

**Section 1 Scope**

These General Terms of Delivery and Payment shall apply with respect to entrepreneurs, legal persons or special funds under public law (hereinafter "Partner"). Our goods and services shall be rendered solely subject to the conditions below. Solely our Terms of Delivery and Payment shall apply. Additional or for us unfavourable conditions of the Partner shall not become a binding part of any contract even if we do not separately object to or reject the same.

**Section 2 General terms**

The contractual partners shall confirm oral agreements without undue delay in writing or in electronic form. The electronic form shall also suffice, if the Partner demands a declaration in written form, except for declarations of termination or if mandatory statutory provisions stipulate written form. If we do not respond within a deadline set by the Partner for rendering a declaration of our intent, our silence shall not be deemed as either acceptance or rejection. However, our carrying out an order shall create a contract with the Partner on the conditions we offered. The information and illustrations contained in prospectuses, catalogues, technical documentation (e.g. drawings, plans, calculations, costings), other product descriptions or documents are industry standard approximations and always non-binding, unless we expressly describe the same as binding. Changes to agreed terms and conditions shall require the prior consent of the other contractual partner and have to take possible risk and cost shifts into consideration. Granting rights in favour of third parties or other forms of inclusion of third parties in contractual relationships shall require the prior consent of the other contractual partner, also where intra-group ties between one of the contractual partners and the third party arise, exist or change.

**Section 3 Long-term agreements, binding delivery schedule, price adjustment**

Open-ended contracts can be terminated with six months' notice. If a significant change in wage, material or other costs arises in long-term agreements (contracts with a term of more than twelve months and open-ended contracts), then both contractual partners shall be entitled to demand a reasonable adjustment of the price in the light of the aforementioned factors. If an agreed quantity is exceeded or fallen short of by  $\pm 25\%$ , the Partners shall adjust the unit price accordingly. In case of long-term agreements, unless otherwise agreed, binding delivery schedules (time and quantities) are to be submitted at least three months before the delivery date. Otherwise Partner's delivery forecast is deemed to be binding for a period of three months before the delivery date. Changes to this binding delivery schedule are to be discussed with our logistics and clarified for each specific case. Possible additional costs caused by our Partner through belated call-down or changes at short notice concerning time or quantity shall be at its expense; our cost calculation is decisive. In addition, the following periods shall apply as take-or-pay guarantee:

- three months for finished parts,
- six months for raw material.

Deviating provisions can be agreed in individual cases.

**Section 4 Confidentiality**

Unless agreed otherwise, each contractual partner shall use all documents (these also include samples, models, means of production and data) and knowledge which it receives from or in connection with the business relationship only in conjunction with the rendering of the performance or goods by us and keep the same confidential with the same care as corresponding own documents and knowledge with respect to third parties. This obligation shall not apply for records and information generally known or already known when received by the receiving contractual partner without that contractual partner being bound by confidentiality obligations or received thereafter from a third party entitled to pass the same on or developed by the receiving contractual partner without recourse to the confidential records or information of the disclosing contractual partner. Each contractual partner shall be entitled to take all necessary measures to protect its confidential documents and knowledge (including admission, access and audit restrictions).

**Section 5 Drawings and descriptions**

If a contractual partner provides the other contractual partner with drawings or technical documents about the goods to be supplied or their production, these shall remain the property of the providing contractual partner and are also to be treated as confidential as per Section 4. A right of use shall be granted only for the duration of the contractual relationship and for the contractual purpose.

