

# **General Terms and Conditions of Sale**

## **of**

### **FH-Page Profilverbindungstechnik GmbH**

#### **I. Preface**

Only individually negotiated agreements as well as our general terms and conditions apply to our deliveries. Other terms and conditions – even in the case of unconditional completion of the delivery – shall not be considered. The terms and conditions also apply in the event of permanent business relationships or framework agreements and all future business relationships up to the date when new delivery terms come into effect. At the latest when accepting our goods, the buyer agrees to our terms and conditions. All agreements shall be made in writing. In the event that we realise after signing the contract that the buyer is not, or no longer, creditworthy, we are entitled to withdraw from the contract or to demand the immediate payment of all delivered goods. The assignment of rights and entitlements against us has to be approved by us.

#### **II. Advice**

Any form of written or oral advice shall be given to the best of our knowledge based on our experience. Advice and information regarding suitability and usage of our parts are non-binding and don't exempt the buyer from carrying out his own tests and inspections. The buyer shall be responsible for the observance of all legal and administrative regulations.

#### **III. Offer, Release order, Bidding documents**

We can accept orders within 6 weeks. Our offers are subject to change unless otherwise specified in the order confirmation. Release orders are entered with an initial term of 12 months, whereby call-off dates and quantities shall be stated when placing the order. We maintain the property right and copyright on all documents supplied by us. Disclosure of material to third parties shall only be carried out with our explicit written consent. In the event that the contract is not awarded, all documents shall be returned immediately on demand. The buyer's documents may be made available to third parties, which we would like to instruct with certain deliveries or services. All orders shall be strictly placed in writing, orders placed over the phone will be carried out at the buyer's own risk.

#### **IV. Price, Price changes**

1. All our prices are quoted ex works plus VAT as effective on the day of delivery, duty, freight charges, packaging and insurance costs. VAT shall be declared separately in the bill. All prices apply to the individual contract and may not be applied retrospectively of for future dealings. Repeat orders are new orders.

2. We reserve the right to increase the price as is appropriate if after the conclusion of the contract cost increases, in particular due to tariff agreements, cost prices, or an increase in material prices. Upon demand, evidence of these shall be provided.

#### **V. Scope of delivery, methods of measurement, industrial property rights, data protection**

Standard for the content and volume of a delivery is our order confirmation. Part-deliveries are acceptable as long as they don't result in any drawbacks. They are to be paid upon receipt of the separate part-invoice. In the event that the payment of a part-invoice is delayed, we are entitled to refuse further deliveries. Due to production reasons we reserve the right of over- or under-deliveries within the legally acceptable range of 10% of the order volume. Technical changes that are necessary due to production processes, perfective maintenance, legal requirements or other reasons are allowed. In the event that the buyer considers such changes inappropriate, it is his duty to inform us immediately. Methods of measurements where specific temperatures, times and other measurement- and regulation values apply have to be specified prior to the first delivery and accepted by both parties to the contract. If nothing has been specified, our measurement methods apply.

Orders following drawings, sketched or other data given to us are carried out at the buyer's risk. In the event that we infringe on a third person's industrial property rights as a result of the completion of an order, the buyer shall exempt us from any third party demands. We are entitled to process data as specified in the Federal Data Protection Act.

#### **VI. Delivery deadlines, Force Majeure, Delay**

1. The delivery deadline begins at the earliest with the date of sending the order confirmation. The start of the delivery deadline as stated by us implies, that all technical queries have been previously clarified. Keeping within the deadline requires the timely receipt of all document, applicable licenses and releases which are to be supplied by the buyer, the timely clearance and approval of plans, the compliance with the agreed payment practices and other duties as well as the timely delivery of the items ordered by the buyer. Otherwise the deadline shall be extended as appropriate. All delivery deadlines stated by us are to be understood as approximate deadlines. Once the congruent coverage has been closed with due care, the delivery deadline shall be determined subject to the correct and punctual supply to ourselves. Keeping within our delivery duty is subject to the timely and orderly performance of the contractor's duty to cooperate.

