



# General terms and conditions of business (non-binding translation of German original)

## §1. Quotations and terms of delivery

All quotations, conclusions and deliveries are subject to our General business Terms and Conditions exclusively. By placing of orders these conditions shall be deemed to have been accepted, even if the buyer rejects the approval of other conditions in his own conditions. Lack of an objection or statement related to the conditions of the buyer does not mean in any way acceptance or consent. Our confirmations of the order acceptance on order copies of the buyer do not exclude the exclusive contractual basis of our general terms and condition and merely serve to meet the EDP demands of the buyer. The acceptance of one, several or all terms of the buyer requires an individual agreement which has to be regulated in written form.

## §2. Validity of quotation

Our quotations shall be valid, unless other periods of time are set, for a period of 30 days, beginning with the date of the quotation,

## §3. Legal validity of orders and agreements

Orders shall only be binding upon our written confirmations, whose contents in conjunction with our general terms and conditions shall be determinative solely for the contractual relationship. Oral and telephonic agreements and individual arrangements with our administrative personnel or sales representatives shall only be binding upon our written confirmation. The same shall apply to collateral agreements, changes and amendments to those, which only become binding upon our written confirmation

## §4. Prices

Our prices are quoted, unless otherwise confirmed or defined from us, delivery ex works: 35325 Mücke-Merlau, exclusive of packing and shipment and the currently applicable Value Added Tax (VAT/MwSt). Prices might be increased, if on the day of delivery changed production conditions, due to increases in wages, salaries, prices of raw materials or other costs. The extent of increases is determined by the rate of changed production conditions. In relation to buyers to which §24 of the "Gesetz zur Regelung der allgemeinen Geschäftsbedingungen" does not apply, article 2 only applies if delivery shall be made later than 4 months after conclusion of the contract. The prices apply for the number of items, materials and technical constructions as stated in our offers. If those should be changing after placing of order because of circumstances that are not evoked by us in bad faith, we reserve the right to correspondingly adjust our services and prices. The incidence of such circumstance with the relevant facts therefore shall be communicated immediately. If the amendment is unreasonable for the buyer due to eventuality of avoidance, relevance or essential cause, he shall be able to withdraw from the contract promptly without arising claims for damage on both sides. If the buyer, notwithstanding to his enquiry or to our quotation, modifies the number of items, materials or technical constructions, we reserve the right to refuse the acceptance of order, to withdraw from our quotation and to submit a new quotation, which is adjusted to the changed circumstance.

## §5. Terms of delivery

Times for delivery stated in our quotations shall be regarded only as an approximate time and shall be carried out at our best discretion, considering the prevalent delivery situation and production capacities on the date of issue. Unless delivery is made ex warehouse – warehouse goods are subject to prior sale – the times for delivery shall be agreed upon after clarification of all technical and commercial details and where required after approval of constructions/plans of the plants, as well as supply and interface criteria



concerning the workplace for which our written confirmation shall be essential. Any unforeseeable delays of deliveries through circumstances over which we have no control demonstrably of technical or other nature, such as strike, fire, shortage of raw materials, other interruptions of operations or force majeure, which do not allow us to complete orders we had accepted or seriously hamper our performance, shall entitle us to extend the delivery time for the duration of the delay or to withdraw from the contract, without the buyer having any claims for compensation. The buyer shall be entitled to withdraw from the contract only in the event of default on our part. If §24 of "AGB-Gesetz" applies to the buyer, any claims for compensation of the buyer owing to default of performance, respectively owing to the impossibility of performance shall be excluded, except if there should be existence of intent or gross negligence.

In that case our liability shall be limited to the compensation of the damage that was foreseeable at the date of the conclusion of the contract. If §24 of "AGB-Gesetz" does not apply to the buyer, we shall be liable, except if there should be existence of intent or gross negligence, for compensation that shall be limited to compensation of the damage that was foreseeable at the date of the conclusion of the contract, on no account there will be any compensation for delay in performance.