**Section 6 Samples and means of production**

The manufacturing costs for samples and means of production (tools, moulds, templates etc.) shall be invoiced separately to the goods to be supplied, unless agreed otherwise. In the case of multi-part tools, means of production shall mean the tool components directly in contact with the workpiece. We shall bear the costs for maintenance and proper storage and also the risk of damage or destruction of the means of production. If the Partner suspends or ends the business relationship during the production period of the samples or means of production, it shall bear all the production costs arising up to that point in time. The means of production shall remain in our possession at least until completion of the supply contract, even if the Partner has paid for them. Thereafter, the Partner shall be entitled to demand transfer of the means of production, if an amicable agreement was reached on the date of transfer and the Partner has entirely complied with its contractual obligations. We shall store the means of production free of charge for three years after the last delivery to our Partner. Thereafter, we shall ask our Partner in text form to communicate its intended further use of the same within six weeks. Our storage duty shall end, if there is no response or new order within those six weeks. We may use means of production for supplying third parties only with our Partner's prior consent.

**Section 7 Prices**

Our prices are quoted in euros net of value added tax (VAT), packaging, freight, postage and insurance, unless agreed otherwise. In so far as we have taken on obligations to change or adjust the supplied parts or the manufacturing process in a qualitative, technical or pricing aspect, this shall constitute a pure after-sales service for which we expect amortisation of those services through the supply transaction or other reasonable remuneration. We are only required to pass on cost savings achieved through our efforts or joint efforts with the contractual partner, if this is agreed expressly. In that case, cost savings shall be credited to price reductions agreed in advance until those are covered in full. Further cost savings shall be credited to the supply prices under consideration of the contribution of the Partner to the cost saving. The Partner shall have the right to inspect our documents and data merely to the extent to which those documents and data directly relate to the cost savings and are not trade or business secrets.

**Section 8 Terms of payment**

All invoices are due and payable within 30 days net from the invoice date, unless agreed otherwise.

If we have undisputedly supplied partially defective goods, our Partner is nonetheless obliged to render payment for the defect-free part of the delivery unless that partial delivery is of no interest for it. Otherwise, the Partner can only offset counterclaims that have been ruled legally final and binding or are not contested. If payment deadlines are missed, we shall be entitled to invoice default interest at the rate which the bank charges us for overdrafts but at least nine percentage points above the pertinent base rate of the European Central Bank.

In the event of payment default, after written notification to the Partner we can suspend performance of our obligations until receipt of the payments.

Bills of exchange and cheques shall only be accepted by agreement and also only on account of performance and subject to the proviso of their eligibility for discount. Discount expenses shall be charged from the date of maturity on. Warranty for timely presentation of the bill of exchange and cheque and for submitting bill protests is hereby excluded.

If it becomes apparent after the contract is concluded that our payment claim is endangered by a lack of solvency on the part of the Partner, we can refuse performance and set the Partner a reasonable deadline until which it has to pay simultaneously with delivery or has to furnish security. If the Partner refuses or the deadline expires fruitlessly, we shall be entitled to rescind the contract and demand damages.

## **Section 9 Delivery**

Unless agreed otherwise, we shall supply "free carrier" (FCA, ICC Incoterms 2020). Decisive for meeting the delivery date or the delivery period is our notification of readiness for dispatch or collection.

The delivery period shall commence with the dispatch of our order confirmation and shall be prolonged reasonably, if the preconditions in Section 11 have been met. Partial deliveries are permissible to a reasonable extent. They shall be invoiced separately.

The inspection obligations pursuant to Section 377 German Commercial Code shall apply with the proviso that the Partner is especially obliged to look for rust.

## **Section 10 Dispatch and transfer of risk**

Goods declared ready for dispatch are to be taken over by the Partner without undue delay. Otherwise, we shall be entitled at our discretion to ship them or store them at the Partner's expense and risk. Where there is no specific agreement, we shall select the means of transport and route. The risk shall pass to the Partner upon handover to the railway company, forwarding agent or carrier company or with the start of storage, however upon leaving our plant or warehouse at the latest, even if we have taken on delivery.

Unless otherwise agreed we shall determine the nature and scope of the freight and shipping documents or other certificates (e.g. certificate of origin) at our reasonable discretion.

