

## General Terms and Conditions (Terms of Sale)

Orders placed by merchants, legal entities constituted under public law or special public funds (hereinafter referred to as the "Client") will be executed by us (hereinafter referred to as the "Contractor") exclusively on the basis of the following terms of sale which shall likewise apply to all future transactions without need for further separate reference thereto. Counter-confirmations by the Client asserting the Client's own terms of business are hereby repudiated. These terms of sale shall be deemed to be accepted at the latest upon acceptance of our supply, even if the Client has previously made reference to and asserted the Client's own terms. In order to be effective, terms of business asserted by the Client must be expressly approved by us in writing. Execution of an order shall not be interpreted as acceptance of the validity of any deviating terms or conditions.

Unless otherwise specified in the following terms, the legal relationship with the Client shall be subject exclusively to the statutory provisions.

Should our extended reservation of title pursuant to Section VIII. not be integral to the contract in consequence of some protective clause asserted by the Client, title to the goods shall in any event transfer subject to the condition precedent that the purchase price is paid in full.

### I. Entry into contract

1. Offers are submitted by the Contractor without obligation. Orders placed by the Client shall become binding only when confirmed by us in writing.
2. Alterations or amendments to these terms of business and any agreements entered into shall be effective only if confirmed by the Contractor in writing. This likewise applies to any modification of this clause requiring the written form.
3. Details, drawings and performance descriptions contained in our brochures, catalogues, price lists or documents accompanying an offer are customary approximations, unless expressly specified as binding in the confirmation of order.

### II. Prices

1. Prices are stated in EURO, ex works, excluding statutory value added tax, packing and insurance.
2. Should the wage and/or material costs payable by us alter during the period between receipt of order and manufacture of the ordered goods to such extent that the product manufacturing costs – to be evidenced by us and calculated in accordance with normal business principles – increase by more than 33% relative to the time at which the order was placed, we shall be entitled to revise the agreed price at our discretion (Article 315 of the German Civil Code).
3. Packing materials will be charged at cost and not taken back.

### III. Terms of payment

1. The agreed purchase price shall be due for payment no later than upon dispatch of the order.
2. Our invoices are payable net forthwith upon receipt. Payment by bill of exchange must be agreed accordingly. Insofar as cheques or bills of exchange are accepted by us, they are accepted only on account of performance. Discounting charges will be billed with effect from the due date for payment of the invoice amount. No guarantee is accepted for correct presentation of a bill of exchange or lodgement of protests. Bills of exchange are accepted on condition that they are undiscountable.
3. Unless under the terms of the law default shall occur at some earlier time, without need for a reminder or other precondition the Client shall be deemed to be in default of payment of sums due to us no later than 10 calendar days from receipt of invoice. If in deviation from Section II. No. 1 a period calculated by the calendar is agreed within which payment must be made, without need for a reminder or other precondition default shall occur upon expiry of the period allowed for payment. In no case shall the Client be in default pursuant to the above provisions prior to the due date for payment.
4. Should it become apparent after entering into contract that our claim to the consideration due to us is at substantial risk, for example due to insolvency on the part of the Client, we may demand that within a reasonable period the Client shall make payment in advance or provide security in the amount of the agreed consideration and refuse performance until such time as this demand is met. Should the Client decline to make payment in advance or provide security or should the time allowed expire without success, we shall be entitled to withdraw from the contract and demand compensation for non-fulfillment. The Client may make offset against claims due to the Contractor only insofar as the grounds for and amount of the claims set off by the Client are undisputed or recognized by declaratory judgment. A right of retention exists only insofar as such right is founded on a claim, the grounds for and amount of which are undisputed or recognized by declaratory judgment.

### IV. Place of fulfillment, jurisdiction and applicable law

1. The place of fulfillment for the contractual duties incumbent on both parties shall be Hagen, Westphalia.
2. The exclusive place of jurisdiction for all claims in connection with the implementation of this contract shall be Hagen, Westphalia. This shall likewise apply to claims deriving from cheques, bills of exchange and direct debits. We may however also bring suit at the Client's domicile.
3. All claims in connection with the implementation of this contract shall be subject to German law with the proviso that the terms of the UN Convention on the International Sale of Goods agreed in Vienna on 11 April 1980 shall not apply.

### V. Shipment and transfer of risk

1. Goods are dispatched ex works. Unless otherwise agreed, no liability is accepted for selecting the lowest-cost method of shipment.
2. Even in the event of delivery freight-paid, which must be separately agreed, risk transfers to the Client at the time at which the goods are handed over to the shipping company appointed to carry out the shipment. This shall likewise apply in the event that goods are transported by our employees or agents.
3. In the event that dispatch or collection of the goods ordered is delayed for reasons for which we are not responsible, risk will transfer to the Client upon receipt by the latter of notification that the goods are ready for shipment.

