

GENERAL TERMS AND CONDITIONS OF DELIVERY
(of BÖGRA Technologie GmbH)

1. Scope

The following general terms and conditions of business apply to all contracts for deliveries and services entered into by us and natural or legal persons insofar as these are not consumers within the meaning of Section 13 BGB¹.

2. Acknowledgement of the general terms and conditions of business

The following conditions apply to all deliveries and services insofar as other agreements have not been entered into expressly and in writing. They also apply to all future contracts insofar as their validity is not expressly contradicted in individual cases.

Conditions of the contracting party to the contrary or such that vary from our conditions shall not be acknowledged. Such conditions shall not be deemed content of the contract either if we do not expressly contradict them.

3. Subsidiary agreements, delivery dates

Subsidiary agreements regarding the contract, in particular including delivery dates agreed above and beyond the written contract, shall be subject to written confirmation in order to be deemed valid. This does not apply to agreements entered into after entering into the contract.

Delivery dates shall only commence as soon as the execution details have been clarified and the Buyer has met all prerequisites.

Our offers are subject to change without notice up until the contract is brought about.

4. Delivery, force majeure

Our deliveries will be calculated by the quantities actually supplied and not by call-off orders; deliveries of up to 10% above or below the ordered quantities are agreed as customary in trade.

Partial deliveries are permitted in acceptable quantities.

In the event of force majeure and other unforeseeable, extraordinary circumstances for which we are not responsible – e.g. in the case of difficulties in procuring materials, operational disruptions, strikes, lock-outs, faulty means of transport, official intervention, energy supply difficulties and the like – including if they affect sub-contractors – delivery dates shall be postponed accordingly if we are prevented from honouring

¹ German Civil Code

our obligation in good time as a result. This does not apply if we are deemed responsible for the take-over, supply or rejection.

If the above-mentioned circumstances mean that it is impossible or unacceptable for us to perform, we shall be released from our obligation to perform.

Insofar as the delivery delay lasts longer than two months, we and our contracting party shall be entitled to withdraw from the contract.

If the delivery time is extended, we shall be released from the obligation to perform or if the contracting party withdraws the contracting party may not derive any claims for damages as a result insofar as the above-mentioned reasons apply. We can only plead the reasons mentioned above if we immediately notify the contracting party on this matter.

We shall only be deemed to have defaulted if the Buyer sets us an additional period of reasonable length, and such a period expires in vain.

In the case of call-off orders without an agreement regarding term, production sizes and acceptance dates, we may request that these be set with binding force at the latest three months following confirmation of order. If the Buyer fails to honour this request within three weeks, we shall be entitled to set an additional period of two weeks and once such a period has lapsed withdraw from the contract and claim for damages.

If the Buyer expresses a wish for us to conduct reviews, the type and scope of reviews are to be agreed upon. If this does not occur at the latest in the case of entering into the contract, the costs shall, in any case, be borne by the Buyer.

If goods are to be delivered based on a sample made produced by us, the Buyer is to inspect and release such a sample at our works without delay following notification of completion of the sample. If the release is not issued, irrespective of the setting of an additional period of reasonable length, for reasons that are the Buyer's responsibility, we shall be entitled to sent the sample or store it at the Buyer's cost and risk. With that the sample shall be deemed released.

5. Shipping and passing of risk

In the absence of agreements to the contrary, our principal place of business is deemed the place of performance for our obligation. We shall deliver, insofar as we assume shipping, in accordance with Section 447 BGB. This does not apply insofar as we deliver using our own vehicles, and likewise it does not apply in the case of mail-order purchases.

Transport insurance shall only be taken out at the express wish and cost of the contracting party.

The transport and packaging costs shall be charged separately in the absence of agreements to the contrary.

