

General conditions of sale and supply

Scope

The following conditions apply only with regard to companies, legal persons under public law or special assets under public law.

I. Application

1. Orders become binding only through the order confirmation of the Supplier. Changes and amendments shall be in text form. All offers are without obligation unless designated fixed offers.
2. With continuous business relations, these conditions also apply to future transactions when no express reference to these is made, provided these have been supplied to the Customer with an order confirmed by the Supplier earlier on.
3. Business conditions of the Customer do not apply unless they are expressly recognised by the Supplier.
4. Should individual provisions be or become ineffective, such shall not affect the remaining conditions. The English translation of this terms and conditions of sale is only for informative purposes. By confirming our order only the German text of our general terms and conditions of sale will apply exclusively.

II. Prices

1. In case of doubt the prices apply ex works excluding freight, customs, import levies and packaging plus value added tax to the legal amount.
2. Should the substantial cost factors significantly change following submission of the offer or after order confirmation pending delivery, Supplier and Customer shall agree on an adjustment of the prices and the shares of cost for moulds.
3. If dependence of the price on the weight of the part is agreed, the final price is determined from the weight of the released off-tool samples.
4. In the case of new orders (= follow-up orders) the Supplier shall not be bound to previous prices.

III. Supply and acceptance obligation

1. Delivery times commence following receipt of all documents required for filling the order, down payment and the timely provision of material as far as such has been agreed. Upon notification of readiness to dispatch the delivery time is considered fulfilled if shipment is delayed or impossible through no fault of the Supplier.
2. If an agreed delivery time is not kept due to the fault of the Supplier the Customer shall be entitled excluding additional claims following expiry of an appropriate extension to demand default compensation or withdraw from the contract unless he acted grossly negligently or deliberately. Withdrawing from the contract is excluded if the Customer itself is in acceptance default. The Customer has the right to furnish proof of greater damage.
3. Reasonable part deliveries and acceptable deviations from the order quantities up to plus/minus 10% are permissible.
4. In the case of call orders without agreement of period of validity, manufacturing lot sizes and acceptance dates the Supplier shall be able, within a period of three months, to demand a binding determination in this respect. Should the Customer fail to satisfy this request within three weeks, the Supplier shall be entitled to set a two-week extension and to withdraw from the contract after its expiry and/or demand damages.
5. Should the Customer fail to fulfil his acceptance obligations the Supplier, notwithstanding other rights, shall not be bound to the regulations on self-help sale, but sell by private treaty the supply item following prior notification of the Customer.
6. Events of Acts of God entitle the Supplier to delay the supply by the duration of the hindrance and an appropriate start-up time or to completely or partly withdraw from the contract in terms of the part not yet filled. Strike, lockout or unforeseeable unavoidable circumstances such as operating disruptions making timely delivery impossible for the Supplier despite reasonable efforts are equal to Acts of God; proof in this regard shall be provided by the Supplier. This applies also if the aforementioned hindrances occur during default or at a subcontractor.

The Customer can request the Supplier to explain within two weeks if he intends to withdraw or supply within an appropriate extension. Should he fail to explain, the Customer shall be entitled to withdraw from the part of

the contract as yet unfulfilled.

The Supplier shall immediately notify the Customer if an Act of God as explained in Clause 1 should occur. He shall keep the impairments of the Customer as light as possible, if applicable by handing out the moulds for the duration of the hindrance.

IV Packaging, shipment, passing of risk and acceptance default

1. Unless otherwise agreed, the Supplier selects packaging, type of shipment and shipping route.
2. The risk shall pass to the Customer upon departure from the supply plant even in the case of freight-paid delivery. In the case of delays in the shipment caused by the Customer the risk shall pass even upon notification of readiness for shipment.
3. Upon written request of the Customer the goods shall be insured against his designated risks at his expense.

