

General Terms and Conditions of Business Transactions

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- 1. Area of applicability**
 - 1.1 These terms of sales shall apply to entrepreneurs. (juristic persons of public law and special assets of public law.)
 - 1.2 Supplies and services of the supplier shall be done exclusively on the basis of the following conditions.
 - 1.3 Such terms and conditions of business transactions of the customer as are not exclusively recognised by the supplier shall not be applicable.
- 2. General stipulations**
 - 2.1 The contract partners shall confirm oral agreements in writing immediately and on individual basis.
 - 2.2 Purchase orders shall be binding only with our order confirmation.
 - 2.3 Complementations, amendments and collaterals shall equally require the written confirmation of the supplier.
- 3. Long-term and call-forward agreements, price adjustment**
 - 3.1 Indefinite agreements shall be subject to termination by both parties with 6 months in lieu of notice.
 - 3.2 If an order volume has not been agreed in a binding manner, the supplier shall make such non-binding volume of purchase-order (target volume) as is expected for a specific period, the basis of its calculation.
 - 3.3 Should the customer purchase less than the target volume, the supplier shall have the right to increase the unit price adequately. Notification of additional needs in excess of the target volume shall be made by the customer at least 3 months ahead of the supply.
 - 3.4 In case of supply agreements on call-forward basis, the supplier shall be notified of binding volumes at least 3 months ahead of the supply-schedule by call-forward, if not otherwise agreed.
- 4. Prices**
 - 4.1 The prices of the supplier shall be ex-works in Euro excluding turnover value added tax, packaging, freight, postage and insurance.
 - 4.2 Should there be a major change in specific cost-related factors like particularly, the cost of energy, personnel, half-finished products or freight, the agreed price may be adjusted accordingly, by the supplier in an adequate proportion in accordance with the influence of the determinant cost-related factors.
- 5. Sample and production material**
 - 5.1 Sample and production material (tools, forms templates etc.) shall be produced only upon exclusive agreement and if not otherwise agreed, shall be separately invoiced in addition to the goods to be supplied.
 - 5.2 The production material shall remain the property of the supplier even when the cost of production has been completely or partially paid.
 - 5.3 The cost of maintenance and proper storage as well as the risk of damage or destruction of the production material shall be borne by the supplier.
 - 5.4 Should the customer suspend or terminate the working cooperation during the production period of the sample or production material, all production expenses incurred until that point in time shall be borne by it.
 - 5.5 The supplier shall store the production material free-of-charge for three years following the last supply to the customer. Thereafter, we call on the customer in writing, to comment on further usage within 6 weeks. The duty of storage on the part of the supplier ends if no comment is received within 6 weeks or if no new purchase order is made.
- 6. Terms of payment**
 - 6.1 If no individual terms of payment are agreed, all invoices shall be due for payment without deduction within 30 days of the date of the invoice.
 - 6.2 If the deadline is exceeded, the supplier shall have the right to charge default interest amounting to the rate which the bank charges it for credit in current account, however, not less than 8 percent points in excess of the respective base interest rate of the European Central Bank.
 - 6.3 In case of payment default, the supplier may discontinue the performance of its obligations following a written notification of the customer, until the receipt of payments.
 - 6.4 Bills of exchange and checks will be accepted only upon agreement as well as for the purpose of fulfillment and under the condition that they are discountable. Discount charges will be calculated as from the date of maturity of the invoice amount. There shall be no guarantee for the submission in good time, of the bill of exchange and check and for the raising of bill protest.
 - 6.5 Should it be obvious after the conclusion of contract, that the payment entitlement of the supplier is endangered through the payment inability of the customer, the supplier shall have the right to refuse the performance of services and set the customer an adequate ultimatum in which it shall make concurrent payment or provide concurrent security against supply. In the aftermath of failure on the part of the customer to comply, or in the event of the fruitless expiration of the ultimatum, the supplier shall have the right of withdrawing from contract and demanding compensation.
 - 6.6 Should the supplier have, undisputedly, partially supplied faulty goods, the customer shall, all the same, be obliged to pay for the fault-free parts of the supply unless the partial supply is of no interest to it. Moreover, the customer shall set-off payments only against legally determined or undisputed counter-claims.
- 7. Supply, Period of supply, Supply volume**
 - 7.1 If not otherwise agreed, the supplier shall carry out supplies "ex-works". The determinant factor for compliance with the supply schedule or the delivery deadline shall be the report of the despatch or readiness to collect by the supplier or the time in which the consignment actually leaves the factory.
 - 7.2 The supply period shall begin with the despatch of the order confirmation of the supplier and shall be adequately extended if unforeseeable and unusual circumstances occur.
 - 7.3 In case of subsequent amendments of the agreement by the customer which effectively affect the period of supply, the supply period shall be extended in an adequate scope or shall be negotiated anew.
 - 7.4 Supplies provided on the basis of call-forward shall be collected within 6 months of order confirmation.
 - 7.5 Production-related excess or less supplies are permissible within a tolerance range of 5 percent of the order volume called forward.
