



General Conditions of Delivery and Payment for Foundry Products

(As of September 2006)

We supply our goods and services only on the basis of the terms stated below. Other terms by the customer do not apply, even if we have knowledge of them and make the delivery unreserved. Our terms do not apply to consumers within the meaning of section 13 German Civil Code (BGB). They apply to all future business transactions with the purchaser from the ongoing business relationship. All agreements made between us and the purchaser with the purpose of implementing this contract are to be recorded in writing in this agreement. Amendments and additions to this agreement need to be done in writing.

1. Conclusion of the contract, scope of delivery

- a) Our offer is subject to confirmation if nothing is stated to the contrary in the order confirmation or we have not explicitly declared something to the contrary in writing. A contract shall only come into force if we have confirmed an order in writing or we execute the order.
- b) The information included in the brochures and catalogues such as illustrations, drawings, weight and dimension details are approximate values typical in the industry providing they have not been explicitly described as binding.
- c) We retain the ownership and copyrights to illustrations, brochures, calculations and other documents; they may not be made accessible to third parties. This applies in particular to such written documentation designated "Confidential"; the customer requires our express written permission before this documentation is passed to third parties.

2. Prices and terms of payment

- a) Our prices shall apply ex works excluding packaging, freight, postage, insurance and the respective statutory VAT.
- b) If order-related costs change significantly after contract conclusion, the contracting parties will agree on an adaptation.
- c) Unless otherwise agreed, our invoices are to be paid immediately without deduction.
- d) The purchaser is only then entitled to retain or set off payments due to any counter claims if undisputed or legally ascertained payment claims exist.
- e) If we have delivered partially defective goods, in this case the purchaser is nevertheless obliged to make the payment for the undisputed defect-free goods, apart from if the partial delivery is of no interest to him.
- f) We accept discountable and properly taxed bills of exchange in lieu of payment if this was explicitly agreed beforehand. Credit notes on bills of exchange and cheques will be made subject to receipt minus the expenses with value date of the day on which we may dispose over the counter value.
- g) If we are obliged to deliver in advance and if circumstances become known to us after contract conclusion according to which our payment claim is endangered due to a lack of performance on the part of the purchaser, we are entitled along with the legal claims due to the reservation of title agreed in number 9 to forbid the further sale and processing of the delivered goods and to demand their return or the transfer of the indirect possession of the delivered goods at the expense of the purchaser and revoke the direct debit mandate under the conditions stated in number 9 letter h). The purchaser is already authorising us in the stated cases to enter his company premises and to collect the delivered goods. Taking back the goods shall only constitute a termination of the contract if expressly declared by us..
- h) In the case of payment default we are entitled to stop the fulfilment of our obligations after written notification until the receipt of the payments. After an appropriate deadline has been set we are then entitled in this case to withdraw from the contract.
- i) In case of quantity changes, we reserve to invoice the administrative extra effort. In case of order cancellation we are entitled to charge for the respective order item: up to two weeks after Order intake 20%, up to four weeks after Order intake 50% and up to six weeks after Order intake 80%.

3. Delivery time

- a) Delivery periods begin upon our order confirmation, however not before all details of the execution have been clarified and all other prerequisites to be fulfilled by the purchaser exist; the same applies to delivery dates. Deliveries before the expiry of the delivery time and part deliveries are permissible if this is acceptable for the purchaser. The delivery date is the day of notifying the readiness for dispatch, otherwise the day of dispatch. If nothing has been agreed to the contrary or nothing to the contrary results from the contractual relationship, the delivery period given by us will be non-binding at all times.
- b) Agreed delivery deadlines and dates are extended resp. postponed regardless of our rights from the default of the purchaser by the period in which the purchaser is in arrears with his obligations. If the purchaser has a delay in acceptance or if he culpably breaches other obligations to cooperate, we are entitled in this case to demand compensation for the losses we suffer, including any additional expenses. In this case the risk of accidental loss or accidental deterioration of the purchased object passes to the purchaser at the time in which he finds himself in a delay in acceptance.
- c) If we fall into arrears, the purchaser may set an appropriate grace period with the explicit declaration that after the expiry of this period he may reject the performance and after this expiry withdraw from the contract.
- d) The purchaser is obliged upon our request to declare within an appropriate period whether he is withdrawing from the contract due to the delivery delay and/or demanding compensation in place of the performance or insisting on the delivery.

