

General Terms of Business for Foundry Products (As at: 1 January 2020)



Our deliveries and services are subject only to the following conditions; differing conditions of the ordering party will not apply even if we are aware of those conditions and execute the delivery without reservation. Our conditions do not apply to consumers for the purposes of § 13 BGB (German Civil Code). They will also apply to all future transactions with the ordering party under an ongoing business relationship. All agreements entered into between us and the ordering party to execute this contract must be set forth in this contract in writing. Amendments to this contract must use the written form ("Schriftform" under § 126 of the German Civil Code).

1. Contract conclusion; Scope of delivery

- a) Our offer is subject to change unless otherwise specified in the order confirmation or expressly declared by us. A contract will only be concluded if we execute an order or confirm it in writing.
- b) The details contained in the brochures and catalogues, such as illustrations, drawings, and information on weights and measurements, are approximate values that are customary in the industry unless they are expressly designated as binding.
- c) We reserve the ownership rights and copyrights to illustrations, brochures, calculations, and other documents; they may not be made available to third parties. This especially applies to written documents that are marked "confidential"; the ordering party may not forward them to third parties without our express written consent.

2. Pricing and payment conditions

- a) Our prices apply ex works plus packaging, freight, postage, insurance, and any statutory value added tax.
- b) If order-related costs change significantly after contract conclusion, the contracting parties shall agree on an adjustment.
- c) Unless otherwise agreed, our invoices are due for immediate payment with no deductions.
- d) The ordering party may withhold payments or set them off against counterclaims only if its payment claims are uncontested or have been legally established.
- e) If we deliver partially defective goods, the ordering party shall still pay for the indisputably defect-free goods unless that party has no interest in the partial delivery.
- f) If expressly agreed in advance, we accept discountable and properly taxed bills of exchange on account of payment. Credit notes against bills of exchange and cheques are issued subject to receipt and minus expenses at the value on the day on which we are able to access the exchange value.
- g) If we are obligated to make advance deliveries, but after entering into the contract become aware of circumstances according to which our payment claim is jeopardized by the ordering party's lack of ability to pay, we will be entitled to the statutory claims based on the retention of title agreed in item 9 and may also demand that the delivered goods be resold and processed at the ordering party's expense and revoke the direct debit authorization under the conditions of item 9(h). The ordering party hereby authorizes us to enter its place of business and collect the delivered goods in the aforementioned cases. A repossession of the goods will not be

deemed a withdrawal from the contract unless we declare this explicitly.

- h) If the payment is late, we may, after giving written notification, suspend the fulfilment of our obligations until the payment is received. In this case, we are also entitled to withdraw from the contract after having set a reasonable grace period

3. Delivery period

- a) Delivery periods begin with our order confirmation, but not until all details of execution have been clarified and all other conditions to be fulfilled by the ordering party have been met; the same applies to delivery dates. Partial deliveries and deliveries before the expiry of the delivery period are permitted provided these are acceptable to the ordering party. The delivery date will be deemed the day on which notification of readiness for shipment is given or, failing that, the day of dispatch. Unless otherwise agreed or otherwise specified under the contractual relationship, the delivery period we specify is always non-binding.
- b) If the ordering party is in arrears with their obligations, agreed delivery periods and deadlines will be extended or postponed by the period of delay caused by them without prejudice to our rights. If the ordering party delays acceptance or culpably breaches other obligations to cooperate, we will be entitled to demand compensation for any damages we suffer, including any additional expenses. Moreover, as soon as the ordering party defaults in acceptance, the risk of accidental loss or deterioration of the purchased item will be transferred to that party.
- c) If we fail to adhere to a delivery deadline, the ordering party may set a reasonable grace period with the express declaration that they will refuse to accept delivery after that period expires, and may withdraw from the contract if that period does expire.
- d) On our request, the ordering party shall declare within a reasonable period whether, due to the delay in delivery, they will withdraw from the contract, demand damages in lieu of delivery, or both; or whether they will continue to insist on delivery.

