

General Terms and Conditions of Sale and Supply of the firm of ennepetaler formkästen Bühren GmbH (version; 02/2019)

Scope of application:

Towards

entrepreneurs, § 14, German Civil Code;
public-law entities/a public-law fund pursuant to § 310, German Civil Code;
hereinafter referred to as "Orderer"

I. General matters

1. These terms and conditions (as well as all and any separate contractual agreements) are the foundation of all supplies and services and shall also apply to all future business relationships, even if they are not expressly agreed again.
2. Deviating terms and conditions (of purchase) of the orderer which have not expressly been agreed in writing shall also not become the contents of the contract by acceptance of the order and shall also not become applicable tacitly. By placement of the order, the orderer acknowledges these general terms and conditions of sale and supply.
3. These terms and conditions shall also apply to all future business with the orderer to the extent that it is a question of legal transactions of a related nature and no updated terms and conditions exist.

II. Quotations and conclusion of contract

1. All quotations shall be subject to change without notice and non-binding to the extent that nothing to the contrary has been agreed in writing.
2. In the absence of a specific agreement, a contract shall come about with a written order confirmation from the supplier. If an order is to be regarded as a quotation (§ 145, German Civil Code), it can be accepted within two weeks.
3. Orders shall be binding for the orderer. The written order confirmation alone shall be decisive for the acceptance, the scope and the performance of the service to the extent that the orderer does not contradict in writing without delay; this shall in particular apply to oral orders. Orders changing or supplementing a quotation shall likewise require written confirmation. Agreements, assurances, supplements or side-agreements made telegraphically, by telephone, transmitted by e-mail or orally shall also require a written confirmation in order to be valid.
4. The documents belonging to a quotation manifest approximate figures to the extent not declared binding. Ownership and copyrights are reserved to all documents provided to the orderer in connection with the commission, e.g. diagrams, illustrations, calculations, estimates of costs, technical image material etc; they may not be disclosed to third parties without prior approval. Such documents shall be returned in the event of the contract not being concluded. By request, they shall also be returned if they are no longer needed by the orderer in the ordinary course of business.

5. Design deviations customary in the trade (e.g. caused by technical progress) which do not impair the purpose of use (e.g. colour deviation, change of shape) shall remain reserved.

III. Prices and payments

1. Subject to specific agreement, the prices stated in the order, confirmation shall be understood ex works Ennepetal, exclusive of packaging, unloading and customs charges. Packaging costs shall be charged at cost price. The turnover tax at the statutory amount at the time in question shall be added to the prices. By request, the delivery can be covered by a transport insurance; the costs shall be borne by the orderer.

2. Subject to separate agreement, payment shall be made to the business account notified as follows:

50% advance payment following placement of the order within 10 days, **45%** within 10 days of completion and notification of readiness for dispatch, the remaining **5%** within 10 days from passage of risk. The contractual agreement of deviating payment terms (in particular following creditworthiness checks, e.g. payment in advance, cash on delivery etc.) shall remain reserved. Deduction of discount only following express agreement. Subject to specific agreement, invoices shall be due for payment immediately and without deduction.

3. The prices valid on the date of supply shall be decisive for the pricing, insofar as no fixed price agreement has been made. Suitable and reasonable changes of price on account of a change of wage, material and distribution costs for supplies performed 6 or more months after conclusion of the contract shall remain reserved, likewise for the event of considerable fluctuations in the exchange rate (EUR / USD).
4. Default interest shall be charged pursuant to § 288, subsection 2, German Civil Code, at 9 percentage points above the base rate of interest. The right to claim specific damage from arrears shall remain reserved.
5. The right to withhold payments or to offset them against counterclaims shall only accrue to the orderer to the extent that its counterclaims are undisputed or legally effective. Warranty claims which have been made shall not prevent maturity of the receivable. If it becomes recognisable following the conclusion of the contract that the claim to the consideration is jeopardised due to a lack of solvency, immediate provision of a collateral or payment can be demanded (§ 321, German Civil Code).
6. The right to secure supplies via a bad debts insurance and to inform the insurance company of the data of the orderer and the commission necessary for this shall remain reserved.