### VI. Delivery

1. Unless expressly agreed otherwise, the delivery times quoted by us are not fixed. With the exception of fixed dates agreed in writing, the dates agreed for delivery are dependent on supplies being made to us in good time by our suppliers.
2. Instances of force majeure will entitle us to postpone delivery for the duration of the impediment plus a reasonable start-up period (maximum 3 days) or withdraw from that part of the contract not yet completed. The Client may request that we declare within a reasonable time limit whether we intend to withdraw or deliver within a reasonable period. Should we not give such a declaration within the time limit set by the Client, the Client may withdraw. If a fixed-date transaction has been agreed, the above provision shall not affect the statutory rights of the Client to withdraw.
3. Should we be in default of delivery and should the Client be minded to withdraw from the contract, unless such time limit may be dispensed with under the law the Client must set a reasonable time limit of at least 2 weeks for us to deliver.
4. The Contractor is entitled to make part-deliveries.

### VII. Liability for defects, warranty

1. a. Should the provisions contained in Article 377 and/or Articles 381, 377 of the German Commercial Code be applicable to the contract, in respect of the times specified therein for the reporting of defects, it is agreed as follows: The Client must notify us of recognizable defects in writing forthwith, no later than 4 working days after delivery. Concealed defects must be notified to us in writing forthwith upon detection, no later than 4 working days after they are detected. In other respects the preconditions for and consequences of the delayed reporting of defects shall be as provided for by law (Article 377 of the German Commercial Code).  
b. In cases in which we have given a written guarantee that the goods shall be free of defects of the kind complained of, the above provision contained in Section VII. No. 1 lit. a shall not apply. In such cases the preconditions for and consequences of the delayed reporting of defects shall be exclusively as provided for by law (Article 377 and/or Articles 377, 381 of the German Commercial Code).
2. Should the Client within the context of a transaction between merchants fail to report a defect in good time pursuant to the provisions contained in Articles 377 and/or 377, 381 of the German Commercial Code, any tortious liability claims accrued or accruing to the Client shall as a result be excluded. This shall not however apply if the claims are based on malice, intent or gross negligence on the part of the Contractor. Moreover this exclusion shall not extend to claims supported by product liability legislation, nor to claims for compensation for personal injury.

3. As provided for by law our warranty for material defects shall be limited to supplementary performance (replacement or rectification), reversal (cancellation of the contract) and diminution (reduction of the price).

Within the framework of our warranty for material defects we will make compensation subject to the statutory conditions in the following cases only:

- the claim against us concerns compensation for personal injury,
  - we are responsible for the material defect in consequence of malice, intent or gross negligence, or
  - we have given a contractual assurance or guarantee over and beyond an agreement as to the nature of the goods that the goods shall not exhibit the specific material defect in question
4. Defect claims in respect of goods supplied and/or manufactured by us shall expire by limitation in time in one year, with the following provisos: Provided that the item supplied and/or manufactured by us is used in the customary manner for a building structure and should a defect in the said structure be occasioned by the said item, the limitation period for such warranty claims shall be 5 years. Insofar as claims against us concern compensation for personal injury, the statutory limitation periods shall apply. Moreover the statutory limitation periods shall also apply in the event that a defect has been maliciously concealed by us or we are responsible for the defect in consequence of willful intent or gross negligence. The statutory limitation periods shall also apply if we have accepted a contractual guarantee that the goods shall not exhibit the specific defect concerned.
  5. If supplies are replaced or rectified by us as part of this warranty, the limitation period for warranty claims shall not as a result be extended, even for the parts rectified or replaced.

6. Our liability for consequential damages resulting from material defects – irrespective of legal grounds – shall be limited to the amount of 750,000.00 EURO, provided that we can demonstrate third-party liability insurance applicable to the claim with a sum insured of at least 750,000.00 EURO. At the written request of the Client a higher sum insured can be arranged at the Client's expense. In this case the maximum limit of liability will be increased accordingly.

This limitation of liability will not apply if our liability results from malice, intent or negligence. Nor does it apply to

- claims under product liability legislation,
- claims in respect of defects, for the absence of which we have accepted a contractual guarantee
- compensation claims against us for personal injury.

In thus far our liability shall be unlimited as provided for by law.

7. Our warranty obligation does not extend to defects attributable to defective materials or products supplied by the Client, provided that we have not been grossly negligent in failing to recognize that the materials or products supplied by the Client were defective.

