

1. **Exclusive application of our terms and conditions**  
We accept orders solely on the basis of our terms and conditions of sale. Standard terms and conditions of the Customer or provisions or agreements deviating from our terms and conditions of sale or agreements shall be binding on us only if we expressly acknowledge them in writing.
2. **Offers - Orders – Contract contents**
  - 2.1 Our offers are non-binding in the sense that a contract is not concluded until we confirm the order.
  - 2.2 Agreements supplementary to our offers and confirmations as well as agreements with our employees and other representatives must be confirmed by us in writing to become effective.
3. **Orders in our online shop**
  - 3.1 The display of products in the online shop does not constitute a binding offer on our part. The placement of an order does not yet result in a purchase contract being concluded. By clicking “Place order” you submit a binding purchase offer.
  - 3.2 After submitting your offer, you will receive an automatic acknowledgement of receipt by e-mail by which we only acknowledge/ document the receipt of the request. This acknowledgement of receipt does not constitute an acceptance of the offer. The order is checked now for feasibility and availability.
  - 3.3 The contract is only concluded with legally binding effect when we accept your order by sending a declaration of acceptance which we send to you by separate email (order confirmation) or by delivering the ordered products.
4. **Description of goods – Quantitative tolerances**
  - 4.1 Sketches, drawings and samples we attach to our offers or confirmations as well as technical data such as weight and performance data are deemed only to be approximate indications.
  - 4.2 Agreements regarding the quantity of goods to be supplied shall be considered to be within a range of up to  $\pm 3$  per cent. In the case of special models, this range amounts to  $\pm 10$  per cent.
5. **Prices - Tool costs - Packaging**
  - 5.1 Our prices are calculated ex works and exclude packaging, customs duties and insurance, unless something else has been agreed upon.
  - 5.2 If the Customer bears part of the tool costs this does not constitute a claim on his part for the tool being handed over or transferred in title. The tool costs will neither be refunded nor amortised. However, we agree to keep the tool for a period which is agreed upon separately with the Customer; after this period, we shall be free to dispose of the tool as we see fit.
  - 5.3 If the Customer bears only part of the tool costs and fails for whatever reason to accept delivery of all goods ordered in conjunction with the order of the tool, then the Customer shall agree to compensate us for the entire tool costs.
  - 5.4 Packaging is billed at a rate as low as possible.
6. **Proprietary rights - Customer parts - Drawings**
  - 6.1 If we accept an order based on a Customer's drawing or templates, the Customer is liable for ensuring that no third-party intellectual proprietary rights are violated by these Customer's drawings or templates. The same applies if the goods covered by the contract are developed or designed by order of the Customer. The Customer will indemnify us from any such third party claims.

- 6.2 If we require parts to be provided by the Customer in order to manufacture the goods covered by the contract, the Customer agrees to supply these parts in a quantity appropriate for the size of the order, plus a pool of reserve parts of 10 per cent free of charge.
  - 6.3 We retain ownership and copyrights of all drawings, diagrams, templates or similar documents we provide. Such documents shall not be made available to third parties or be commercialised in any another way.
7. **Orders to be delivered on demand – Sub-deliveries – Acceptance**
    - 7.1 For orders to be delivered on demand, the entire order amount is deemed to be requested (called) for delivery one month after the expiration of the agreed call period, or, if no such period has been agreed on, six months after the contract is entered into.
    - 7.2 If the Customer fails to determine an apportionment of the ordered goods incumbent on him, we shall be entitled to portion and deliver these goods at our own discretion, provided the apportionment of these goods is not determined within one month after the agreed period for the determination has ended, or, if no such period has been agreed upon, at the latest six months after the contract is entered into.
    - 7.3 In any case, the acceptance of the ordered goods is deemed to be a major duty of performance (Hauptleistungspflicht) of the Customer.
  8. **Shipment - Passing of the risk**
    - 8.1 We may use our reasonable discretion in determining the routing of the goods. We are not obliged to select the cheapest, safest or fastest route or to insure the goods.
    - 8.2 The risk passes to the Customer upon hand-over of the goods to the carrier but at the latest at that point in time at which the goods leave our premises. If the shipping is delayed for reasons for which the Customer is responsible, the risk passes to the Customer at the point at which the Customer is requested for the first time to undertake the required steps to mitigate this situation. No agreements regarding the transport and insurance costs and expenses shall affect this transfer of risk.
    - 8.3 In individual cases the origin of our goods may deviate to what is stated in the supplier declaration. In this case the notation “NON-EU” is stated in our invoice behind the item concerned.
  9. **Delivery period**
    - 9.1 The delivery period will be agreed individually and stated by us at the order acceptance respectively.
    - 9.2 If delivery is delayed by circumstances beyond our control, particularly by force majeure, governmental interventions, strikes, difficulties in procuring materials, production disturbances, special requests by the Customer, or the like, the delivery period is extended by the duration of the impediment; we will inform the Customer hereof and the estimated new delivery period without undue delay. In case of an impediment to delivery during this new delivery period, too, in particular caused by unavailability of performance, we are entitled to withdraw from the contract completely or partly; we will recompense an already rendered consideration of the Customer without undue delay. In particular, any supply to ourselves by our component supplier not in time shall be considered as a case of unavailability of performance if we have closed a congruent covering operation. Our legal right of withdrawal or termination, as well as the legal provisions regarding the winding up of the contract in case of the exclusion of the duty of performance (e.g. impossibility or unreasonableness of performance and/or supplementary performance (Unmöglichkeit oder