V Ownership reservation

1. The deliveries remain the property of the Supplier pending fulfilment of all claims against the Customer to which the Supplier is entitled even if the purchase price for specially designated claims has been paid. In the case of continuous invoicing the reserved ownership in the deliveries (goods under reservation) shall apply as safeguard for the balance invoice of the Supplier. If a bill-type liability of the Supplier is established in connection with the payment of the purchase price, ownership reservation shall not cease before the bill is redeemed by the buyer as drawee.
2. Processing by the Customer shall take place subject to exclusion of title by purchase according to § 950 BGB (German Civil Code) on behalf of the Supplier; the latter shall become co-owner of the object so created in accordance with the ratio of the net invoice value of his goods to the net invoice value of the goods to be processed which serves as goods subject to reservation of ownership to secure the claims of the Supplier according to Clause 1.
3. In the case of processing (joining/mixing) with other goods not belonging to the Supplier on the part of the Customer the provisions of §§ 947, 948 BGB apply with the consequence that the co-ownership share of the Supplier in the new object shall now be considered as goods subject to reservation of ownership in terms of these conditions.
4. Reselling the goods subject to reservation of ownership by the Customer is only permitted by way of usual business transactions and the condition that he shall likewise agree ownership reservation according to Clauses 1 to 3 with his clients. The Customer shall not be entitled to other dispositions concerning the goods subject to reservation of ownership, especially pledging and transfer of title as security.
5. In the event of reselling the Customer herewith cedes to the Supplier all claims of the Supplier pending fulfilment of the claims and other justified titles against his customers with all additional rights arising from such resale. At the request of the Supplier the Customer undertakes to furnish the Supplier immediately with all information and hand over documentation required to exercise the rights of the Supplier against the customer of the Customer.
6. If the goods subject to reservation of ownership are resold by the Customer following processing according to Clause 2 and/or 3 together with other goods not belonging to the Supplier, the cession of the purchase claim according to Clause 5 shall only apply to the amount of the invoice value of the goods subject to reservation of ownership of the Supplier.
7. Should the value of the securities that exist for the Supplier exceed the latter's total claims by more than 10% the Supplier is obligated to release securities to that extent at the request of the Customer at the choice of the Supplier.
8. Distraint or seizure of the goods subject to reservation of ownership by a third party must be immediately brought to the attention of the Supplier. Intervention costs resulting from this shall always be for the account of the Customer provided such are not borne by third parties.
9. If the Supplier according to the above provisions should make use of his ownership reservation by taking back goods subject to reservation of ownership he shall be entitled to sell the goods by private contract or put them up for auction. The goods subject to reservation of ownership are taken

back at the yield achieved however at a maximum of the agreed delivery prices. Further claims for damages, especially lost profit, remain reserved.

VI. Liability for defects

1. Quality and workmanship of the products shall be governed by the off-tool samples which are submitted by the Supplier to the Customer for inspection upon request. Reference to technical standards serves to describe the performance and must not be interpreted as procurement guaranty.
2. If the Supplier has advised the Customer outside his contractual performance he shall only be liable for the working order and suitability of the supply item if expressly promised beforehand.
3. Defect complaints must be lodged immediately in writing. In the case of hidden defects the complaint must be lodged immediately after detection. In both cases all defect claims shall be statute-barred twelve months after the transfer of risk unless otherwise agreed. Insofar as the law according to § 438 Clause 1 No. 2 BGB, 479 Clause 1 BGB and § 634a Clause 1 No. 2 BGB urgently prescribes longer periods, such shall apply.
4. In the case of a justified defect complaint – where the off-tool samples released by the Customer in writing determine the expected quality and workmanship – the Supplier is obligated to subsequent specific performance. Should he fail to satisfy this obligation within a reasonable period or should the subsequent specific performance fail despite repeated attempts the Customer shall be entitled to reduce the purchase price or withdraw from the contract. Additional claims, especially reimbursement for expenditure or damages due to defect damages or consequential defect damages are only possible within the scope of the regulations as per VII. Replaced parts shall be returned unpaid to the Supplier upon request.
5. Unauthorised reworking and incorrect treatment shall result in the loss of any defect claims. Only to defend against disproportionately great damage or if the Supplier is in default with the defect rectification shall the Customer be entitled to subsequent specific performance after prior notification of the Supplier and to demand reimbursement for the reasonable costs.
6. Wear to the customary extent shall not have any warranty consequences.
7. Recourse titles according to §§ 478, 479 BGB apply only if recourse on the part of the consumer was justified and only to the legal extent, but not for goodwill regulations agreed with the Supplier and subject to the proviso of own obligations of the party entitled to recourse, especially observation of complaint obligations.