8. Moreover, our warranty obligation applies only to those defects which occur under normal operating conditions and in due and proper use. In the following cases in particular warranty claims are precluded: Unsuitable or improper use, incorrect installation by the Client or third parties, defective or improper maintenance, overloading, natural wear and tear, use of unsuitable operating materials, chemical, electro-chemical and electrical effects and the effects of storms and the natural environment.

9. Our warranty for material defects will cease if alterations or repairs are made to the products supplied by us without our approval. Repair works will however be exempt from this exclusion if a rectification or supplementary performance for which we were responsible was refused or was unreasonable for the Client to accept. Nor will this exclusion of liability apply if claims under the terms of our statutory obligations are made against us for gross negligence or compensation for personal injury.

10. We shall accept no liability that the chains or sprockets manufactured by us over and beyond their intrinsic function as chains or sprockets are suitable by design or kinematic nature for the equipment envisaged by the Client. Our liability is restricted to the supply of products in accordance with samples, drawings and catalogues.

### VIII. Reservation of title

1. Goods supplied shall remain our property until such time as all sums due to us under the terms of our business relationship with the Client including future claims have been settled in full. The goods may be sold on solely in the course of the Client's ordinary business activities. The entitlement to sell or relinquish the goods shall cease if the Client ceases to make payments. The Client here and now assigns all claims against purchasers accruing from the resale of the goods. However until such time as the authority is revoked the Client remains authorized to collect said claims at own expense. Upon demand the Client shall advise us of the names of the debtors owing such claims and of the nature and amount of such claims and surrender to us all documents required to enforce the claims.

2. If the goods supplied are sold on together with other goods that do not belong to us, the claim accruing to the Client against the purchaser is deemed to be assigned to us in the amount of the price agreed between us and the Client.

3. We undertake to release the securities accruing to us insofar as the value thereof exceeds the sums to be secured by more than 20%.

4. The Client is obliged to insure goods that are the subject of reservation of title against fire, water, theft and other insurable loss or damage. In the event that the goods are lost or damaged, the Client must inform us forthwith and furnish us upon demand with written documentation of the insurance claim, in particular reports by loss adjusters, advise us of the existing insurance cover and provide us at the Client's discretion either with the insurance certificate or a cover note issued for our goods.

5. It is not permissible to pledge goods that are subject to reservation of title, nor to assign the same as security. In the event of attachment, seizure or other such actions by third parties, we must be notified immediately.

6. Goods that are subject to reservation of title are processed or transformed by the Client at all times on our behalf. In thus far we qualify as a manufacturer pursuant to Article 950 of the German Civil Code. In the event that the goods are processed, combined or mixed by the Client with other goods that do not belong to us, we shall have joint title to the new product in the ratio of the value of the processed goods subject to reservation of title to the value of the other processed goods. In other respects the provisions relating to goods subject to reservation of title pursuant to Section VIII Nos. 1-5 will apply analogously to the product created by processing, combination or mixture to which we have full or joint title.

### IX. Acceptance commitment

By dint of placing an order or calling off goods, the purchaser is obliged to accept the full amount. This commitment applies in particular in cases in which the goods to be supplied must, either in whole or in part, be specially made. In the case of goods made to special order, the right is reserved to deliver up to 10% more or less than the quantity ordered or called off.

### X. Processing supplied parts

1. Parts supplied to us for processing must be delivered free Contractor's works, well packed and accompanied by a delivery note specifying our order data.
2. The material of which the supplied parts are composed must be declared and must be such as to ensure the best possible processing. Semi-finished parts supplied must be of the correct dimensions and smooth-running.
3. If these requirements are not met, the Contractor may either invoice the costs of additional work and premature wear or damage to tools or withdraw from the contract, whereby the Client shall nevertheless be required to pay the contractual price less expenses not incurred but plus the aforementioned additional costs.
4. Waste material, in particular swarf, resulting from the processing of supplied parts will become our property.

5. In the event that under the statutory provisions we may be liable for damage to or loss of supplied parts, insofar as we can demonstrate third-party liability insurance applicable to the claim with a sum insured of at least 750,000.00 EURO, our liability will be limited to the sum of 750,000.00 EURO. However, this limited liability will not apply if we are guilty of willful intent or gross negligence, or if we have accepted a guarantee that the goods will not exhibit a defect occasioning a claim. At the written request of the Client a higher sum insured can be arranged at the Client's expense. In this case the maximum limit of liability will be increased accordingly.

### XI. Final clauses

In the event of a provision of these terms of delivery and payment being or becoming null and void, this shall not affect the validity of the remaining provisions. In such case a term shall apply which most closely approaches the desired intent of the invalid provision.