IV. Delivery periods, delay in delivery

1. All statements of delivery times shall only be approximate and thus non-binding. The date of the order confirmation shall be decisive for the start of the delivery time to the extent that no agreement to the contrary is made (e.g. receipt of the advance payment). Compliance with the delivery time shall presuppose that all commercial

and technical questions between the contracting parties have been clarified and the orderer has fulfilled all the obligations incumbent on it, e.g. provision of documents, approvals to be provided by it or (advance) payment obligations. If this is not the case, the delivery time shall be extended suitably. In the event of non-compliance with the delivery time for which the supplier is answerable, the orderer can demand performance in writing following the expiry of the delivery period stated non-bindingly and for its part set a suitable period of grace, which however must amount to no less than 4 weeks.

2. Compliance with a delivery period stated shall be subject to correct and punctual supply to us. Delays which can be foreseen shall be notified as soon as possible.
3. The delivery time shall be extended suitably - also within arrears in supply - for example in the event of force majeure, measures within the framework of industrial disputes, lack of energy and other events outside the supplier's sphere of influence. The delivery duty shall be suspended for the duration of the disturbance. The start and end of such preventions shall be notified to the orderer as soon as possible. Claims to damages have been ruled out (V.1.).
4. In the event of later amendments to the agreement which may influence the delivery period, the delivery period shall be extended to a suitable extent.
5. The delivery time shall be deemed complied with if the subject matter of delivery has left the supplier's work or readiness for dispatch has been reported by its expiry. To the extent that acceptance is to take place, the acceptance date shall be decisive, alternatively the report of readiness for acceptance to the orderer - apart from justified rejection of acceptance.
6. If dispatch and/or acceptance is delayed for reasons for which the orderer is answerable, it shall be charged the costs incurred as a result of the delay, albeit no less than 0.5% of the invoice amount for each month of storage in the supplier's works, starting one month following notification of the readiness for dispatch. The supplier shall also be entitled to dispose of the subject matter of delivery elsewhere and then to supply the orderer with a suitably extended delivery period following the setting and fruitless expiry of a suitable period of time.
7. If the orderer incurs damage as a result of arrears in supply, it shall be entitled to demand liquidated damages, ruling out further claims to damages. For each complete week of the delay, they shall amount to 0.5%, all told, however no more than 5% of the value of the part of the total delivery which cannot be used punctually or contractually as a result of the delay.
8. The orderer shall examine and sign the delivery papers. All and any objections shall be notified in writing without delay, otherwise the supply shall be deemed acknowledged.

V. Right of withdrawal

1. If the orderer, taking the statutory cases of exception into due account, sets a period for performance after maturity (IV.1) and if the period is not complied with, it shall

be entitled to withdraw from the contract within the framework of the statutory directives. It undertakes to declare by request of the supplier whether it wishes to make use of its right of withdrawal. Apart from this, Section IX. 2. shall apply.

2. The orderer can withdraw from the contract without setting a period if the entire performance finally becomes impossible before the passage of risk. The orderer can further withdraw from the contract if performance of a part of the delivery becomes impossible in an order and it has a justified interest in rejecting the part delivery. If this is not the case, the orderer shall pay the contractual price due for the part delivery. The same shall apply to inability to perform, apart from which Section X. 2. shall apply. If impossibility or inability to perform occurs during arrears in acceptance or if the orderer is answerable for these circumstances alone or to a very great extent, it shall remain obliged to pay the consideration.
3. If the performance of the contractual supply duties is temporarily impeded by the occurrence of unforeseeable circumstances, in particular "force majeure" - despite application of the care which can be reasonably expected according to the circumstances of the case -, regardless of whether the preventions have occurred in the works or with suppliers (e.g. disturbances of operation, strike/lock-out, delays of supply of essential raw materials, lack of energy, failure of means of transport etc.), the duty to supply shall no longer apply without orderer being able to make claims for damages (IV.3.). Orderer shall only be entitled to withdraw from the contract if the delay is unreasonable for it.

