



## GENERAL TERMS AND CONDITIONS OF SALE

der **SFB SCHWÄBISCHE FORMDREHTEILE GMBH & CO. KG**

**This document is a mere translation.**

**The German original document is legally binding.**

**The law of the Federal Republic of Germany applies exclusively.**

### 1. Scope of Application

1.1 These Terms and Conditions of Sale apply towards companies, corporate bodies under public law and special assets under public law.

1.2 Our deliveries and services are exclusively performed and rendered according to the below-mentioned provisions.

1.3. The business partner's terms and conditions are not valid unless they are explicitly approved by us.

### 2. General Provisions

2.1 The contractual partners will immediately confirm oral agreements in detail in writing.

2.2 Orders will not be binding until they are acknowledged by us.

2.3 The information and images contained in brochures and catalogues are approximate values customary in the industry unless we explicitly define them as binding.

### 3. Long-term and Call-off Contracts, Price Adjustment

3.1 Permanent contracts can be terminated with a period of 3 months.

3.2 If there is a substantial change in labour, material or energy costs in long-term contracts (contracts with a term of more than 12 months or permanent contracts), each contractual partner is entitled to claim an appropriate adjustment of the price whilst taking these aspects into account.

3.3 If no binding order quantity has been agreed upon, we take the non-binding order quantity (target quantity) expected to be bought by the partner in a certain period as the basis for our calculation. Should the partner buy less than the target quantity, we are entitled to increase the unit price adequately. If the partner buys more than the target quantity, we will lower the unit price adequately, provided that the partner announced the increased demand at least 3 months before delivery.

3.4 In the case of call-off delivery contracts, we must be informed about binding quantities by call-off orders at least 3 months before the delivery date unless otherwise agreed upon.

Additional costs caused by our partner due to a late call-off order or retroactive changes of the call-off order regarding time or quantity must be borne by our partner. In this respect, our calculation is decisive.

### 4. Confidentiality

4.1 Each contractual partner will use all documents (these include samples, models and data) and knowledge it obtains from the business relationship for the jointly pursued purposes only and will treat them as confidential towards third parties with the same diligence it treats own documents and knowledge if the other contractual partner declares them to be confidential or has an obvious interest in keeping them confidential.

This obligation starts upon the first receipt of the documents or knowledge and ends 36 months after the termination of the business relationships.

4.2. This obligation does not apply to documents and knowledge which are generally known, or which the contractual partner already knew when they were disclosed to it without the partner being obliged to confidentiality, or which were subsequently submitted by a third party which was entitled to submit them, or which were developed by the receiving contractual partner without using confidential documents or knowledge of the other contractual partner.

### 5. Drawings and Descriptions

If one of the contractual partners provides the other contractual partner with drawings or technical documents of the goods to be delivered or manufactured, these drawings or technical documents will remain the property of the contractual partner submitting them.

### 6. Samples and Manufacturing Equipment

6.1 Unless otherwise agreed upon, separate invoices will be issued for the manufacturing costs for samples and manufacturing equipment (tools, moulds, templates etc.) and for the goods to be delivered. This also applies to manufacturing equipment which has to be replaced due to wear and tear.

6.2 The costs for maintenance and proper storage as well as the risk of a damage or destruction of the manufacturing equipment will be borne by us.

6.3 If the partner interrupts or terminates the cooperation during the manufacturing period of the samples or manufacturing equipment, the partner must bear the manufacturing costs incurred until this moment.





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6.4 The manufacturing equipment remains our property at least until the delivery contract has been performed, even if the partner has paid them. Subsequently the partner is entitled to reclaim the manufacturing equipment if a mutual agreement was reached regarding the moment of the time of transfer and if the partner has fulfilled its contractual obligations in full.

6.5 We will store the manufacturing equipment free of charge for three years after the last delivery to our partner. After that period we will request our partner in writing to inform us about the further use within 6 weeks. Our obligation to store the manufacturing equipment ends if we do not receive instructions within these 6 weeks or no further order is placed.

6.6 Customer-related manufacturing equipment may only be used by us for deliveries to third parties with our partner's prior written consent.

## 7. Prices

Our prices are in euro excluding value added tax, packaging, freight, postal charges and insurance.

## 8. Terms of Payment

8.1 All invoices are due without deductions within 14 days after the invoice date.

8.2 If we indisputably delivered partly non-defective goods, our partner is, nevertheless, obliged to pay the defective item unless the partial delivery is of no interest to it. As for the rest, the partner may only offset payments against counter-claims that are legally established or indisputable.

8.3 If the payment term is exceeded, we are entitled to invoice default interest in the amount of the interest rate the bank charges us for overdrafts, but at least in the amount of 8 percentage points above the respective base rate of the European Central Bank.