6. Measurements, weights and delivery quantities

The DIN and EN norms apply in respect of adherence to the measurements. In other respects, we shall state the measurements and weights in our offers and confirmation of order to the best of our knowledge. However, these do not constitute quality guarantees. Minor variations, in particular production-related additional or shortfall weights, shall not entitle the Buyer to make complaints and make claims based on defects insofar as nothing to the contrary is agreed upon.

In the case of series production, an additional or shortfall delivery of up to 10 % of the order quantity is permitted because of the special features of the production procedure.

7. Price increases

If the contract has been brought about at our customary prices, and if the material and processing costs that form the basis of our calculation increase between the time at which the contract is entered into and acceptance, whereby this is not our responsibility, we shall be entitled to increase our prices by the increased costs accordingly.

8. Samples, cost estimates

Samples shall be invoiced separately.

In the absence of agreements to the contrary, cost estimates are to be remunerated.

9. Copyrights, confidentiality

We reserve ownership and copyrights to diagrams, drawings, dummies and other documents that we hand over to our contracting party in conjunction with processing the order. These may not be made available to third-parties without our approval, and are to be sent back to us without delay on request.

In the absence of express agreements to the contrary, the information made available to us by the contracting party in conjunction with the order and processing it shall not be binding for us.

The Buyer shall indemnify us from third-party claims for the infringement of property rights in particular in the event that we manufacture a delivery on the basis of a specification of Buyer and this specification is in breach of third-party property rights, without this being obvious to us.

10. Terms of payment

All price details are to be understood ex works. They do not include packaging and apply plus the respective, valid turnover tax.

In the absence of agreements to the contrary, our invoice amounts shall fall due for payment within 30 days in full.

We reserve the right to reject bills of exchange. In any case, we shall only accept these on account of payment. Expenses for discounts and bills of exchange shall be borne by our contracting party and fall immediately due for payment.

Interest on payments in arrears shall be charged at 9% p.a. above the base lending rate. We reserve the right to assert claims for further-reaching damage.

Counterclaims that have not been expressly acknowledged by or have not become res judicata may not be used to set off against our claims.

If our contracting party culpably defaults on its payment obligations, we shall be entitled to hold back our own delivery and performance obligations resulting from the contractual relationship. We shall be entitled, after having set the contracting party a period of reasonable length, to request that the contracting party provide a security for the payment claims resulting from the contract. Once such a period has lapsed in vain, we may withdraw from the contract, or render the contracting party's payment obligation due for payment. In the latter case we undertake to discount the amount that is not yet due at the contractual interest rate at which we refinance our transactions.

11. Workpiece-related models and production facilities

Insofar as the Buyer makes available models or production facilities (e.g. casting forms), these are to be sent to us free of charge. We may request that the Buyer take back such facilities at any time. If it fails to honour such a request within three months, we shall be entitled to return these to the Buyer at the Buyer's cost. The cost of maintenance and the requested alterations shall be borne by the Buyer.

The Buyer shall be liable for the technically accurate construction and the design of facilities for securing the production purpose. However, we are entitled to make casting-related alterations. Without a special agreement we do not undertake to review how the facilities that have been made available correspond with the available drawings or samples.

Insofar as workpiece-related models or production facilities are produced or procured by us at the Buyer's request, the Buyer is to reimburse us for the costs incurred in that respect. Insofar as the full costs were not charged, the residual costs shall be borne by the Buyer if it fails to accept the number of items, which it promised to accept in the case of entering into the contract. The models and production facilities produced or procured by us shall remain our property. They shall be used during the term of the contract solely for deliveries to the Buyer. If three years have passed since the last delivery, we shall not be under obligation to continue storing.

In the event of agreements to the contrary, namely that the Buyer shall become the owner of the facility, ownership shall pass to the Buyer upon payment of the purchase price. Handover of the facilities shall be replaced by our storage obligation. The Buyer may terminate the storage relationship at the earliest two years following the passing of ownership insofar as no other agreements have been entered into.

