



## **General Sales Terms and Delivery Conditions**

### **1. Conclusion:**

All our present and future deliveries and services, including proposals, consulting and other ancillary services, will be performed exclusively on the basis of the following conditions. Purchase conditions of the Buyer are herewith rejected. They won't be recognized even in those cases where we don't explicitly reject them again on receipt.

With the acceptance of our goods at the latest these delivery and payment conditions are valid. Any conclusions and agreements – especially if they amend these conditions – are binding on us only after our written confirmation. Our offers are always subject to change. The agreed upon service can be changed if this is acceptable to the Buyer.

The following conditions (1a-1i) refer to dead-mould casting products, casting components, welded constructions and the prefabrication and/or processing of steel products

- a) Production equipment specific to an order, such as models, templates, core storage boxes, lasting moulds, casting tools, devices and inspection gauges, which are supplied by the Buyer, are to be forwarded to us free of charge. We shall check that the production equipment supplied by the Buyer is identical with the contractual specifications or drawings or samples handed over to us only on the basis of express agreements. We are permitted to modify production equipment if this appears to be necessary for technical casting reasons and the work piece is not modified as a result.
- b) The Buyer bears all costs for the modification, maintenance and replacement of his production equipment.
- c) - We are not obliged to check whether the construction data or instructions, drawings, patterns, models or descriptions handed over to us by the Buyer are suitable or practicable for the production or the intended use of the contractual products or whether they comply with the applicable laws, regulations or standards and safety measures.  
- Should we, however, establish that the construction data or instructions, drawings, patterns, models or descriptions handed over to us by the Buyer are not suitable or practicable for the production or the intended use of the contractual products, or that they do not comply with the applicable laws, regulations or standards and safety measures, we shall immediately notify the Buyer accordingly.
- d) The production equipment will be handled and stored by us with the same level of care and attention we would give to our own property. We shall not be liable for accidental deterioration or destruction of the production equipment. Production equipment belonging to the Buyer which we no longer require can be returned to the Buyer at his own expense and risk or, if the Buyer fails to satisfy our request that he collect the goods within a reasonable period of time, we may store the equipment at the usual cost and destroy it after waiting an appropriate period of time and having warned the Buyer that we shall destroy his production equipment if he fails to collect it. Should the Buyer request it, we are obliged to insure his models and production equipment at Buyer's expense.
- e) Order-related production equipment which is produced or purchased by us on behalf of the Buyer shall remain our property even if the Buyer is invoiced a share of the costs. They shall be kept in safekeeping for a period of three years after the last casting.

If, contrary to par.1, it is agreed that the Buyer is to become the owner of the equipment, ownership shall pass to him as soon as the agreed price or share of the price is paid. The hand-over of the equipment shall be replaced by our obligation to

keep the equipment in safekeeping. Notice of termination may not be served by the Buyer on the safekeeping arrangement before two years have elapsed from the passing of ownership, unless there is good cause for doing so.

- f) Claims under German copyright law or industrial property law may only be asserted by the Buyer if he points out the existence of such rights to us and expressly reserves the right to assert them.
- g) If, when using production equipment which can be used only once, defective goods are produced, the Buyer has consequently to provide more production equipment or to bear the costs of the replacement equipment.
- h) Parts to be used by us for casting must be supplied by the Buyer in the correct dimensions and in perfect condition. The Buyer is to supply replacements free of charge if parts become unusable due to rejects.
- i) Our drawings and documents as well as our proposals for the profitable design and production of the castings handed over to the Buyer may not be passed on to third parties and can be claimed back by us at any time.

## **2. Pricing:**

If not expressly otherwise agreed all prices shall be ex-works. For any surcharges (such as alloy surcharges etc.) that are charged in a separate invoice the amounts valid at the time of delivery shall apply. The number of units or the weight determined in our plant is relevant for the calculation of the invoice amount. The weighed measured values originate from freely programmable additional equipment. The calibrated measured values can be viewed. Packaging is charged separately.