#### §6. Warranty

We shall be obliged either to eliminate all defects, to which we are liable for, of the goods we have delivered, in the workshops on our premises exempt from charges or to replace the defective goods. Transport damage, improper handling and ordinary attrition shall be excluded thereof. We reserve the right to decide whether it concerns material defect, defect in workmanship, improper use or handling on the part of the buyer. Further claims of warranty shall be excluded. If we fail to perform our repair obligations or if such performance is unsuccessful the buyer shall be entitled to choose either a reduction in price or cancellation of the contract. Any claim for damages in any form including compensation of indirect damage and consequential harms cause by a defect shall be excluded, except if there should be existence of gross negligence or intent on our part, respectively gross negligence on part of our legal representatives or vicarious agents. In case of gross negligence on part of our legal representatives or vicarious agents, compensation for buyers to which §24 of "AGB-Gesetz" applies, shall be limited to the compensation of the damage that was foreseeable at the date of the conclusion of the contract. The buyer shall be obliged to inspect any delivery for amount, quality and version without delay and to notify any defects. If obvious defects are not notified within 3 days after receipt of the goods, any claims of the buyer shall be ceased to exist. Latent defects shall have to be notified within the period, which is conform to the period of limitation of the statutory warranty claim. In the case of notification of defects at a later date, any claims of the buyer shall be ceased to exist.

#### §7.Tools

Contributions made by the buyer for the specially agreed delivery of moulds, tools and technical equipments shall not cancel our exclusive right of ownership.

#### §8.Drawings and patents

For special constructions of parts according to drawings presented by the buyer, the enquirer or orderer shall bear the patent-related risk. The enquirer or orderer shall exempt us from any eventual claims protected by patents.

#### §9. Samples and prototypes

If the buyer orders parts by sample, he shall be submitted outturn samples for written approval. Complaints after the approval of the samples shall not be allowed, provided the delivered parts are in conformity with the samples.

#### §10. Call orders

If the buyer does not ask for orders or residual parts of these orders to be delivered within 3 months, we are



intituled to insist, after setting an additional respite of a maximum of 4 weeks for the immediate delivery, to withdraw from the contract or to claim for indemnification.

#### §11. Cancellation of orders

Cancellations or modifications of orders made after approval of the contract shall require our written consent. Parts that have already been manufactured as well as tools specifically made for the execution of an order shall be invoiced.

#### §12. Retention of Title

1. The goods shall remain in the property of the seller until full payment of all and any claims of the seller as a result of the business relationship with the buyer, including accessory claims, claims for compensation, and encashment of cheques and bills.
2. The retention of title shall also remain in force if individual claims of the seller have been included in a current invoice and the balance has been struck and accepted.
3. If the buyer processes reserved goods into a new chattel, the processing shall be redeemed on behalf of the seller, without establishing any obligations on him. The new chattel becomes property of the seller. In the event of processing, blending or mixing with other goods not in the possession of the seller, the seller shall acquire co-ownership of the new goods at the ratio of the invoice value of the reserved goods to the total value.
4. The buyer shall be entitled to resell, further process or install the reserved goods under the provision of the followings clauses only and only with the proviso that claims, according to subparagraph 5, will actually be transferred to the seller.
5. The authorization of the buyer to sell, further process or install the reserved goods in ordinary business transactions shall end with the revocation by the seller as a result of a sustainable deterioration of the financial situation of the buyer, at latest with his stoppage of payment or if petitions have been submitted on his assets for the opening of bankruptcy or insolvency proceedings.
6.
  - a) The buyer hereby assigns the claim along with all ancillary rights arising from the resale of the reserved goods, including any balance claims, to the seller.
  - b) If the goods have been processed, mixed or combined and if the seller has acquired co-ownership to them in the amount of his invoice value, the seller shall be entitled to claim the purchase price in proportion to the value of his rights to the good.
  - c) If reserved goods are integrated into a plot of land/ building by the buyer, the buyer shall already assign at that point the claim for payment in the amount of the invoice value of the reserved goods with all ancillary rights including the right for the concession of a senior mortgage. If the buyer has sold the claim by way of non-recourse factoring, the claim of the seller shall immediately be due and the buyer shall assign the claim, in lieu thereof, against the factor to the seller and he shall transfer his sale proceeds to the seller without delay. The seller accepts this assignment.
7. The buyer shall be authorized, as long as he fulfills his payment obligations, to collect the assigned claims. Such authorization shall end upon revocation, at latest in case of default in payment of the buyer or of a sustainable deterioration of the financial situation of the buyer. In such a case the seller shall hereby be entitled from the buyer to inform the customers about the assignment. The buyer shall be obliged to surrender ( upon request) a detailed list to the seller with all claims to which he is entitled, including names and addresses of the customers, the amount of the individual claims, dates of invoice, etc., and he shall be obliged to permit the verification of these information.
8. Should the invoice value of the existing securities of the seller exceed whose total claims, including accessory claims (e.g. interest, costs), by more than 20%, the seller shall be obliged upon request of the buyer, or any third party affected by too high asset backing of securities, to release securities of his choice to this extent.
9. Pledging or chattel mortgage of the reserved goods or of assigned claims shall not be permitted. The



