

**1. Scope**

- 1.1** The present General Terms and Conditions shall apply only with respect to entrepreneurs within the meaning of § 14 of the German Civil Code (BGB), they shall not apply to consumers.
- 1.2** All deliveries and services effected by us shall be governed by these General Terms and Conditions exclusively. We do not acknowledge any terms to the contrary or any deviating terms used by the customer, unless such have been expressly approved by us. Even if we refer to written communication containing or making reference to deviating terms of the customer or a third party such shall not constitute any agreement to the validity of these terms and conditions.
- 1.3** Our General Terms and Conditions shall also apply to future business, even if in specific cases we make no reference to the same.

**2. Quotation, Documentation and Conclusion of Contract / Amendments**

- 2.1** Our quotations are without obligation and are not binding unless they have been expressly declared as binding. We can accept orders or commissions within fourteen days of their receipt.
- 2.2** When placing the order the customer must provide us with all documentation necessary for the execution of the order, including but not limited to technical drawings, test instructions, raw material analyses etc., and must in particular notify us of the tolerances and standards which have to be observed. The customer shall be liable for ensuring that all the documentation and information are correct. We shall not be liable for any defects resulting from errors in this documentation or information.
- 2.3** Each order shall be governed by our written acknowledgement of order. If the customer has any objections as to the contents of the acknowledgement of order, he must oppose such acknowledgement of order without delay. Otherwise the contract shall take effect in accordance with the acknowledgement of order. If the drawings deviate in content, the specifications in the acknowledgement of order shall be authoritative.
- 2.4** We reserve the right to modify deliveries or services after conclusion of the contract as follows, provided such can be expected of the customer:
  - a)** Product and/or process modifications in accordance with general advancement and improvement;

**b)** Minor, insignificant deviations in colour, form, design, brushed structure, dimensions, weight and quantities;

**c)** Optical as well as other deviations customary in the trade.

**2.5** If the scope of our services needs to be modified due to missing or incorrect information from the customer we shall be entitled to effect such modifications; any costs or damage incurred thereby must be reimbursed to us by the customer.

**2.6** Any information provided by us relating to the subject matter of the delivery or service (e.g. weights, dimensions, values in use, capacity, tolerances and technical specifications) as well as any depictions thereof provided by us (e.g. drawings and images) shall only be deemed approximately authoritative unless the usability of such information for the contractually intended purpose requires precise conformity. These shall not constitute guaranteed characteristics but are descriptions or designations of the delivery or service. Deviations customary in the trade and deviations which are the result of legal provisions or which represent technical improvements as well as the replacement of components by equivalent parts shall be permissible insofar as they do not adversely affect the usability for the contractually intended purpose.

**2.7** We unrestrictedly reserve all title and author's exploitation rights to all and any drawings, cost estimates and other documents. Upon request, these documents must be returned to us without delay. There shall be no right of retention. Without our prior written consent, they shall not be disclosed to any third party.

### **3. Delivery and Passing of Risk**

**3.1** The delivery period shall result from the agreements concluded in accordance with the acknowledgement of order. Compliance with such period shall require that all and any commercial and technical issues have been clarified and the customer has fulfilled all of his obligations and, in particular, has submitted to us the documents specified in item 2.2 hereof. If such is not the case, the delivery period shall be reasonably extended. Such shall not apply if we are responsible for the delay.

**3.2** If delivery periods have not been agreed by contract, any information provided by us regarding delivery periods shall not be binding. If a calendar week is agreed as time of delivery we shall have the right to effect delivery and performance up until the Sunday of this calendar week.

**3.3** In the event of design changes, the prices and delivery periods must be agreed anew. Any costs incurred up to this time shall be due for payment immediately and must be reimbursed by our customer.

