

**§ 1 General Provisions**

- § 1.1 All deliveries or services by us, Fröndenberger Drahtwerk GmbH, Fröndenberg (hereinafter: Supplier) to our contract partner (hereinafter: Customer), as well as orders placed with us are exclusively based on these Terms and Conditions of Sale (hereinafter: Terms and Conditions).
- § 1.2 Our Terms and Conditions apply exclusively. We do not accept any terms and conditions of the Customer that conflict with or deviate from these Terms and Conditions, unless we have expressly agreed to their applicability in writing before conclusion of the contract. This also applies to regulations which are not contrary to our Terms and Conditions, but are only contained in the Customer's terms and conditions. Acknowledgement of the Customer's general terms and conditions shall not take place through conclusive conduct, even if we execute the delivery to the Customer without reservation in the knowledge that Customer's terms and conditions are contrary to or deviate from our Terms and Conditions.
- § 1.3 These Terms and Conditions shall only apply to companies, legal entities under public law and special funds under public law.
- § 1.4 These Terms and Conditions shall also apply to future permanent contractual relationships.

**§ 2 Offers and Orders**

- § 2.1 Orders by the Customer shall only become binding upon our written order confirmation. We can accept the order within a period of two weeks.
- § 2.2 The contractual partners will immediately confirm verbal agreements in writing.
- § 2.3 The written form requirement shall be deemed to have been complied with if the transmissions are made by fax or e-mail or in any other text form. A signature by us is not required.
- § 2.4 The information and illustrations contained in brochures and catalogues are approximate values customary in the industry, unless we have expressly designated them as binding.

**§ 3 Delivery Period, Partial, Excess and Short Delivery**

- § 3.1 Unless agreed otherwise, delivery shall be "ex works". Decisive for compliance with the delivery date or delivery period is our notification that the goods are ready for dispatch or collection.
- § 3.2 The delivery period shall commence upon receipt of our order confirmation and shall be extended appropriately in the event of force majeure within the meaning of these terms and conditions or if any action or omission on the part of the contractual partner makes an extension of the delivery period necessary.
- § 3.3 Compliance with our delivery obligation on the agreed delivery date is conditioned on the timely and proper fulfilment of the Customer's obligations. We reserve the right to raise the defense of non-performance of the contract.
- § 3.4 Partial deliveries are permissible to a reasonable extent. They shall be invoiced separately.
- § 3.5 Within a tolerance of 10 percent of the total order quantity, production-related excess or short deliveries are permissible. The total price shall be changed according to the scope of such deliveries.
- § 3.6 If we have indisputably delivered partially defective goods, the Customer is nevertheless obliged to pay for the defect-free part(s), unless he is not interested in partial performance.

**§ 4 Dispatch and Transfer of Risk**

- § 4.1 Goods notified as ready for dispatch must be accepted by the partner without delay. If the Customer is in default of acceptance or if he culpably violates other obligations to cooperate, we shall be entitled to dispatch or store the goods at our discretion at the cost and risk of the Customer.
- § 4.2 Unless otherwise agreed, the means and route of transport shall be selected by us.
- § 4.3 The risk shall pass to the partner upon handover to the forwarding agent or carrier or upon commencement of storage, but at the latest upon leaving the factory or warehouse, even if we have accepted delivery.

**§ 5 Prices, Price adjustments and Terms of Payment**

- § 5.1 Our prices are in Euro plus value added tax, packaging, freight, postage and insurance.
- § 5.2 All invoices are due for payment within 10 days of the invoice date. A deviating agreement is possible.
- § 5.3 The Customer may only offset with legally binding or undisputed counterclaims and with mutual counterclaims arising out of the same contractual relationship.
- § 5.4 Bills of exchange and cheques are only accepted by agreement and only on account of performance and on condition that they are discountable. Discount charges shall be calculated from the due date of the invoice amount. A guarantee for timely presentation of the bill of exchange and cheque and for the lodging of a protest is excluded.

