

General Terms and Conditions of Alutec GmbH in Fürth

1. General information/conclusion of contract

- a) Delivery contracts are only concluded under the following terms and conditions.
- b) All offers are non-binding. The reciprocal written declarations are decisive for the extent of the provision of services. Subsequent changes and additions are required in written form.
- c) No conflicting or deviating terms and conditions of the orderer are accepted by us, even if we are aware of terms and conditions of the orderer and unconditionally perform the delivery, unless they are accepted by us in writing.
- d) Our terms and conditions apply only to businesses (within the meaning of § 14 (1) BGB (German Civil Code)); they also apply to all future transactions with the orderer arising from the ongoing business relationship.

2. Pricing

- a) Our prices are ex works excluding packaging and value added tax.
- b) Should order-related costs change significantly after conclusion of the contract, the contracting parties undertake to agree on a price adjustment.

3. Delivery and acceptance obligations

- a) Delivery times begin as soon as all details of performance have been clarified and all requirements are completed by the orderer. The day of delivery is the day of dispatch unless otherwise agreed. Should, however, dispatch be delayed through no fault of our own, the day of availability is deemed the day of delivery. Partial deliveries are permissible, unless this is contrary to a recognisable interest of the orderer.
- b) Should we be prevented from timely delivery by force majeure or due to unforeseeable circumstances not attributable to us, such as official measures, unrest or failure to deliver by our suppliers, the delivery period is extended by the duration of the hindrance. Should the hindrance last longer than three months, then we and the orderer may withdraw from the contract with regard to the part not yet fulfilled under exclusion of claims for damages.
- c) Should we be in arrears, the orderer is entitled to set a reasonable grace period and to withdraw from the contract should it expire without result. In the event of slight or minor negligence on our part, claims for damages in lieu of performance are limited to the foreseeable damage typical of the contract.
- d) In the case of on-call orders without an agreement on duration, production batch sizes and acceptance dates, we may, unless otherwise agreed in writing, require a binding agreement to this effect no later than three months after confirmation of the order. Should the orderer not comply with this request within three weeks, we are entitled to set a 2-week grace period and, after its expiration, to withdraw from the contract and claim damages.
- e) Should the orderer require us to perform essential tests, then the type and scope of the tests need to be agreed. Should this not occur at the latest when the contract is concluded, costs are payable by the orderer.
- f) Should a delivery be made on the basis of a sample provided by us, the orderer is to inspect and release this sample in our works immediately after notification of completion of the sample. Should the sample not be released despite the setting of a reasonable period of grace for reasons attributable to the orderer, we are entitled to dispatch the sample or to store it at the expense and risk of the orderer; the sample is then deemed to be released.

4. Shipping and transfer of risk

- a) The risk transfers to the orderer when the goods leave our works (ex works).
- b) Should the shipment be delayed for reasons attributable to the orderer, then the risk transfers on the day of availability.

5. Dimensions, weights and delivery quantities

- a) The DIN and EN standards apply to compliance with dimensions. In all other respects, dimensions and weights are stated in our offers and order confirmations to the best of our knowledge. However, they are not guarantees of quality. Minor deviations, in particular excess or short weights due to foundry technology, do not entitle the orderer to complaints and claims for defects, unless otherwise agreed.
- b) An excess or short delivery of up to 10% compared to the order quantity is permissible for series production owing to the special features of the metal casting process.