 - 7.6 Additional expenses incurred through a late call-forward or subsequent changes made by the customer in call-forward orders in respect of time or quantity, shall be borne by the customer; the calculation of the supplier shall be determinant in this respect.
 - 7.7 The supplier shall have the right to perform partial supplies in a reasonably acceptable scope.
 - 7.8 Should the supply be delayed through an unforeseeable and unusual circumstance as specified below or through an action or inaction of the customer, an extension of the supply deadline shall be granted in a proportional relation to the circumstances.
 - 7.9 Should the supplier be hindered from the fulfilment of its duties through the occurrence of unforeseeable, extra-ordinary events (e.g. acts of God, labour disputes, civil unrests, official law enforcement actions, etc.) which it was unable to prevent in spite of reasonably acceptable diligence in the circumstances of the individual event – irrespective of the event occurring either in the factory of the supplier or the preliminary supplier – it shall be deemed exempted from the performance of its duties for the entire duration of the impediment and in the scope of its impact, without the customer being entitled to withdrawal from contract or the invocation of compensation rights. This shall also apply if such events occur at a time in which the supplier is in default unless it had caused the default in a deliberate or wantonly negligent manner.
 - 7.10 Should the aforementioned impediments occur in the establishment of the customer, the same legal implications shall apply.
 - 7.11 The contract partners are obliged, within a reasonably acceptable scope, to provide information without delay, to the other party respectively in connection with the occurrences of impediments of the aforementioned nature and adapt their obligations in good faith, to the changed conditions.
- 8. Shipment and risk transfer**
 - 8.1 Goods that are reported as ready for shipment shall be assumed by the customer without delay. Else, the supplier shall have the right – at its own discretion – to despatch it or store it at the expense and risk of the partner.
 - 8.2 Risk shall be deemed transferred to the customer upon the handover of the goods to the rail company or the freight carrier or upon the start of storage, latest however, upon departure from the factory or warehouse, and also in cases in which the supplier has assumed the supply.
- 9. Third party protective rights**

Should the protective rights of third parties be breached in the course of manufacturing the goods in accordance with the drawings, samples or other specifications of the customer, the customer shall exempt the supplier from all claims whatsoever.
- 10. Reservation of ownership rights**
 - 10.1 The supplier reserves the ownership rights to the goods supplied until the fulfillment of all claims emanating from the business relations with the customer.
 - 10.2 The customer shall have the right to alienate these goods in the course of proper business transaction as long as it fulfils its obligations from the business relations with the supplier in good time. It shall however neither pledge the conditional commodity nor transfer ownership thereof by way of security. In further selling the conditional commodity, it shall be obliged to secure the rights of the supplier on credit basis.
 - 10.3 In the processing of the goods by the customer, the supplier shall have the status of manufacturer and acquire ownership rights to the newly produced goods. Should the goods have been processed in combination with other materials, the supplier shall acquire co-ownership right in the proportion of the invoice value of the goods to that of the other materials.
 - 10.4 If, in case of the processing of the conditional commodity with a material of the customer, the good is to be regarded as the main product, the co-ownership right to the product shall be transferred to the supplier in the proportion of the invoice value of the conditional commodity to the invoice value of the main product – or if this does not apply – at the market value of the main product. In all such cases, the customer shall store the product free-of-charge for the supplier.
 - 10.5 In case of payment default on the part of the customer, the supplier shall have the right to demand the provisional release of the conditional commodity, even without exercising the right of withdrawal from contract or fixture of a subsequent deadline, as long as this may not sustainably distort the production process in the establishment of the customer.
 - 10.6 The customer already now, cedes to the supplier, for the purpose of financial safeguards, all claims and rights from the sale or if applicable, the permitted leasing by the customer, of goods in which the supplier is entitled to proprietary rights, in the scope of the ownership share of the supplier, in the goods sold or leased. The supplier hereby accepts the cession.
 - 10.7 The customer shall notify the supplier without delay, of forcible execution measures of third parties in respect of the conditional commodity or the claims ceded to the supplier or other financial securities, by handing over such documents as are of relevance to the intervention; this shall also apply to impediments of all kinds.
 - 10.8 The supplier commits itself to release upon demand by the customer, the financial securities due to it in accordance with the foregoing stipulations as long as the value of the goods transferred by way of security exceeds the claims to be secured by more than 20%.
- 11. Material defects**
 - 11.1 The quality of the goods shall be based solely on the agreed technical supply specifications. Should we be obliged to supply in accordance with the drawings, specifications and samples etc. of the customer, it shall accordingly, assume the risk of acquisition in respect of the envisaged purpose of application. The decisive factor for the contract-conforming state of the goods shall be the time of the transfer of risk pursuant to item 8.2.
 - 11.2 The supplier shall bear as less responsibility for material defects caused by unsuitable and non-designated application, faulty assembly or operation by the customer or a third party, customary wears, faulty or negligent handling as it would for the consequences of non-designated and such modifications or maintenance works as are performed by the customer or a third party without the consent of the supplier. The same shall apply to such defects as have only insignificant depreciative effect on the value or usefulness of the goods.