VII. General liability restrictions

In many cases, where the Supplier is obligated, in deviation from the aforementioned conditions due to contractual or legal claims, to pay for damages or expenditure, he shall be liable only to the extent that he, his managing staff or fiduciary agents are accused of gross negligence or a violation of body, health or life. Notwithstanding this, liability regardless of guilt according to the Product Liability Act and liability for compliance with a procurement warranty remain unaffected. Liability for culpable violation of essential contractual obligations shall also remain unaffected; liability shall, however, to that extent, be restricted to the foreseeable contract-typical damage except for the instances of § 1. No change of burden of proof to the detriment of the Customer is connected with the aforementioned regulations.

VIII. Conditions of payment

1. All payments shall be made in €(EURO) exclusively to the Supplier.
2. Unless otherwise agreed, the purchase price for deliveries or other performances shall be payable with a 2% discount within 14 days and free of any deduction within 30 days from the date of the invoice. The granting of a discount shall be subject to the proviso that all earlier due and undisputed invoices shall have been paid. No discount shall be granted for possible payments by way of bills.
3. If the agreed term of payment is exceeded, interest to the amount of the legal interest rate of 8 percentage points above the respective basic interest rate of the ECB shall be charged provided the Supplier does not prove any greater damage. The Customer has the right to prove lesser damage.
4. The right to reject cheques or bills is reserved. Cheques and rediscountable bills are only accepted by way of performance, all costs connected with such shall be for the account of the Customer.
5. The Customer shall only be able to offset or claim a retention right if his claims are undisputed or have been legally established.

6. Consistent failure to meet payment conditions or circumstances which give rise to serious doubts about the credit worthiness of the Customer shall render all claims of the Supplier due immediately. In addition to this, the Supplier shall be entitled in such a case to demand advance payments for outstanding deliveries and to withdraw from the contract following unsuccessful expiry of a reasonable period.

IX. Moulds (Tools)

1. The price for moulds also includes the costs for one-off sampling but not the costs for test and machining fixtures and for changes initiated by the Customer. Costs for additional sampling under the responsibility of the Supplier shall be for his account.
2. Unless otherwise agreed the Supplier remains the owner of the moulds produced by the Supplier himself or a third party commissioned by him on behalf of the Customer. Moulds shall only be used for orders of the Customer for as long as the Customer complies with his payment and acceptance obligations. The Supplier shall only be liable for replacement of these moulds free of charge if these are required to fulfil a production quantity promised to the Customer. The obligation of the Supplier for storage expires two years after the last parts delivery from the mould and prior notification of the Customer.
3. If it is agreed that the Customer should become the owner of the moulds such ownership shall pass to the Customer following complete payment of the purchase price. The handover of the moulds to the Customer will be replaced by the storage in favour of the Customer. Regardless of the legal restitution title of the Customer and the life span of the moulds the Supplier shall be entitled to their exclusive possession pending the expiry of the contract. The Supplier shall mark the moulds as foreign owned and take out insurance at the request and expense of the Customer.
4. In the case of moulds owned by the Customer according to Clause 3 and/or moulds made available by the Customer on lease, the liability of the Supplier in terms of storage and care is restricted to the same care as in his own affairs. Costs for maintenance and insurance shall be borne by the Customer. The obligations of the Supplier shall cease when, after completion of the order and corresponding request, the Customer should fail to collect the moulds within a reasonable period. While the Customer has not fully complied with his contractual obligations the Supplier shall always have a retention right in the moulds.
5. Costs of tools, equipment, models, etc. are generally billed separately from the merchandise value. They must be paid when the first sample we manufacture is sent, or if none such is owed, when the first shipment of goods takes place. Even if the buyer has paid all or part of the costs of tools, the buyer does not acquire any claim to these tools; they remain in our ownership and our possession and do not have to be surrendered. We agree to store the tools on the orderer's behalf and at the orderer's risk for one year after the final delivery. If, before the end of this period, the orderer notifies us that orders will be placed within another year, we are bound to store the tools for this period. Otherwise we may dispose of the tools as we choose.

