

## 1 General

### 1.1

The following Terms and Conditions apply to our deliveries and services.

### 1.2

Deliveries in the sense of these Terms and Conditions include the delivery of physical goods; services in the sense of these Terms and Conditions include the provision of services, e.g. equipment service, consulting, target-bonding, job coating etc.

### 1.3

The customer's general terms and conditions of purchase shall be excluded unless accepted by us in writing.

### 1.4

Our offers are subject to confirmation. Delivery contracts and all other agreements as well as declarations given by our representatives shall only become legally binding upon our written confirmation.

### 1.5

Our electronically processed and printed correspondence (e.g. order confirmations, invoices, credit notes, statements of account, reminders) is legally binding without our signature.

### 1.6

The goods are, unless explicitly agreed otherwise, approved for use in the European Union. In case of export by the customer, it shall be the customers' sole responsibility to obtain the necessary documents, licenses and approvals for the country of destination.

## 2 Prices

### 2.1

Our prices are exclusive of packaging, value added tax and any other statutory taxes or levies. They are considered free carriers (FCA Ottendorf-Okrilla INCOTERMS® 2020)

### 2.2

If the calculation basis changes before the delivery is affected, we reserve the right to update the prices accordingly. This shall however only apply to delivery periods greater than 4 months and to price adjustments up to 15%. In the event of higher rates, a new price agreement is required. Should such an agreement not be concluded, we have the right to terminate the contract by written notice within 30 days.

### 2.3

For orders for which no firm prices have been agreed, the prices valid on the day of delivery apply.

### 2.4

Confirmed prices shall only be valid for the confirmed quantity. A minimum order value of EUR 150 (net) applies.

### 2.5

Partial deliveries shall be invoiced separately unless explicitly agreed otherwise.

## 3 Payment Terms

### 3.1

Invoices are payable net 14 calendar days after the invoice date. Accelerated payment terms (e.g. for the sale of customer specific goods or precious metals) can be defined with our offer. Furthermore we retain the right to define payment plans (milestone payment) with our offer. Payments are considered effected at the day funds are at our disposal.

### 3.2

Cash discounts ("Skonto") require a separate written agreement.

### 3.3

Bills of exchange and checks shall only be accepted on the basis of an explicit agreement and on a case-by-case basis. Interest and other expenses are to be borne by the customer and are due immediately.

### 3.4

All payments shall, irrespective of any other instructions given by the customer, to be applied to interest and costs first and then to our oldest receivables.

### 3.5

In the event of default of payment, we shall charge interest for delay at the rate of the 6-months-EURIBOR plus 8% per annum. We reserve the right to claim additional damages.

### 3.6

In the event of default of payment, non-payment of checked or bills of exchange, suspension of payment, action being initiated to settle debts, breach of payment terms, or if circumstances arise that may negatively affect the customer's creditworthiness, all our claims – even in the event of payment plans – shall be payable immediately. We shall also be entitled to perform any outstanding deliveries only against payment in cash or, following the announcement of an appropriate grace period, to withdraw from the contract and to claim damages instead of performance.

### 3.7

The customer may only net claims, which are undisputed. Customers' retention of title is only valid, if such title results from the same contract; any and all additional rights regarding the retention of title by the customer are excluded.

## 4 Retention of title

### 4.1

Our deliveries shall only be performed under retention of title (goods subject to retention of title). Title shall only pass to the customer upon full and unconditional payment. In cases of current accounts, the retained property shall serve as a security for the balance due to us, also if payments are made on specially designated claims.

### 4.2

Processing and handling of goods supplied by us and which are still owned by us shall always be performed on our behalf, without any liabilities arising for us in connection with this. If the goods delivered by us are combined with other items, the customer shall assign us (co-)ownership of the resulting goods to the proportion of the invoice value of our retained goods to the invoice value of the other goods used.

### 4.3

The customer may only sell or use (e.g. within a manufacturer or supply contract) the goods delivered in the regular course of business, if his purchaser has not excluded the assignment of claims from resale or further use. The customer must ensure that the purchaser provides his consent subject to the assignment in the required form. The customer does not have the right to security assignment or pledge of the goods under retention of title.