## **3. Delivery Periods and Dates:**

The delivery period begins with the date of our acceptance of order, provided that all details of the order have been clarified, a contingent letter of credit has been issued and any necessary domestic and foreign official certificates have been provided. Unless specifically agreed otherwise delivery periods shall be deemed to be rough estimates and non-binding. Delivery period and delivery date shall be deemed as adhered to with the notification of readiness for shipment, even if the goods cannot be dispatched for reasons we cannot be held responsible for. Without prejudice to our rights relating to any delay in performance on the part of the Buyer, the agreed upon delivery period shall be deferred for as long as the Buyer fails to fulfill his obligations from this or from another order. This also applies accordingly if fixed delivery periods or dates have explicitly been agreed upon. In the event of any default on our part the Buyer shall grant a reasonable respite. After the expiry of said period he shall be entitled to withdraw from the contract insofar as the goods have not been notified as ready for dispatch upon expiry of the period.

## **4. Obstructions of Delivery:**

In the event of force majeure we shall be entitled to defer delivery while such obstructions persist as well as for a reasonable start-up time afterwards, or we may withdraw from the contract in whole or in part because of such partial default. All circumstances shall be deemed equivalent to force majeure which render delivery difficult or impossible, such as monetary and trade or other sovereign measures, strikes, lockouts, operational disruptions (e.g. fire, machine or roll damage, shortages of raw materials or fuel) as well as traffic blocks, no matter whether they happen to us, to the supplier's works or to any sub-supplier. The Buyer may then request us to state whether we intend to withdraw from the contract or to deliver within a reasonable period. If we fail to make any statement, the Buyer may withdraw from the contract.

## **5. Acceptance of Delivery and Inspection:**

- a) The Buyer is entitled to accept those goods at the supplier's works immediately after notification of readiness for dispatch for which special quality regulations have been agreed upon or which are to be delivered abroad. An acceptance protocol shall be

issued. The personal acceptance costs shall be borne by the Buyer, the factual acceptance costs will be charged separately if not included in the price.

- b) In the case an acceptance has been agreed upon, it can only be carried out at the supplier's works immediately after notification of readiness for dispatch. Section 5, par. a) applies to any acceptance costs.
- c) If the Buyer fails to carry out an agreed upon acceptance or carries it out too late or incompletely we shall be entitled to dispatch the goods without a formal acceptance or to store them at the Buyer's expense and risk. With shipment or storage the goods are deemed to be delivered and accepted in every respect according to the terms of the contract.
- d) Should the Buyer fail to carry out an acceptance despite our request to do so, Section 5, par. c) applies.

#### **6. Constant Deliveries:**

For contracts requiring constant deliveries, the goods are to be called up in a timely manner in regular quantities and classifications on a monthly basis; the total quantity has to be divided and called up within one year after conclusion of the contract. If the Buyer fails to do so, we are entitled,

after the unsuccessful expiry of a grace period, to divide and deliver the goods ourselves or to withdraw from the outstanding part of the contract and claim damages. If the individual call-ups by the Buyer exceed the contractual quantity, we are entitled to deliver the surplus quantity. We may charge the surplus at the prices valid at the time of call-up or delivery.

#### **7. Over or Under Deliveries:**

These are allowed unless the deviations in volume and weight exceed the customary extent. The weight measurements are determined by our suppliers and are relevant for the calculation. Proof of weight is given uncontestably by furnishing the weight note. The weighed measured values originate from freely programmable additional equipment. The calibrated measured values can be viewed. The overall weight is relevant for the calculation irrespective of the mode of transport used. No guarantee shall be given for any number of pieces or packages stated in the invoice. Any differences between the complete weight and calculated individual weights will be allocated to such individual weights proportionately.

#### **8. Partial Delivery:**

Partial deliveries are permissible, each partial delivery shall be deemed an independent transaction.

#### **9. Shipment:**

Unless otherwise agreed, we shall determine the carrier or forwarder.