- 3.4** Whenever a delivery of goods is not effected and we are not at fault, any costs incurred by us must be reimbursed. Our customer shall be entitled to demand surrender of the delivery item that has been manufactured inclusive of ancillary services, unless the customer is responsible for non-delivery.
- 3.5** If our customer is in default of acceptance or otherwise culpably breaches duties of cooperation we shall have the right to claim compensation for the damage incurred by us in this respect, including any additional expenses which may have been incurred. Any further claims shall be reserved. If this requirement is met risk of accidental loss or accidental deterioration of the delivery item shall pass to the customer at the point in time the customer is in default of acceptance or payment.
- 3.5** If non-compliance with delivery periods is caused by acts of Force Majeure, labour disputes or other circumstances beyond our control, the time period for delivery shall be adequately extended. Such shall also apply if our own supplier does not supply us in a timely manner on the assumption that we have concluded a matching cover transaction. We will inform the customer immediately of any delays and at the same time communicate the estimated new delivery date.
- 3.6** The delivery period shall be deemed met if the delivery item has left our works by the time the delivery period expires or if readiness for dispatch has been notified. If shipment and/or acceptance of the delivery item is delayed for reasons for which the customer is responsible we will charge the costs incurred by such delay commencing one month after readiness for dispatch and/or acceptance has been notified.
- 3.7** Dispatch and transportation of the goods shall be at the risk and expense of the customer. The risk shall pass to the customer as soon as the goods leave our premises.
- 3.8** We shall be entitled to effect partial deliveries insofar as this is acceptable for the customer.
- 3.9** If delivery is delayed for reasons for which we are responsible, we shall be liable, in cases of gross negligence, for the damage suffered by the customer on account of the delay. In the event of slight negligence our liability for damage suffered on account of delay shall be excluded.
- 4.** Assembly and Start-up
- 4.1** We shall only perform assembly or installation of the delivery item if such has been separately agreed.

- 4.2** Time and location of start-up as well as payment of the same shall be agreed separately.
5. Provision of Goods / Incoming Goods Inspection
- 5.1** The customer must deliver the goods in such a way as to ensure that article name, quantity and weight are clearly visible and unambiguous identification is possible.
- 5.2** Upon receipt, we shall only inspect the goods of the customer for external damage of packaging, boxes and the goods themselves. We will inform the customer of any defects which may have been detected within 10 working days.
- 5.3** If damage occurs to the material provided by the customer during the manufacturing process as the result of a breach of the obligations stipulated in item 5.1 or 5.2 hereof we shall not be liable for this. If any damage or loss is incurred by us on account of this the customer shall be obliged to provide compensation thereof.
6. Prices / Offsetting and Retention
- 6.1** Each order shall be subject to the prices quoted in the acknowledgement of order. Our prices shall be ex works and shall be exclusive of freight, postage, insurance, customs duty, other expenses and the statutory value-added-tax.
- 6.2** If, after the conclusion of the contract and until the execution of the order, any cost increases arise which were unforeseeable for us, e.g. on account of an increase in wage or material costs, we shall have the right to adjust the prices, taking into consideration the altered circumstances.
- 6.3** If additional expenses are incurred by us during the execution of the order for provision of performance which were not known to us at the conclusion of the contract we shall be entitled to charge such costs to the customer. Such shall apply in particular if the goods provided by the customer do not comply with the documentation sent by the customer upon the conclusion of the contract.
- 6.4** If changes need to be made after sampling we shall inform the customer thereof after sample processing. A change in price resulting therefrom will be notified to the customer before the next production.
- 6.5** Discounts may not be deducted from new invoices unless all and any invoices due have been paid in full.
- 6.6** As of the due date and without any reminder, invoice amounts shall bear interest at a rate of 9 per cent above the current base interest rate. The same shall apply to open instalments if payment is being effected by instalment.

**6.7** As long as invoices that are due for payment have not been paid by the customer we shall be entitled to assert a right of retention relating to the processing of new orders owed by us.

**6.8** If there are facts on hand indicating a significant deterioration of the economic circumstances of the customer we shall have the right to demand immediate payment of all receivables. Furthermore, in such case we shall be entitled to demand advance payment or provision of the respective security. If such is not complied with despite the fact that we have set a deadline we shall have the right to withdraw from the contract.

**6.9** The customer may only offset our claims for payment with counterclaims that are undisputed or recognised by declaratory judgement. The customer may only assert a right of retention if such is based on the same contractual relationship.

## **7. Sampling / Approval**

**7.1** Unless otherwise agreed, sampling shall be carried out before series processing of parts. For this, the customer must provide us with the necessary parts. After sampling we prepare an initial sample test report.

**7.2** Upon delivery of the initial samples and the initial sample test report the customer must review them and, if no defects are found, declare his approval within a reasonable period of time. Approval may also be given by the customer placing an order for serial processing of parts after receipt of the initial sample test report. The order placement shall then be deemed the declaration of approval.

## **8. Duty of Information of the Customer**

**8.1** If the respective specifications are not provided in the documentation indicated under item 2.2 hereof the customer must provide us with all necessary information required for a proper processing of the parts at the time of delivery of the parts to be processed at the latest. Such shall include in particular detailed information on the handling of the parts.

**8.2** The customer undertakes to inform us if usage of the parts to be processed is associated with specific risks. Such applies in particular to use of the parts in security-relevant areas, such as automotive, medical engineering and aerospace.