4. Serial delivery, long-term contracts and call-off contracts

- a) Unlimited contracts can be terminated with a notice period of 6 months to the end of the month.
- b) In the case of long-term contracts (contracts with a term of over 12 months and unlimited contracts), if a significant change in the wage, material or energy costs occurs after the expiry of the first four weeks of the contract term, each contractual partner is entitled in this case to demand an appropriate adaptation of the price taking into account these factors.
- c) Our prices are calculated based on the agreed order quantities. If no binding order quantities are agreed, our calculation shall be based on the agreed target quantities. If the order quantity or target quantity is fallen short of, we are entitled in this case to appropriately increase the price per unit. If the purchaser exceeds the quantity with our consent, in this case he may demand an appropriate price reduction insofar as he notifies us of this in writing at least 2 months before the agreed delivery date. The level of the reduction or the increase is to be ascertained according to our calculation basis.
- d) In the case of call-off delivery contracts we are to be informed of the call-off of binding quantities at least 3 months before the delivery date, if nothing has been agreed to the contrary. Additional costs caused by the purchaser through a delayed call-off or subsequent changes to the call-off in view of the time or quantity shall be borne by the purchaser; our calculation is thereby decisive.
- e) In the case of serial production a short or additional delivery of up to 10% compared to the order quantity is permissible due to the special features of the casting procedures.
- f) The total price will change corresponding to its scope.



5. Force majeure and other obstacles

- a) Events of force majeure, industrial action, lock-out and government measures entitle us to postpone delivery and appropriate lead times for the duration of the obstacle, or withdraw fully or in part from the contract because of the part of the contract not met.
- b) Equivalent to force majeure are unforeseen circumstances, e.g. business disruptions, rejects and rework which render it impossible for us to deliver on time despite all reasonable efforts; we will be required to provide the corresponding evidence.

6. Test procedures, acceptance

- a) If acceptance is agreed, the scope and terms are to be simultaneously determined by the time the contract is concluded.
- b) If this does not take place, the acceptance will take place at our usual scope and at our usual conditions. The same applies to first sample checks.

7. Dimensions, weights, quantities

- a) Dimension, weight and quantity deviations in the framework of tolerances customary in the industry, standard DIN regulations and casting requirements are permissible. Details on dimensions and weights in our offers and order confirmations do not represent a guarantee of quality.
- b) The delivery weights and quantities we determine are decisive for the calculation.

8. Dispatch and transfer of risk

- a) If nothing has been agreed in writing to the contrary, the applicable delivery clause is "ex works" (Incoterms 2000). This also applies if we have committed to assume the transport costs.
- b) We will only cover delivery through transport insurance upon the explicit request of the purchaser; the costs incurred in this respect shall be borne by the purchaser.
- c) Goods ready for dispatch are to be taken over immediately, otherwise we are entitled to dispatch them at our own choice or to store them at standard shipping agent costs and at the purchaser's risk; we are also entitled to perform the latter if the dispatch we have assumed cannot be performed through no fault of our own. The goods are considered delivered one week after the storage period begins.
- d) For lack of any special instructions the choice of the means of transport and the transport route will be done at our discretion.
- e) The risk passes to the purchaser upon the handover of the goods to the rail company, the shipping agent or the freight carrier resp. a week after the beginning of storage, however at the latest upon leaving the works or warehouse. This also applies even if we have assumed the delivery.

9. Retention of title

- a) All delivered goods remain our property (goods subject to reservation) until the fulfilment of all demands, in particular also the respective balance claims to which we are entitled through the business relationship. This also applies if payments are made on specifically designated accounts receivable. If the purchaser gets into payment arrears, we are entitled to demand the return of the delivered goods. The costs for this shall be borne by the purchaser. This does not apply in the case of filed or opened insolvency proceedings on the assets of the purchaser, on the basis of which we are not entitled to immediately demand the return of the delivered goods.
- b) A withdrawal from the contract in taking back the goods resp. asserting the retention of title is only the case if we explicitly declare this.
- c) The purchaser shall always perform the working and processing of the delivered goods for us. If the goods subject to reservation are processed together with objects not belonging to us or are inseparably linked, in this case we acquire the co-ownership of

the new item at a ratio of the invoice value of the goods to the other processed or mixed items at the time of the processing.