 - 11.3 Material defect claims shall be time-barred after 12 months. This shall not apply if the law mandates longer terms particularly in respect of defects in a construction work or such goods as have been applied in a construction work in accordance with their usual mode of application and are subsequently determined as the cause of the resultant defect.
 - 11.4 If the acceptance certification of the goods or an initial sample test has been agreed, such defect-related complaints as should have been determined by the customer upon careful acceptance certification or initial sample test, shall be ruled out.
 - 11.5 The supplier shall be given the opportunity of determining the defect making up the subject of complaint. Rejected goods shall be returned back to the supplier on demand, without delay; it shall assume the transport expenses if the defect complaint is justified. Should the customer fail to meet these obligations or perform modifications on the already rejected goods without the consent of the supplier, it shall lose eventual material defect entitlements.
 - 11.6 In case of justified, timely defect-related complaint, the supplier shall, at its discretion, correct the rejected goods or supply a hitch-free substitute.
 - 11.7 Should the supplier fail to live up to these obligations or not live up to them in a contract-conforming manner within an adequate period, the customer may set it a final ultimatum in writing within which it shall be obliged to fulfill its obligations. Upon a fruitless expiration of this ultimatum, the customer shall be able to demand price reduction, withdraw from contract or mandate the performance of the necessary correction by a third party at the expense and risk of the supplier. Cost-refund shall be ruled out as long as the expenditures increase because the goods were brought to a different location in the supply performed by the supplier unless this is done in line with the designated application of the goods.
 - 11.8 The supplier's statutory rights of recourse shall be given only insofar as the customer fails to reach an agreement with its purchaser reaching beyond the scope of statutory defect entitlements. Furthermore, item 11.7 (final clause) shall apply accordingly to the scope of the rights of recourse.
- 12. Other entitlements, Liability**
 - 12.1 If not otherwise agreed further below, other and farther-reaching entitlements of the customer against the supplier shall be ruled out. This shall apply particularly, to indemnification claims based on the breach of obligations resulting from the debt relations and from non-permissible acts. The supplier shall therefore, not be liable for damages that do not occur directly on the supplied goods. Above all, it shall not be liable for losses of potential profits or other property damages suffered by the customer.
 - 12.2 The foregoing limitation of liabilities shall not apply in case of deliberate acts, wanton negligence on the part of the legal representative or senior employee of the supplier as well as in case of culpable breach of major contractual obligations. In case of the culpable breach of major contractual obligations, the supplier shall be liable only for contract-typical, reasonably foreseeable damages – except in cases of deliberate act or wanton negligence on the part of its legal representative or senior employee.
 - 12.3 Moreover, the limitation of liability shall not be applicable in cases in which the Product Liability Act mandates the assumption of liability for damages to persons or materials in respect of privately used objects in case of faults in the supplied goods. It shall also not apply in case of injury to life, body or health and in case of the non-availability of assured properties if and insofar as particularly, the assurance sought to secure the partner against such damages as do not occur directly on the goods supplied.
 - 12.4 If the liability of the supplier is ruled out or limited, this shall also apply to the personal liability of its employees, labourers, staffs, legal representatives and assistants.
 - 12.5 This shall apply without prejudice to the statutory regulations on the burden of proof.
- 13. Confidentiality**
 - 13.1 Every contract partner shall use all documents (amongst which are samples, models and data) and know-how received by it in the course of the business relations only for the jointly pursued goals and maintain confidentiality over them with the same diligence as is required for the protection of its own documents and know-how against third parties.
 - 13.2 This obligation begins with the initial obtaining of the documents or know-how and ends 36 months after the end of the business relations.
 - 13.3 The obligation shall not apply to such documents and know-how as are public knowledge or as upon obtaining, were already known to the contract partner while it was yet not subjected to the maintenance of confidentiality, or as are transmitted thereafter by a third party with the right of passing them over or as are developed by the receiving contract partner without taking advantage of confidential documents or know-how of the other contract partner.
- 14. Place of fulfillment, Legal venue and applicable laws, Transferability, Severability clause**
 - 14.1 If not otherwise specified in the order confirmation, the business domicile of the supplier shall be the place of fulfillment.
 - 14.2 The business domicile of the supplier shall be the legal venue for all legal disputes also within the framework of bill of exchange and check-related proceedings. The supplier shall also have the right to institute legal action in the domicile of the customer.
 - 14.3 Only the laws of the Federal Republic of Germany shall be applicable to the contractual relations.
 - 14.4 The applicability of the International Treaty of the United Nations of 11th April 1980 on contracts and commodity purchase (CISG - "The Purchasing of Vienna") is ruled out.
 - 14.5 The contractual rights of both parties shall be transferred only by mutual understanding between both parties.
 - 14.6 Should individual provisions of these General Terms and Conditions of Business Transactions be legally invalid for any reason whatsoever, the validity of the remaining provisions shall remain unprejudiced.