VI. Passage of risk, acceptance and dispatch

1. Risk shall pass to the orderer at the start of the loading of the subject matter of supply, even if part deliveries are made or the supplier has also taken on other services, e.g. the costs of dispatch or supply. To the extent that acceptance has to take place, it shall be decisive for the passage of risk. It must take place without delay as per the acceptance date or following report of the readiness for acceptance (within 7 working days). The orderer may not reject acceptance if an inconsiderable defect exists. If the orderer does not accept or rejects despite setting of a period of grace, damages on account of non-performance and/or total or partial withdrawal from the contract can be demanded.
2. If dispatch or acceptance is delayed or does not take place as a result of circumstances for which the supplier is not answerable, the risk shall pass to the orderer from the day of the report of the readiness for dispatch or acceptance, as the case may be. From the same point in time, the orderer shall be liable for damage which may be suffered by third parties. Conclusion of insurances which the orderer requests at the latter's expense is assured.
3. Dispatch shall always be at the orderer's risk, even in the event of prepaid deliveries and in transport with the works' own vehicles. Dispatch route, kind of dispatch and means of dispatch shall remain a matter for the supplier to the extent that no instructions from the orderer exist, ruling out liability and with no guarantee for the cheapest means of transport.
4. Part deliveries shall be admissible to the extent reasonably to be expected of the orderer.

VII. Claims from defects/warranty

1. Following delivery, the orderer shall examine the goods without delay and notify and complain about defects/wrong deliveries/short deliveries which it has established, likewise without delay (within 1 week of acceptance). The duties to examination and notification of defects shall be based on § 377, German Commercial Code. The supplier shall be given the opportunity of recording and examining the defect, giving rise to complaint, the subject matter of delivery shall temporarily not be changed/processed/forwarded to third parties.

To the extent that measures for minimisation of damage have been taken or negotiations on account of a notified defect are started, this shall not be deemed acknowledgement or a waiver of the objection of a complaint not made in good time.

2. Parts which have been supplied and prove to be defective as a result of a circumstance before the passage of risk shall be reworked or replaced free of defects at the supplier's choice; replaced parts shall become the latter's property.
3. Following agreement, the orderer shall provide the necessary time and opportunity for making all the necessary reworking and replacement deliveries if the notification of defects is justified; otherwise the supplier shall be released from the liability for the consequences resulting therefrom. Only in urgent cases to avert disproportionately large damage or jeopardy of operational safety, in which case the supplier is to be notified immediately, shall the orderer have the right to remedy the defect itself or have it remedied by third parties and to demand reimbursement of the necessary expenditure. If rework or replacement delivery is performed within the framework of warranty, this shall not trigger a new start of the warranty duty. Multiple reworking shall be admissible.
4. To the extent that a complaint proves to be justified, the supplier shall only bear the costs incurred by the rework or replacement delivery to the extent that no disproportionate burden results. Of the direct costs incurred as a result of the rework or replacement delivery, the supplier shall bear the costs of the replacement delivery including the dispatch to the place of delivery originally agreed. All and any costs for the dismantling and installation, work expenditure or costs of transportation to a place other than the place of delivery shall be borne by the orderer.
5. Within the framework of the statutory directives, the orderer shall have a right to withdraw from the contract if the supplier - taking the statutory exceptional cases into due account - allows a suitable period set for the rework or the replacement delivery on account of a defect in quality to expire fruitlessly. If only an inconsiderable defect exists, merely the right to reduction of the contractual price shall accrue to the orderer. The right to reduction of the contractual price shall remain ruled out otherwise. Further claims shall be based on Section IX. 2. of the present terms and conditions.
6. The supplier shall in particular not assume warranty in the following cases: usefulness of the goods for the purpose planned by the orderer, unless the usefulness has expressly been confirmed contractually, unsuitable or improper use, defective assembly or processing/maintenance by the orderer or third parties, installation of

outside parts, natural wear and tear, excessive strain/wear (all rotating parts, drive, tools; one-shift operation shall be the measure), defective or negligent treatment, chemical, electrochemical or mechanical influences to the extent that the supplier is not answerable for them. Deviations in weight, colour, dimensions and quantity which are customary in the trade shall not portray defects.