- seller shall be informed immediately about any garnishments under the specification of the pledge.
10. If the seller takes back the delivery item due to the retention of title, the contract shall only be deemed to be withdrawn if the seller explicitly declares such withdrawal. The seller can settle his claims on the taken back reserved goods by sale in the open market.
  11. The buyer shall gratuitously keep the reserved goods safe for the seller. The buyer shall insure them against customary risks, such as fire, theft and water, to the customary extent. The buyer hereby assigns his claims for compensation to which he is entitled against insurance companies or other parties obliged to pay compensation, from damages of the afore-mentioned kind, to the seller in the amount of the invoice value of the goods. The seller accepts the assignment.
  12. All and any claims and rights arising from the retention of title for all special forms specified in these provisions shall remain valid until complete release from all contingent liabilities that the seller has assumed in the interest of the buyer.
  13. The retention of title of the seller is limited in such way that with its full payment of claims arising from the business relation, the ownership of the reserved goods shall be passed over to the buyer without further ado and all assigned claims shall be entitled to the buyer.

### §13. Terms of payment

#### a) Payment

Our invoices shall be payable within the agreed periods and without any deduction. Cash discount deduction shall require our written consent. Invoices of tool costs shall be excluded from cash discount deduction in principle. Apart from that, our respectively agreed payment terms shall apply.

#### b) Minimum invoice value

The minimum invoice value amounts to 50,00 € on delivery ex works 35325 Mücke-Merlau. If any parts are to be manufactured, the minimum invoice value shall increase appropriate to type and scope per item. We shall announce the exact value upon request or in our order confirmation. Minimum invoice amounts are quoted net plus the currently applicable Value Added Tax (VAT /MwSt) and shall be paid without discount immediately on receipt of the invoice

#### c) Default in payment

If the buyer defaults on payments for more than 2 weeks, all and any claims of previous or subsequent deliveries shall become due forthwith. Furthermore, default interests at the rate of 4% above the bank discount rate of the European Central Bank (ECB) shall be imposed.

#### d) Set-off

A set-off on the part of the buyer shall be excluded only to the extent such claims are undisputed or have been recognized by declaratory judgment. Any right of retention on the part of the buyer shall be excluded. –If §24 of “AGB-Gesetz” does not apply to the buyer, Clause 2 is not effective for a right of retention, as far as it is based on the same contractual relationship.

#### e) Shipment

Shipment and delivery shall be made freight forward and at the risk of the buyer. Even though there is carriage paid delivery to the buyer.

### §14. Place of performance / place of jurisdiction

Place of performance for deliveries and payments and all arising trade accounts payable therefrom shall be 35325 Mücke-Merlau for both parties.

Place of jurisdiction for both parties shall be Amtsgericht Alsfeld.

The contractual relationship shall be governed by the law of the Federal Republic of Germany.



#### §15.Miscellaneous

Should one of the aforementioned provisions be cancelled by written agreement, should it be, or become invalid for other reasons, the validity of any other provision shall not be affected thereby. The invalid provision shall be replaced by a valid provision, which comes closest to the intended purpose and meaning of the contract.

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Owner:

Michael Keil

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