

General Delivery and Payment Terms of TechnoKer GmbH

1. COVERAGE

- 1.1 All agreements, deliveries and services of TechnoKer, subsequently referred to as the supplier, which are also applicable to any further deals with the same clients, are exclusively carried out in accordance with the following stated general terms of delivery and payments. They are agreed upon by acceptance of the acknowledgement of an order or by acceptance of the goods, at the latest. Diverging conditions imposed by the purchaser which are not clearly accepted by the supplier in writing will not become part of the contract.
- 1.2 Business relations between the supplier and purchaser are exclusively subject to the law of the Federal Republic of Germany. The jurisdiction of German Courts is to be considered as agreed upon. The law covering international transactions of moveables as well as the signing of such contracts is not applicable.
- 1.3 In the case of one or various following stipulations becoming invalid, the effectiveness of the remaining clauses is not impaired. Instead of the invalid part, such a stipulation becomes effective which comes closest to the intended purpose.

2. QUOTATIONS, EFFECTING THE CONTRACT AND SCOPE OF DELIVERY

- 2.1 Quotations from the supplier are on principle not binding, i.e. they represent an invitation to the purchaser to place an order. The contract then is effected upon acceptance of order by the supplier.
- 2.2 Verbal agreements require written confirmation by the supplier. For the processing of orders, if not otherwise explicitly agreed in writing, the written acknowledgement applies exclusively.
- 2.3 The purchaser for production-related reasons – especially for reasons of breakage – is obliged to accept and pay for additionally produced parts up to 5 % above the ordered number of each type. However, this will never be more than 5 % of the agreed number. This applies when geometrically challenging articles or less than 100 components are involved.
- 2.4 Pertinent partial deliveries as well as deviations from order quantities are permissible up to +/- 10 % since it is a quantity subject to a processing order. The minimum quantity is a complete packing unit.
- 2.5 All articles are separated into individual types. Marginally malformed parts or such which show a minor unevenness or cosmetic blemishes are to be accepted. Equally, minor dimensional deviations which represent the present state of technology are permissible.

3. DELIVERY TIMES AND TERMS

- 3.1 Delivery deadlines commence after receipt of all relevant documentation, the agreed down payment and, if applicable, the required punctually effected purchase of material from the supplier. Delivery deadlines will be affected by changes to the design and types desired by the purchaser. The deadlines commence again only after approval of samples by the purchaser. On the basis of the supplier's notification that goods are ready for delivery by submitting the invoice or delivery notice, the delivery time is to be considered as adhered to.
- 3.2 Concerning call-off orders which do not stipulate either duration, production quantities or call-off dates, the supplier may, at the latest 3 months after confirmation of the order, request a binding delivery date. Should a delivery time be not kept due to the fault of the supplier, then the Purchaser, after a grace period, excluding further claims, may demand an indemnity claim or withdraw from the order if he has indicated this when fixing the grace period. Compensation for damages for default shall be limited to 5 % of the value of such articles which are subject to the claim. In cases of gross negligence or willful intent caused by us, then legal stipulations apply.
- 3.3 Events of force major affecting the supplier or his sub-suppliers prolong the delivery in an appropriate way. This also applies in case of official interference, energy and raw material supply problems, strikes or lock-outs as well as unforeseen supply problems which are not to be blamed on the supplier.
- 3.4 Further claims, especially claims for compensation, are excluded. Paragraph 10 remains unaffected.

4. DISPATCH AND PASSING OF RISK

- 4.1 If not agreed otherwise, the supplier chooses packing and transport at his discretion. Packing material such as cardboard boxes, crates, bags are one-way containers which are charged for and shall not be taken back. Likewise, the postage for special deliveries, if explicitly asked for or if it appears sensible for smaller orders, shall be charged as an extra.
- 4.2 The transport in any case is effected at the risk of the purchaser upon leaving the premises of the supplier. Delivery delays caused by the purchaser then cause the risk to be transferred to him upon notification that goods are ready for dispatch.
- 4.3 Upon written request by the purchaser, the goods shall be insured at his cost against damage caused in storage, breakage, transport and by fire as well as against specially described risks.
- 4.4 In case of transport damage, the purchaser needs to file his claims with the transport agent prior to accepting the goods.