## Terms of Purchasing effective from 1 January 2002

Orders are placed solely on the basis of the following purchasing terms which shall likewise apply to all future transactions without need for further separate reference thereto. Counter-confirmations by the Supplier asserting the Supplier's own terms of business are hereby repudiated. Our purchasing terms shall be deemed to be accepted at the latest upon execution of the order, even if the Contractor makes reference to and asserts the Contractor's own terms. In order to be effective, terms of business asserted by the Contractor; provisions for simple retention of title will be recognized by us. Acceptance of goods or services ordered shall not be interpreted as confirmation of the validity of any deviating terms or conditions.

Unless otherwise specified in the following terms, the legal relationship with the Supplier shall be subject exclusively to the legal provisions.

### I. Entry into contract

Only written orders are binding. In order to become valid, orders placed verbally or by telephone must be confirmed by us in writing.

Order confirmations which deviate in content from our orders shall not be valid unless confirmed by us. Said confirmation shall be valid only if given in writing.

Subsequent alterations or amendments to the contract shall be valid only if agreed in writing between the parties. Subsequent change requests must be allowed for by the Supplier. Any necessary adjustments to delivery dates or prices that may result must be notified to us forthwith.

### II. Prices

The prices stated in our orders are fixed prices unless otherwise expressly agreed. Prices are free of our works or other specified place of delivery. When goods are invoiced the statutory value added tax must be shown separately.

### III. Payment

Payments will at all times be made by us subject to verification of the invoice, even if in individual cases no reference is made to this fact. The parties hereby agree a contractual right to demand reimbursement of overpayments. The Supplier shall be entitled to set off or retain payments which must otherwise be refunded only if the Supplier has a claim against us that is undisputed or recognized by declaratory judgment.

Unless otherwise agreed, payment will be made at our discretion either within 14 days less 3% discount or net within 60 days. The time allowed for payment shall commence once the supply or service has been accepted by us and we have received a due and proper invoice from the Supplier. Deliveries made prior to the agreed due dates will not cause the time limits for payment to be brought forward.

Payment may be made at our discretion either in cash or bills of exchange or own acceptances.

Claims against us may be assigned only with our written consent.

### IV. Deliveries

The agreed delivery times and dates are binding. In the event that delays are to be expected, the Supplier must advise us immediately of the reasons for and anticipated duration of the delay. The provision of this information does not equate to a postponement of the delivery deadline.

Deliveries made in advance without our consent may be rejected. Acceptance of a premature delivery will not affect the time limits for payment subsequent to the original delivery date.

### V. Drawings and models

Delivery must be made exclusively in accordance with drawings specified in and attached to our orders. The Supplier shall be obliged to harmonize models with our definitive drawings. Materials made available by us such as samples, drawings and models remain our property. These items must be identified as such and stored separately and returned immediately and voluntarily following completion of the order together with all reproductions, copies, castings and molds. These items must not be passed on to third parties or used for any other purpose without our written consent.

The Supplier shall be obliged to treat all technical and business information of which the Supplier may acquire knowledge in association with the execution of the order as trade secrets and not disclose nor afford access to the same to third parties without express written consent.

In the event that works are permissibly subcontracted to third parties, the Supplier is obliged to require these parties likewise to observe corresponding confidentiality.

For every occasion on which the Supplier negligently breaches the obligation not to pass on supplied samples, drawing or models to third parties or use the same for other purposes, a contractual penalty in the amount of 20,000.00 EURO shall be forfeit; the penalty may be set off against a more extensive claim for compensation.

### VI. Weights

Weights noted on drawings are calculated in theory and are therefore not binding. We recognize only those weights which derive in practice from the specified dimensions in consideration of DIN tolerances.

### VII. Dispatch and transfer of risk

It is incumbent on the Supplier to deliver the goods to the destination specified by us at own risk and own expense.

Unless otherwise agreed, rolled material ex works must always be shipped in full loads. Where goods are shipped by truck whether per groupage or by designated vehicle, delivery must be made at no additional cost to us. We do not pay truckage. We have arranged international transport insurance cover. Therefore goods must be sent uninsured. We are in this sense an insurance-exempt customer. Transport insurance premiums must therefore not be billed to us. Any amounts that are invoiced must be paid by the Client.

### VIII. Dispatch notes

Dispatch notes must be submitted to us in adequate number on the date of dispatch. Otherwise you must expect delayed settlement. Delivery notes must be enclosed with shipments of goods and packing notes included in packages. Our order number must be included on these notes.