4. Serial delivery; Long-term and call-off contracts

- a) Contracts without a fixed term may be terminated at the end of any month with a notice period of at least six months.
- b) If during long-term contracts (contracts that have a period of more than 12 months or that have no fixed term) the wage, material, or energy costs change significantly after the first four weeks of the contract period have expired, either contracting party may demand that the price be reasonably adjusted under consideration of such factors.
- c) Our prices are calculated on the basis of the agreed order volumes. If no binding order volumes have been agreed, our calculations will be based on the agreed target volume. If the order volume or target volume is not reached, we are entitled to increase the unit price accordingly. If the ordering party exceeds the volume with our consent, the ordering party may demand a reasonable price reduction if that party notifies us of this in

writing at least two months before the agreed delivery deadline. The amount of the reduction or increase must be determined based on our costing data.

d) For call-off delivery contracts, we must be notified of the call-off order for binding quantities at least three months before the delivery date unless otherwise agreed. If the ordering party causes any delays or subsequent changes regarding the time or quantity of the call-off order, the ordering party shall bear any additional costs this incurs; our costing will be authoritative to that end.

e) For series production, excess or short deliveries of up to 10 % of the order volume are permissible due to idiosyncrasies of the casting procedure.

f) The total price will be modified according to the scope of the excesses or shortages.

5. Force majeure and other hindrances

a) Force majeure events, labor disputes, lockouts, and regulatory actions entitle us to postpone delivery for the duration of the hindrance plus an appropriate start-up period or withdraw from the contract in part or in full due to the non-fulfilled portion. We shall inform our customers of such circumstances without undue delay. Our customer may ask us to clarify within two weeks whether we wish to deliver within a reasonable period or withdraw. If we fail to provide such clarification, the customer may withdraw from the non-fulfilled portion of the contract.

b) Unforeseeable circumstances such as operational breakdowns, rejects, and rework that prevent us from making prompt delivery despite our reasonable efforts will be deemed equivalent to force majeure; the burden of providing evidence of such circumstances lies with us.

6. Testing procedures; Acceptance

a) If an acceptance procedure is agreed, its scope and conditions must be established at the same time, before the contract is concluded.

b) If this is not established, acceptance will take place to the extent and under the conditions that are typical for us.

c) The same applies to inspections of initial samples.

7. Dimensions; Weights; Number of units

a) Deviations in dimensions, weights, and numbers of units are permissible as long as those deviations remain within the bounds of typical tolerances, relevant DIN provisions, and requirements of casting technology. Specifications of dimensions and weights in our offers and order confirmations are not deemed quality guarantees.

b) Billing will be based on the delivery weights and numbers of units determined by us.

8. Shipping; Transfer of risk

a) Unless otherwise agreed in writing, the delivery terms will be "ex works" (Incoterms 2010). This will also apply if we have undertaken to assume the transport costs.

b) We shall take out transport insurance for the delivery only if this is explicitly requested by the ordering party, who shall bear the costs incurred to that extent.

c) Goods concerning which a notice of readiness for shipment has been issued must be collected without undue

delay, failing which we are entitled, at our own discretion, to ship them, or store them at costs customary for freight carriers and at the ordering party's risk; we are also entitled to the latter option if the goods cannot be shipped through no fault of our own. One week after storage begins, the goods will be deemed delivered.

d) Unless special instructions have been given, we will choose the means and route of transport at our discretion.

e) Risk will be transferred to the ordering party as soon as the goods are handed over to the railway, forwarding agent, or freight carrier, or one week after storage begins, but at the latest when they leave the factory or warehouse, even if we have undertaken the delivery.

9. Retention of title

a) All delivered goods remain our property ("Reserved Goods") until all claims are fulfilled, especially any outstanding amounts to which we are entitled under the business relationship. This also applies if payments are made on specially designated claims. If the ordering party defaults on payment, we are entitled to demand that the delivered goods be returned. The ordering party shall bear the costs for returning them. This does not apply if insolvency proceedings against the ordering party have been requested or initiated, due to which we are not entitled to immediately demand the return of the delivered goods.

b) Repossession of the goods or assertion of the retention of title will not be deemed a withdrawal from the contract unless we declare this explicitly.

c) If the ordering party alters or processes the delivered goods, they do so on our behalf. If the delivered goods are processed or inseparably combined with other objects not belonging to us, we will acquire co-ownership of the new item in the ratio of the invoice value of our goods to the other processed or combined objects at the time of processing.

d) If our property ceases to exist through processing or combination, the ordering party hereby transfers to us the ordering party's ownership rights to the new inventory or item to the extent of the invoice value of the Reserved Goods, and shall hold them in custody for us at no charge. The co-ownership rights which arise hereby are deemed Reserved Goods as detailed in point a).

e) The ordering party may sell the Reserved Goods within the normal course and under the normal terms of their business, as long as the ordering party is not in default and the accounts receivable from the resale are assigned to us in accordance with points f) and g). The ordering party may not dispose of the goods in any other way.