5. PRICES AND PAYMENT

- 5.1 Prices quoted are prices per unit which may, however, become subject to other special clauses. They are to be considered ex works, excluding freight cost, packing and VAT. VAT is calculated against the applicable rates at the time of dispatch. In case of unforeseen substantial price increases in raw materials, additives, energy costs, common rates as well as tariff rates between the date of order and dispatch, a relevant price adjustment may be decided on.
- 5.2 Invoicing for delivery is undertaken on the dispatch date. Payment becomes due in cash, net, without discount, 30 days after issue date at the latest. The settlement day is the date on which we can dispose of the money. All payments are to be made in EURO exclusively to the supplier. Bills of exchange are not considered as cash payments. Acceptance of cheques and bills of exchange plus the so called refinancing bank draft require a special agreement. Cheques and rediscountable drafts are only accepted as pay fulfillment when all related costs are born by the purchaser.
- 5.3 Offsetting and money containment because of counter claims by the purchaser are excluded except when the claim is indisputable and has been substantiated.
- 5.4 If not agreed otherwise, the pro rata cost:
 - a) for tools and moulds as well as sampling and upon rendering our services, i.e. providing outturn samples, becomes due net cash without deduction. For tools and moulds for which the pro rata cost is € 2.500,- and above, a down payment of 50% becomes due.
 - b) For payments effected within 10 days after receipt of invoice we grant a 2 % discount against the goods value. The same discount rate applies for deliveries against prepayment or cash on delivery. For invoices up to € 100,- and for deliveries abroad, no discount can be granted. Any cash discounts shall be granted on the basis that all previous invoices have been fully settled.
- 5.5 Starting from the due date, an interest rate amounting to 2 % above the prime lending rate of EZB shall be charged irrespective of asserting other claims. Ignoring payment terms or circumstances which impair on the financial standing of the purchaser make all trade receivables for the supplier fall due immediately. Furthermore, the supplier has the right to ask for a pre-payment or, after setting a grace period, to withdraw from the contract, or to ask for compensation for damages because of the non-fulfilment of a contract. Furthermore, the supplier has the right to disallow the purchaser to resell the goods. He may transport back the goods at the purchaser's expense and to withdraw acceptance bills from circulation under deduction of cost incurred.

6. RESERVATION OF TITLE

- 6.1 The supplier reserves the right on a reservation of title on all goods supplied by him until all debts owed resulting from business relations between the supplier and purchaser are settled. To allocate single debts into a new invoice or into a carry over resulting from an agreement does not influence the reservation of title. Regarding a current invoice, the reservation of title safeguards balancing out the account in favour of the supplier.
- 6.2 Treating and processing of goods by the purchaser is done under exclusion of a marketable title, according to § 950 BGB, in favour of the supplier; thus, the ownership stays with him which serves as reservation goods to safeguard claims of the supplier in accordance with § 6.1.
- 6.3 Upon processing (assembling/blending) by the purchaser with other articles not owned by the supplier, stipulations against §§ 947, 948 BGB apply, resulting in a joint ownership on the new matter, which thus becomes reservation goods analogous to these clauses.
- 6.4 Reselling of reservation goods by the purchaser under common business trading conditions is only permissible if he agrees on a conditional sales clause with his clients as well (reference para 6.1 - 6.3). Other disposals by the purchaser about reservation goods, especially of pledged and collateral goods, are not permitted.
- 6.5 In case of a resale, the purchaser simultaneously thereby transfers all the claims which originate out of the resale over to the supplier. Any trade debts and constraints out of this resale against the purchaser's clients shall be transferred over to the supplier. Upon request, the purchaser is obliged to surrender all information and records of his clients which are required to enforce claims for the supplier.
- 6.6 When reservation goods after processing by the purchaser 6.2 and/or 6.3 apply - or together with other articles not belonging to the purchaser are sold, then only the purchase value - para 6.5 - amounting to the invoice value of the reservation goods becomes due.
- 6.7 Pawning or sequestration of reservation goods by a third party are to be reported immediately to the supplier. Intervening expenses are to be borne by the purchaser.