All models and production facilities shall be treated by us with the same care that we apply regarding our own matters. At the Buyer's request we undertake to insure the Buyer's models and facilities at its cost. The permanent moulds shall only be invoiced for proportionate costs and written-off at 3 % of the invoice value via castings of the same number. These facilities shall remain our property at all times.

If deliveries are made based on drawings or other details provided by the Buyer, and if third-party property rights are violated as a result, the Buyer shall render us exempt from all claims. Our drawings and documents made available to the Buyer and our proposals for the beneficial design and production of the casting items may not be forwarded to third-parties, and we may request at any time that they be returned.

The Buyer's licensing claims regarding commercial property rights to sent in models and production facilities or those produced or procured by its order are excluded insofar as these are used by us as per agreement.

Use of one-off models (e.g. made of polystyrene foam) shall be subject to separate agreements.

12. Parts to be poured in

Parts intended to be poured in are to be delivered free of charge. They must be of the exact size and be ready to be poured in. The necessary processing costs shall be borne by the Buyer.

The number of casting parts must exceed that of the ordered mould parts appropriately.

13. Warranty regarding defects

We provide a guarantee regarding our deliveries and services, i.e. that they are fault-free, for a period of one year from hand-over. The statutory requirement applies if we supply building materials that give rise to defects in a building structure.

If defects arise in the goods delivered or services rendered by us within the warranty period, we shall be entitled at our discretion to provide subsequent performance by way of subsequent improvement or replacement. The contracting party shall only be entitled, at its discretion, to either request a reduction in the remuneration (abatement) or withdraw from the contract if the subsequent performance has failed twice.

Insofar as we replace parts as part of subsequent improvement, the warranty period shall not be extended as a result.

The contracting party undertakes to inspect the goods without delay upon arrival, insofar as this is expedient in accordance with ordinary business operations, and to inform us without delay if the inspection gives rise to defects. If the Buyer fails to provide notification of a defect, the goods shall be deemed authorised unless the fault in question is a fault that was not or could not be identified during the inspection.

If such a defect is subsequently identified, notification of such a defect must be given without delay after such a defect is identified. Otherwise the goods shall be deemed authorised in respect of such a defect. Providing notification in good time is deemed sufficient in respect of safeguarding the contracting party's rights.

On request we are to be granted the option at any time of reviewing the defect at the respective location. If the Buyer wrongly provides notification of a defect for which we are not responsible, we shall be entitled to charge the Buyer for the reasonable expenses incurred by us in respect of reviewing the defect.

We may charge the Buyer for the additional cost of the expenses incurred for the subsequent performance, in particular transport, travelling work and material costs, insofar as the expenses increase as a result of bringing the delivered goods to a location other than the delivery address unless bringing the goods to such an address occurs as per agreement in line with the custom assumed in the contract.

A faulty part of the delivery shall not entitle the contracting party to lodge a complaint regarding the entire delivery unless the fault-free part were not of interest to the contracting party.

This shall not affect the claims of our contracting party resulting from Section 478 BGB.

14. Compensation for damages, withdrawal due to violation of an obligation, guarantee

The contracting party's claims for damages that extend above and beyond the warranty claims regarding violations of obligations by us are excluded.

This does not include damage resulting from the loss of life, physical injury or detrimental effects on health if we are responsible for violating an obligation and other damage attributable to intent or gross negligent violation of an obligation. Our violation of an obligation is to be equated with that of a legal representative or vicarious agent.

The above-mentioned limitation on liability does not apply if claims for damages are made regarding a violation of a key contractual obligation for which we are responsible. However, in such a case our liability is limited to direct average cases of damage that are typical in terms of the contract and in respect of the type of product can be reasonably foreseen.

If we are liable for default in respect of an obligation to perform, the Buyer may, at most, assert 0.5 % of the price of the outstanding delivery for each full week that

passes in which the delay continues, but under no circumstances more than 5 % of the value of the outstanding delivery as a whole.