The ordering party hereby assigns to us their accounts receivable arising from the resale of the Reserved Goods. They will serve as collateral to the same extent as do the Reserved Goods.

f) If the Reserved Goods are sold along with other goods not delivered by us, the assignment of the accounts receivable from the resale will apply only in the amount of our invoice value regarding the Reserved Goods which have been sold. If goods in which we hold a co-ownership share pursuant to point b) are sold, the assignment of the accounts receivable applies in the amount of that co-ownership share.

g) The ordering party may collect accounts receivable arising from the sale in accordance with points e) and f) until we revoke that authorization. We may pronounce such revocation in the cases named in item 2, if the ordering party defaults on payment, or a motion is made to initiate insolvency proceedings, or payment has been discontinued. In such cases, the ordering party is obligated to disclose the assigned accounts receivable and their debtors to us without undue delay, provide all information necessary to collect, issue the associated documents, and notify the debtors of the assignment. Under no circumstances may the ordering party assign the accounts receivable.

h) If the value of the existing securities exceeds the secured claims by a total of more than 20 %, we shall release securities to that extent, at our discretion. The ordering party shall inform us without undue delay of any seizure or other impairments by third parties.

10. Liability for material defects

a) We bear liability for the flawless manufacture of the parts that we deliver, in accordance with the agreed technical delivery specifications. The ordering party shall be responsible for proper construction (especially regarding intended use) under consideration of any safety regulations, choice of material, and required testing procedures; for the correctness and completeness of the technical delivery specifications and the technical documents and drawings handed over to us; and for the construction of the production devices provided; furthermore, even if we recommend changes to which the ordering party agrees, the ordering party shall ensure that no proprietary rights or other third-party rights will be breached by the information the ordering party provides. The contractual condition of the goods is defined at the point when risk is transferred.

b) We will not be liable for insignificant deviations from the agreed quality; for insignificant impairments of usability; or for defects caused by unsuitable or improper use, faulty assembly or commissioning, or normal wear and tear. Neither will we be liable for improper alterations or maintenance work performed by the ordering party or third parties, or for the consequences thereof.

c) The ordering party shall give written notice of material defects without undue delay after the goods are received at the intended destination, and of hidden defects without undue delay after the defect is discovered (§ 377 HGB (German Commercial Code)).

d) If an acceptance procedure or inspection of initial samples has been agreed in accordance with item 6, notice may not be given of any defects that could have been detected during these inspections.

e) We must be given the opportunity to verify the defect forming the object of complaint. In urgent cases when operational safety is at risk, or to keep the ordering party from suffering disproportionately severe damage, we shall verify the reported defect without undue delay. Contested goods must be returned to us on request without delay. If the ordering party fails to comply with those obligations or modifies already contested goods without our consent, the ordering party will forfeit any rights based on material defects.

f) If a justified notice of defects is given in good time, we shall repair the contested goods or deliver a defect-free

replacement (subsequent performance), at our discretion.

g) If we fail to comply with our warranty obligations or do not meet these within a reasonable period, or if the subsequent improvement fails at first, the ordering party may set a grace period, in writing, during which we shall comply with our obligations. No grace period need be set if doing so would be unacceptable to the ordering party. If the grace period expires to no avail, the ordering party may at their discretion demand a reduction of the price; withdraw from the contract; or, at our cost and risk, perform the necessary subsequent improvement or have it performed by a third party. If the subsequent improvement is successfully performed by the ordering party or a third party, all of the ordering party's claims will be compensated by reimbursing that party for the necessary costs they have incurred.

h) If the ordering party relocates the goods after they have been delivered no expenses incurred in so doing may be claimed (even if those expenses were necessary to provide subsequent performance) to the extent they increase the costs, unless such relocation complies with intended use.

i) The ordering party's statutory rights of recourse against us exist only insofar as that party has not entered into agreements with its buyer beyond the statutory claims for defects.

j) Additional claims of the ordering party are excluded in accordance with item 13.

k) The ordering party shall bear the burden of proving any defect.