Unzumutbarkeit der Leistung und/oder Nacherfüllung) will remain unaffected. Customer's legal right of withdrawal or to cancel will also remain unaffected.

- 9.3 The occurrence of delay of delivery is subject to the statutory provisions. However, in any case a warning notice (*Mahnung*) by the Customer is required. If delivery is delayed, the Customer is entitled to claim liquidated damages of his damage caused by default. The liquidated damages amount to 0.5 per cent of the net price (delivery value) per delayed, complete calendar week, limited to an overall maximum of 5 per cent of the value of the goods to be delivered. We reserve the right to prove that no or only damages lower than the liquidated damages exist.
- 9.4 The Customer's rights pursuant to 10. of our Standard terms and conditions of sale as well as our statutory rights, especially in case of the exclusion of the duty of performance (as impossibility or unreasonableness of performance and/or supplementary performance (*Unmöglichkeit oder Unzumutbarkeit der Leistung und/oder Nacherfüllung*)) remain unaffected.

#### 10. Liability for defects

- 10.1 Unless otherwise agreed below, the Customer's legal rights regarding legal and material defects (including wrong and short delivery as well as improper packing and assembly instructions) shall apply. In any case, the statutory provisions regarding the final delivery of goods to a consumer (*Verbrauchsgüterkauf*) (suppliers regress in accordance with sec. 478, 479 of the German Civil Code (BGB)) will remain unaffected.
- 10.2 Our liability for defects is based on the agreed condition of goods. Our termed product specification shall be regarded as such condition of goods agreement which is provided to the Customer in the run-up to his order or which are included in the agreement in the same way like this Standard terms and conditions of sale.
- 10.3 To the extent that the quality of goods has not been agreed individually, the identification of defects is based upon the regarding statutory provisions (sec. 434 Section 1 Sentence 2 and 3 of the German Civil Code (BGB)).
- 10.4 The Customer's warranty claims are subject to him complying with his duty to examine, and to notify about, the non-conformity of goods (sec. 377, 381 German Commercial Code (HGB)). As soon as during this examination or later a defect is revealed, the Customer shall notify us about this matter in written form without undue delay. Irrespective of the aforementioned duty of examination and notice of non-conformity, the Customer shall give notice of apparent defects (including wrong and short delivery) in written form within two weeks of delivery of the goods. If the Customer fails to give the aforementioned notice of defect, then all warranty rights regarding this defect are excluded.
- 10.5 In cases of defects of the delivered goods we shall at our discretion be entitled to grant supplementary performance by removal of defects (remedy (*Nachbesserung*)) or delivery of goods free of defects (compensation delivery (*Ersatzlieferung*)).
- 10.6 In the case of supplementary delivery of goods free of defects (compensation delivery) the Customer is obligated to return the defective goods subject to statutory provisions. In the case of removal of defects (remedy) we shall bear all necessary expenses.
- 10.7 If supplementary performance fails, the Customer shall at his discretion be entitled to withdraw from the contract or to reduce the purchase price.
- 10.8 General periods of limitation for claims regarding material and legal defects shall be one year since delivery. If acceptance of goods is agreed the period of limitation starts with the acceptance. Specific statutory provisions regarding claims in rem for return