2. The delivery deadline shall be regarded as kept when the delivery has been dispatched or when the buyer has been notified that the goods are available for pickup within the deadline. In the event that the delivery is delayed for reasons acceptable to the buyer, the delivery deadline is regarded as kept if the pickup notification has been dispatched within the deadline. Has the deadline not been kept, it is up to the buyer to set a new deadline for the delivery of a minimum of 4 weeks per registered mail. The term begins with the receipt of the registered letter. In the event that the obligation to deliver is not fulfilled by the end of the delivery period, the buyer is entitled to withdraw from the contract. This withdrawal has to be made in writing via registered letter and has to take place no later than two weeks after the extended deadline has ended. This does not apply where we couldn't keep the deadline due to a fault other than our own.

3. In the case of call-off orders and where no alternative arrangements have been made, we grant a delivery term of 6 months, starting from the order date. Once this period has expired and no order has been called, we are entitled to either charge for the goods or to withdraw from the contract. In the case of call-off orders, the orders have to be called-off in a way that the last delivery will be dispatched within one year of placing the order.

4. War, civil war, export- and trade restrictions due to changes within the political situation as well as strike, lock out, disruptions, restrictions and similar events which make the execution of the contract impossible will be classed as force majeure and release us, for the duration of their existence, from the duty of the timely delivery of goods. We are entitled in such cases to either extend the delivery deadline for as long as the force majeure lasts or to partly or in full withdraw from the contract. The buyer is not entitled to receive compensation for therefrom resulting damages.

5. Our liability for a delayed service in case of intent or gross negligence by either us or one of our assistants complies with the legal regulations. Our liability is, however, limited to the contract-typical, predictable extent of damage. Furthermore shall our liability be limited to damages plus 10% of the costs / value of the service. No other claims - even after a set deadline for rectification has expired – shall be accepted.

6. In the event of a delay of payment, we are entitled to hold back any deliveries until all due invoices have been paid.

#### **VII. Cancellation charges**

In the event that the buyer withdraws from an order, we are entitled to 10% of the sales price to compensate for work already carried out and the loss of earnings – irrespective of the possibility to demand compensation for actual higher damages. The purchaser has the right to prove that the damage incurred is of a lesser value.

#### **VIII. Packaging**

Unless otherwise agreed, we shall decide the type and size of the packaging. The choice of packaging shall be made with due care at our own discretion. Disposable packaging shall become the property of the buyer. Packaging will be charged at cost price and is non-returnable.

## **IX. Transport and transfer of risk**

1. Deliveries are ex works. Dispatch is per invoice and at the buyer's own risk. All risks are transferred to the buyer as soon as the goods have been passed on to the person carrying out the transfer or once the goods have left the storehouse for dispatch. The same applies for deliveries free of charge. Where the dispatch is delayed upon the buyer's request, all risks are transferred upon him once advice regarding the readiness of shipment has been given. Unless otherwise specified in writing, we shall determine the means and route of transport. In the event of goods being damaged during transport, an immediate stock check is to be carried out and we shall be informed of the result straight away.

2. In the event that the dispatch or the delivery is delayed upon the buyer's demand, we request storage compensation of 1% of the invoice-value per month or part thereof up to a maximum of 5% of the net value - irrespective of the possibility to demand compensation for actual higher damages. The purchaser has the right to prove that the damage incurred is of a lesser value.

3. Returns may only be carried out by a carrier of our choice. Hereby the cheapest mode of transport is to be chosen, taking into account the safety of the goods.

## **X. Breach of Duty**

In the event of a breach of duty by the buyer, particularly in cases of late payment and non-acceptance of a delivery, we are – once an acceptable period of time as specified by the buyer has passed – entitled to withdraw from the contract and to take back any delivered goods or services or asserting claims instead of services. This does not affect any legal regulations regarding the appointment of a deadline or the assertion of further claims to which we are entitled.