7. Properties shall only be deemed assured if they have expressly been designated as such in the contract. No warranty is assumed for information, advice and references with a view to all and any performance features, fields of use, possibilities of use or similar, unless they have been assured in writing. Oral information and information in the documents do not contain assurances; they merely serve the specification. To the extent that the materials to be used by the supplier have been specified contractually, this shall only guarantee the specification and not the suitability of the materials for the contractual purpose. The supplier shall only be obliged to references in the event of obvious unsuitability. The orderer shall inform itself about possible export directives and state regimentations.
8. Warranty has been ruled out for second-hand goods unless the supplier fails to disclose defects with malice aforethought or gross negligence.
9. The orderer's claims to recourse against the supplier shall only exist to the extent that the orderer has not made any agreements exceeding the claims from defects which are cogent under law with its customers.
10. If the orderer or a third party undertakes improper reworking, the supplier shall assume no liability for the consequences resulting therefrom. The same shall apply to changes to the subject matter of delivery undertaken without prior consent.

VIII. Retention of title

1. Ownership of the supplied object shall remain reserved until complete payment of all claims from the supply contract. This shall also apply to all future supplies, even if no express reference is always made to this. The object of purchase can be taken back if the orderer behaves in breach of contract (in particular in arrears on payment).
2. As long as ownership has not passed to the orderer, it shall be obliged to treat the object of purchase carefully. In particular, it shall be obliged to insure it sufficiently against theft, fire and water damage as well as other damage at the new value at its own expense. If the orderer does not provide proof of insurance at the supplier's request, the latter shall be entitled to insure the subject matter of supply at the orderer's expense. If maintenance and inspection work has to be carried out, the orderer shall carry it out in good time at its own expense.
3. The orderer is entitled to resale of the conditional commodities in the ordinary course of business. The orderer here and now assigns the claims against the customer from the resale of the conditional commodities (including balance claims from current account agreements, from sale, from machining and processing/blending of the supplied goods) to the supplier to the amount of the agreed final invoice amount (including value added tax); this shall equally apply to the orderer's claims with a view to the conditional commodities for any other legal reason (insurance, tort etc.). The assignment shall apply regardless of whether the object of purchase has been

resold without or following processing. The orderer shall remain entitled to collection of the claim even after the assignment. The supplier's authorisation to collect the claim itself shall remain unaffected. However, it shall not collect the claim as long as the orderer complies with its payment obligations from the yields achieved, does not fall into arrears in payment and in particular no application for opening of insolvency proceedings has been made or payments have been ceased. As soon as the orderer fails to fulfil a contractual obligation, it shall upon request disclose the assignment and provide the necessary information and documents.

4. If one of the orderer's customers has effectively ruled out the assignment of claims against it, the orderer and the supplier shall place one another in the internal relationship as if the aforementioned claims which have been assigned in advance have been assigned to the supplier in an effective form; the supplier is authorised by the orderer to make the claims in its own name for its own account as soon as the orderer is no longer entitled to collect the claim in its own name according to the aforementioned regulation (subsection 3).
5. Machining and processing/reshaping of the object of purchase by the orderer shall always be done on the supplier's behalf without liabilities originating therefrom. Insofar as the object of purchase is processed or blended with other objects not belonging to the supplier, the supplier shall acquire co-ownership of the new object in the ratio of the objective value of the conditional commodities to the other processed objects at the time of the processing/blending. If the processing/blending is done such that the orderer's object is to be regarded as the principal object, it is deemed agreed that the orderer assigns (co-)ownership to the supplier pro rata and keeps the (co-)ownership created in this way on the supplier's behalf. If acquisition of (co-)ownership is prevented by law, the orderer shall alternatively assign its claim to compensation to the supplier. In order to secure the claims against the orderer, the latter also assigns claims accruing to it against a third party as a result of the blending of the conditional commodities with a real property to the supplier; the supplier accepts this assignment.
6. For proper fulfilment of the purchaser's liabilities, the supplier shall be entitled to demand suitable collateral. The supplier undertakes to release the collateral accruing to it by request of the orderer to the extent that their value exceeds the claims to be secured by more than 20%.
7. The supplied goods may not be pledged or transferred by way of security without consent. In the event of interventions against the conditional commodities by third parties, the orderer shall make reference to our ownership, inform the supplier without delay and provide any assistance necessary to safeguard the rights. To the extent that the third party is not in a position or is not obliged to reimburse the judicial and extrajudicial costs incurred in this context, the orderer shall indemnify the supplier against such costs.
8. In the event of the orderer behaving in breach of contract and in the event of lack of creditworthiness - in particular in arrears in payment - separation of the goods without delay can be demanded. The supplier shall be entitled to take the object of supply back and the orderer shall be obliged to hand it over. The orderer grants the supplier or its authorised representatives access for collection and taking away.