- d) If our ownership expires through the linking or mixing, the purchaser in this case is already transferring to us the ownership rights to the new state or the item to which he is entitled to the extent of the invoice value of the goods subject to reservation and shall keep them free of charge for us. The co-ownership rights accordingly arising are valid as goods subject to reservation within the meaning of letter a).
- e) The purchaser may only sell the goods subject to reservation in normal business transactions at his normal business terms and conditions and as long as he is not in default, provided the demands from the further sale are transferred to us according to the letters f) and g). He is not entitled to other disposals over the goods subject to reservation.
- f) The demands by the purchaser from the further sale of the goods subject to reservation are already being assigned to us.
- g) They serve to secure the goods subject to reservation to the same extent.
- h) If the goods subject to reservation are sold by the purchaser together with other goods not supplied by us, the assignment of the claim from the further sale only applies to the amount of our invoice amount of the respectively sold goods subject to reservation. In the case of the sale of goods to which we have co-ownership shares pursuant to letter b), the assignment of the claim is valid in the amount of these co-ownership shares.
- i) The purchaser is entitled to collect receivables from the sale pursuant to letters e) and f) until our withdrawal. We have the right to withdraw in the cases stated in number 2 if the purchaser gets into payment default, an application was filed to open insolvency proceedings or payments have ceased. In these cases the purchaser is obliged to notify us immediately of the assigned claims and their debtors, to give all necessary information on the collection, to provide the associated documents and to inform the debtors of the assignment. The purchaser is not entitled in any case to assign the claims.
- j) If the value of the existing securities exceeds the secured claims in total by over 20%, we are in this respect obliged to release securities of our choice. The purchaser must inform us immediately of a pledge or other impairments by third parties.

10. Liability for material defects

- a) We are liable for the perfect manufacturing of the parts we deliver subject to the agreed technical delivery regulations. The purchaser shall bear the responsibility for the proper construction in particular in view of the intended purpose of use, observing any safety regulations, selection of working material and the necessary test procedures, correctness and completeness of the technical delivery regulations and the documents and drawings handed over to us as well as for the execution of the provided production facilities; this also applies if we suggest changes to which he consents. Furthermore, the purchaser shall ensure that on the basis of the information he provides no trademark rights or other third-party rights are breached. Decisive for the state of the goods in line with the contract is the time of the transfer of risk.
- b) We are not liable for merely insignificant deviations to the agreed features, in the case of an only insignificant impairment of use as well as for faults arising through unsuitable or improper use, faulty assembly and usual wear and tear. If changes or repair work is carried out incorrectly by the purchaser or third parties, we shall likewise not be liable for this and the consequences resulting from this.
- c) The purchaser is required to notify any physical defects in writing immediately following the arrival of the goods at their destination; concealed defects are to be notified immediately after the fault is discovered.
- d) In the case of an agreed acceptance or first sample check pursuant to number 6, the complaint about defects is excluded, which would have had to be hereby determined.
- e) We are to be given the opportunity to determine the fault complained about. In urgent cases of a risk to operational safety or to avert disproportionately great damage to the purchaser, we



are obliged to determine the fault complained about immediately. Goods complained about are to be returned to us immediately upon request. If the purchaser does not meet with these obligations or performs changes to the goods already complained about without our consent, he shall lose all rights in terms of material defects.

- f) In the case of a justified, timely complaint, we will improve the goods complained about as we see fit or deliver a perfect replacement (supplementary performance).
- g) If we do not meet with our warranty obligations or not within an appropriate period of time or if the supplementary performance is initially not successful, in this case the purchaser can set a final deadline in writing within which are obliged to meet with our obligations. A deadline does not need to be set if it would be unacceptable for the purchaser. After the unsuccessful expiry of this deadline, the purchaser can at his choice demand a reduction in the price, withdraw from the contract or carry out necessary subsequent performance himself or have it done by a third party at our expense and risk. If the subsequent performance was successfully performed by the purchaser or a third party, all claims by the purchaser are in this case settled upon the reimbursement of the necessary costs he has incurred.
- h) Claims by the purchaser due to the expenses necessary for the purpose of subsequent performance, resulting from the goods being taken to another location after delivery, are excluded insofar as they increase the expenses, apart from if moving the goods to another location corresponds to the determined use.
- i) Legal recourse claims of the purchaser against us only exist to the extent that the purchaser has made no agreements with his customers going beyond the legal claims for material defects.
- j) Further claims by the purchaser are excluded subject to number 13.
- k) The proof of a fault is incumbent on the purchaser.