### 4.4

In the case of seizure, even if there is only an indication of this, or any other encroachment on our right of ownership by third parties, in particular the existence of blanket assignments and factoring contracts, the customer must notify us immediately and confirm our right of ownership in writing, both, to third parties and to us. In the event of seizure, a copy of the seizure record must be forwarded to us.

### 4.5

Should the customer delay payment or be in default, we shall be entitled to demand the return of the goods under retention of title and obtain direct possession of these by ourselves or authorized third parties, no matter where the goods may be. The customer is obliged to return the goods under retention of title to us and to provide us with and deliver to us all information and documents necessary for claiming our rights. The demand for the return of goods shall not be deemed or interpreted as withdrawal from the contract. The same shall also apply to the return of the goods under retention of title.

### 4.6

By way of security for all our claims, including future claims, from the business relationship, the customer

shall hereby assign to us all claims (including those from the current account), which he incurs from the resale and other use of the goods under retention of title (e.g. combination, processing, usage in a machine, etc.).

### 4.7

If the sale or other use of our goods under retention of title - irrespective of the condition - takes place in conjunction with the sale or other use of items where comparable third-party rights exist and/or in conjunction with the performance of services by third parties, the assignment of future claims shall be limited to the value of our (outstanding) invoices.

### 4.8

The customer is authorized to collect the claims assigned to us. In the event of default of payment, suspension of payment, petition or commencement of insolvency or out-of-court settlement proceedings, or other deterioration of assets by the customer, we are entitled to terminate this authorization. On request, the customer must inform us of the assigned claims and their debtors, provide us with all the information necessary for the collection of the claims, deliver to us the corresponding documents and inform the debtors of the assignment. We are also entitled to inform the customer's debtors of the assignment and request that payment is to be made to us.

### 4.9

If the fair market value of the securities due to us under the above provisions exceeds the value of our claims by more than 10%, we shall, at the request of the customer and upon our sole discretion, be obligated to release the securities exceeding the value of our claims.

## 5 Delivery

### 5.1

Delivery shall be free carriers (FACE Ottendorf-Okrilla, INCOTERMS 2020).

### 5.2

Delivery logistics, means of transportation, packaging and other security measures are at our discretion. The risk of transport is borne by the customer in all cases. We are entitled but not obliged to insure deliveries on behalf of and for the account of the customer.

### 5.3

Any damage or loss must immediately be reported on the consignment note when the goods arrive so that a claim can be made to the forwarding agent. Damages that are not to be identified while goods are packed are to be reported to us immediately after opening of packages.

## 6 Delivery Time and Obstacles to Delivery

### 6.1

Information relating to delivery times are to be considered as a forecast and thus subject to change. Delivery periods shall commence from the date of our order confirmation, but in no event before all details concerning performance (e.g. technical specification, hook-up specifications, material specifications, etc.) and all other requirements to be provided by the customer for the proper fulfillment of the contract, have been clarified. The same also applies to delivery dates. Advance deliveries and partial deliveries are allowed. The delivery date shall be the day of shipping ex works or ex warehouse (EXW, INCOTERMS 2010).

### 6.2

If the customer is in breach of his duties of cooperation (e.g. if the goods are not collected on time or if acceptance of the delivery is refused), we are entitled, upon expiry of a grace period, to take the necessary measures and to deliver the goods or to withdraw from the part of the supply contract which is or has not yet been fulfilled. Our right to claim damages instead of performance shall remain unaffected.

### 6.3

Items not manufactured by us are subject to the timely and correct delivery to us by our subcontractors or suppliers, except if we are responsible for such.

### 6.4

Force majeure shall lead to an appropriate extension of the delivery time and entitle us to withdraw from the contract either in full or in part. Force majeure shall include strikes, lockouts, operational disturbances or other unforeseen circumstances beyond our control, which significantly impact or make impossible our ability to perform delivery. This also applies if the aforementioned circumstances arise during a period of delay or at a subcontractor.

### 6.5

Failure to meet a deadline or an agreed date entitles the customer to request us to make a statement within two weeks whether we wish to withdraw from the contract or wish to make delivery within a reasonable grace period. If we do not make a statement, the customer is entitled to withdraw from the contract if he has no interest in its performance.