6. Claims based on defects

- a) The assertion of claims for defects by the commercial orderer requires the orderer to have duly complied with their duty of examination and notification pursuant to § 377 HGB (German Commercial Code). Other contractors are required to notify us of obvious defects within 14 days of receipt of the goods, otherwise the orderer's claims for defects cease to apply. Any complaints must be made in writing giving specifications of the defect.
- b) We are to be given the opportunity to examine the defect in question at the location. Our examination is performed without undue delay should the orderer demonstrate an interest in an immediate resolution.
- c) Warranty claims do not arise should there are only be insignificant deviations from the quality or only an insignificant impairment to use.
- d) All our specifications are only performance descriptions and not guarantees, unless otherwise agreed.
- e) Should there be a defect in the goods attributable to us, we are entitled, at our discretion, to remedy the defect or to arrange a subsequent delivery.
- f) Should the orderer wrongly notify us of the existence of a defect attributable to us for reasons for which we are not responsible, we are entitled to charge the orderer for the reasonable expenses incurred by us for remedying the defect and/or - establishing the defect.
- g) We are entitled to charge the orderer with the additional costs of the expenses necessary for the purpose of subsequent fulfilment, in particular transport, travel, labour and material costs, insofar as the expenses are increased by moving the delivered goods to a location other than the delivery address, unless the goods are moved in accordance with the intended use as provided in the contract.
- h) The orderer's right of recourse in the sale of consumer goods (§ 478 BGB) is excluded with regard to agreements between the orderer and their customers which exceed the statutory warranty claims of the customers. The orderer is to notify us of the claims for defects of their customers in good time so that we are in a position, at our discretion, to meet the claims of the customer instead of the orderer.
- i) Warranty claims expire as early as 12 months after delivery, unless the defects are attributable to our gross negligence, willful intent or fraudulent misrepresentation. This statute of limitations also applies to claims arising from any guarantees given by us or binding for us, unless these state otherwise. The

statutory periods for the right of recourse according to § 478 BGB remain unaffected; the same applies to longer statutory periods of limitation, such as for the construction of buildings or the delivery of goods which are used for a building in accordance with their customary use and which are the cause of its defectiveness. These periods of limitation also apply to consequential harm caused by a defect, insofar as this is not asserted on the basis of unlawful acts. Should subsequent fulfilment be required due to defective delivery, the limitation period until subsequent fulfilment is suspended rather than recommenced.

- j) Before the orderer can assert further claims or rights (withdrawal, reduction, damages or reimbursement of expenses), we are to be given the opportunity of subsequent fulfilment within a reasonable period of time, unless a guarantee stating otherwise has been issued by us. Should subsequent fulfilment ultimately fail despite at least two attempts, or should subsequent fulfilment be refused by us, or should subsequent fulfilment not be possible or unreasonable for the orderer, the orderer may withdraw from the contract or reduce (reduce) the remuneration. Clause 7 of these terms and conditions applies to the assertion of claims for damages and reimbursement of expenses.
- k) Claims based on defects of title are subject to additional provisions:
 - (1) Unless otherwise agreed, we are only obliged to make deliveries in the country of the delivery address exempt of third-party rights.
 - (2) In the event of an infringement of third party industrial property rights attributable to us, we may, at our option and at our expense, either obtain and transfer to the orderer a right of use sufficient for the agreed or presumed use, or modify the delivered goods in such a way that the property right is not infringed, or exchange the delivered goods, provided that the agreed and presumed use of the delivered goods is not impaired as a result. Should this not be possible for us or should we refuse subsequent fulfilment or should this fail, the orderer is entitled to the statutory claims and rights. Clause 7 applies to claims for damages and reimbursement of expenses.
- l) Should selection samples be sent to the orderer for examination, we are only liable for ensuring that the delivery is performed in accordance with the selection sample, taking into account any corrections.

7. Damage Compensation

- a) The assertion of claims for damages or reimbursement of expenses (hereinafter referred to as "damages") due to defects in the delivered goods (claims for defects) is excluded insofar as we are unable to effect subsequent fulfilment for reasons not attributable to us. The assertion of claims for damages caused by defects and for consequential damages caused by defects, which are based on the delivery of defective goods, presupposes that we have caused the defect intentionally, grossly negligently or by a negligent breach of duty, unless otherwise agreed. The same applies to the assertion of claims for damages for a breach of a guarantee of durability provided by us or for us (§ 443 para. 2 BGB).
- b) Otherwise, claims for damages and claims for reimbursement of expenses ("Claims for Damages") of the orderer are excluded, irrespective of the legal grounds, in particular due to breach of duties arising from and in connection with the contractual obligation, from culpa in contrahendo prior to or upon conclusion of the contract and from unlawful acts. This does not apply to claims pursuant to §§ 1, 4 of the Product Liability Act, in cases of intent or gross negligence, in the event of injury to life, physical injury or damage to health, due to the assumption of a guarantee for the existence of a quality (quality guarantee) or in the event of our negligent material breach of duty. In no event are we liable