**§ 6 Default of Delivery and Payment**

- § 6.1 In case we can foresee that the goods cannot be delivered within the delivery period, we shall inform the Customer without undue delay and in writing of the reasons and if possible state the expected delivery date.
- § 6.2 The Customer shall only be entitled to withdraw from the contract if we are responsible for the failure to meet the delivery date and on the condition that the Customer has unsuccessfully set a reasonable grace period.
- § 6.3 Otherwise, we shall be liable in accordance with the statutory provisions insofar as the underlying purchase contract is a firm deal within the meaning of § 286 para. 2 no. 4 BGB or § 376 HGB. We shall also be liable in accordance with the statutory provisions if, as a consequence of a delay in delivery for which we are responsible, the Customer is entitled to claim that his interest in the performance of the contract has ceased to exist.
- § 6.4 We shall also be liable in accordance with the statutory provisions if the delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible; any fault on the part of our representatives or vicarious agents shall be attributed to us. If the delay in delivery is due to a grossly negligent breach of contract for which we are responsible, our liability for damages shall be limited to the foreseeable and typically occurring damage.
- § 6.5 We shall also be liable in accordance with the statutory provisions insofar as the delay in delivery for which we are responsible is based on the culpable breach of a material contractual obligation; in this case, however, our liability for damages shall be limited to the foreseeable and typically occurring damage.
- § 6.6 In the event of default of payment, we shall be entitled, without reminder, to charge default interest in accordance with § 288 para. 2 BGB.
- § 6.7 In case of default of payment by the Customer, we may refuse to fulfil our contractual obligations until receipt of payment.
- § 6.8 If, after conclusion of the contract, it becomes apparent that our claim for payment is endangered by the Customer's inability to pay, we may refuse performance and set a reasonable deadline within which the Customer must either make payment or provide security concurrently with delivery. In case the Customer refuses to comply, or the deadline either expires without success or it is not necessary to set a deadline at all, we shall be entitled to withdraw from the contract, to repossess goods already delivered and to demand compensation for damages. After withdrawal from the contract and taking back the goods, we shall be entitled to sell them. The proceeds of such sale shall be set off against the Customer's liabilities - less reasonable costs of sale. The statutory claims due to default of payment shall remain unaffected by this.

**§ 7 Long-term and Call-off Contracts, Price Adjustment**

- § 7.1 Contracts with unlimited validity can be terminated with a notice period of 3 months to the end of the month.
- § 7.2 If a significant change in wage, material or energy costs occurs in the case of long-term contracts (contracts with a term of more than 6 months and contracts with unlimited validity), each contractual partner is entitled to demand an appropriate adjustment of the price taking into account these factors.
- § 7.3 If a binding order quantity has not been agreed upon, our calculation shall be based on the non-binding order quantity (target quantity) expected by the partner for a specific period of time.
- § 7.4 If the partner purchases less than the target quantity, we are entitled to increase the unit price appropriately. If the partner purchases more than the target quantity, we shall reduce the unit price appropriately, provided that the partner has given notice of the additional requirement at least 3 months before delivery.
- § 7.5 In the case of delivery contracts on call, we must be notified of binding quantities by call at least 2 months before the delivery date, unless otherwise agreed.
- § 7.6 Additional costs arising from a delayed call or subsequent changes to the call in terms of time or quantity by the Customer shall be borne by the Customer.

