



## General

# Terms and Conditions

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### **I. Scope of Applicability**

These terms and conditions of business apply to all current and future business between CW and the customer. The customers deviating terms and conditions, which we have not expressly recognized, do not obligate us even if we do not expressly dissent.

### **II. Terms of Delivery**

#### **1. Contract Conclusion and Content**

1.1. Our offers are subject to confirmation. All agreements apply only if they are written down unless the customer demonstrates that thereof in concrete terms that forbearance was taken.

1.2. Documents belonging to the offer such as drawings or illustrations, technical specifications, references to standards as well as statements in marketing materials only represent confirmations of features when they have been expressly labeled as such.

1.3. Deviations in the delivered objects from offers, examples, samples, or pre-deliveries are permitted in accordance with the applicable DIN standards, any other appropriate technical standards, and within market standard tolerances.

#### **2. Prices**

2.1. Prices do not include the costs of packing, freight, loading and unloading, transportation, insurance, assembly, installation or activation. Those should be borne by the purchaser unless this has been noted differently in our offers. In the scope of the legal regulations, we accept the return delivery of our delivered packages, if they are returned to us by the purchaser in a reasonable period of time free of transportation charges.

2.2 Prices are those in effect at the time of shipment.

#### **3. Period of Service**

3.1. Delivery dates or terms are only binding if they were agreed to in writing, unless the customer demonstrates another practice in concrete terms. They are observed when the objects have left our operation pending their execution. Services are not due when the customer has not yet rendered a cooperative effort for fulfillment or an agreed upon pre-payment. In this case, delivery dates and terms binding us first start with execution of cooperative effort, and with the reception of the pre-payment.

3.2. With regards to service delays caused by barriers and operational disruptions not foreseeable upon the conclusion of the contract, for which we are not responsible, and which have substantial influence on the manufacture or delivery of the contractual object, the service period is extended by the duration required for their correction. This also applies when such circumstances arise for sub-contractors and do not affect our obligations of provision or transfer. If the contract performance is unreasonable for one party in part or in whole then they may withdraw from the contract.

3.3. Orders accepted by CW are not subject to termination, cancellation, or rescheduling without written consent of CW.

#### **4. Delivery, Consignment, Transfer of Risk, Partial Deliveries**

4.1 Upon transfer of the contractual object to the carrier or the agent performing the carriage (at the latest, however, upon departure from the point of sale, the warehouse or the supplier in case of third-party deals), the risk transfers to the customer. If the consignment or the receipt is delayed for reasons beyond our responsibility then the risk transfers to the customers upon notification of the preparedness to deliver or similar. The selection of the packing materials as well as the type of packaging remains in our discretion. Shipping instructions from the ordering party are only binding when they were agreed to in writing.

4.2. We are entitled to partial deliveries within a reasonable scope. For manufactured or standard package products, we are authorized to over- and under-deliveries in scopes usual to the line of business of at least or up to 10%.

4.3. For call orders, we are entitled to manufacture the entire quantity ordered completely. Change requests after contract award can only be considered when this is expressly agreed upon. Payment for open quantities from call orders are due upon expiration of the agreed upon deadline independent of the delivery status of the call order. If a deadline has not been agreed upon, we are entitled to ask for the remaining payments due one year at the latest after the conclusion of the contract.

4.4. For product exchanges for reasons for which we are not responsible, we charge a re-stocking fee of 15% of the value of the products. CW will not accept the return of any product for any reason without prior written Return Material Authorization form. With Return Material Authorization, we accept the return delivery of our delivered packages, if they are returned to us by the purchaser in a reasonable period of time free of transportation charges. Parts which were manufactured according to drawings or special customer specifications cannot be redeemed.

#### **5. Notice of Defects**

5.1. Customers should assert recognizable or hidden defects (e.g. transport damages) within five days of receipt of the product in writing.

5.2 As long as we are not provided the opportunity to satisfy ourselves of the existence of a defect, in particular the rejected product or sample is not made available upon demand, defects may not be attributed to us. The costs for this should be borne by the customer.

### **III. Terms of Payment**

#### **1. Due Date and Default**

Our invoices are immediately due upon partial delivery in the amount of the service delivered. A consignment only occurs against pre-payment or cash on delivery, if not otherwise agreed upon.

(a) If the customer does not pay on the due date or defaults on payment then we are entitled to demand interest in the amount of 5% annually above the base interest rate set by Deutsche Bundesbank. Further claims on our part are not affecting thereby.

(b) We are entitled to demand our entire claim if circumstances are made known, which indicate degradation of the financial standing or financial status of the ordering agent.