If we are responsible for violating an obligation, the contracting party shall be entitled, under the statutory prerequisites, to withdraw from the contract insofar as the matter does not involve a defect.

If we have provided a guarantee, we shall be liable as part of the statutory requirements.

Irrespective of the above-mentioned, we shall remain liable in accordance with the German Product Liability Act and the statutory provisions in the event of malicious concealment of a defect or providing a quality guarantee.

15. Reservation of title

All supplied goods shall remain our property (reserved goods) up until payment in full of all claims against the contracting party resulting from the overall business relationship irrespective on whichever grounds such claims are made.

The reservation of title applies to the recognised balance insofar as we book claims against the contracting party in the current invoice (extended reservation of title). In the case of conduct in breach of contract by the contracting party, in particular default in payment, we shall be entitled to take back the reserved goods.

The contracting party undertakes to insure the reserved goods against the risk of accidental loss, in particular theft, damage by fire, water and breakage, at its own cost, and on request to furnish us with proof that an insurance contract has been taken out. It is to perform repair, maintenance and servicing work on the reserved goods at its own cost where necessary.

The contracting party is entitled to re-sell the reserved goods during the course of ordinary business activity. In the event of re-sale, the contracting party assigns to us at this point in time the receivables and other claims (including VAT) to which it is entitled from the re-sale from its customers or third-parties including all subsidiary rights irrespective of whether the reserved goods have been resold with or without further processing. We accept this assignment. The contracting party is entitled to collect the claims to which it is entitled from the re-sale following the assignment too as long as it properly honours its contractual obligations, in particular payment obligations, and does not default.

It is to store received money in trust and pay it to us insofar as our claim exists.

If the contracting party processes the reserved goods, reforms them or processes them with other goods, this shall at all times occur on our behalf and we shall be entitled to co-ownership of the new item in the proportion of the value of the processed reserved goods to that of the other goods at the time of finishing or processing. The contracting party assigns to us at this point in time its co-ownership shares that may apply as a result of joining, blending or mixing the supplied goods with other items.

We accept this assignment. The contracting party shall store the item on our behalf with the care of a prudent businessman.

The contracting party assigns to us at this point in time as security all claims resulting from the business relationship to which it is entitled as a result of the re-sale or due to another legal reason associated with the reserved goods in the sum of the value of the co-ownership share.

At our request the contracting party is to inform its third-party debtors of the assignment and request that these only pay to us and in other respects make available to us all documents and information required to assert the claim. We are entitled, at our discretion, to disclose the assignment too.

Asserting rights resulting from the agreed reservation of title in the event of default in payment on the part of our contracting party, including the request for surrender, does not constitute a withdrawal from the contract unless we had expressly stated this. Seizure of the object of sale by us shall, at all times, constitute a withdrawal from the contract.

In the case of seizures or other third-party intervention regarding the reserved goods or the assigned claims, the contracting party is to inform us of this without delay in writing and by way of stating the documents required for the intervention. Insofar as the third party is not able to reimburse us for court and out-of-court costs of an action in accordance with Section 771 ZPO², the contracting party shall be liable for the shortfall we suffer.

16. Release clause

If the total realisable value of the securities to which we are entitled in accordance with paragraph 14 exceeds our total claim resulting from the business relationship by more than 20 %, the contracting party shall be entitled, at its own discretion, to request the repayment of existing securities up to the amount of the surplus figure.

17. Data protection

We draw attention to our obligation resulting from the German Data Protection Act such that we electronically store the data of our contracting parties required to conduct the business operations.

18. Place of jurisdiction

The location of our main headquarters in Solingen, Germany, is deemed the place of jurisdiction for all disputes between the parties resulting from the contractual relationship.

² German Code of Civil Procedure

19. Applicable law

Solely the law of the Federal Republic of Germany applies to the mutual obligations resulting from the contract. Application of the UN Convention on Contracts for the International Sale of Goods is excluded.

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