of third parties (sec. 438 Section 1 No. 1 German Civil Code (BGB)), buildings and building materials (sec. 438 Section 1 No. 2 German Civil Code (BGB)), suppliers regress claims (sec. 479 German Civil Code (BGB)), as well as claims for damages mentioned in 10.2 and 10.3 will remain unaffected. In these cases the statutory limitation periods shall apply exclusively.

#### 11. Other liabilities

- 11.1 Unless otherwise regulated in these Standard terms and conditions of sale including the following regulations we shall be liable only for infringements of contractual and non-contractual duties under the respective statutory provisions.
- 11.2 Indemnity - for whatever legal ground - will only be granted in cases of wilful misconduct and gross negligence. In cases of simple negligence we shall be only liable
- for damages from injury to life, body or health,
  - for damages from infringing essential contractual obligations (obligations, whose performance enables the duly execution of the contract in the first place and to whose compliance with regulations the signatories trust in and may trust in); in the latter case our liability is limited to the coverage of the typically resulting damages.
- 11.3 The limitation of liability mentioned in 10.2 shall not apply if we concealed a defect maliciously or if we guaranteed the condition of the goods. Same shall apply for the Customer's claims under the German Product Liability Act (*Produkthaftungsgesetz*).
- 11.4 Due to breach of duty which does not consist in a defect, the Customer shall only be entitled to withdraw from, or to terminate the contract if we are responsible for the breach of duty. An unrestricted right to terminate for Customer (especially according to sec. 651, 649 German Civil Code (BGB)) is excluded. Besides, the statutory provisions and their legal consequences shall apply.

#### 12. Payment

- 12.1 Our invoices are drawn up in EURO or CHF and must be settled by payment in the currency respectively stated in the invoice.
- 12.2 The purchase price is due and to be paid net immediately after the invoice has been issued and delivery respectively acceptance of the goods has taken place.
- 12.3 In deviation of 11.2 above, 50 per cent of tool costs are due for payment immediately upon the conclusion of the agreement and the remaining 50 per cent are due upon presentation of the output sample without deductions; they are due at the latest at the point in time stipulated in 11.2 above.
- 12.4 Cheques are accepted only on account of performance. In such cases, we are not in charge of timely submission or protestation; all duties out of or regarding the cheques remain at Customer. The costs of discounting, of payment of tax, and of collection are borne by Customer, who must pay them immediately upon request.
- 12.5 If we become aware after entering into the agreement of circumstances casting doubt on Customer's creditworthiness, we are entitled to demand cash before delivery or provision of security. The same holds true if Customer is late in performing one of the above obligations he has to us.
- 12.6 If Customer fails to pay by the due date, we are entitled to charge, from the due date onwards, interest equal to the costs of a current credit at our regular bank and at a rate of at least 2 per cent above the basic rate of interest according to section 247 of the German Civil Code (BGB). This shall not affect the right to claim further damages (if any).

- 12.7 If Customer falls into arrears in meeting a payment obligation, all periods allowed for payment in all transactions concluded between Customer and us are cancelled.
- 12.8 Customer is not entitled to set off any disputed claims or claims which have not yet been assessed in a legally binding judgement against our payment claims or to exercise a right of retention to amounts due.

### 13. Retention of title

13.1 We retain full title to the goods we deliver until such time as all our claims in the business relationship between the Customer and us have been discharged, even if said claims are entered in a running account.

13.2 If goods supplied by us are processed, the Customer cannot acquire a title to them.

Processing is made for us in a manner that we are considered to be the manufacturer. By processing goods made by others which are also subject to an expanded retention of title, we acquire co-ownership of the new object proportional to the invoiced value of our goods in relation to the value the other goods have at the time of their processing.