8.4 In the event of default in payment we are entitled, after notifying the partner in writing, to stop the fulfilment of our obligations until payments have been received.

8.5 Bills of exchange and cheques are only accepted by arrangement and only for processing and provided that they are discountable. Discount charges are invoiced as of the due date of the invoice amount. A guarantee for the timely presentation of a bill of exchange and cheque and for the entering protest of a bill is excluded.

8.6 If, after conclusion of the contract, it becomes obvious that our entitlement to payment is at risk due to the partner's lack of solvency, we have the right to refuse the performance and to set the partner an appropriate deadline in which it has to pay step by step in return for delivery or has to provide securities. If the partner refuses to do so or if the deadline expires without result, we are entitled to rescind the contract or to claim damages.

## 9. Delivery

9.1 Unless otherwise agreed upon, our delivery is "ex works". The notification of the readiness for dispatch or collection of the goods is decisive for the adherence to the delivery date or the delivery deadline.

9.2 The delivery deadline commences with the dispatch of our order acknowledgement and extends appropriately if the preconditions of clause 15 are fulfilled.

9.3 Partial deliveries are permitted to a reasonable extent. They are invoiced separately.

9.4 Excess or short deliveries due to manufacturing are permissible within a tolerance of 10 per cent of the complete order quantity. The total price will change depending on their quantity.

## 10. Dispatch and Transfer of Risk

10.1 The partner must immediately accept the goods reported to be ready for dispatch. Otherwise we are entitled to dispatch them at our own option or to put them into storage at our partner's costs and risk.

10.2. For lack of a special agreement we will then choose the means of transport and the transport route.

10.3. The risk is transferred to the partner when the goods are handed over to the railway company, the forwarding agency or the carrier or from the beginning of the warehousing, however, at the latest when the goods leave the plant or warehouse. This also applies if we are responsible for the delivery.

## 11. Delay in Delivery

11.1 If we can foresee that the goods cannot be delivered within the delivery deadline, we will inform the partner about that immediately, notify it of the reasons for the delay and state the expected delivery date, if possible.



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11.2 If delivery is delayed due to a circumstance set out in clause 15 or due to an action or an omission by the partner, an appropriate extension of the delivery deadline will be granted according to the circumstances.

11.3 If we are in default of delivery, the partner may - insofar as it shows probable cause that it has suffered a damage due to this - claim a compensation of 0.5% for each completed week of delay but in total not more than 5% of the price for the part of the delivery which could not be put into useful operation due to the delay.

11.4 The partner's claims for compensation exceeding the limits set out in clause 11.3 are excluded in all cases of delayed delivery, even after expiry of the grace period that may have been granted to the supplier. This does not apply if, in cases of wilful intent or gross negligence, liability is stipulated by law; this does not result in a change in the burden of proof to the partner's disadvantage. The statutory right of rescission remains unaffected thereof.

## 12. Retention of Title

12.1 We reserve the title of the ownership of the goods delivered until all accounts receivable arising from the business relationship with the partner have been paid.

12.2. The partner has the right to sell these goods in the ordinary course of business as long as it meets its obligations arising from the business relationship on time. However, it must neither pawn the goods subject to retention of title nor must it transfer the goods as security items. The partner is obliged to secure our rights when it sells the goods subject to retention of title on credit.

12.3 If the partner breaches the obligations, in particular if it is in default of payment, we are entitled to rescind the order and to accept the return if a reasonable performance period set for the partner has expired unsuccessfully; the statutory regulations on the dispensability of setting a deadline are unaffected thereof. The partner is obliged to return the goods. We are entitled to rescind the contract if insolvency proceedings are opened in respect of the partner's assets.

12.4 Herewith, the partner assigns to us as a security all claims and rights arising from the sale of the goods or possibly any hiring of the goods for which we have granted the partner permission and to which we have the rights of ownership. We herewith accept the assignment.

12.5 The partner always carries out any possible treatment or processing of the goods subject to retention of title on our behalf. If the goods subject to retention of title are processed or irreversibly combined with other items not belonging to us, we acquire the joint

ownership of the new item in the ratio of the invoice value of the goods subject to retention of title to the other processed or combined items at the time of processing or combination.

If our goods are connected with other movable items to form one single item or if they are irreversibly combined and if the item is to be regarded to be one main item, then the partner assigns pro rata ownership or joint ownership to us. As for the rest, the same conditions that apply to the goods subject to retention of title also apply to the new item coming into existence by processing or connection or combination.

12.6 Without delay the partner must inform us about any compulsory enforcement measures of third parties regarding the goods subject to retention of title, regarding claims assigned to us or regarding other securities and it has to submit the documents necessary for an intervention. This also applies to any other kind of impairment.

