

## **General Terms and Conditions of Sale - since 25.06.2016 –**

### **1. General matters/conclusion of contract**

1.1. We only enter into supply agreements under the following terms and conditions.

1.2. Our offers are subject to change and non-binding, unless we have specifically referred to them in writing as binding. Mutual written declarations are decisive for the volume of delivery and service performance. Any subsequent amendments and supplements require the written form.

1.3. We do not recognize any conflicting terms and conditions of the buyer, or terms and conditions at variance from those set out herein, even if we are aware of the buyer's terms and conditions and complete delivery unconditionally, unless we have recognized them in writing.

1.4. Our terms and conditions only apply in respect of contractors, as defined in Section 14 I BGB (German Civil Code); they are also applicable to all future transactions with the buyer under the current business relationship.

1.5. If these General Terms and Conditions ('AGB' or 'GTC') have been translated into a language other than German for the purpose of simplified information, the German text shall be valid for interpretation of the GTC in case of doubt. Translations into other languages are therefore only informative in character.

1.6. The contract is only concluded upon our written order confirmation.

### **2. Prices**

2.1. Our prices are valid ex works, excluding packaging and statutory VAT.

If order-related costs change substantially following conclusion of the contract, the contractual parties are obliged to agree on a price adjustment.

2.2. Our pricing policy includes the fact that used parts provided to us by the buyer or dismantled by us transfer to our ownership free of charge.

### **3. Delivery and acceptance obligations**

3.1. Delivery periods begin once all details of implementation have been clarified and the buyer has fulfilled all preconditions. Unless stipulated to the contrary, the delivery date shall be the date of dispatch. However, if dispatch is delayed through no fault of ours, the date of supply shall be regarded as the delivery date. Part deliveries are permitted provided this does not conflict with an identifiable interest of the buyer.

3.2. If we are prevented from scheduled delivery by an act of God or due to unforeseeable circumstances not attributable to us, such as official measures, unrest or failure of our suppliers to deliver, the delivery period is extended by the duration of such obstruction. If the obstruction lasts for longer than three months, we and the buyer may withdraw from the unfulfilled part of the contract, in exclusion of compensation claims.

3.3. If we fall into default, the buyer is entitled to set a reasonable extension period and withdraw from the contract following unsuccessful expiry thereof. Claims for compensation in lieu of performance are limited to foreseeable damage that is typical of the contract in case of our minor or ordinary negligence.

3.4. In case of call orders without stipulation of term, production lot sizes and acceptance dates, we may, unless agreed otherwise in writing, demand a binding statement hereof no later than three months following order confirmation. If the buyer fails to meet this demand within three weeks, we are entitled to set a two-week extension and, following expiry thereof, to withdraw from the contract or claim compensation.

3.5. If the buyer would like us to carry out necessary inspections, the nature, scope and price of such inspections shall be agreed. If the buyer fails to provide any data on the nature and scope of such inspections, we will conduct the inspections we deem necessary at the buyer's expense.

3.6. If delivery is to be carried out based on a sample prepared by us, the buyer shall inspect and approve this sample at our plant immediately after notification of sample completion. If no approval is granted despite setting a reasonable extension period for reasons attributable to the buyer, we are entitled to send the sample or place it in storage at the buyer's risk and expense; the sample is then deemed approved.

3.7. If the buyer is in default with acceptance even of part delivery only, we are entitled, following expiry of a deadline to be set by us of at least two weeks, to withdraw from the contract as a whole, or parts thereof, and demand compensation in lieu of performance with regard to the contract as a whole, or parts thereof.

#### **4. Dispatch and risk transfer**

4.1. Risk transfers to the buyer when the products leave our plant.

4.2. Loading and dispatch are carried out under insurance at the buyer's risk and expense. We organize transport and any contrary arrangements require the written form. We shall endeavor to consider the buyer's wishes and interests in respect of the type and method of dispatch. Additional costs incurred as a result – even in case of freight paid delivery – shall be charged to the buyer.

4.3. We do not take back transport or other packaging, according to the Packaging Regulation. Pallets are exempt. The buyer shall ensure the disposal of packaging at its own expense.