**§ 8 Material Defects and Liability for Defects**

- § 8.1 The quality of the goods shall be based exclusively on the agreed technical delivery specifications. If we have to deliver according to drawings, specifications, samples, etc. of our Customer, he shall assume the risk of suitability for the intended purpose. Whether the condition of the goods is in accordance with the contract shall be determined at the time of the transfer of risk in accordance with § 4.
- § 8.2 We are not liable for material defects caused by normal wear and tear, unsuitable or improper use, faulty assembly or commissioning or faulty or negligent treatment by the Customer or third parties, nor for the consequences of improper modifications or repair work carried out by the Customer or third parties without our consent. The same applies to defects which only insignificantly reduce the value or suitability of the goods.
- § 8.3 Claims of the Customer for defects presuppose that the Customer has properly fulfilled his obligations to inspect the goods and make a complaint in accordance with § 377 HGB (German Commercial Code).
- § 8.4 We must be given the opportunity to determine the notified defect. Complained goods must be returned to us immediately upon request; we shall bear the transport costs if the complaint is justified. In case the Customer does not comply with these obligations or makes changes to the goods already complained about without our consent, he forfeits any claims for material defects.
- § 8.5 In the event of a justified timely notification of defects, we shall, at our discretion, either repair the rejected goods or deliver a flawless replacement. In the case of subsequent performance, we shall bear the necessary expenses however not exceeding the amount of the purchase price.
- § 8.6 If we do not fulfil these obligations or do not fulfil them in accordance with the contract, the Customer may demand a reduction in price or withdraw from the contract after fruitless expiry of a deadline for subsequent performance.
- § 8.7 We are liable in accordance with the statutory provisions if the Customer asserts claims for damages based on intent or gross negligence, including intent and gross negligence on the part of our representatives or vicarious agents.
- § 8.8 We shall be liable in accordance with the statutory provisions if we culpably violate a material contractual obligation.
- § 8.9 If the Customer is entitled to claim damages, our liability - except in cases of intent - is limited to compensation for reasonably foreseeable damage typical for the contract.
- § 8.10 Such limitation shall not apply to culpable injury to life, body or health or the mandatory liability under the Product Liability Acts (Produkthaftungsgesetz).

§ 8.11 Unless otherwise regulated above, liability is excluded.

§ 8.12 Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff, legal representatives and vicarious agents.

§ 8.13 The legal regulations on the burden of proof remain unaffected by this.

## **§ 9 Maximum Overall Liability**

§ 9.1 Any further liability for damages beyond that which is provided for in § 8 is excluded, irrespective of the legal nature of the claim asserted. This applies in particular to claims for damages arising from culpa in contrahendo, other breaches of duty or claims in tort regarding compensation for property damage in accordance with § 823 BGB.

§ 9.2 The limitation of paragraph 1 shall also apply if the Customer demands compensation for fruitless expenses instead of a claim for compensation for damages.

## **§ 10 Samples and Means of Production**

§ 10.1 Unless otherwise agreed, the production costs for samples and production equipment (tools, moulds, templates etc.) shall be invoiced separately from the goods to be delivered. This also applies to production equipment that has to be replaced due to wear and tear.

§ 10.2 In case the Customer suspends or terminates the cooperation during the production period of the samples or production equipment, all production costs incurred up to that point shall be borne by the Customer.

§ 10.3 The production equipment shall remain in our possession, even if the Customer has paid for it, at least until the delivery contract has been fulfilled. Thereafter, the Customer is entitled to demand return of the manufacturing equipment if an agreement has been reached on the return date and the Customer has fully complied with his contractual obligations.

§ 10.4 We shall store the production equipment free of charge until three years after the last delivery to the Customer. Thereafter, we shall request in writing that the Customer makes a statement within 6 weeks regarding further use. Our obligation to keep the means of production ends if no statement is made within these 6 weeks or no new order is placed.

## **§ 11 Confidentiality**

§ 11.1 Each contracting party shall use all documents (including samples, models and data) and knowledge received in the context of the business relationship only for the jointly pursued purposes and shall keep them secret from third parties with the same care as corresponding own documents and knowledge, insofar as the other contracting party describes them as confidential or has an obvious interest in keeping them secret.

§ 11.2 This obligation does not apply to documents and knowledge which are generally known or which were already known to the Customer on receipt without the Customer being obliged to maintain secrecy.

