

General Terms and Conditions

Version: 08/2018

I. Applicability

For use in business dealings with entrepreneurs, legal entities under public law or special funds under public law within the meaning of § 310 (1) BGB (Civil Code)

II. Contracts

1. For all our deliveries and achievements - also for future achievements exclusively the following conditions apply, even if we do not expressly refer to it in the future. Other conditions, in particular purchase conditions of the customer are not part of the contract, even if we do not expressly contradict those purchasing conditions.
2. Our offers remain free without obligation. We are obligated only by our written order confirmation. Verbal collateral agreements do not exist. The purchaser is liable for the correctness and completeness of the documents and statements to be supplied by him.

III. Prices

1. Prices are ex works, excluding packaging and without VAT and apply - unless otherwise stated - in € (EURO)
2. We are entitled to carry out a price adjustment for goods that have not been delivered, provided that a change in key cost factors, in particular for wages, materials, energy and alloy surcharges, occurs.

IV. Delivery Times

1. Delivery times are only approximate. Delivery periods begin with the date of our order confirmation and are only valid provided that all details of the order are clarified in due time.
2. Our delivery obligation is subject to the correct and timely delivery by our suppliers, unless the delayed delivery to us is our fault. We will inform the client immediately about the unavailability of the delivery item and, in the case of withdrawal, will immediately reimburse purchaser for the corresponding consideration (e.g. down payment)
3. If the purchaser does not fulfil obligations to cooperate, or if we are prevented from delivering due to unforeseen or extraordinary disruptions in the operation or shipment to us or our suppliers and forwarders or transport companies or industrial disputes, the delivery time is extended appropriately. The same applies to corresponding impediments of the purchaser regarding his acceptance obligation.
4. For the observance of delivery periods and dates, the time of dispatch from the factory is decisive. They shall be deemed to have been complied with the notification of readiness for shipment, if the goods were not sent in due time without our fault.

V. Partial Deliveries

1. Partial deliveries of the total order quantity are permissible insofar as they are reasonable for the purchaser.

VI. Acceptance

1. If an acceptance has been agreed, it can only be carried out in our plant immediately after notification of readiness for acceptance.
2. If acceptance is not carried out without our fault, not in time or not completely, we are entitled to ship the delivery item without acceptance or to store it at the expense and risk of the customer and to charge for this costs.
3. The costs for the acceptance are borne by the purchaser.
4. If no complaints are made upon acceptance, or if the purchaser fails to accept the goods, the goods shall be deemed to have been delivered in accordance with the contract upon leaving the delivery plant, provided that the defects were ascertainable according the method of acceptance.

VII. Passing of Risk

1. Place of performance is Ludwigsstadt. If we send goods to another place than the place of performance at the request of the purchaser, the risk shall pass to the purchaser as soon we have delivered the item to the forwarder, the carrier or a person or institution responsible for carrying out the shipment.
2. In the absence of a separate agreement, we will choose the means of transport and the transport route.
3. The client shall bear the cost of the shipment from the location of the supplier (EXW) for a lack of other agreement.

VIII. Dimensions, Weight, Delivery quantities

1. Dimensions and weights in our offers and order confirmations are approximate. Deviations are allowed according to DIN or if this is the accepted exercise. Other deviations require a special agreement. The permitted tolerances are specified in the standard sheets DIN ISO 14 315, DIN ISO 9044 and DIN ISO 3310 depending on the application and are deemed agreed.
2. Compared to the order quantity, even partial deliveries may result in a production-related excess or shortage delivery **up to 10%**, taking into account commercial practices.

IX. Warranties

1. Warranty rights of the purchaser presuppose that the purchaser has duly fulfilled his duties of examination and notification of defects according to § 377 HGB. (commercial code)

2. Claims for defects expire 12 months after delivery of the goods delivered by us to the purchaser. For damages in case of intent and gross negligence as well as injury to life, body and health, which are based on an intentional or negligent breach of duty of the user, the statutory period of limitation is valid.
3. If, despite all due care, the delivered goods have a defect that was already present at the time of risk passing, we will repair the goods, subject to timely notice of defects at our option or deliver replacement goods. We always have the opportunity to provide supplementary performance within a reasonable period of time. Claims for recourse remain unaffected by the above regulations.
4. If the supplementary performance fails, the purchaser may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration.
5. Claims for defects do not exist with insignificant deviation from the agreed condition, with insignificant impairment of usability, with natural wear or tear as with damages occurring after the passing of risk as a result of faulty or negligent treatment, excessive stress, unsuitable equipment or due to special external influences (e.g. tarnishing of non-ferrous metals), which are not required by the contract. If repairs or changes are made improperly by the purchaser or third parties, no claims for defects will appear.
6. Claims of the customer due to expenses required for the purpose of supplementary performance, in particular transport, travel, labour and material costs, are excluded - if the expenses increase because the goods delivered by us subsequently to another location than the purchasers usually has been shipped, unless the shipment complies with its intended use.
7. Rights of recourse by purchaser against us exist only to the extent, that the purchaser has not made any agreements with his purchaser beyond the legally binding claims for defects. Passage 6 shall apply - mutatis mutandis - to the extent of the purchaser's right of recourse against the supplier.

X. Advice, Information

1. Information as well as oral and written advice are always given as a matter of convenience and to the best of our knowledge. Liability for this is excluded.