2. The buyer is only entitled to withdraw from the contract in cases where we are responsible for a breach of duty. Where faults are discovered, the legal regulations apply. In cases of a breach of duty and following a request by us within a reasonable time limit, it's the buyer's responsibility to choose whether he would like to withdraw from the contract or insist on the delivery.

3. A withdrawal from the contract excludes the buyer from the right for compensation.

## **XI. Payment terms and late payments**

1. Invoices are payable in full within 30 days after the billing date. On invoices paid within 14 days from the billing date, a 2% discount is granted. We reserve the right to accept cheques. Cheques are only accepted on account of payment and are only valid once they have been cleared. When paying per cheque no discount is given. All payments have to be made free of charges. Where paying per cheque, the buyer shall be responsible for all discount-, encashment- and bank charges unless otherwise specified. Where the purchase price is deferred, part-payments are granted or the credit period is exceeded, the buyer is liable to pay customary interest rates of a minimum of 2% above the basic interest rate charged by the European Central Bank. Payments shall be set against charges, then against interest and finally against the earliest main claim. The buyer renounces the right to determine how his payments are applied.

2. In the event of late payments, we are entitled to default interest of 9% p.a. above the respective base-lending rate according to § 247 BGB (German Civil Code). We reserve the right to provide evidence of higher damages caused by delay. The buyer is only entitled to the right to set off or retain where the counter claim is undisputed or legally established.

3. Should it come to our attention that cheques from the buyers have bounced, that judicial execution procedures have been instituted against him or that another kind of deterioration of the financial situation has taken place, we are entitled to make immediate claims for any not yet payable demands or for such demands where a cheque has been written. The same applies for late payments. In those aforementioned cases and where invoices are not paid despite reminders having been issued, we are entitled to demand pre-payment or security deposits.

4. The minimum order value is 150,00 Euros + value added tax (VAT). For orders less than 150,00 Euros, we will charge an additional fee of 15,00 Euros + VAT per order.

## **XII. Duty to inspect the goods and to notify the seller timely of any faults, defects of quality**

A notice of defects according to § 377 HGB (German Commercial Code) is timely only then when it has been received by us no later than 5 working days from the buyer's receipt of the goods or in case of hidden defects from the time of their detection. A notification of faults does not exempt the buyer from keeping his payment obligation. In the event that a fault is present, we are entitled to rectify the problem or replace the goods within a respite period as set by the buyer. Where faults are rectified, we shall only carry costs up to the price of the initially agreed delivery. The buyer is not entitled to carry out any rectifications on the delivered goods himself – regardless of the urgency of a case - without our previous written consent. Where fault-rectifications or replacement deliveries

go wrong, the buyer is entitled to withdraw from the contract or to demand a price reduction.

2. Only the product specifications by the manufacturer shall be used to define the characteristics of the goods. In cases of negligible variations from the agreed quality, the right to claim does not apply. Public announcements, targeting or advertising by the manufacturer do not constitute a contractual product specification. The client does not receive warranties in the legal sense from us. Simply by giving certain product descriptions and specifications subject to the property specifications according to § 434 BGB (German Civil Code) does not act as a warranty for the quality of the goods or that the goods shall maintain certain properties for a specific amount of time.

3. The right of recourse against us according to § 478 BGB (German Civil Code) applies only where the buyer has not made any agreements with the consumer beyond the legally accepted right to claim.

4. The limitation period for claims and rights in relation to faults and defects is 1 year. This limitation period excludes cases where § 438 sec.1 no. 1 BGB (German Civil Code – defects of title on immovable objects), § 479 sec. 1 BGB (German Civil Code) or §634a sec. 1 no.2 BGB (German Civil Code).

5. The limitation periods according to section 4 are also applicable for any indemnity claims against us in connection with a fault – irrespective of the legal basis of the claim. Are any claims against us in existence which are not in connection with a fault, the limitation period as in section 4 number 1 applies.