Any material reported ready for shipment shall be called up immediately or at the latest within four days at the supplier's works. Otherwise we are entitled to ship the goods at our discretion. If the loading or transport of the goods is delayed for a reason we cannot be held responsible for, we or our agents are entitled but not obliged to store the goods at the expense and risk of the Buyer at our discretion with no liability to us – outside if necessary - , to undertake all steps we regard necessary for preserving the goods and to invoice the goods as being delivered. If the transportation on the intended route or to the intended destination is impossible at the intended time through no fault of our own, we are entitled to ship the goods on another route or to another destination; any incurred additional costs shall be borne by the Buyer. The Buyer shall be given a prior opportunity to comment thereon.

The material shall be delivered unpacked and without any anti-corrosive protection. We shall provide packaging, protection and/or handling aids in line with our experience at the Buyer's expense and with no liability to us. Packaging, protection and handling aids shall not be taken back by us.

If through our fault the dispatch of shipping documents or other paperwork is delayed after the shipment of the material, we shall only be liable for the consequences of gross negligence. In

the event of transport damage the Buyer must immediately arrange for the damage to be assessed by the responsible agencies.

**10. Transfer of Risk:**

Upon handover to the carrier or forwarder, or when the material leaves the works at the latest, the risk, including seizure, shall in all cases pass to the Buyer, including e.g. also FOB and CIF transactions.

**11- Reservation of Title:**

- a) All goods delivered shall remain our property until all claims, no matter their legal basis, have been settled (conditional goods), especially our balance claims; this also applies to payments made to settle specifically designated claims.
- b) Handling and processing of the conditional goods is carried out for us as manufacturer according to § 950 BGB (German Civil Code) without binding us. The processed goods shall be deemed as conditional goods as defined in Section 11, para. a).
- c) If the Buyer processes, combines or mixes the conditional goods with any other goods not in our possession, we acquire a share in the products thus generated in the ratio of the amount invoiced for the conditional goods to the total amount invoiced for all other goods used.
- d) The Buyer may sell the conditional goods only in the normal course of business and under his regular terms and conditions, provided that the Buyer is not in default with any payments, and provided that titles in any claims resulting from such resale is transferred to us according to par. e) to h). The Buyer shall not be entitled to dispose of the conditional goods in any other way.
- e) The Buyer's claims from such resale of conditional goods shall be transferred to us right away, irrespective of whether the goods are sold to one or several customers. Such claims may be used as collateral to the same extent as the conditional goods.
- f) In the event of the conditional goods being sold by the Buyer together with other goods not supplied by us, any claims from such resale shall be assigned to us only in the amount of the invoice value of the conditional goods actually sold.
- g) Should the conditional goods be resold after processing, especially after processing or combining/mixing with other goods not in our possession, claims shall be assigned only to the amount of our share in the sold goods or stock.
- h) If the said goods are used by the Buyer to fulfill a contract for work and services or one for work and materials, then the claim from the contract for work and services or for work and materials is transferred to us in advance to the same extent as defined in the above paragraphs e) to h). Rights from retention of title and all special forms specified in these conditions apply until complete release from any contingent liabilities the supplier has entered into in the interests of the Buyer.
- i) The Buyer shall have the right to collect any receivables from the sales pursuant to Section 11, par. d) to h) until we revoke said right, to which we are entitled anytime. We shall make use of this right of revocation only in the cases stated in Section 15, par. b). In no event is the Buyer entitled to assign these claims. At our request he is obliged to inform his customers immediately of the assignment to us – should we not do this ourselves –, and to hand over the information and documents necessary for collection.
- j) If the value of the security interests existing for us exceeds our receivables by more than 25 % in total, we shall be obliged, at the Buyer's request, to release security interests of our choosing to this extent.
- k) The Buyer must inform us immediately about any seizure or other adverse actions on the part of third parties.
- l) If the reservation of title or the assignment is invalid under the law of the country to which the goods are delivered, the corresponding security agreed for the reservation of title and assignment in this country shall be deemed agreed. If a contribution of the

Buyer is required for this purpose, the Buyer shall perform all legal actions necessary to establish and preserve such rights.