If a title or co-title accrues to the Customer from circumstances related to the processing of the goods subject to this retention of title or to their connection with other goods, said title or co-title shall be transferred to us immediately upon its accrual.

Customer agrees now to transfer to us all contingent rights that can result in such an acquisition of title by the Customer. Any title or co-title accruing to us based on such a processing operation or connection is to be treated legally in the same way as the original goods.

13.3 All claims by the Customer arising from the resale of goods to which we have title or co-title devolve upon us on the conclusion of the agreement of sale. This applies regardless of whether the goods are sold without or after being processed or connected or regardless of whether they are sold to one buyer or several. We accept the assignment.

In the event that we do not have full title to the goods sold or that said goods are sold together with goods to which we have no title, the assignment of a counter-claim covers only the invoiced value of our goods.

Both, the Customer and us are jointly entitled to collect the assigned receivables. We commit ourselves not to collect these claims as long as the Customer adheres to his payment obligations towards us, the Customer is not in delay in performance, no claim to open insolvency proceedings for the assets owned by the Customer or a comparable proceeding is filed, the Customer is not demanded by a court to disclose its financial situation, no other insufficiencies of its (financial) capability are existing and the Customer exercises its duties regarding us duly and correct at all. In that case, we are allowed to demand from the Customer to disclose the assigned claims and the debtor, to submit all necessary information for the collection, to transmit the pertaining documents and to notify the debtor (third party) about the assignment.

13.4 As regards goods to which we have title or co-title, the Customer is permitted to dispose of said goods or process them or connect them with goods of others only in conjunction with the ordinary course of business. Selling is the only form of disposal permitted and is allowed only if the Customer claims arising from the disposal transaction are transferred to us, as stipulated above. The Customer is not entitled to dispose of our goods in any other manner; he is permitted neither to pledge them as collateral security nor to pass on the title of them by way of security. The Customer must inform us immediately of third-party interventions which are imminent or have already been undertaken as regards the goods subject to this retention of title or the assigned claims.

Any costs accruing to us as the result of an intervention must be borne by the Customer.

13.5 In case that the Customer's conduct infringes the contract, especially non-payment of the due purchase price, we are entitled to withdraw from the contract under the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand to return the goods does not include the declaration of the withdrawal; rather, we are entitled

to demand the return of the goods and to reserve the right to withdraw from the contract. If the Customer does not pay the due purchase price we are entitled to assert these rights only if we gave the Customer a reasonable period of time for payment without result firstly or such period of time for payment is statutorily redundant.

If we discharge the Customer from his obligation to accept delivery when we take back goods we supplied, we are entitled to demand compensation equal to at least 25 per cent. of the invoiced value of the goods on the grounds of damages in lieu of performance (*Schadenersatz statt Leistung*) of contract; this shall not affect our right to prove that we have suffered higher damages. The Customer's right to prove that no or materially lower damages exist is reserved.

13.6 The retention of title is subject to a resultory condition in the sense that ownership of the goods subject to the retention of title is transferred to Customer automatically upon full payment of all our claims under the business relationship and the assigned claims accrue to him. We agree, if so requested by Customer, to release security accruing to us under the above arrangement (goods and claims) as we choose to the extent that the realizable value of said items furnished for security exceed the secured claims by more than 20 per cent.

### 14. Venue - Applicable law

14.1 Place of performance for delivery and payment is Wermelskirchen.

14.2 Exclusive venue for all litigious proceedings regarding and arising from the contract is Cologne. However, we do have the right to file suit against Customer in another venue with jurisdiction over Customer.

14.3 As regards foreign transactions, the entire contractual relationship is subject to the laws of the Federal Republic of Germany (especially the German Civil Code (BGB) and the German Commercial Code (HGB)) unless intervention on the part of another legal system is compulsory. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and other regulations regarding international treaties shall be excluded.

### 15. Partial invalidity

Should a provision of our standard terms and conditions of sale or another part of the contract concluded between Customer and us be or become invalid or inapplicable, this will not affect the remainder of the contract. In such cases, the invalid or no longer applicable provision must be replaced by a legal arrangement resembling as closely as possible the provision Customer and we would have agreed to, upon sound appraisal, had Customer and we been aware of the invalidity or inapplicability at the time we entered into the agreement.