6. The limitation period according to sec. 4 and 5 do not apply in cases of intent and deceit, where indemnity claims for injury of life body and health or the liberty of a person are concerned, a grossly negligent breach of duty or where a breach of principal contractual obligations can be detected.

7. The limitation period begins in all cases with the delivery – in cases of work performance, it begins with the date of acceptance.

8. Unless otherwise specified, the legal specifications regarding commencement of limitation, suspension of limitation, re-commencement of limitation periods and resumption of a limitation period shall remain unaffected.

## **XIII. Liability**

1. Our liability for mistakes made with intent or by gross negligence by us, or one of our assistants or representatives, is based on the legal stipulations. Besides we are only liable as specified in the Product Liability Act, for injury of life body and health or in cases of culpable breach of principal contractual obligations. The indemnity claim for the breach of principal contractual obligations is limited to contract-coherent, foreseeable damage. This also applies in cases of gross negligence unless one of the exceptions in the following section 2 of this paragraph applies.

2. We are under no circumstances liable for damages on the delivered goods caused by the buyer's properties i.e. other goods. This does not apply in cases of intent or gross negligence or in cases of liability for the injury of life body and health of a person.

3. The regulations as listed in sections 1 and 2 include indemnity as well as a service and indemnity instead of the service, regardless of the legal basis and in particular where faults are concerned, for the breach of duty of contractual obligations or for tortuous acts. They also apply to the compensation for futile expenditures. The liability for arrears, however, is defined by paragraph VI.45, the liability for impossibility by paragraph XIV.

4. Possible indemnity claims are limited to the cover of our product liability insurance of 1 Million Euros and to the cover of our product recall insurance of 0.5 Million Euros. This is not applicable under condition of strict liability in cases of intent, gross negligence and injury of life body and health of a person.

5. This does also apply in cases such as claims from the buyer due to defaults at the conclusion of contract, the breach of secondary obligations or the buyer's claims for the manufacturer's liability according to § 823 BGB (German Civil Code) where our liability for damages does not apply or is limited. The same applies in cases of impossibility. This also applies for the personal liability of our employees, contractors, co-workers, representatives, assistants and vicarious agents where our liability is impossible or limited.

## **XIV. Impossibility**

Our liability in cases of impossibility of delivery/service is, in cases of intent or gross negligence by us or a representative or assistant, based upon the legal stipulations. In cases of gross negligence however our liability is limited to the contract coherent, predictable damage unless one of the exceptions as listed in section 5 applies. In all other cases, our liability for impossibility and compensation for futile performances is limited to 10% of the delivery / service value. Any further claims by the buyer for impossibility of delivery / service are not acceptable. This restriction does not apply to liabilities in cases of intent, gross negligence and injury of life body and health of a person. The buyer's right to withdraw from the contract is hereby not affected.

## **XV. Adaptation of the contract**

Where unpredicted events significantly affect the commercial relevance or the content of the delivery / service or where our business is seriously affected, the contract shall be adapted. In cases that this is not economically justifiable, we reserve the right to withdraw from the contract.

## **XVI. Tools, Supplies**

1. Tools and special attachments, which are produced by us at the buyer's expense, are in his possession but remain our property. We are entitled to apply these tools to other uses or to scrap them once the buyer stopped buying the therewith-produced goods for at least two years. The buyer refrains from the assertion of indemnity claims.

2. For the buyer's claims regarding damaging or destruction of tools we only take responsibility in cases of intent or gross negligence. We don't accept liability for accidental damage. Ordinary wear and tear is excluded from the liability. The buyer is obliged to take out an off premises coverage for the supplies to the required amount. The supplier shall undertake all tests and quality checks (i.e. material grade, dimensional accuracy...) for the supplied goods such as raw materials, blanks, etc.. We only carry out a delivery inspection with regards to quantity and identity as well as a visual check for obvious transportation damage. We are not responsible for any further tests.