beyond the statutory claims. In the event of our simple negligence, our liability is limited to foreseeable and typical damage. Changes in the burden of proof are not connected with these provisions in paragraphs a) and b).

- c) Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, co-workers, representatives and auxiliary persons.
- d) The statute of limitations for claims between the supplier and the orderer is governed by Section 6 lit. i, unless claims arising from product liability pursuant to §§ 823 et seq. of the German Civil Code (BGB) or the Product Liability Act (Produkthaftungsgesetz) are affected. This limitation period also applies in particular to consequential harm caused by a defect.
- e) Should we assume the contractual obligation to examine our products for the presence of certain properties and qualities, we are liable for damage caused by our failure to comply with the test specifications of the orderer.

B. Payment conditions

- a) Invoices for amounts due are payable free of charge within 30 days of the invoice date (date of receipt). Bills of exchange and cheques are only accepted - if at all - on account of performance. Costs for bills of exchange and cheques are chargeable to the orderer.
- b) Costs for workpiece-related models and production equipment in accordance with clause 10 b) are always payable in advance, unless otherwise agreed.
- c) The orderer may only offset claims against our claims when they are undisputed or legally binding. The orderer is only entitled to exercise a right of retention or a right to refuse performance when the same prerequisites have been fulfilled in the case of the orderer's counter claims or when defects in the delivered goods have at least been made plausible (e.g. by written confirmation from a neutral person or body) and their counter claim is also based on the same contractual relationship.

d) Should the orderer be in default of payment, we are entitled to charge default interest in the amount of 8% p.a. above the base interest rate. **9. Retention of title**

- a) We reserve title to the delivered items until receipt of all payments from the business relationship with the orderer or, should a current account exist with the orderer, until settlement of the acknowledged balance. In the event of breach of contract on the part of the orderer, in particular in the event of default in payment after setting a deadline, we are entitled to repossess the delivered item. This does not apply should the orderer have already filed for insolvency or should insolvency proceedings have been instituted which prevent us from repossessing the delivered goods immediately. After repossession of the delivered item, we are entitled to dispose of it; the proceeds of such disposal - less reasonable disposal costs - are then to be set off against the orderer's liabilities. The provisions of the *Insolvenzordnung* (Insolvency Statute) regarding the liquidation of assets are not affected.
- b) The orderer is obliged to treat the delivered item with care; in particular the orderer is obliged to sufficiently insure it at their own expense against damage caused by fire, water and theft at replacement value. Should maintenance and inspection work be necessary, the orderer is obliged to perform this in good time at their own expense.
- c) In the event of attachments or other interventions by third parties, the orderer is obliged to inform us immediately in writing. The orderer is liable to us for the judicial and extra-judicial costs of any legal proceedings required pursuant to § 771 ZPO (Third Party Proceedings).