4.4. If dispatch is delayed at the request or fault of the buyer, we shall store the goods at the buyer's expense and risk. In this case notification of readiness for dispatch is equivalent to dispatch.

#### **5. Measurements, weights and delivery quantities**

5.1. DIN standards are applicable to observance of measurements. Furthermore, we indicate measurements and weights to the best of our knowledge in offers and order confirmations. However, they do not guarantee quality. Minor deviations, in particular in case of excess and short weights as a

result of foundry technology, do not entitle the buyer to raise objections and claims for defects, unless agreed to the contrary.

5.2. By comparison with the order quantity, excess or short delivery of up to 10% is permitted in case of serial production due to the special characteristics of the metal casting process.

## **6. Claims for defects/ liability**

6.1. The commercial buyer's enforcement of claims for defects assumes that it has duly complied with the liable inspection and notification of defects obligations under Section 377 HGB (German Commercial Code). Other contractors shall notify us of apparent defects within 14 days of receipt of goods. All complaints shall be lodged by written indication of the defect.

6.2. We shall have the opportunity to inspect notified defects on the premises. We shall conduct inspections immediately if the buyer declares an interest in immediate completion.

6.3. No defect claims arise if there are only immaterial deviations from the quality or an immaterial impairment of usability. Moreover, claims for defects do not arise if the product has been improperly used or assembly, operating or maintenance rules infringed.

6.4. If the buyer provides us with components for maintenance and/or regeneration, we do not assume any liability for their proper functioning. Our liability is limited to new parts that we have manufactured or procured. If the buyer does not wish to use new parts, claims for defects exclusively arise with regard to repair services performed by us, coordinated with the buyer and to be released by the buyer in special cases.

6.5. All our specifications are only service descriptions and not guarantees, unless explicitly agreed to the contrary.

6.6. If there is a product defect attributable to us, we shall be subject to a supplementary performance obligation – in exclusion of the buyer's rights to withdraw from the contract or reduce the purchase price (reduction) – unless we are entitled to refuse supplementary performance by virtue of statutory provisions. The buyer shall grant us a reasonable deadline for supplementary performance. At the discretion of the buyer, supplementary performance may be carried out through defect remedy (subsequent remedy) or delivery of a new product. We are liable for the necessary expenditure in the event of defect remedy. If supplementary performance has failed, the buyer may, at its discretion, demand a reduction of the purchase price (reduction) or declare withdrawal from the contract. Subsequent remedy is deemed to have failed at the 2<sup>nd</sup> unsuccessful attempt, unless further attempts at subsequent remedy are reasonable and acceptable to the buyer by virtue of the subject of the contract. The buyer may only enforce compensation claims for the defect if supplementary performance has failed. The buyer's right to enforce further compensation claims is not affected.

6.7. If the buyer wrongly lodges a complaint, for reasons not attributable to us, about a defect for which we are responsible, we are entitled to charge the buyer for reasonable expenditure incurred in defect remedy and/or identification.

6.8. We may charge the buyer additional costs of necessary expenditure for supplementary performance, in particular transport, road, labor and material costs, if expenditure is increased by moving delivered goods to a location other than the delivery address, unless such transport is carried out in accordance with regulations for stipulated use under the contract.

6.9. The buyer's claims for defects become statute-barred 1 year after the goods have been delivered to the buyer, unless we have willfully concealed the defect. In this case the statutory provisions apply.

6.10. We are obliged to take back new products or reduce (decrease) the purchase price even without setting an otherwise necessary deadline in accordance with statutory provisions if the buyer's customer, as consumer of the sold new moveable item (purchase of consumer goods), could demand that the buyer take back the product or reduce (decrease) the purchase price as a result of the defect on this product, or the buyer is faced with a similar claim under a resultant right of recourse. Moreover, we are obliged to reimburse the buyer's expenses, in particular transport, road, labor and material costs, for which it was liable to the end consumer within the scope of supplementary performance as a result of a defect on the product upon transfer of risk from us to the buyer. Claims are excluded if the buyer has failed to duly comply with its liable inspection and notification of defects obligations under Section 377 HGB.