## 9. Material Defects

- 9.1** The customer is under the obligation to inspect goods that are delivered to him without delay and to notify us of any apparent defects immediately. Any hidden defects must be communicated by the customer as soon as they are detected. If the customer breaches the obligation to inspect the goods without delay and to notify defects immediately our delivery and service shall be deemed accepted.
- 9.2** If defects are identified by the customer the customer undertakes to provide us with samples containing the asserted defects within 10 days for analysis. If notification of defects asserted by the customer proves to be unjustified the customer must, upon request, reimburse us for the costs incurred for the analysis.
- 9.3** In the event of a defect for which we are responsible we shall be entitled to carry out subsequent performance by remedying the defect. For this, the customer must grant us an appropriate period of time. If it is not possible to remedy the defect for technical reasons, if we refuse to do so, if the remedy has failed or cannot be expected of the customer, the customer shall be entitled to assert further statutory rights. If the customer remedies the defect himself without the described requirements for this being met the customer may only assert claims against us if we have expressly agreed to this.
- 9.4** Claims for defects by the customer do not apply if the customer or a third party has inappropriately influenced our performance or has used the parts despite being aware of the defect. In such cases, liability on our part may only come into consideration if the customer substantiates that the defects were not caused, either in part or in their entirety, by the aforesaid actions.
- 9.5** The customer may not assert claims for defects in particular in case of inappropriate or improper use, incorrect assembly or start-up by our customer or by a third party, subsequent wear-and-tear, faulty or careless handling, improper maintenance, inappropriate equipment, inferior construction work, inappropriate foundation, chemical or electrical influences – unless we are responsible therefor.

Wear-and-tear parts shall be excluded from warranty.

## 10. Damages

- 10.1** In the event of intent and gross negligence we shall be liable for damages, irrespective of the legal reason upon which these are based. In the event of slight negligence we shall only be liable in the following cases:
- a)** for damage resulting from the injury to life, limb or health of a person;

**b)** for damage resulting from the breach of fundamental contractual obligations which go to the root of the contract (obligations, the performance of which are essential for the proper execution of the contract and the observance of which the customer regularly relies and may rely upon); in such case, however, our liability shall be limited to the compensation of the foreseeable damage that typically occurs.

**10.2** The present limitations of liability shall not apply if we have fraudulently concealed a defect, have furnished a guarantee for the quality of the goods as well as for liability under the German Product Liability Act.

**10.3** Any fault on the part of our legal representatives and auxiliary agents shall be apportioned to us.

**10.4** The legal provisions on burden of proof shall be unaffected by the aforesaid provisions.

**10.5** In the event of damage to the provided goods for which we are responsible we shall reimburse the customer for the costs incurred by the customer in the production of this material. The prevailing market production costs will be paid in compensation. Any production costs over and above this must be substantiated by the customer. Furthermore, our liability shall be limited to the amount agreed with the customer as payment for execution of the order, whereby precious metal shall be excluded.

**10.6** Insofar as we provide technical information or act as a consultant and such information or advice is not part of the contractually agreed scope of services owed by us such information or advice shall be free of charge and with the exclusion of any liability.

## 11. Statute of Limitations

**11.1** Unless otherwise provided in the following, the general period of limitation for claims of the customer due to material or legal defects shall be one year from delivery. Such limitation period shall also apply to the contractual and extra-contractual claims for damages of the customer which are based on a defect in the goods.

**11.2** The statutory periods of limitation shall apply:

- a)** for damage claims resulting from the injury to life, limb or health;
- b)** for liability under the German Product Liability Act;
- c)** if we have fraudulently concealed a defect;
- d)** if we have furnished a guarantee;

- e) if it refers to a building or an object that, in conformity with its customary manner of utilization, has been used for a building and has caused its defectiveness;
- f) for recourse claims against the supplier in the event of end delivery to a consumer (§ 479 German Civil Code).