7. TOOLS AND MOULDS

- 7.1 Part tool costs quoted represent cash expenses which contain sampling costs; however, they exclude costs related to test and processing jigs as well as such costs resulting from alterations caused by the purchaser. The aforementioned jigs become part-owned property of the purchaser; however, for reasons of design protection, they remain in our possession. Handing over of such shall not be arranged, even in the case of a notice of defect, irrespective of whether they are utilized to process parts or not.
- 7.2 In the case that no further order are placed within 2 years of the last utilization of this tool, then the supplier has the right to destroy the tool in question.
- 7.3 Prompting necessary alterations, mending and refurbishing basically are up to the supplier in order for him to achieve and adhere to required tolerances and properties of the ordered articles. Cost accrued for such are to be borne by the purchaser.

8. DRAWINGS, DESIGNS AND RECORDS

- 8.1 The purchaser confirms to the supplier that goods and services ordered are not subject to any patent clauses of third parties to further excuse him from any related claims and to settle all claims which may arise from that. In the case that the purchaser requests test and quality symbols to be shown on the article, then he guarantees that, for this article, he is entitled to do so.
- 8.2 Design and design proposals of the supplier may only be passed over on the basis of written approval.

9. SAMPLES AND ASSURANCE OF PROPERTIES

- 9.1 Assurance of properties according to § 459 para 2 BGB need to be explicitly shown as such.
- 9.2 Product data and samples, if not agreed otherwise, only serve as approximate product description and sample components.
- 9.3 Deviations of dimensions in ceramic production are unavoidable. Hence, the industry-specific tolerance range to us is the – mean range – according to DIN 4068. Deviations from such dimensional tolerances need to be agreed upon separately.

10. CLAIM SETTLEMENT

- 10.1 Damage claims, irrespective of whatever legal matter is involved, (notice of defect, positive breach of contract, unlawful act, etc.) are excluded unless we or our agent are accused of intent or gross negligence in a case of damage. This applies with respect to damage claims resulting from liability without prejudice to number 11 of our sales and processing terms.
- 10.2 Possible claims resulting from positive breach of contract or unlawful acts as well as damage claims come under the statute of limitations within 6 months after receipt of goods.

11. LIABILITY FOR MATERIAL DEFECTS

- 11.1 Even after rendering consultancy service, the supplier is only liable to the purchaser if explicitly warranted in writing for functional and performance properties of the article in question.
- 11.2 Material defects are immediately to be reported in writing, at the latest two weeks after receipt of the goods. In case of concealed blemishes, this period is extended by one week after detection, up to a maximum of 6 weeks after receipt of goods at the latest
- 11.3 In case of a substantiated notice of defect – for which quality and execution of tech – released initial samples in written form by the purchaser are applicable - the supplier is then obliged to either decide on after-treatment or to replace the goods. If he does not comply with his liability within a reasonable set time span or neither after-treatment nor replacement goods perform as per specification, then the purchaser is permitted to declare abatement or rescission of sale. Further claims are excluded. Returned goods shall only be accepted on the basis of a prior agreement. In case of a breach of contract caused by us by either intent or gross negligence, then legal stipulations apply. Defective parts are to be returned to the supplier upon his request free of charge. Any other goods returned by the purchaser shall only be accepted after giving the supplier an opportunity to reply to the notice of defect in writing and after he has suitably decided about the goods which have been put at his disposal.
- 11.4 Arbitrary after-treatment or improper handling shall void all claims. To fend off excessive damages or in default of curing the defective service by the supplier, the purchaser is entitled to rework components and to charge for that service after having come to an agreement with the supplier.
- 11.5 Only the immediate customer is entitled to warranty claims. They are not assignable.
- 11.6 To finalize warranty, the paragraphs quoted include the law on product liability. Any other warranty claims are excluded from that.

12. PLACE OF PERFORMANCE AND VENUE

- 12.1 The place of performance for deliveries, services and payments is the supplier's company location.
- 12.2 The venue for all issues resulting from contractual relationships as well as documentary litigations and law cases pertaining to bills of exchange or cheques is the pertinent court where the supplier's company is based.

In cases of dispute, the German version of our General Delivery and Payment Terms is legally binding.