X. Material provisions

1. If materials are supplied by the Customer such shall be delivered at his expense and risk with an appropriate quantity allowance of at least 5%, timely and in perfect condition.
2. Failure to satisfy these requirements will result in commensurate extension of the delivery time. Except for cases of Acts of God the Customer shall bear any additional costs also for manufacturing interruptions.
3. If the customer makes physical objects available to KRD Engineering & Service GmbH, which are stored temporarily or for a longer period of time on the plant site of KRD Engineering & Service GmbH, the customer shall indemnify KRD Engineering & Service GmbH from the assertion of all claims and itself waive all claims, which are a result of the fact that the physical object made available by the customer is changed or damaged or lost. This indemnification shall not apply if the change or damage or the loss are caused by a wilful respectively grossly negligent conduct of employees respectively vicarious agents of the company KRD Engineering & Service. The indemnification shall further not apply insofar as the damages suffered of the physical objects are compensated for by an insurer.

XI. Intellectual property rights and legal defects

1. If the Supplier has to supply based on drawings, models, samples, or using parts provided by the Customer the Customer guarantees that no intellectual property rights of third parties in the country of destination of the goods are violated as a result. The Supplier shall inform the Customer of any rights he is aware of. The Customer shall exempt the Supplier of any claims by third parties and pay compensation for any damage involved. If the Supplier is prohibited from manufacturing or supplying by a third party claiming third party intellectual property rights, the Supplier – without examination of the legal situation – shall be entitled to cease the work pending clarification of the legal situation by the Customer and such third party. If continuation of the order can no longer be expected from the Supplier as a result of the delay he shall be entitled to withdraw.
2. Drawings and samples furnished by the Supplier which have not culminated in an order are returned upon request; otherwise he shall be entitled to destroy these three months after submission of the offer. This obligation applies mutatis mutandis to the Customer. The party entitled to such destruction shall timely inform the party to the agreement of his intention to destroy beforehand.
3. The Supplier is entitled to the copyright and, if applicable, commercial intellectual property rights, especially all utilisation rights in the models, moulds and fixtures, drafts and drawings created by him or by third parties on his behalf.
4. Should there be any other legal defects, No. VI shall apply to these accordingly.

XII. Advance notice for protection film

If panels are protected with laminated foil, the following is of utmost importance for storage and processing:

- Protect the panels from atmospheric conditions, in particular, temperature fluctuations and direct UV irradiation.
- Furthermore, immediate removal of the film after installation is mandatory.
- Reshape or bend only in accordance with the manufacturer's specifications.
- Moreover, dry storage of the panels is of utmost importance.

XIII. Place of performance and venue

1. Place of performance is the place of the supply plant.
2. Venue is the registered office of the Supplier also for documentary, bill and cheque proceedings.
3. Exclusively German law applies. The application of the Treaty of the United Nations dated 11 April 1980 concerning Agreements on the National Sale of Goods (BGB 1989 Page 586) for the Federal Republic of Germany (BGB 1990 Page 1477) is excluded.

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