### 6.6

If the (pre, site, or final) acceptance of goods does not incur in time or incurs incompletely or in case it is refused for reasons outside our control, we are entitled to store the goods or effect delivery on behalf of the customer; following this the goods are deemed accepted and risk of loss or damage transfers to the customer. Usage or processing of goods also leads to their unconditional acceptance.

### 6.7

Should the customer fail to provide an end user certificate latest until items are ready or scheduled for delivery or should such end user certificate not qualify to perform delivery in compliance with applicable EU and/or US export regulations then the customer is in default and delivery cannot get performed. If customer is, within 3 months after the scheduled delivery date, still not able to provide an end user certificate that allows delivery under the applicable EU and/or US export regulations, than we are entitled to terminate the contract without harm to other right and remedies available to us. In case of such termination customer is obliged to reimburse any and all damages (including but not limited to lost profits) occurred or potentially to occur to us. All payments made by customer until such termination is or becomes effective are not to be reimbursed by us but offset against our claim for damages.

## 7 Return

The return of materials from our deliveries is strictly excluded. This does not apply to packaging material that is to be returned to us by the customer free of charge. We shall dispose returned packaging material in line with the applicable rules and regulations.

## 8 Claims Based on Defects

### 8.1

The delivery item shall be deemed free of defects of quality if it corresponds to the product specification or – if there is no product specification – to the current state of the art for the item. We reserve the right to make alterations to the construction or design, which do not impact the usability or the value of the delivery item, and such alterations do not entitle the customer to submit a notification of defects. No claims based on defects may be made in the case of defects that do not impair or only marginally impair the value and/or usability of the item delivered.

### 8.2

Guarantees concerning the condition and usability of the delivery item shall only be deemed to be granted in so far as we have explicitly declared the guarantee as such in writing. We shall only be liable for public statements, in particular those relating to advertising, if we have made them. Claims based on defects for statements of this kind may only be asserted if the statements have actually influenced the customers' decision to purchase those.

### 8.3

Notifications of defects must be submitted without undue delay and will not be accepted if we do not receive them within 2 weeks from receipt of the

delivery. Defects that could not be detected within this period, even after careful inspection, must be reported to us immediately, but in no event later than 2 weeks after their discovery.

#### 8.4

If the item delivered is defective or does not meet a guaranteed condition, we shall remedy the defect at our sole discretion within an appropriate period, free of charge, either by making improvements or by delivering an item that is free of defects (supplementary performance). The customer must grant us or our agents the time and opportunity to do so. If this does not occur or if the customer or his representatives make changes or repairs, we shall be released from our liability for defects.

#### 8.5

If supplementary performance fails or if it does not take place within an appropriate grace period defined by the customer, the customer shall be entitled to demand a reduction in price.

#### 8.6

Claims by the customer due to expenses required for the purpose of supplementary performance (paragraph 8.4) or rescission following withdrawal from the contract (paragraph 8.5), in particular relating to transport, travel, labor and material costs, shall be excluded if the expenses increase because the item delivered was installed at a location that was or is difficult to access or reach. The same applies if the item delivered was or is installed outside the territory of the Federal Republic of Germany.

#### 8.7

Damage that arises due to the failure to comply with our rules and regulations for installation, assembly, commissioning, handling, operating or maintenance, or due to the use of control devices, fuels, types of consumables or material, types of power or types of voltage that are inappropriate or other than those stipulated, shall not constitute grounds for claims based on defects. The same applies in the event of wear and tear or overload unless we are liable for damage as stipulated under Section 9.

#### 8.8

The limitation period for claims based on defects for equipment is 12 months after commissioning, unless otherwise agreed, but no later than 15 months from the date when risk of loss or damage transferred to the customer. The limitation period for claims based on defects for spare parts is 12 months, commencing on the date of delivery. In all other events the limitation period for claims based on defects, in so far as applicable law does not provide for longer periods, is 12 months, commencing on the date of delivery. In the event of loss of life, physical injury or impairment to health, or the intentional or grossly negligent breach of duty by us, as

well as in cases where a defect has been fraudulently concealed or a guarantee of condition has been granted, the statutory periods of limitation shall apply.