- d) The orderer is entitled to resell the delivered item in the ordinary course of business; however, in so doing all claims in the amount of the final invoice amount (including value-added tax) of our claims accruing to the orderer from the resale against their customers or third parties are deemed assigned to us, irrespective of whether the delivered item has been resold without or after processing. The assigned claim also refers to an acknowledged balance or, in the event of insolvency of the orderer's customer, to the "causal" account balance. The orderer also remains authorised to collect this receivable following assignment. However, we are entitled to collect the claim ourselves should the orderer no longer meet their payment obligations from the proceeds received, be in arrears with payment or have filed or is to file an application for the opening of insolvency proceedings or has suspended payments. In such cases, we may require the orderer to notify us of the assigned claims and their debtors, to provide all information required for collection, to surrender the relevant documents and to notify the debtor (third party) of the assignment. However, we are not entitled to collect the claim when it is contrary to the Insolvency Code.
- e) The processing or transformation of the delivered item by the orderer is always performed on our behalf. Should the delivered item be processed in combination with other items not belonging to us, we acquire co-ownership of the new item in the ratio of the value of the delivered item to the other processed items at the time of processing. In all other respects, the same applies to the object resulting from the processing as for the objects delivered under reservation.
- f) Should the delivered item be inseparably intermingled with items not belonging to us, we acquire co-ownership of the new item in the ratio of the value of the delivered item to the other intermingled items at the time it occurred. Should the intermingling be effected in such a way that the orderer's item is to be regarded as the main item, it is deemed agreed that the orderer assigns to us pro rata co-ownership. The orderer thus safeguards the resulting ownership or co-ownership for us.
- g) The orderer also assigns to us the claims to secure their claims against them arising from the connection of the delivered item to real estate against a third party.
- h) We are obliged to release the securities to which they are entitled at the orderer's request to the extent where the value of their securities exceeds the claims to be secured by more than 25 %; the selection of the securities to be released is at our discretion.

10. Workpiece-related models and production equipment

- a) Should the orderer provide us with models or production facilities (e.g. foundry moulds), these are to be sent to us free of charge. We are entitled to require the orderer to retrieve such equipment at any time; in the event that of non-compliance with such a request within 3 months, we are entitled to return such equipment at the orderer's expense. The costs for maintenance and desired modifications are payable by the orderer. The orderer is liable for the technically correct design and the execution of the equipment to secure the production purpose; however, we are entitled to make changes necessitated by foundry technical procedures. We are not obliged without special agreement to check the conformity of the equipment made available with attached drawings or samples.
- b) Should workpiece-related models or production equipment be manufactured or procured by us at the orderer's request, the orderer is obliged to reimburse us for any costs incurred. Should the full costs not have been invoiced, the orderer is also to assume the remaining costs

should the orderer fail to accept the number of units anticipated on conclusion of the contract. The models and production equipment manufactured or procured by us remain our property; they are used exclusively for deliveries to the orderer during the term of the contract. We are not obliged to store the goods once 3 years have elapsed since the last delivery. Should it be agreed in deviation from the foregoing that the orderer becomes the owner of the equipment, ownership transfers to the orderer upon payment of the purchase price. The handover of the equipment is superseded by our obligation of safe custody. The safekeeping relationship may be terminated by the orderer at the earliest 2 years after the transfer of ownership, unless otherwise agreed.

- c) We treat all models and production facilities with the same care that we apply to our own affairs. At the orderer's request, we are obliged to arrange insurance cover for their models and equipment at their cost. Claims for compensation for consequential damages are excluded under the conditions of Clauses 6 lit. c) and 7.
- d) Should deliveries be made on the basis of drawings or other information provided by the orderer and should any industrial property rights of third parties be infringed as a result, the orderer indemnifies us against all claims. Our drawings and documents provided to the orderer as well as our proposals for the advantageous design and manufacture of the castings may not be passed on to third parties and may be reclaimed by us at any time. License claims of the orderer on the basis of industrial property rights to models and production equipment sent in or produced or procured on their behalf are excluded insofar as these are used by us in accordance with the contract.
- e) Special agreements are required for the use of disposable models (e.g. those made of polystyrene foam).

11. Parts for casting

- a) Parts intended for casting are to be supplied free of charge; with accurate dimensions and ready for casting. Any processing costs incurred are payable by the orderer.
- b) The number of castings is to reasonably exceed the number of castings ordered.

12. Place of performance and legal jurisdiction, applicable law

The place of jurisdiction is our registered office provided the orderer is a merchant; this also applies to bills of exchange and cheques.

We are, however, also entitled to proceed against the orderer at their place of business.

Last updated: May 2018