## **Section 11 Delayed delivery**

If we foresee that the goods cannot be delivered within the delivery period, we shall inform the Partner in writing without undue delay, stating the reasons and, if possible, the expected delivery date.

If delivery is delayed by a circumstance stated in Section 16 or an act or omission of the Partner, a prolongation of the delivery period shall be granted that is reasonable given the circumstances.

The Partner is only entitled to rescind the contract if we are repeatedly responsible for failing to meet the delivery date and it has set us a reasonable grace period to no avail.

## **Section 12 Reservation of title**

We reserve title to the supplied goods until full completion of all our receivables under the business relationship with the Partner.

The Partner shall be entitled to sell those goods during the normal course of business as long as it meets its obligations under the business relationship with us in good time. It may not, however, pledge or assign the reserved goods as collateral. It is obliged to secure our rights upon the reserved goods being sold on credit terms.

If the Partner breaches its duties, in particular upon payment default, we shall be entitled to rescind the contract and take back the goods after fruitless expiry of a reasonable grace period set for the Partner's performance; the statutory provisions on the dispensability of setting a grace period shall remain unaffected. The Partner is obliged to hand over the goods in question.

We are entitled to rescind the contract if an application for opening of insolvency proceedings for the Partner's assets is filed.

The Partner here and now assigns all receivables and rights under the sale of goods to which we hold rights of title as security. We hereby accept the assignment.

Any handling or processing of the reserved goods is done on our behalf. If reserved goods are inseparably processed or mixed with other items not owned by us, we shall acquire co-ownership of the new item in the ratio of the invoice value of the reserved goods to the other mixed items at the time they were so processed or mixed.

If our goods are combined or inseparably mixed with other moveable items to form one unified item and the other item is to be regarded as the main item, the Partner shall transfer to us pro rata co-ownership, in so far as the main item belongs to it. The Partner shall hold the title or co-ownership for us. Apart from that, the same provisions shall apply for the new item produced by processing, combination or mixing as for the items supplied under reservation of title.

The Partner shall notify us without undue delay about judicial foreclosure measures of third parties on the reserved goods, the receivables assigned to us or other collateral and furnish the documents necessary for intervention. This shall also apply for any impairments of another nature.

If the value of the collateral to which we are entitled exceeds the secured claims altogether by more than 20%, we undertake, at the request of the Partner, to release securities of our choice to the appropriate amount.

## **Section 13 Material defects and warranty**

The condition of the goods shall be governed solely by the technical agreements (drawings, specifications, samples, etc.). We do not doublecheck these provisions set out by the Partner, thus the Partner is responsible for the suitability of the goods for the envisaged purpose and also for the conformity of the goods with legal requirements. We shall not examine the Partner's specifications in that respect. In so far as by way of exception we drew up the drawing/specification of the goods completely or partially, the drawing/specification shall be deemed accepted with the master sample approval.

Decisive for the contractually compliant state of the goods is the time when risk passes pursuant to Section 10.

We shall not be liable for material defects arising from unsuitable or improper use, defective assembly or commissioning by the Partner or third parties, normal wear and tear, false dimensioning, defective or careless handling, or for the consequences of changes or repair measures carried out by the Partner or third parties improperly or without our approval. The same shall apply for defects which reduce the value or the suitability of the goods only insignificantly.

The time bar for material defect claims – including possible recourse claims pursuant to Section 445a and 445 b Civil Code - shall be governed by the law, unless agreed otherwise.

If acceptance of the goods or a master sample inspection was agreed, complaints are excluded for those defects which the Partner would have been able to identify upon careful acceptance or master sample inspection.

We are to be given an opportunity to verify the alleged defect. Rejected goods are to be returned to us upon request without undue delay; we shall bear the transport costs, if the complaint was justified. If the Partner does not meet those obligations or carries out changes to the already rejected goods without our

consent, it shall lose any material defect claims it may have.

Upon justified, timely complaint, we shall rectify the rejected goods or provide a replacement at our choice.