**12. Inadmissible Subsequent Delivery, Misrouting:**

- a) At our request the Buyer shall furnish proof of the location of the goods.
- b) Goods that are not expressly sold for export may not be delivered unprocessed to areas outside the Federal Republic of Germany.
- c) Goods that are sold for export may not be left or delivered back unprocessed to the Federal Republic of Germany or be delivered to any country other than the country specified in the purchase order. These goods may not be processed in the Federal Republic of Germany.
- d) The Buyer shall impose on his purchasers an obligation corresponding to Section 12, par. a) to c) to assert the resulting claims and, if so requested by us, to assign to us these claims to documentation, damages and contractual penalties. The Buyer shall inform us immediately about any of his purchasers' violations of the obligations imposed on them according to Section 12, par. a) to c).
- e) In the event the Buyer or any of his subordinated purchasers violate any of their above mentioned obligations, the Buyer shall reimburse us for the lost profit and pay a contractual penalty of 30% of the agreed purchase price.
- f) If the goods were delivered to a place and/or address other than that established in the invoice, the Buyer, even if that occurred through no fault of his own, must provide compensation for all benefits granted with regard to the specified recipient, plus EUR 50 per ton of misdelivered goods, at least, however, double the value of the benefits.

**13. Defects/Delivery of Non-contractual Goods:**

- a) The contractual condition of the goods is defined at the time the goods leave the supplier's works.
- b) After the carrying out of an acceptance by the Buyer, notice of any defect which should have been detected during the agreed upon acceptance shall be excluded.
- c) Notices of defects of the Buyer must be received by us in writing within 14 days of receipt of the goods at their destination. Notice must be given immediately of any defects discovered that were not possible to detect, even after close inspection, within this period; any handling or processing must be suspended immediately.
- d) If the notice of defects is justified, we shall take back the defective goods and supply replacements that are free of defects; instead, we can pay the difference in value. All claims over and above this, also claims for damages no matter their legal basis, are excluded. § 276, par. 3 BGB shall remain unaffected.
- e) If the Buyer does not immediately give us the opportunity to verify that the material is defective, and, above all, if they don't place the criticized goods or samples thereof immediately at our disposal, all claims for defects shall become void.
- f) The above terms shall also apply for the delivery of goods other than contractual goods.
- g) In the case of goods which have been sold as declassified material - e.g. so-called seconds - the customer shall not be entitled to any claims based on possible defects.
- h) When carrying out commission orders we shall be held liable for the appropriate execution of the work taken over by us only to the amount of the confirmed and/or incurred wage costs.

**14. Limitation of Liability:**

- a) Unless provided otherwise below, any other and further claims against us by the Buyer, no matter their legal basis, especially for the violation of obligations resulting from the contractual relationship or from tort, are excluded.
- b) This liability limitation shall not apply to cases where liability is mandatory, such as in cases subject to the Product Liability Act, in the event of intent, gross neglect of the

legal representatives or senior employees or in the event of culpable violation of significant contractual obligations. In the event of culpable violation of significant contractual obligations we are liable - other than in cases of intent or gross negligence on the part of our legal representatives or senior employees - only for standard contractual loss, or loss which might reasonably have been expected. This shall also not apply to damages resulting from the injury to life, body or health and in the event of the lack of warranted qualities if and to the extent that such a warranty aims at protecting the Buyer against damages that have not occurred on the delivered goods as such.

- c) In the event that our liability should be excluded or limited, same shall also apply to the personal liability of our employees, legal representatives and agents.
- d) Damage compensation and material deficiency entitlements of the Buyer against us shall be subject to a statute of limitations of one year after the delivery of the goods to the Buyer. This shall not apply if longer periods apply according to § 438 para. 1 no. 2 (buildings and things that have been used for buildings) and § 479 para. 1 (recourse claim) of the Civil Code (BGB) or in cases of injury to life, body and health, in cases in which the supplier infringes its obligations intentionally or negligently and if a defect is fraudulently concealed. The legal provisions regarding commencement of limitation, suspension of limitation and re-commencement of limitation periods shall remain unaffected. In the case of claims for damages under the German Product Liability Act, the statutory limitation rules shall apply. The same holds true for willful and gross negligence.