## **§ 12 Drawings and Descriptions**

If one contracting party provides the other party with drawings or technical documents relating to the goods to be delivered or their manufacture, these remain the property of the submitting contracting party.

## **§ 13 Retention of Title, Processing and Assignments**

§ 13.1 We retain the title to the delivered goods until any rights arising from the contract with the Customer have been fulfilled.

§ 13.2 In addition, we also retain the title to the delivered goods until all claims arising from the business relationship with the Customer have been settled.

- § 13.3 The Customer is entitled to sell the goods in the ordinary course of business as long as he meets his obligations from the business relationship due to us. However, he may neither pledge the reserved goods nor assign them as security. He is obliged to secure our rights in the case of a credited resale of the reserved goods.
- § 13.4 The Customer hereby assigns to us as security all claims and rights arising from the sale of goods to which we hold title. This applies regardless of whether the sale takes place without or after processing. We hereby accept the assignment.
- § 13.5 The Customer remains authorized to collect the claims from resale. Our authority to collect the receivables ourselves remains unaffected by this. We undertake, however, not to collect the claim as long as the Customer meets his payment obligations from the proceeds received, does not fall into arrears and, in particular, no application for the opening of insolvency proceedings has been filed or payments have been suspended. If this is the case, however, we can demand that the Customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.
- § 13.6 The Customer shall always carry out any processing or treatment of the reserved goods on our behalf.
- § 13.7 If the reserved goods are processed or inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the invoice value of the reserved goods to the other processed or mixed items at the time of processing or mixing.
- § 13.8 If our goods are combined or inseparably mixed with other movable objects to form a new uniform object, and if the other object is to be regarded as the main object, the Customer shall transfer proportional co-ownership to us, insofar as the main object belongs to him. The Customer shall keep the property or co-ownership in safe custody for us. For the rest, the same shall apply to the object created by processing or combining or mixing as to the reserved goods.
- § 13.9 The Customer shall inform us immediately of any enforcement measures or other interventions by third parties concerning the goods subject to retention of title, the claims assigned to us or other securities, and shall hand over the documents necessary for an intervention.
- § 13.10 The assignment or securities provided shall only be effective if they do not exceed the value of the secured claim by more than 10%.
- § 13.11 The Customer is obliged to treat the goods with care; in particular, he is obliged to take out adequate insurance at his own expense against fire, water and theft damage at replacement value.

#### **§ 14 Force Majeure**

Force majeure, industrial disputes, unrest, official measures, failure to deliver on the part of our suppliers and other unforeseeable, unavoidable and serious events shall release us from our obligations to perform for the duration of the disturbance and to the extent of its effect. This shall also apply if these events occur at a time when we are in default, unless we have caused the default intentionally or by gross negligence. We are obliged to provide the necessary information without delay within the scope of what is reasonable and to adjust our obligations to the changed circumstances in good faith.

#### **§ 15 Place of Performance and Jurisdiction**

- § 15.1 Unless otherwise stated in the order confirmation, our registered office (Hannover) is the place of performance.
- § 15.2 For all legal disputes, also in the context of a bill of exchange or cheque process, our place of business is the place of jurisdiction. However, we are also entitled to initiate a lawsuit at the Customer's place of business.

#### **§ 16 Severability Clause**

Should one or more provisions of these Terms and Conditions and of the further agreements be or become invalid, this shall not affect the validity of the contract and of these Terms and Conditions. The contracting parties undertake to replace the invalid provision by one which comes closest to the invalid provision in economic terms.

**§ 17 Applicable Law**

§ 17.1 The laws of the Federal Republic of Germany shall apply exclusively.

§ 17.2 The application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG - "Vienna Sales Convention") is excluded.

**§ 18 Miscellaneous**

These Terms and Conditions are a translation of the German General Terms and Conditions (Allgemeine Lieferungs- und Zahlungsbedingungen Version 24.08.2022). In case of any inconsistencies between the two language versions, the German version shall prevail.