If we do not meet those obligations at all or as contractually owed within a reasonable time, the Partner can set us a final deadline in writing, within which we must meet our obligations. After fruitless expiry of that deadline, the Partner can demand a reduction of the price, rescind the contract or carry out the necessary rectification itself or through a third party at our expense and risk. Any self-performance must always be coordinated with us in advance. This shall also apply in urgent cases.

Reimbursement of costs is excluded, in so far as the expenses are higher, because the goods were moved to a different location after our delivery, unless this corresponds to the intended use of the goods.

Separate agreements shall be concluded with us on the calculation and apportionment of the Partner's expenses due to material defects, which have to reflect the Partner's actual share of the costs and the reasonableness of the expenses and also enable us to review the reimbursement being claimed by the Partner.

#### **Section 14 Intellectual property rights**

We warrant that contractually compliant use of our consignments shall not breach any third-party rights in the country of delivery.

Partner is not entitled to conclude any agreements whatsoever with the third party, such as a settlement, without our prior consent.

We shall have the aforementioned claims pursuant to Section 14 against the Partner in so far as we produced the supplied goods as per drawings, models or other stipulations (incl. specifications) and were not aware that this would infringe intellectual property rights of third parties.

All claims under this Section 14 shall be time barred in 2 years from the transfer of risk.

#### **Section 15 Other claims, liability**

Unless provided otherwise by the following, all other and further claims of the Partner against us are hereby excluded. This shall apply in particular for claims for damages for breach of duties under contractual obligation and tort. Therefore, we shall particularly not be liable for damage not arising from the supplied goods themselves. Above all, we shall not be liable for loss of profit or other financial losses of the Partner. The aforementioned exclusions and restrictions of liability shall not apply in case of intention, gross negligence of our statutory representatives or senior executives, or for culpable breach of cardinal contractual obligations (duties whose fulfilment renders the proper execution of the agreement possible in the first place and on whose compliance the contractual partner may and does regularly and generally rely). In the case of culpable breach of cardinal contractual obligations, we shall be liable however - apart from cases of intention or gross negligence by our statutory representatives or senior executives - only for typical losses that are reasonably foreseeable under such agreements.

The above exclusions and restrictions of liability shall also not apply in those cases in which the German Product Liability Act stipulates liability for injury or damage to privately used items in the event of defects in the supplied goods. Nor shall they apply for fatalities, personal injury or impairment of health and the absence of warranted characteristics, if and in so far as the warranty was intended to protect the Partner against damage that did not arise from the supplied goods themselves or with regard to other mandatory provisions constituting liability by law.

In so far as our liability is excluded or restricted, this shall also apply for the personal liability of our employees, co-workers, legal representatives and agents.

The statutory provisions regarding the burden of proof shall remain unaffected.

#### **Section 16 Force majeure**

Force majeure, labour disputes, civil unrest, public authority actions, non-arrival of deliveries from our suppliers and other unforeseeable, unavoidable and serious events shall release the contractual partners from their performance obligations for the duration of the interruption and to the extent of its effects. This shall also apply, if those events arose at a point in time when the affected contractual partner is in default, unless it caused the default intentionally or through gross negligence. The contractual partners undertake to the extent that may reasonably be expected to provide the required information without undue delay and to adapt their obligations to the changed circumstances in good faith.

#### **Section 17 Place of fulfilment, legal forum, governing law**

Unless otherwise stated on the order confirmation, our registered offices shall be the place of fulfilment. The place of our registered offices shall be the exclusive legal forum for all legal disputes, also those arising from bill of exchange and cheque proceedings. Our right to sue before the court of law with jurisdiction over the Partner's registered offices shall remain unaffected.

The contractual relationship shall be governed solely by the law of the Federal Republic of Germany.

The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG - Vienna Sale of Goods Convention) of 11 April 1980 and the conflict of laws regime are hereby excluded.