9. An application for opening of insolvency proceedings against the orderer's assets shall entitle to withdrawal from the contract and to demand of immediate return of the object of supply.

IX. Liability

1. If the subject matter of supply cannot be used contractually by the orderer through the supplier's fault as a result of omitted or defective finishing, suggestions and advice given before or after conclusion of the contract or by a breach of other subsidiary contractual obligations, the regulations of Sections VII. and IX. 2. shall apply accordingly, ruling out further claims by the orderer.
2. The supplier shall only be liable for damages - regardless of the legal reason - in the event of malice aforethought and gross negligence.
3. Apart from the event of injury to life, limb and health, the supplier shall only be liable for slight negligence to the extent that cardinal contractual duties have been breached. The liability has been limited to the foreseeable damage typical for the contract.
4. Liability for indirect and unforeseeable damage, loss of production and use, loss of profits, impossibility of savings and financial damage on account of third parties' claims has been ruled out in the event of simple negligence - apart from the event of injury to life, limb and health.
5. Further-reaching liability than in the present agreement has been ruled out, without regard for the legal nature of the claim being made. The above limitations or exclusions of liability shall however not apply to liability independent of culpability cogently prescribed by law (e.g. according to the German Product Liability Act) or liability from a guarantee independent of culpability.
6. To the extent that the liability has been ruled out or limited according to subsections 3 and 4, this shall also apply to the personal liability of the supplier's employees, workers, representatives, executive organs and vicarious agents.
7. Further claims have been ruled out.

X. Barring by limitation

All the orderer's claims - regardless of the legal reasons - shall be barred by limitation in 12 months. If the object of purchase is used in multi-shift operation, the period of barring on account of claims from defects shall be curtailed accordingly. The statutory periods shall apply to claims to damages according to Section IX. 2-~~a-e~~.

XI. Place of performance, place of jurisdiction, applicable law

1. The place of performance for all obligations from the contractual relationship shall be the supplier's registered office.
2. The place of jurisdiction shall be the supplier's registered office to the extent that the orderer is a merchant, a public-law entity or a public-law fund or does not have a

general place of jurisdiction in the Federal Republic of Germany. The supplier shall however also be entitled to initiate proceedings at the orderer's registered office.

3. All the legal relationships between the supplier and the orderer shall exclusively be governed by the law of the Federal Republic of Germany decisive for the legal relationships of German parties to one another, ruling our UN purchase law.
4. For foreign transactions, the application of §§ 305-201, German Civil Code, has additionally been ruled out.

XII. Final provisions

1. Any possible ineffectivity of individual provisions shall not affect the validity of the remaining provisions. An ineffective regulation shall be replaced by one coming closest to the commercial purpose of the ineffective regulation in a legally admissible way.
2. Oral side-agreements do not exist. Amendments and addenda shall require written form; this shall also apply to the provision of written form itself.
3. The orderer's personal data are collected, processed and stored for the purpose of performance of the contract.

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