#### 8.9

Software supplied by us has been developed with the utmost care and according to recognized coding rules. It fulfils the functions included in the product specification that applied when the contract was concluded. Reproducibility of a defect is a necessary precondition of our warranty. The customer must be able to describe the error in a sufficient level of detail. If the software is found to be defective, we shall rectify the defect at our sole discretion within an appropriate period free of charge either by making improvements or by delivering software that is free of defects (supplementary performance).

#### 8.10

In all other respects, Section 9 shall apply with regard to claims for damages. Further claims by the customer due to defects are excluded.

#### 8.11

If, at the specific request of the customer, we have provided design assistance or consulting that goes beyond our duty of supply, we shall only be liable for this to the extent that we shall, at our discretion, either rectify or repeat any design work that can be proved by customer to be defective. Any further liability for design assistance is excluded unless we are liable in accordance with Section 9.

#### 8.12

Software supplied by us is partially tested for malware (e.g. viruses, Trojans). Customer is obligated to check software provided by us with most recent antivirus software before usage. In case the customer does not or insufficiently adhere to this obligations we are not liable for any and all resulting damages or defects. Our total aggregated liability for damages or defects resulting from malware is limited to 1% of the net contract/order value.

## 9 Liability

#### 9.1

For damages and reimbursement of expenses made unsuccessfully (§ 284 BGB [German Civil Code]) due to the breach of contractual or non-contractual duties (e.g. due to default or impermissible actions), we shall only be liable

- in the event of intentional or gross negligence,
- due to loss of life, physical injury or impairment to health,
- due to the fraudulent concealment of a defect or the granting of a guarantee of condition or, <sup>[1]</sup><sub>[SEP]</sub>
- in accordance with the German Product Liability Act

(Produkthaftungsgesetz) for personal injury or for material damage to privately-used items.

### 9.2

We shall also be liable due to breach of essential contractual duties also in the case of minor negligence. In this case, however, our liability shall be limited to reasonably foreseeable damage typical of this type of contract at the date of contract closure. In any event our total aggregated liability out of this Section 9.2 is limited to events covered by our insurance or alternatively, to 10% of the net contract/order value.

### 9.3

The above provisions shall apply to the same extent for our directors, employees, assistants and vicarious agents.

### 9.4

The above provisions do not constitute any change in the burden of proof to the disadvantage of the customer.

## 10 Usage Rights and Confidentiality

### 10.1

In case a separate non disclosure agreement between ourselves and the customer is in force and effect such non disclosure agreement replaces the following Sections 10.2 and 10.3

### 10.2

Information classified as "CONFIDENTIAL" that we received from the customer must not be disclosed to third parties, unless they are already known to the public or known to us by other means than disclosure by the customer. Furthermore we will protect the information classified as "CONFIDENTIAL" against unauthorized access or usage. The customer can only claim return of his CONFIDENTIAL information as far as such return does not interfere with rights or obligations we may have.

### 10.3

Information classified as "CONFIDENTIAL" that the customer received from us must not be disclosed to third parties, unless they are already known to the public or known to him by other means than disclosure by us. Furthermore he will protect the information classified as "CONFIDENTIAL" against unauthorized access or usage. Drawings, sketches, offers, technical specifications, software/source code as well as indicative offers are in general to be considered CONFIDENTIAL in the sense of this Section 10.3, even if they are not explicitly classified as CONFIDENTIAL, and must in no event be disclosed to third parties, unless such third party is a governmental authority that can require disclosure according to applicable law.

### 10.4

We grant to the customer the non exclusive, perpetual, not sub-licensable, not transferrable right to use the goods delivered for the intended purpose according to the technical specification.

### 10.5

Reproducing or copying of the goods delivered is explicitly forbidden and would constitute a severe breach of contract.

## 11 Venue

The venue is Dresden provided that the customer is a merchant. We are however entitled to bring matters before the court that has jurisdiction over the customer.

## 12 Partial Invalidity

If one of the provisions of these General Terms and Conditions or of other agreements between ourselves and the customer should be or become ineffective, this shall not affect the validity of all other Terms and Conditions or agreements.