould, tool and production device. We may destroy the moulds without prior notice.
- 12.3 If a contract is terminated but the moulds however have not yet been amortised, we are entitled to invoice the remaining amortisation amount immediately and to the full amount.
- 12.4 Should the orderer, in accordance with the agreement, become the owner of the moulds, ownership shall transfer to it after the purchase price for the moulds has been paid in full. The handover of the moulds to the orderer is compensated by the orderer's obligation in its favour to store and keep safe such moulds. Regardless of the orderer's legal right to recover possession of the moulds and their lifecycle, we are entitled to their exclusive possession until expiration of the contract. We must mark the moulds as third-party property and ensure them against standard risks on the request of the orderer and at its expense.
- 12.5 In the case of moulds owned by the orderer in accordance with Point 12.4 and/or of moulds loaned out by the orderer, our liability with regard to storage and maintenance is limited to the duty of care observed in our own affairs. The orderer shall bear the costs for maintenance and insurance. Our obligations shall lapse when after completion of the order and upon request the orderer does not collect the moulds within an appropriate period of time. If the orderer has not fulfilled its contractual obligations to the full extent, we have a right of retention to the moulds in any case.

#### **13. Materials Provided**

- 13.1 If materials are delivered by the orderer, it is obliged to deliver these ex supplier works with a 5-10% surcharge (depending on the agreement) for any potential rejects and punctually, in perfect condition and in such quantities that it is possible for us to make

uninterrupted deliveries.

- 13.2 Any additional costs that arise as a result of the materials not being delivered on time or in insufficient quantities shall be borne exclusively by the orderer. In such cases we reserve the right to interrupt the manufacturing process and to only resume it at a later point in time. The delivery terms that apply in accordance with Clause 4 shall be extended accordingly.

#### **14. Transfer of Rights and Obligations**

- 14.1 Subject to legal provisions regarding the permissibility of assignment prohibitions, the transfer of rights and obligations from the contract requires our consent in order for them to be effective.
- 14.2 In the case of deliveries to EU member states ("intra-community supplies of goods"), the orderer must cooperate immediately in an appropriate manner if asked to provide evidence of the intra-community supply of goods. We can in particular demand a signed confirmation of the intra-community supply of goods showing an issue date to arrive free-of-charge and on time and containing at least the following content: Name and address of the goods recipient, quantity and customary designation of the goods as well as the place and the month where / when the transportation or dispatch ended. It is permissible to send the confirmation by e-mail, in which case a signature is not required if it is clear that the electronic transfer began in the realm of authority of the customer or the agent. If the orderer does not fulfil this obligation to cooperate, it shall be liable for any resulting loss or damage, in particular for the VAT that we may incur.

#### **15. Applicable Law, Place of Jurisdiction, Partial Invalidity**

- 15.1 If one contractual partner stops its payments or if insolvency proceedings with regard to its assets or an extra-judicial settlement procedure are applied for, the other party is entitled to withdraw from the part of the contract that has not been fulfilled.
- 15.2 The laws of the Federal Republic of Germany, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG), shall apply to these general terms and conditions of sale and delivery and all legal relationships between ourselves and the orderer.
- 15.3 Our headquarters shall be the exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship of the parties. We are however entitled to sue the orderer at any other legal place of jurisdiction.
- 15.4 Unless otherwise specified on our order confirmation, our registered office shall be the place of fulfilment.
- 15.5 Should one provision in these general terms and conditions of sale and delivery and/or a provision within other agreements be or become ineffective, this shall not affect the effectiveness of all the other provisions and/or agreements. The ineffective provision shall be replaced by a provision that approximates it most closely in terms of its economic effect.

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