6.11. No claims for defects arise if they relate to a defect resulting from advertising claims that do not originate from us, or if the buyer has issued a specific guarantee to the end consumer. The same applies if the buyer itself is not obliged to exercise warranty rights in respect of the end consumer under statutory provisions, or if the buyer has undertaken guarantees to the end consumer that exceed statutory requirements.

6.12. We have unlimited liability under statutory provisions for injury to life, body and health relating to negligent or intentional breach of obligation by our company, legal representatives or vicarious agents, and for damages covered by liability under the Product Liability Act. We assume liability under statutory provisions for damages not covered by clause 1 and related to intentional or grossly negligent breaches of contract or fraudulent intent by our company, legal representatives or vicarious agents. In this case, however, liability for compensation is limited to foreseeable damage typical of the contract provided that we, our legal representatives or vicarious agents have not acted intentionally. We are also liable within this guarantee to the extent in which we have issued a quality or durability guarantee with regard to products or parts thereof. However, we are only liable for damages related to absence of the guaranteed quality or durability, but not directly on the product, if the risk of such damage is evidently covered by the quality and durability guarantee.

6.13. We also assume liability for damages caused by ordinary negligence if the negligence concerns the breach of contractual obligations, the observance of which is of particular importance for achieving the contractual purpose (cardinal obligations). However, we only assume liability if the damage is typically associated with the contract and foreseeable.

6.14. Any further liability is excluded, regardless of the legal nature of the enforced claim; this applies in particular to tort claims or claims for reimbursement of wasted expenditure in lieu of performance. If our liability is excluded or limited, the same applies to the personal liability of our employees, staff, colleagues, representatives and vicarious agents.

6.15. Compensation claims of the buyer as a result of a defect become statute-barred 1 year following delivery of the products. This does not apply in the event of injuries to life, body or health caused by our company, legal representatives or vicarious agents, or if we or our legal representatives acted intentionally or with gross negligence, or if our simple vicarious agents acted intentionally.

## **7. Terms of payment**

7.1. Our invoices shall be payable without deduction within 30 days of the invoice date. If we accept bills, we assume discount eligibility.

7.2. Costs of workpiece models and production equipment pursuant to section 9.2 shall always be paid in advance, unless stipulated otherwise.

7.3. The buyer is only entitled to a right of retention and offset option in the event of uncontested or legally established counterclaims.

7.4. If the buyer falls into payment default, we are entitled to demand default interest and other damage caused by delay, according to Section 288 BGB (German Civil Code). In case of payment default and reasonable concern about significant deterioration in assets or insolvency of the buyer, we are allowed to suspend delivery or, at our discretion, demand immediate advance payment of all claims – including those not yet due. If the buyer fails to meet such a demand for advance payment or provision of collateral within a reasonable deadline to be set by us, we are entitled to withdraw from all contracts and enforce compensation.

7.5. If we are subject to an advance payment obligation and become aware of circumstances following conclusion of the contract, pursuant to which a significant deterioration in the customer's assets can be assumed, we may, at our discretion, demand collateral security within a reasonable deadline or payment on delivery. If the buyer fails to meet this demand, we are entitled to withdraw from the contract subject to further statutory rights.

## **8. Retention of title**

8.1. We retain ownership of the delivered goods until settlement of all our due claims against the buyer arising under the business relationship. The same applies if the price of certain deliveries specified by the buyer is paid. In the event of conduct in breach of contract by the buyer, e.g. payment default, we have the right to take back goods subject to retention of title after setting a reasonable deadline. We are entitled to exploit goods subject to retention of title after taking them back. Having deducted a reasonable amount for utilization costs, the proceeds of sale shall be offset against amounts owed to us by the buyer.

8.2. The buyer shall handle goods subject to retention of title carefully and insure them appropriately at replacement value against fire, water, theft and transport damage at its own expense. The buyer shall carry out any necessary maintenance and inspection works in good time at its own expense. The buyer shall notify us immediately of any third-party access to goods subject to retention of title or assigned claims. The buyer is liable for intervention costs if the third party fails to reimburse costs.