## 15. Payment:

- a) Payment must be effected in accordance with the agreed conditions ex works or upon reported completion, respectively, without set-off or retention with the exception of claims by the Purchaser that have been acknowledged by the Seller or finally and absolutely established, by bank transfer without cash discount deduction. If the Purchaser has any claims against us, our claims will insofar become due and payable on the due date of our liability, and be settled with the value date. We accept bills of exchange, cheques and cash as payment only on the basis of express agreements. Bills of exchange and cheques will be credited subject to receipt of the money less disbursements and with the value date of the day on which we can dispose of the proceeds. If the target date is exceeded, default interest to the amount of 8 % p.a. above the base rate will be charged. We reserve the right to demonstrate and assert higher damage caused by default.
- b) All our claims shall be due and payable immediately, regardless of the maturity date of any received and credited bills of exchange, if the terms of payment are not adhered to and if we become aware of circumstances which are capable of impairing the Buyer's creditworthiness. We then are also entitled to execute any outstanding deliveries only against advance payment. If the Buyer is in default with his payments we are moreover entitled to withdraw from the contract or to claim damages for non-performance. We are also entitled to prohibit the further sale and processing of the goods delivered and to demand their return or the transfer of the indirect possession in the delivered goods at the expense of the Buyer and to revoke the direct debit mandate according to Section 11, par. i).
- c) We are entitled to offset any claims we have against the Buyer against any debts we owe him. This shall also apply if it has been agreed that one party make payments in cash whilst the other may pay with bills of exchange or other services. Where appropriate, agreements shall only refer to the balance. If the claims are due on different dates, our claims become due no later than the date at which our liabilities are due for payment and are invoiced at value date.
- d) Any securities existing for us are liable respectively for our claims. Securities as defined by these provisions are also the conditional goods as well as the assigned claims from the resale of the conditional goods. If the value of these securities, including the rights from the reservation of title according to Section 11, exceeds the

claims by more than 25%, we are obliged, upon the Buyer's request, to release the excess securities at our discretion.

- e) Should difficulties arise in the transfer of the invoice amount to the Federal Republic of Germany for whatever reason, the resulting disadvantages shall be borne by the Buyer. For sales in foreign currency, the Buyer shall bear the exchange rate risk upon conclusion of the contract. If the agreed upon method or channel of payment cannot be observed, the Buyer is obliged to effect payment at our option.

**16. Property Rights, Patents and the like:**

We assume no liability for the export of our goods into areas outside the Federal Republic of Germany if our goods cause infringements on the property rights of third parties. The same applies if the Buyer exports goods meant for domestic trade.

**17. Export Certificate:**

If a Buyer based outside of the Federal Republic of Germany or the EU (customer outside of the territory) or its representative collects goods or transports or dispatches them to the external territory, the Buyer shall provide us with the export certificate necessary for tax purposes. If such certificate is not provided, the Buyer shall pay the value added tax imposed on the invoice amount for shipments within the Federal Republic of Germany.

**18. VAT-ID:**

In the case of deliveries to other EU member states the Buyer shall communicate his VAT identification number that is used for the taxation within the EU prior to delivery. Otherwise, the Buyer shall pay the statutory VAT amount for our deliveries in addition to the agreed upon purchase price.

**19. Place of Performance and Jurisdiction:**

If the Buyer is a merchant, the place of jurisdiction is our registered office; the same applies to claims from bills of exchange and cheques. We are entitled, however, to take legal action against the Buyer at any other legal place of jurisdiction.

**20. Data Protection:**

Any data in connection with the contractual relationship shall be stored for the purpose of data processing.

**21. Governing Law:**

The legal relationship between the parties shall be governed exclusively by German law under exclusion of the UN Convention on the International Sale of Goods.

**22. Validity of the Terms and Conditions:**

In the event that individual provisions of these General Sales Terms are invalid for whatever reason, the validity of the rest of the contract will not be affected.