12.7 If the value of the existing items of security exceeds the secured accounts receivable by more than 20 per cent in total, we are obliged to release items of security at our option in the corresponding amount on the partner's request.

## 13. Material Defects

13.1 The quality of the goods is solely based on the technical delivery regulations agreed upon. If we have to deliver according to our partner's drawings, specifications, samples etc., our partner bears the risk of the suitability of the items for the intended purpose. The time of the transfer of risk according to clause 10.3 is decisive for the contractual condition of the goods.

13.2. We do not accept liability for material defects caused by unsuitable or inappropriate use, incorrect assembly or commissioning by the partner or third parties, usual wear and tear, incorrect or neglectful treatment. Nor do we accept liability for the consequences of inappropriate changes and changes made without our consent or by maintenance work of the partner or third parties. The same applies to defects that only insignificantly reduce the value or suitability of the goods.

13.3 Claims to material defects lapse after 12 months. This does not apply if longer periods are mandatory according to law, in particular regarding building defects and of a good that was used in a building according to its customary use and that caused its defectiveness.

13.4 If an acceptance of the goods or an initial sample testing has been agreed upon, the notice of defects that the partner could have identified during careful acceptance or initial sampling inspection is excluded.





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13.5 We must be given the opportunity to identify the defects reported. On request, the rejected goods have to be returned to us immediately; we will pay the dispatch costs if the notice of defects is justified. If the partner fails to observe these obligations or changes the already rejected goods without our consent, the partner will lose its entitlements arising from possible material defects.

13.6 If a justified notice of defects is made on time, we will repair the goods rejected at our option or we will deliver faultless replacement.

13.7 If we do not meet these obligations or fail to do so within a reasonable period in accordance with the contract, the partner may set us a final deadline in writing within which we have to meet our obligations. After unsuccessful expiry of this deadline, the partner may claim a price reduction, may rescind the contract or may carry out the necessary repair work - at our expense and risk - by itself or have it done by a third party. A reimbursement of expenses is excluded insofar as the expenses rise because the goods were brought to another place after our delivery, unless this corresponds to the intended use of the goods.

13.8 The partner's statutory recourse claims against us are only accepted insofar as the partner has not entered into agreements with its customer which go beyond the legal claims for defects. In addition, the last sentence of clause 13.7 applies accordingly to the extent of the recourse claims.

#### **14. Other Claims, Liability**

14.1 Unless otherwise stipulated below, other and further claims of the partner against us are excluded. This in particular applies to claims for damages due to the infringement of duties arising from the obligation and from unlawful acts. Therefore we are not liable for damages which did not occur on the delivered goods themselves. In particular we are not liable for the partner's loss of profit or other economic losses.

14.2 The afore-mentioned limitation of liability does not apply in the event of wilful intent, gross negligence of our legal representatives and executives, nor does it apply in the event of a culpable violation of fundamental contractual obligations. In the case of a culpable violation of fundamental contractual obligations, we are only liable for the reasonably foreseeable damage typical of the contract - except in the cases of wilful intent or gross negligence of our legal representatives or executives.

14.3 In addition, the limitation of liability does not apply in cases of liability pursuant to German Product Liability Law for damages to persons and property of privately used items caused by defects of the delivered goods. It does also not apply in the event of an injury to life, body or health and in the absence of guaranteed features if and insofar as the purpose of the guarantee was to protect the partner against damages which are not caused to the delivery item itself.

14.4 If our liability is excluded or limited, this also applies to the personal liability of our clerks, employees, staff, legal representatives and vicarious agents.

14.5 The statutory provisions regarding the burden of proof remain unaffected hereby.

#### **15. Force Majeure**

For the duration of the impediment and to the extent of their effects, the contractual partners are released from their duties to perform in the event of force majeure, industrial disputes, riots, regulatory actions, absence of deliveries from our suppliers and other unforeseeable, inevitable and serious events. This also applies if these events occur at a moment in which the contractual partner concerned is in default unless the partner caused the delay wilfully or grossly negligently. The contractual partners are obliged to immediately make all reasonable efforts to deliver the necessary information and to adjust their obligations to the changed conditions in good faith and trust.

#### **16. Place of Performance, Place of Jurisdiction and Applicable Law**

16.1 Unless otherwise stipulated in our order acknowledgement, the place of performance is the place of our place of business.

16.2 The place of jurisdiction for all legal disputes, also within the scope of legal proceedings related to bills of exchange and cheques, is the place of our place of business. We are also entitled to sue at the place of our partner's place of business.

16.3 This contractual relationship is exclusively governed by the law of the Federal Republic of Germany. The application of the United Nations Convention for the International Sale of Goods (CISG - "Vienna Sales Convention") of 11 April 1980 is excluded.

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