11. Order-related production facilities, parts for casting

- a) Order-related production facilities, such as models, templates, core boxes, dies, casting tools, apparatus and control gauges provided by the purchaser are to be sent to us free of charge. The compliance of the production facilities provided by the purchaser with the contractual specifications or drawings handed over to us or samples will only be checked by us on the basis of explicit agreements. We may change production facilities provided by the purchaser if this appears necessary to us due to casting reasons and the work piece is not changed through this.
- b) The costs for the change, maintenance and use of his production facilities shall be borne by the purchaser.
- c) We will treat and keep the production facilities with the same care as we do with our own facilities. We are not liable for accidental loss or deterioration of the production facilities. We are not obliged to take out an insurance policy.
- d) The ownership of order-related production facilities, which we have produced or procured by order of the purchaser, is transferred to the purchaser upon the payment of the agreed price resp. cost share, on which there is agreement between the contractual parties. The handover of the facilities is replaced by our duty to keep. We will keep the facilities for a period of 3 years after the last cast. We are entitled to return production facilities of the purchaser we no longer require at the purchaser's expense and risk if the purchaser does not meet with our request to collect them within an appropriate period of time, to keep them at costs normally to be borne by the purchaser and to destroy them after an appropriate deadline has been set and threat at the expense of the purchaser. The storage relationship may only be cancelled two years after ownership transfer at the earliest if no important reason is on hand. Number 11, letter c) applies correspondingly.
- e) The purchaser may only assert copyright claims or claims from industrial property litigation to the extent that he points out the existence of such rights to us and explicitly retains them.
- f) If rejects occur when using a production facilities that can only be used once, the purchaser either has to provide a new production facility or to bear the costs of a replacement facility.

- g) Parts to be cast by us must be delivered by the purchaser in dimensionally accurate form and free of defects. Any parts made unusable due to rejects are to be replaced by the purchaser free of charge.

12. Confidentiality

- a) Each contractual party will use all documents (this also includes samples, models and data) and know-how he receives through the business relationship only for the jointly pursued purposes and keep them secret from third parties with the same care as his corresponding own documents and know-how if the other contractual partner marks them as confidential or there is an obvious interest in keeping them secret.
- b) This obligation starts from the initial receipt of the documents or know-how and ends 36 months after the end of the business relationship.

13. General liability restriction

- a) If nothing is stated to the contrary in the following, other and further reaching claims by the purchaser against us, regardless of for which legal reason, in particular due to a breach of the obligations from the contractual obligation and unauthorised acts are excluded.
- b) This liability restriction does not apply if there is a mandatory liability, e.g. according to the Product Liability Act, in the case of intent, gross negligence by the legal representatives or executives as well as in the case of a culpable breach of essential contractual obligations. We are only liable in the case of a culpable breach of essential contractual obligations, apart from in cases of intent or gross negligence by our legal representatives or executives, for the typical contractual, reasonably foreseeable damage. It also does not apply to damages from the injury to life, body and health and in the case of a lack of guaranteed quality if and to the extent the guarantee intends in particular to insure the purchaser against damages which have not occurred to the delivered goods themselves.
- c) If our liability is excluded or restricted, this also applies to the personal liability of our employees, workers, staff, legal representatives and vicarious agents.
- d) Damage claims and claims for defective goods to which the purchaser is entitled against us become statute-barred one year after delivery of the goods to the purchaser. This shall not apply if longer periods apply according to sections 438 paragraph 1 no. 2 (buildings and items normally used in buildings), section 479 paragraph 1 (recourse claim) of the German Civil Code (BGB) or in cases of damage to life and limb, in cases of intentional or grossly negligent breaches on the part of the supplier and in the case of maliciously concealing a fault. The statutory regulations on suspended expiry, suspension and the new start of the deadlines remain unaffected. In the case of damage claims according to the Product Liability Act the statutory statute of limitations regulations apply. The statutory statute of limitation regulations also apply in the case of intentional and grossly negligent breaches of duty.

14. Place of performance and court of jurisdiction

- a) Providing the purchaser is a trader, the court of jurisdiction is Pirna respectively Langenfeld. However, we are also entitled to file a lawsuit against the purchaser at the court where his headquarters are located.
- b) If nothing to the contrary results from the order confirmation, the place of performance for our services is the location of our supply plant. The place of performance for payment obligations is Langenfeld.



15. Applicable law

The legal relationships between the parties are based exclusively on German law to the exclusion of the UN treaty for contracts on the international purchase of goods (UNCITRAL/CISG).

16. Partial nullity

Should individual provisions in these delivery and payment terms be or become wholly or partially ineffective or void, the contractual parties undertake in this case to consent to a regulation through which the

sense and purpose of the ineffective or void provision was pursued is achieved as far as possible.

17. Partnership clause

In the case of all pecuniary compensation payments, in particular in terms of the level of compensation, the economic conditions of the contractual partner, type, scope and duration of the business relationship as well as the value of the goods should be taken into account appropriately in good faith.