## **XVII. Retention of title**

1. We reserve the right of property of the delivered goods until all claims resulting from business dealings with the buyer still payable at the time of the conclusion of the contract have been paid (in the case of cheques until they have been cleared). This includes any claims from follow-up orders, repeat orders and orders of spare parts. Where the value of all security interests to which we are entitled exceeds the value of all secured claims by more than 20%, we shall, upon the buyer's demand, abandon a respective part of the security interests.

2. Should the buyer behave contrary to contract, particularly where late payments are concerned, we are entitled to cancel or seize a delivery. This action does not constitute a withdrawal from the contract unless confirmed in writing. We are entitled to utilise the goods – the proceeds of sale shall be credited against the buyer's liabilities. Reasonable utilisation costs shall be deducted. The buyer is obliged to treat the delivery with great care. He is in particular obliged to insure the delivery at replacement value against any damages caused by fire, water, storm, burglary and theft. In the event of damage, all resulting claims shall be assigned to us. Any necessary inspections and service works as well as all maintenance works and repairs are the buyer's responsibility and he shall carry them out in time and at his own expense.

3. The buyer may neither pledge nor mortgage the delivery goods. In the event of distraint or other third party interventions, the buyer shall inform us immediately and in writing so we can file a lawsuit as in § 771 ZPO (German Code of Civil Procedure). He shall supply us with any information required to protect our rights. Executory officers and other third parties shall be advised of our property. In the event that a third person is unable to refund the legal and extrajudicial costs of a claim according to § 771 ZPO (German Code of Civil Procedure), the buyer shall be responsible for the loss occurred subject to further claims regarding damage, alteration or destruction of the goods themselves.

4. The buyer may re-sell or process the goods in the regular course of business. He shall, already now, assign any claims to the final amount + VAT over to us which result from the resale to his clients or third parties, regardless whether the goods are sold on before or after processing. We accept the assignment. Upon our insistence, the buyer is liable to inform the client of this assignment. In the event of an open item basis between the buyer and his client, the prepaid claim includes the accepted account balance and in the event of an insolvency of the client the actual causal account balance. The buyer may collect any receivables even after the assignment. Incoming sums of money, which the buyer receives from the resale are either to be transferred to us or separately credited to us. This does not affect our authority to collect the receivables ourselves. We shall refrain from collecting any receivables ourselves as long as the buyer attends his payment duties from the proceeds received, is not guilty of late payments and as long as no bankruptcy claim has been filed.

5. The buyer commits himself to pass on a detailed list of all claims owed to us including the names and addresses of the customers, the individual amounts of the claims, bill dates etc. on demand. He agrees to give all the necessary information necessary for the assertion of the assigned book account and to allow us to verify this information.

6. The processing or modification of the delivered goods by the buyer is at all times carried out for us. In the event that the goods are processed using tools other than our own, we gain co-ownership of the newly manufactured goods in

proportion to the value of our original goods as at the time of manufacture. For those "new" goods, the same rules apply as for the goods delivered under reserve. Where the processing, fusion or mixing is carried out in a way that the buyer's item can be seen as an item in its own right, it is agreed that he will confer proportional co-ownership to us. The buyer shall keep the therefrom resulting ownership or co-ownership safe for us.

## **XVIII. Jurisdiction, Place of performance, Miscellaneous**

1. Place of Jurisdiction is our business location in Aldingen. We may also take the buyer to court at the court responsible for his registered office.

2. Our business location is place of performance unless otherwise specified.

3. For all legal questions between the buyer and ourselves, even if his company is located abroad, only German jurisdiction is legally binding, excluding the law of conflict and the UN convention of contracts for the international Sale of Goods (CISG).

4. Should individual aspects of this contract be made invalid, the remainder of the document is not affected. Invalid regulations are to be reinterpreted in a way that the intended economical goal may be achieved.

This German translation is merely a guideline. In the event of any conflict between the German language version and the English language version, only the German language version shall be legally valid.