XI. Liability

1. Notwithstanding anything to the contrary in these conditions, our liability towards our sales partner for production downtime, loss of profit, loss of use, loss of contract or any other consequential or indirect damage is excluded.
2. This limitation of liability does not apply in the case of intent or gross negligence or culpable injury to life, limb or health. It also does not apply in the case of culpable violation of essential contractual obligations. In the case of a slightly negligent breach of essential contractual obligations, however, we are liable only for the contractually typical, reasonably foreseeable damage.

3. The limitation of liability also does not apply in those cases in which, under the Product Liability Act, the liability for personal injury or property damage to privately used objects is assumed. It also does not apply to damage caused by fraudulent misrepresentation or under special guarantee commitments. The rules on the burden of proof remain unaffected.
4. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, legal representatives and vicarious agents.
5. Commercial customers assume the obligation to properly dispose of the delivered goods after the end of use at their own expense in accordance with the statutory provisions. The customer exempts the supplier from the obligations according to § 10 Abs. 2 ElektroG (obligation for removal) and related claims of third parties.

XII. Infringement Rights of Third Parties

1. If deliveries are made according to drawings or other information provided by the customer, and if rights of third parties, in particular industrial property rights, are violated, the customer indemnifies us against these claims on first request.

XIII. Retention of Title

1. We reserve the ownership of the delivered goods until fulfilment of all purchaser obligations arising from the business relationship with us.
2. The purchaser is entitled to sell these goods in the ordinary course of business as long as he fulfils his obligations arising from the business relationship with us in good time. However, he may neither pledge nor surrender the reserved goods as security. He is obliged to secure our rights in the case of the credited resale of the delivered goods under reserve.
3. In the event of breaches of duty by the partner, in particular default in payment, we shall be entitled to withdraw from the contract and to take back the goods after unsuccessful expiry of a reasonable deadline set for the purchaser; the legal provisions on the dispensability of setting a deadline remain unaffected. The purchaser is obliged for withdrawal of goods. We are entitled to withdraw from the contract, if an insolvency proceeding is opened against the assets of the purchaser.
4. All claims and rights arising from the sale or any rental of goods to which we are entitled to property rights are assigned to us by the purchaser for security reasons. We accept the assignment. Further processing of the delivered goods is usually undertaken by the purchaser. If the goods - subject to retention of title - are processed or inseparably mixed with other objects not belonging to us, we shall acquire co-ownership of the new object in proportion of the invoice value of the reserved goods to the other processed or mixed objects at the moment of mixture.
5. If our goods are combined with other movable objects into a unitary item or are inseparably mixed and the other item is to be regarded as the main item, then the purchaser assigns proportional co-ownership to us, as far as the main item belongs to him. The partner holds the property or co-ownership for us. Incidentally, the same applies to the thing resulting from processing or combination or mixing as for the reserved goods. (passage 4)

6. The purchaser has to inform us immediately about the execution proceedings of third party, enforcement measures according the goods subject to retention of title, or any other securities claims, handing over the documents necessary for an intervention. This also applies to impairments of any other kind.
7. If the value of the existing securities exceeds the secured claims by more than 20 percent, we shall be obliged to release securities of our choice at the request of the purchaser.

XIV. Models, Tools, Other Molding Equipment

1. Even with compensation of cost shares for tools, dies, molds, etc. through the purchaser these remain our property. In case of non-utilization, the purchaser has to remunerate the remaining part of the uncovered costs.

XV. Payment Terms

1. Payment must be made within 30 days of delivery and invoicing - without deduction.
2. The customer is not entitled to withhold or offset payments for any counterclaims including warranty claims, as far as these counterclaims are not recognized or legally established.
3. If the payment date is exceeded, the purchaser must pay interest at a rate of 8% (percent) above the base rate of the ECB, (European Central Bank) even without a reminder.
4. In the event of non-compliance with the terms of payment or circumstances which may diminish the creditworthiness of the purchaser, we may call in all our claims without regard immediately.

XVI. Cancellation

1. We reserve the right to withdraw from the contract, provided that there is a factually justified reason. A factually justified reason exists in particular if:
 - there is a breach of contract by the purchaser;
 - the purchaser has made false information about his creditworthiness;
 - the missing creditworthiness of the purchaser objectively exists;
 - an impediment to performance appears, such as non-delivery by our suppliers;
 - there is a case of force majeure, such as severe weather, fire, etc.

XVII. Place of Performance, Jurisdiction, Applicable law

1. Place of performance for payment obligations for the purchaser is Ludwigsstadt / Bavaria / Germany.
2. Jurisdiction is Kronach / Bavaria / Germany also for lawsuits concerning Bill of exchanges and cheque processes. We are also entitled to sue the purchaser at his general place of jurisdiction.

3. For all legal relationships between the customer and us, the law of the Federal Republic of Germany shall apply exclusively, excluding the Uniform Law on the Conclusion of International Purchase Agreements for Goods.

XVIII. Severability

1. The legal ineffectiveness of individual provisions of these conditions and the other contractual conditions does not affect the validity of the remaining conditions
2. If any provision of these terms and conditions be or become invalid, the legal validity of the remaining provisions shall remain unaffected. In place of the invalid provision, an effective provision shall be deemed to have been agreed, which comes as close as possible to the economic intention.