#### **2. Early Payment Discount**

We grant commercially large customers a payment period of NET30 during active business relations. For payment within ten days of the invoice date, we grant an early payment discount of 1%. In exceptional cases, agreed upon cash returns and allowances or discounts are dispensed with, if our claims are not entirely fulfilled, if other claims due exist at the time of payment. Workshop and services, tool expenses, disbursements, etc., after taxes, are due immediately.

#### **3. Right to Refusal of Service, Summation**

Withholding payments due to counterclaims or summation with counterclaims is not permitted, unless the counterclaims are not contested, held to be legally binding, or ready for judgment.

#### **4. Reporting, Account Reconciliation**

Objections against our reporting, account bank statements, account reconciliation, etc. must be asserted in writing within a cut-off period of three weeks after entry of the affecting document. The timely dispatch of the notice is sufficient. If an object does not occur in due time then this is understood as approval of the statement. If an obvious error emerges afterwards, in particular calculation errors, then either we or the customer may demand correction due to legal guidelines.



### IV. Reservation of Title

1. All products remain our property until our claims are fulfilled and the payment papers issued for those purposes are accepted and financial promissory notes have been fully redeemed. The reservation of title also applies to non-consumers for limited and future claims stemming from continuing business relations, regardless of which legal reason for the claim is affected.
2. The buyer is entitled to usage of the purchased product in proper course of business.
3. The reservation of title also extends to the treatment and mixture or binding of products arising from our product in their full value, whereby we are considered the manufacturer. If any third parties exist with titles for a treatment, mixture or binding with products then we gain joint ownership in the relation to the invoiced value of the treated products.
4. The buyer assigns any claims against third parties arising from the resale or processing or treatment as of this moment to us in the amount of the potential joint ownership portions (§3) as a safeguard. They are empowered to collect them until termination or disposition of their payments to us for our statements. The buyer is not authorized for the assignment of these claims even for purposes of the disposition of claims in the manner of factoring, unless the obligation of the factor is established at the same time, consideration in the amount of our claim portion carried through directly to us as long as the claims on our part against the buyer exist.
5. Access by third parties to the products and claims belonging to us should be immediately communicated to us by the buyer in writing.
6. The exercise of the reservation of title does not mean withdrawal from the contract.
7. If the customer defaults on payments or does not abide by their obligations according to the reservation of title, we may reclaim the product and exploit the product as best possible under abatement of the exploitation value from the purchase after written notification within a reasonable period through freehand sale or seek compensation at market or purchase price deducting appropriate processing fees. The retraction only applies as withdrawal with regard to partial payments by a consumer. In this case, the ordinances of the Uniformed Consumer Credit Code (UCCC) apply.
8. The products and the claims manifesting from them may not be neither pawned nor assigned as collateral to third parties prior to the complete payment of our claims.
9. For repair, innovation, and processing as well as labor contracts, a contractual lien is rightfully due to us because of our claim arising from this contract, and from previous contracts to the object ceded to our possession due to this contract.
10. If the collateral value exceeds our claims by more than 20% then we will accordingly release collateral of our selection upon demand by the customer.
11. Insofar as coercive legal guidelines of the respective state does not provide for reservation in the spirit of § IV paragraphs 1-10, however other rights to the protection of the claims are recognized from the invoices of suppliers, we retain them. The ordering agent is obligated to cooperate with measures which appertain to the protection of our titles or one of any other rights manifesting in this position of our product.

### V. Protective Rights for Development, Copyright

1. Insofar as our service in the grant of technical advice, in particular the development of technical advice for solutions, the preparation of drawings, formulas, development and improvement of products, etc. exists, we reserve all rights to such. This applies in particular for our intellectual property in the manufacture, however also for the physical property in all drawings, samples, models, etc.
2. Any disclosure, even for display, any form of forwarding, of reproduction (in whole or in part) is prohibited and obligates (undamaged) all of our other claims to the issuance of those manufactured or achieved in this manner. The customer is obligated upon demand to immediately grant all of the information, or to provide the corresponding documentation, necessary for the enforcement of our rights to us. Any drawing, samples, forms, etc. made by us should be returned upon demand, furthermore without demand in any event if the contract is not awarded to us.
3. Insofar as we supply objects according to customer specifications or documents, they assume the guarantee thereof that the rights of third parties are not infringed upon and release us from any third party claims.