## 12. Title / Retention of Title / Lien

- 12.1** We retain title to the item delivered until each and every claim we have against the customer based on the supply contract has been paid in full. Such shall also apply to all and any future deliveries even if we do not refer to this specifically in each individual case. We shall be entitled to take back the item if our customer acts in breach of contract.
- 12.2** As long as title has not passed to the customer, our customer undertakes to handle the item with due care. The customer is in particular under the obligation to adequately insure the delivery item, at the customer's own expense, at its replacement value against theft and fire and water damage. If maintenance and inspection work has to be carried out, our customer must perform such operations at his own expense in a timely manner. As long as title has not passed our customer must inform us in writing without delay if the delivery item is seized or is subjected to other third-party intervention. If and to the extent that such third party is not in a position to reimburse us for the judicial and extra-judicial costs of an action in accordance with Section 771 of the German Code of Civil Procedure (ZPO) our customer shall be liable for the loss incurred by us.
- 12.3** If precious metals, auxiliary materials or other items owned by us are processed, combined or mixed with the parts owned by the customer and provided to us for processing, we shall acquire co-ownership or sole ownership in accordance with Section 947 of the German Civil Code of the new product in proportion to the value of our performance and the value of the parts of the customer at the time of such processing, combining or mixing.
- 12.4** If processing, combining or mixing is done in such a way that the part allocated to the customer is to be considered as the main thing, it is agreed that the customer shall assign to us co-ownership thereof on a pro rata basis.
- 12.5** Insofar as we acquire ownership of an item as stipulated under Sections 947 or 950 of the German Civil Code we shall retain title to such item until all and any existing claims arising out of previous contracts with the customer have been paid in full.
- 12.6** Subject to admissible revocation for good cause, the customer shall be entitled to resell the item to which we retain title within the scope of his ordinary course of business. In the event of resale, as early as with the present the customer shall assign to us all and any claims from such resale, in particular claims for payment,

but also other claims relating to the sale, up to the total amount of our invoice (including value-added-tax).

**12.7** If the delivery item is combined, mixed or blended with other movable products of the customer in such a way that the product of the customer is to be considered as the main thing, as early as with the present the customer shall assign to us co-ownership of the overall product in proportion to the value of the delivery item and the value of the other combined, mixed or blended products. The customer shall keep the property in safe storage for us free of charge. If the delivery item is combined, mixed or blended with movable products belonging to a third party in such a way that the product of the third party is to be considered as the main thing, as early as with the present the customer shall assign to us his claim for remuneration against such third party, i.e. the amount proportionate to the invoice final amount of the delivery item.

**12.8** We shall have right of lien to all products which have come in our possession on account of the contract relating to all claims we have against the customer. The lien may also be asserted for claims arising out of previous deliveries or services insofar as they are connected with the subject matter of performance. The lien shall apply to other claims arising out of the business relationship insofar as such claims are undisputed or recognised by declaratory judgement.

### 13. Prototypes / Samples

If our customer orders goods identified as "prototypes" or "samples" or if we deliver such goods we do not furnish any guarantees, warranties or assurances as to the fitness of such prototypes or samples for a particular purpose or as to their merchantability. It shall be the obligation and sole responsibility of our customer to test a prototype or sample before acceptance and/or incorporation into end-use applications. Furthermore, goods that are based on a prototype design or a sample design may deviate from the prototype or sample regarding production methods and materials. It shall therefore be the obligation and sole responsibility of our customer to test and accept goods that are based on prototypes or sample designs. We shall not be liable for any damage caused by a breach against this provision.

### 14. Confidentiality

Unless and to the extent that it can be substantiated that such information is in the public domain, all and any business or technical information disclosed to the customer by us shall be treated as confidential with respect to third parties and may only be disclosed by the customer to any third party with our written consent, whereby such third party must also be bound to secrecy. The customer may only use such information for himself in connection with the order and/or the subsequent use of the item in accordance with the order. Upon our request, all

and any information provided by us must be returned to us or be completely destroyed without delay. Information within the meaning of this agreement shall be all and any data, plans, programs, CAD designs, knowledge, experience and know-how, irrespective of how it is recorded, stored or transmitted and also irrespective of whether such information has – expressly or tacitly – been declared secret or confidential.

15. Place of Performance / Jurisdiction / Applicable Law

- 15.1 Unless otherwise agreed, place of performance for delivery, payment and all and any other obligations arising out of the contractual relationship shall be Pforzheim.
- 15.2 Place of jurisdiction for all and any legal disputes arising out of the contractual relationship, its creation and effectiveness shall for both parties be the seat of our company if the customer is a merchant or a public law corporation. At our option, we may also bring an action at the seat of the customer.
- 15.3 The contractual relationship shall be governed by German law. The UN Convention on the International Sale of Goods (CISG) shall not apply.
- 15.4 Should the contract or these General Terms and Conditions contain any regulatory gaps, such legally effective provisions shall be deemed agreed in order to fill the gaps as would have been agreed by us with our customer in accordance with the commercial objectives of the contract and the purpose of these General Terms and Conditions had we been aware of the regulatory gap.