8.3. The handling or alteration of delivered items by the buyer is always carried out on our behalf. If delivered items are handled or associated with other items that do not belong to us, we acquire joint ownership of the new object in proportion to the product value of other handled items at the time of handling. Furthermore, the same applies to objects generated through handling as for items delivered under retention of title.

8.4. The buyer is entitled to resell and/or use delivered items in the normal course of business provided it is not in payment default. However, it hereby assigns all rights to us that are accrued from resale to its customers or third parties, regardless of whether the delivered item has been resold without or after handling. If the product subject to retention of title is sold with other items that do not belong to us or used as material in the implementation of contracts for works and services, assignment only includes the revenue share equivalent to our joint ownership. The buyer is still authorized to collect this claim after assignment. Our authority to collect the claim ourselves is not affected. However, we shall not collect the claim as long as the buyer complies with its payment obligations from the collected revenues, does not fall into payment default and in particular no application has been filed to initiate insolvency proceedings, or payments have been suspended. If this is the case, we may demand that the buyer should disclose assigned claims and their debtors, provide all necessary data for collection, submit associated documents and notify debtors (third parties) of the assignment. If a current account relationship exists between the buyer and its customer pursuant to Section 355 HGB, the claim assigned to us by the buyer in advance shall also refer to the recognized balance and, in the event of the customer's insolvency, to the available balance surplus at the time.

8.5. If the value of collateral provided to us exceeds our claims by a total of more than 10%, we are obliged, at the buyer's request, to release the above collateral security at our discretion.

## **9. Workpiece models and production equipment**

9.1. If the buyer provides us with models or production equipment (e.g. foundry molds), they shall be forwarded free of charge. We may demand that the buyer return such equipment at any time; if it fails to meet such a request within 3 months, we are entitled to return them at its expense. The buyer is liable for the costs of maintenance and requested modification. The buyer assumes liability for technically correct construction and design of equipment ensuring the purpose of production, but we are entitled to make alterations based on foundry technology. Without a separate agreement, we are not obliged to review compliance of the provided equipment with enclosed drawings or samples.

9.2. If we produce or procure workpiece models or production equipment at the buyer's request, the buyer shall reimburse costs incurred. If full costs have not been charged, the buyer shall also be liable for the remaining costs if it fails to accept the quantities that it envisaged when concluding the

contract. Models and production equipment produced or procured by us remain our property. If a contrary agreement is reached for the buyer to become the owner of the equipment, ownership shall transfer to the buyer upon payment of the purchase price. The handover of equipment is replaced by our safeguarding obligation. The buyer may terminate the storage relationship at the earliest 2 years following transfer of ownership, unless any contrary agreements have been reached. Once 3 years have elapsed since the last delivery, we are not obliged to continue storage.

9.3. We shall handle all models and production equipment with the same level of care we take in our own affairs. At the buyer's request we are obliged to insure its models and equipment at its expense. Claims for compensation of consequential damage are excluded.

9.4. If deliveries are carried out based on the buyer's drawings or other instructions and third-party property rights are infringed as a result, the buyer shall exempt us from all claims. Our drawings and documents handed over to the buyer and our proposals for the advantageous design and manufacture of castings shall not be forwarded to third parties and may be demanded back at any time. License claims of the buyer by virtue of industrial property rights to models and production equipment that have been forwarded, or produced or procured on its behalf, are excluded, provided that we have used them in accordance with the contract.

9.5. Separate agreements are required for using disposable models.

## **10. Casting parts**

10.1. Parts intended for casting shall be supplied free of charge; they must be dimensionally correct and ready for casting. Necessary handling costs shall be charged to the buyer.

10.2. The number of cast inserts must reasonably exceed the number of ordered castings.

## **11. Posting of technical staff**

11.1. Our technical personnel are selected at our discretion with the care of a prudent businessman. We reserve the right to exchange staff.

11.2. All preliminary works must be completed before the start of our operations. The buyer shall provide necessary items of equipment, tools and other implements (in particular lifting devices, scaffolds, operating materials, energy, lubricants, cleaning agents, consumables and water) for works to be carried out in good time for the start of operations at its own expense.