### VI. Test Components Forms, Tools

1. If the customer should make parts available for the performance of the contract then they should be delivered freely, timely and free of charge or defect to our production shops to the agreed upon shop otherwise an appropriate overage for potential preclusion. For tools and other production equipment made available by the customer, our liability is limited to the diligence as in our own affairs. Costs for maintenance, care, and possible guarantees are born by the customer.
2. The manufacture of test components and tools as well as manufacturing and modification expenses for forms are born by the customer. Failing other agreements, the tools and other equipment, which are necessary for the manufacturing of ordered parts, remain our property. If not otherwise confirmed, the calculated tool costs are proportional expenses.
3. The correctness of the manufactured forms and other technical equipment must be confirmed in writing by the customer before production starts. Samples from all calibers of the form are made available. The confirmation of correctness by the customer, even if it occurs indirectly (e.g. in the form of contract inquiry), for us applies as binding for the acceptance of production without requiring any additional inspection on our part.
4. Our storage duty lapses, independent of the customer's right of title, two years after the last assembly from the form or the tool at the latest.

### VII. Breach of Contract

#### 1. The legal rights of the ordering agent in accordance with § 437 Paragraph 1 BGB (German Civil Code) apply according to the following provisions:

1.1 Insofar as the delivered objects due to defects are unusable in whole or in part, we will at our option, which should be arranged according to judgment of expense, correct the defect at no charge or supply defect-free delivery objects (listed together in the following "Supplementary Performance"). In addition, we bear the indirect costs of removal and assembly of the ordering agent. Duties to bear such costs for indirect removal and assembly do not exist, when these are incurred in foreign countries. Furthermore, they do not exist in as far as a reasonable relationship between them and the delivery price of the defective objects does not exist. Incidentally, the ordering agent bears the costs. For damages which correspond to normal usage over the duration, or which can be ascribed to faulty installation or application, we are not responsible.

1.2 For the judgment of expense which appears necessary to us, the ordering agent should provide us reasonable time and opportunity. Only in cases of urgency which compromise operational safety, or for the clearance of disproportionately major damages, or if we are in default with amendments, the ordering agent has the right to perform the amendment themselves or allow it to be performed by third parties and demand reparation of the necessary expenses from us. In such a case, we should be notified immediately.

#### 2. The further legal rights of the ordering agent apply in accordance with the following provisions:

We are exclusively liable in the following cases:

- (a) Intentional breach of contract
- (b) Breach of contract due to culpable negligence by our legal representative and performing agents.
- (c) Culpable injury of life, body or health
- (d) Fraudulent concealment of defects or guarantee for the quality of a delivered object



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- (e) Culpable infringement of essential contractual duties, through culpable negligence by non-managing personnel and slight faults, however, limited to the contractually standard, reasonable and foreseeable damages
- (f) In as far as there is liability according to the product liability code for personal or material damages to privately used objects.
3. In as far as it is not regulated otherwise in § VII Paragraph 1 and 2, our liability is excluded.
4. Defects should be shown to us immediately after detection. The rejected objects supplied should be retained for our availability. We reimburse the costs of return only when such follows our desire.
5. The ordering agent carries the burden of proof that the requirements of the claims to be asserted by them because of breach should be provided. This applies also for a fault on our part.
6. Claims of defects lapse 12 months after activation, at the latest however 24 months after the transfer of risk on the condition of simple operational usage.
7. For legal rights of withdrawal, § 350 BGB (German Civil Code) applies correspondingly.

### VIII. Scope of Liability

We are liable to non-consumers only for the contractually standard foreseeable damages, except in cases of intent and culpable negligence. In cases of the failure of assured qualities, we are liable only in so far as the assurance follows the purpose to safeguard the buyer against the occurring damages. Any additional liability for subsequent damages due to defects is excluded. Our liability is omitted except for intent; for damages for which the customer is insured. A penalty payment may only be claimed up to the amount of 0.5% for each full week of delay, at most however 5% of the invoice value after taxes of the portion of the entire delivery, which subsequent to the delay could not be timely, or according to contract, used. For non-fulfillment or incapacity, the same applies in spirit with the measure that compensation for damages may only be claimed in the amount of 15% of the invoice value after taxes of the affect individual contract or of the corresponding part of the contract.

### IX. Place of Delivery Jurisdiction Applicable Law

1. Place of delivery for all deliveries and payments is Hamburg, Germany.
2. Jurisdiction for all disagreements is Hamburg, Germany.
- 3 The law of the Federal Republic of Germany applies even in relation to foreign partners to the exclusion of international law pertaining to the sale of goods. The applicability of the unified UN law pertaining to the sale of goods (CISG) is expressly excluded.
4. If individual provisions of these general terms and conditions should prove, or become, ineffective, this does not affect the legal effectiveness of the remaining provisions.
5. We point out that we store personal data in accordance with the legal guidelines and process in combination with business transactions.

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**In all cases of doubt the text in the original language (german) is binding**

**In allen Zweifelsfällen ist der Text in der Originalsprache (deutsch) verbindlich.**