### IX. Packing

Insofar as packing is required and charged for, upon due and proper return of the packing material we may demand reimbursement of at least 2/3 of the amount charged. Deposits for packing material provided on loan must be charged separately and must not appear on the goods invoice.

### X. Technical acceptance

We are at liberty to have ordered goods accepted by our authorized representative on the Supplier's premises. Acceptance does not however exempt the Supplier from its warranty obligations. When materials are supplied with test certificates, the certificates must be in our possession by the time the shipment arrives at our premises. The material acceptance costs shall be borne by the Supplier.

### XI. Warranty

The Supplier warrants in particular that its supplies and services comply with recognized technical standards, statutory safety requirements and other stipulations, the agreed technical, chemical and physical data and other characteristics whether agreed or evident from statements made by the Supplier. Generally recognized standards, in particular DIN, ISO, VDI, VDE etc., must be complied with insofar as no higher standards are required by the state of the art, the declared location of use or intended purpose or our specifications. Any more extensive statutory warranty obligation on the part of the Supplier remains unaffected.

Evident defects in the goods will be reported by us within 14 days of delivery, concealed defects will be reported within 14 days of detection.

Insofar as a defective delivery by the Supplier is attributable to a defective performance on the part of a sub-supplier or subcontractor to the Supplier, the Supplier hereby assigns the corresponding warranty claims and tortious damage compensation claims to us. Said assignment is made as security for our warranty entitlements. The assignment of such claims for security purposes does not constitute fulfillment of our warranty claims against the Supplier. The Supplier shall undertake all efforts to support us in acquiring and enforcing these claims, provide us with the information and documents necessary to enforce these claims and indemnify us against the necessary costs of enforcing the claims. Until such time as the assignment is disclosed the Supplier remains obliged and authorized by us to assert claims against sub-suppliers and subcontractors in the Supplier's own name and at own expense. Once our warranty claims against the Supplier are satisfied, we will reassign the latter's warranty claims against sub-suppliers and subcontractors to the Supplier.

Should the security in our favor prior to this time exceed our warranty entitlements by more than 20%, we undertake on request to reassign to the Supplier that part of the warranty claims accruing to the latter in excess of 120% of the sum due to us.

The warranty period shall be as provided for by the German Civil Code. In the event of rectification or replacement, the warranty period in respect of the parts rectified or replaced will commence anew from the time at which the defect is eliminated or the parts replaced. In the case of contracts for works and services the warranty will recommence upon acceptance of the rectified or replaced work; in the case of purchase contracts the warranty will recommence upon physical handover of the rectified or replaced part.

For goods, the handling of which is not generally common knowledge, separate installation and operating instructions must be submitted to us at the time of delivery without further request. Until such time as these documents are received by us, the goods will be deemed to be neither accepted nor delivered. Should the Supplier fail to submit such instructions, the Supplier shall also be liable for defects occasioned by improper handling.

### XII. Liability for defects in the processing of supplied parts

When processing material supplied by or for us, the Supplier shall be liable for due and proper execution in accordance with drawings. Any defects in external condition or dimensional inaccuracies must be reported to us forthwith. Should supplied parts be unusable for processing as a result of concealed defects, evidence of the processing costs incurred must be provided to us on request for compensation purposes. Should the workpieces become unusable as a result of circumstances for which the Supplier is responsible, the Supplier must make good the resulting loss or damage in full.

In the event that in the course of processing supplied parts the Supplier should suffer loss or damage for which we are contractually or legally responsible, the following provision is made:

Provided that we can demonstrate commercial liability insurance applicable to the claim with a sum insured of at least 750,000.00 EURO, our liability shall be limited to the amount of 750,000.00 EURO.

This limitation of liability will not apply if our liability results from malice, intent or gross negligence. Nor shall it apply to claims deriving from product liability legislation, nor compensation claims against us for personal injury. In thus far our liability shall be unlimited as provided for by law.

### XIII. Jurisdiction, applicable law

The exclusive place of jurisdiction shall be Hagen, Westphalia. We are however also entitled to chose the court having jurisdiction over the head office or relevant branch of the Supplier. This shall likewise apply to claims deriving from cheques, bills of exchange and direct debits.

German law shall apply with the proviso that the terms of the UN Convention on the International Sale of Goods agreed in Vienna on 11 April 1980 shall not be applicable.

Should any of the provisions contained in these purchasing terms be or become invalid, this shall not affect the validity of the remaining provisions. In such case an arrangement shall apply which most closely approaches the desired intent of the invalid provision.

The place of fulfillment for the performances by the Supplier shall be the place of delivery specified by us. In other respects the place of fulfillment is Hagen, Westphalia.