11.3. The buyer shall provide us with the necessary level of appropriate auxiliary staff at its own expense, which, where appropriate, may be specified by us. Staff provided by the buyer in this way shall have their own tools. Where appropriate, the buyer shall provide a competent interpreter at the workplace during implementation of the contract at its own expense.

11.4. The buyer is responsible for safety at work, compliance with all relevant safety regulations and the creation of appropriate working conditions for our staff. Where individual obligations are separately referred to herein, this is not conclusive.

11.5. The buyer shall call our attention to specific risks, which may arise from the performance of works. The buyer shall inform our staff of specific conditions at the workplace under which the contract is to be implemented, and of specific risks which may appear at the workplace or when using items of equipment and tools supplied by the buyer. The buyer shall comply with all reasonable demands from our staff for additional safety measures.

11.6. The buyer is aware that our staff shall strictly observe statutory, trade union and occupational health and safety regulations effective in Germany when performing their work. The buyer shall establish conditions at the workplace in such a way that makes compliance with these regulations possible.

11.7. The buyer shall advise our staff, without a request to do so, if contact with or the release of hazardous or harmful substances is possible in the course of operations. In particular, the buyer undertakes to advise our staff of the use or existence of hazardous or harmful substances in the area of operation and provide our staff with a precise specification of hazardous or harmful materials provided by the buyer in the course of repairs.

11.8. The buyer is aware that ventilation periods of up to 24 hours might be required, during which time work operations are interrupted, following operations in which hazardous or harmful substances may be released. Such interruptions are regarded as working time for our staff. Statements from our staff are decisive for the duration of interruption periods, unless the buyer verifies, through a review by an authorized audit institution, that freedom from hazardous or harmful substances existed before this time.

11.9. The buyer is solely responsible for the proper disposal of all hazardous substances accumulated in the course of our staff's work operations.

11.10. Noncompliance with the above provisions shall authorize our staff to stop work. Remuneration shall continue to be paid for the period of such interruptions.

11.11. The buyer is not entitled to use our staff for work other than that explicitly agreed in the relevant contract.

11.12. The buyer hereby agrees that even if we undertake the contractual task, specifically and in writing, of monitoring and controlling work carried out by its staff, it is not possible to oversee every work step of every worker employed. We do not therefore undertake to monitor each individual work step and each individual activity performed by its staff.

11.13. The buyer shall provide us with any necessary and reasonable support to acquire visas and any other necessary permits or certificates to make sure our staff can start at the workplace on schedule and return to their home country. In addition, if necessary, the buyer shall provide us with support in completing customs formalities.



11.14. The buyer shall be liable for all travel expenses incurred in relation to the contract, as well as insurance costs for instruments, tools and personal luggage, and costs of telegrams, data connections, long-distance calls, etc., and in addition any necessary special equipment, vaccination fees, additional health insurance, taxes, charges, etc.

11.15. If replacement of our staff becomes necessary for reasons not attributable to us, the buyer shall also be liable for the costs incurred.

11.16. The buyer shall refund all taxes and social charges imposed, pursuant to this contract, on our company or staff outside Germany and our staff's usual taxation location.

11.17. In the event of illness or injury to our staff, the buyer shall ensure necessary medical support and – if necessary – transfer them to a suitable hospital and inform us hereof immediately. The buyer hereby declares its willingness to advance any costs (in particular abroad). We shall reimburse the buyer for such costs against handover of appropriate invoices.

## **12. Place of performance/ court of jurisdiction/ applicable law**

12.1. The place of performance and court of jurisdiction for deliveries and payments (including actions on checks and bills) and all disputes arising between our company and the buyer under contracts concluded between us shall be Quedlinburg. However, we are entitled to bring an action against the buyer at its domicile and/or registered office.

12.2. Relationships between the contractual parties are exclusively governed under applicable law in the Federal Republic of Germany. Application of the Uniform Law on the International Sale of Goods and the Law Governing the Conclusion of International Contracts of Sale Relating to Movable Property is excluded.

12.3. In the event of individual provisions of these terms and conditions being or becoming fully or partly invalid, ineffective and/or impracticable, the effectiveness of the remaining provisions shall not be affected.

Quedlinburg, July 2016