11. Order-related production devices; Parts to be cast

a) Order-related production devices that the ordering party provides, such as models, templates, core boxes, moulds, casting tools, equipment, and control gauges, must be sent to us free of charge. We will inspect the production devices provided by the ordering party to make sure they match the contractual specifications or the drawings or samples handed over to us only on the basis of express agreements. We may modify the production devices provided by the ordering party if this appears necessary to us for reasons inherent to casting technology and the work piece is not changed thereby.

b) The ordering party shall bear the costs for modifying, maintaining, and replacing its production devices.

c) We shall handle and store the production devices with the same level of care we apply to our own affairs. We are not liable for the accidental loss or deterioration of the production devices. We may send back the ordering party's production devices that we no longer need, at that party's expense and risk, or, if the ordering party fails to comply with our request to collect those devices within a reasonable period, store them at the customary costs and destroy them after having set a reasonable period and given due warning.

d) Order-related production devices that we produce or procure on the ordering party's behalf will remain our property after the proportionate costs have been charged. We shall retain them for three years after the last casting. If, contrary to paragraph 1, it is agreed that the ordering party will be the owner of the devices, that ownership will be transferred to the ordering party when the agreed price or cost component has been paid. The

handover of the devices is replaced by our retention obligation. The ordering party may cancel the storage arrangement two years or more after ownership is transferred unless there is an important reason not to.

e) The ordering party may assert claims arising from copyright or industrial property rights only insofar as that party notifies us of the existence of such rights and expressly reserves the right to assert them.

f) If a production device that can only be used once produces a reject, the ordering party shall either provide another production device or bear the costs of replacing it.

g) Parts to be used by us for casting shall be supplied by the ordering party with accurate dimensions and free from defects. The ordering party shall deliver replacements at no charge for any parts that become unusable due to rejects.

12. Confidentiality

a) Each contracting party shall use all the documents (including samples, models, and data) and knowledge it receives from the business relationship only for mutually pursued purposes, and shall keep them secret from third parties with the same care that party applies to its own documents and knowledge, if the other contracting party has designated them as confidential or has an obvious interest in keeping them secret.

b) That obligation begins when the documents or knowledge is first received and will survive the business relationship by 36 months.

13. General limitation of liability

a) Our liability for damage compensation will be limited under this item 13, regardless of legal grounds, but especially due to impossibility of performance, default, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations, and tort, provided we are to blame in the respective case.

b) We will not be liable for the ordinary negligence of our company boards and committees, legal representatives, salaried employees, or other vicarious agents, unless such negligence entails a breach of material contractual obligations. Material contractual obligations include the obligation to deliver or provide the respective delivery object promptly and without defects of title or material defects that might impair its functionality or usability more than insignificantly; and obligations to consult, protect, and exercise due care that are to enable the ordering party to use the delivery object contractually or aim to protect the life and limb of the ordering party's personnel or protect its property from material damage.

c) Insofar as we are liable for compensation on the grounds of and according to point b), that liability will be limited to damage that we foresaw – or ought to have foreseen if we had exercised customary diligence – as a possible consequence of a breach of contract when we

entered this agreement. Indirect damage and consequential damage that result from defects of the respective delivery object are also compensable only if they can be typically expected when the delivery object is used as intended.

d) Whenever we are liable for ordinary negligence, our obligation to pay compensation for material damage and resultant financial losses will be limited to the amount that will be compensated by the liability insurance we maintain, even if such negligence entails a breach of material contractual obligations. We shall provide the supplier with information about our insurance coverage on request.

e) The aforementioned exclusions and restrictions of liability apply to the same extent to the benefit of our company boards and committees, legal representatives, salaried employees, and other vicarious agents.

f) Any advice or technical information we provide outside our contractually owed scope of services will be given free of charge and under exclusion of any liability.

g) The restrictions under this item 13 do not apply to our liability for willful conduct; guaranteed qualities; injury to life, limb, or health; or under the Product Liability Act.

14. Place of fulfilment; Place of jurisdiction

a) If the ordering party is a merchant, the place of jurisdiction will be the Lobenstein District Court. However, we are also entitled to bring an action against the ordering party before the court where their registered office is located.

b) Unless otherwise specified in the order confirmation, the place of fulfilment for our services will be the location of our supplier plant. For payment obligations, the place of fulfilment will be Lobenstein.

15. Applicable law

The legal relationship between the parties will be governed exclusively by German law under the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. (UNCITRAL/CISG)

16. Partial nullity

If individual provisions of these terms of delivery and payment are held to be ineffective or invalid, in part or in full, the contracting parties shall agree on a regulation through which the rationale and purpose pursued by the ineffective or invalid provision will be attained as far as possible.

17. Partnership clause

Any amount paid in compensation, especially for damages, should be determined in good faith while adequately considering the contracting parties' economic situations; the type, scope, and duration of the business relationship; and the value of the goods.